

PERFORMANCE AND ACCOUNTABILITY REPORT FOR FISCAL YEAR 2002



## FINANCIAL HIGHLIGHTS

(Dollars In Thousands)	% Change 2002 over 2001	September 30, 2002	September 30, 2001
Fund Balance with Treasury	0.3%	\$ 926,130	\$ 923,361
Property and Equipment, net	(7.3)%	119,184	128,598
Other Assets	143.4%	50,221	20,635
<b>Total Assets</b>	2.1%	<u>\$ 1,095,535</u>	<u>\$ 1,072,594</u>
Deferred Revenue	24.3%	\$ 465,974	\$ 374,988
Accounts Payable	24.6%	74,982	60,199
Accrued Payroll, Benefits, and Leave	(15.8)%	68,042	80,768
Other Liabilities	(2.8)%	75,849	78,051
<b>Total Liabilities</b>	15.3%	<u>\$ 684,847</u>	<u>\$ 594,006</u>
Net Position	(14.2)%	410,688	478,588
<b>Total Liabilities &amp; Net Position</b>	2.1%	<u>\$ 1,095,535</u>	<u>\$ 1,072,594</u>
<b>Total Cost</b>	14.2%	\$ 1,160,995	\$ 1,016,627
<b>Total Earned Revenue</b>	2.0%	<u>(1,061,347)</u>	<u>(1,040,258)</u>
<b>Net Cost/(Income) from Operations</b>	(521.7)%	<u>\$ 99,648</u>	<u>\$ (23,631)</u>
<b>Total Outlays/(Collections), Net</b>	(109.1)%	\$ 10,055	\$ (110,654)
Federal Personnel:	8.0%	6,939	6,426
Contractor Personnel, approx.:	42.9%	4,000	2,800
Disbursements by EFT	---	99%	99%
On-Time Payments to Vendors	---	99%	99%

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Web address for the USPTO Performance and Accountability Report

<http://www.uspto.gov/web/offices/com/annual>



**MESSAGE FROM THE UNDER SECRETARY OF COMMERCE  
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE  
U. S. PATENT AND TRADEMARK OFFICE**

This was a momentous year for the United States Patent and Trademark Office (USPTO) on a variety of fronts. We launched an aggressive and comprehensive quality assurance program focusing on all stages of the examination process, as well as the recruitment and training of examiners and managers. We expanded programs for independent inventors through our newly created Inventor Assistance Office, and continued to work with our customers, through roundtables and partnerships, to improve the quality of the services we offer. We established patent electronic filing partnerships to assist us in moving toward a full paperless patent process by the end of 2004, and continued to expand the number of trademark applications and documents that can be filed electronically to permit nearly all trademark communications to be conducted in this medium. We also continued our work through a number of domestic and international fora to streamline and strengthen protection for patents, trademarks, and copyrights at home and abroad. In addition, for the tenth consecutive year, we received an unqualified audit opinion on our annual financial statements.

The achievements of the past year are particularly fitting given that 2002 marked the bicentennial of the creation of the United States Patent Office. For two hundred years, the United States Patent and Trademark Office has served as the clearinghouse for American innovation -- issuing more than six and a half million patents and registering more than two million trademarks. In turn, these rights -- the basic right to benefit from a product of one's thoughts and ideas -- have played a critical role in America's evolution into the most technologically advanced, economically vibrant power on earth.

The celebration of the USPTO's bicentennial, however, comes at a time of great challenge for the USPTO. An explosion of patent filings and increasingly complex technology threatens to overwhelm our agency. Patent pendency rates now average over two years, and without significant changes to the way patent applications are processed, pendency soon will reach four years. The failure to provide quality examination and processing in a timely fashion will greatly disadvantage U.S. inventors and businesses.

In order to confront these problems head-on, I have reached out to our customers to identify their needs and hear their ideas for reengineering a better USPTO. I also initiated an aggressive top-to-bottom review of the agency to identify innovative ways to improve quality and reduce pendency. In June 2002, based upon that review and those discussions, I put forward a comprehensive plan -- the *21st Century Strategic Plan* -- that will transform the agency into an Information Age, e-commerce based organization that responds rapidly to changing market conditions.

## MESSAGE FROM THE DIRECTOR

The *21st Century Strategic Plan* will boost productivity and substantially cut the size of our inventory while ensuring that the patents issued and the trademarks registered are of the highest quality. This road map for the future is built on the premise that American innovators need to obtain enforceable intellectual property (IP) rights here and abroad as seamlessly and cost-effectively as possible.

Our Strategic Plan reflects the values of President Bush's Management Agenda. With the support of Congress, it will transform the agency into a quality-driven, highly-productive, cost-effective organization to better support America's innovators and entrepreneurs.

For over two centuries, America has profited immeasurably from the strength of our intellectual property system. Today IP-based enterprises represent the largest single sector of the American economy – almost five percent of the Gross Domestic Product – and employ over four million Americans. More than 50 percent of U.S. exports now depend on some form of IP protection. Perhaps even more telling, U.S. IP exports are greater than the exports of the automobile, agriculture and aircraft industries combined.

Around the world, a high correlation exists between a country's economic strength and the vitality of its IP protection. Nowhere is this fact more apparent than in the United States. A quality-focused, efficient and cost-effective Patent and Trademark Office is essential to maintaining our strong and vibrant economy in years to come.

This *Performance and Accountability Report* summarizes the USPTO's achievements and challenges for fiscal year 2002. I am pleased to certify, with reasonable assurance that, except for the one material weakness regarding information technology security specifically identified in the management control section of this report, our agency's systems of management control, taken as a whole, comply with Section 2 of the Federal Managers' Financial Integrity Act of 1982. Our agency is also in substantial compliance with applicable Federal accounting standards and the U.S. General Ledger at the transaction level and with Federal financial system requirements. Accordingly, our agency fully complies with Section 4 of the Federal Managers' Financial Integrity Act of 1982, with no material non-conformances. In addition, we are confident that the USPTO's financial and performance data is reliable, accurate and consistent, as we improve our ability to measure progress toward performance objectives.



*Commerce Secretary Donald L. Evans administers the oath of office to Judge Rogan as Under Secretary of Commerce and Director of the United States Patent and Trademark Office. Twin daughters Dana and Claire hold the bible for their dad as wife Christine proudly looks on.*

*James E. Rogan*

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

*December 30, 2002*



**MESSAGE FROM THE ACTING CHIEF FINANCIAL OFFICER**

**T**he world hates change, yet it is the only thing that has brought progress.” As the USPTO enters a third century of fostering American innovation, this quote from Charles F. Kettering, American inventor and co-holder of more than 140 patents, clearly conveys the great value of change, while also reflecting the inherent tensions and challenges it creates.

The USPTO’s aggressive and far-reaching *21st Century Strategic Plan* revolves around the vision of: “a quality-focused, highly-productive, responsive organization supporting a market-driven intellectual property system for the 21st Century” and calls for fundamental changes and radical redesign of USPTO operations. In particular, the USPTO must emphasize agility, capability, and productivity in all its business units and organizations. Achieving the Strategic Plan will require a variety of skills and tools, not the least of which will be sound planning, administration, and financial management.

The USPTO’s Office of the Chief Financial Officer and Chief Administrative Officer has been under its own transformation for the past several years, from an operation primarily focused on payment processing and compliance, to one that is committed to excellence in management and administration. In this regard, we are well positioned to assist the USPTO in becoming the highest quality, most efficient IP organization in the world.

Building a foundation of control and accountability has been a key component of our transformation. I am proud to say that once again the USPTO received an unqualified audit opinion on its annual financial statements. This is the tenth consecutive clean audit opinion, and also the sixth consecutive year in which the auditors’ noted no material weaknesses in the USPTO’s internal control structure. These accomplishments epitomize the integrity and pride with which we carry out our daily fiscal responsibilities.

During the second quarter of FY 2002, the Office of the Inspector General (OIG) reviewed the USPTO Information Technology (IT) Security Program and reported that none of USPTO’s critical information systems were certified and accredited. Although the USPTO made great strides in this past fiscal year to establish a robust IT Security Program and certify and accredit its critical information systems, none of its information systems were certified and accredited by the end of the fiscal year. The USPTO has declared a material weakness in recognition of the need for compliance with Government guidance on IT Security and reconfirms its commitment to the protection of our Nation’s intellectual capital information assets. This corrective action plan for addressing this weakness in FY 2003 is discussed in the management controls section of this report.

Building further on this solid foundation, the CFO organization has significantly improved its management tools for business analysis and decision-making. For example, our cost accounting system continues to play a growing role in the day-to-day financial management of our business areas and administrative functions. With this system, we have a better understanding

## MESSAGE FROM THE ACTING CHIEF FINANCIAL OFFICER


of the costs of our processes and products, and can distinguish between activities that create or add value and those that do not. This allows us to better integrate cost and performance information into our planning and budget processes, making for far more informed resource decisions.

As the CFO organization considers its role in meeting the Strategic Plan's vision, we are acutely aware of the continuing need to foster strong partnerships with business area managers. To this end, we are particularly active in developing customer service standards and training, and in integrating financial and performance information with workflow systems and production reports. We constantly seek new opportunities to better serve business managers and gain their support either through financial and administrative systems training, assisting in evaluating procedures and controls, analyzing costs and benefits, moving certain functions to business areas to achieve better day-to-day support, and in supporting our business areas' e-Government efforts.

Maximizing efficiency through outsourcing and contracting continues to be an on-going pursuit within the USPTO. Currently, the USPTO has nearly 4,000 contract personnel supporting a wide variety of technical, clerical, and administrative functions. USPTO's vast outsourcing and contracting experience will be critical to addressing the issues of structuring new contracts for services never before envisioned, such as contracts for private sector companies to perform patent search and classification, and agreements with other intellectual property organizations.

With the forthcoming move to the Carlyle campus, USPTO will need to address the logistics of physically moving over 10,000 employees and contractors, and their related furnishings and equipment. This move also will impact how to provide security for both employees and physical property at two venues during the transition period. The first phase of occupancy is scheduled to occur in mid-2003 and full occupancy is scheduled for fall 2005.

I continue to believe that the ultimate key to success in managing change and confronting challenge is people. USPTO remains committed to attracting and retaining the most highly skilled, well trained, motivated, and productive workforce possible. We will play a major role in attracting, training, and retaining talented and imaginative people to improve service to inventors. We will also be called upon to assist senior management and the business areas in getting the right people in the right spots, and work to create a more close-knit and dedicated workforce. In summary, what we do today greatly impacts what we can achieve tomorrow. I am confident that we have laid the foundation to live up to the challenges ahead.



*Sandra L. Weisman*  
Acting Chief Financial Officer  
December 30, 2002

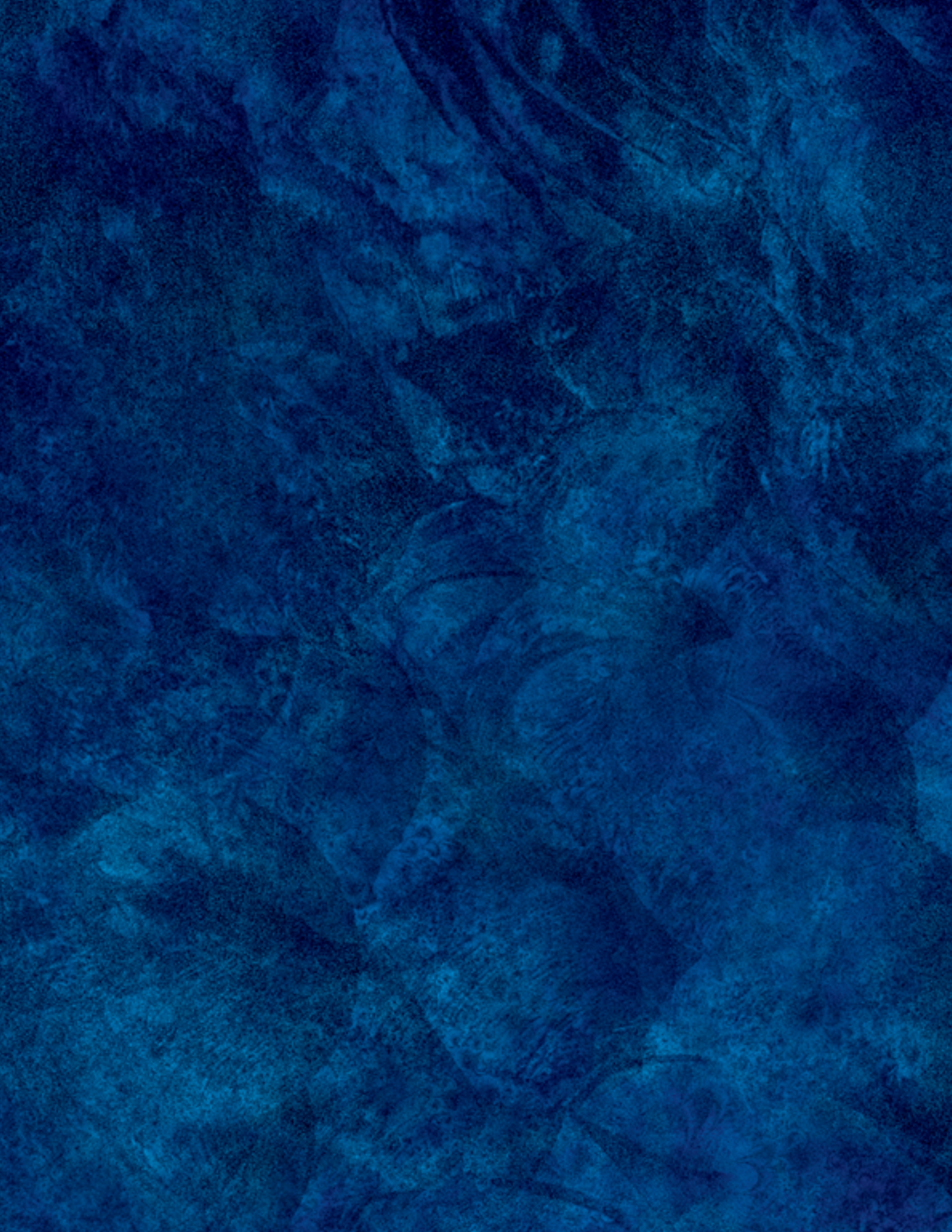






# Management Discussion and Analysis





## MISSION AND ORGANIZATION OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

### USPTO VISION

*The USPTO will lead the way in creating a quality-focused, highly-productive, responsive organization supporting a market-driven intellectual property system for the 21st Century.*

### MISSION STATEMENT

*The USPTO mission is to ensure that the intellectual property system contributes to a strong global economy, encourages investment in innovation, fosters entrepreneurial spirit, and enhances the quality of life for everyone.*

For over 200 years, the basic role of the United States Patent and Trademark Office (USPTO) has remained the same: to promote the progress of science and the useful arts by securing for limited times to inventors the exclusive right to their respective discoveries (Article 1, Section 8 of the United States Constitution). Under this system of protection, American industry has flourished. New products have been invented, new uses for inventions discovered, and employment opportunities created for millions of Americans. Patents and trademarks have long protected American creativity and ingenuity—the first patent was issued in 1790 for a method of making potash fertilizer, and the oldest active trademark registered is SAMSON with a design for “cords, lines, and ropes,” which was originally registered in 1884. The strength and vitality of our economy depend directly on the effectiveness of the mechanisms that protect new ideas and investments in innovation and creativity. The continued demand for patents and trademark registrations underscores the ingenuity of U.S. inventors and entrepreneurs. The USPTO is at the cutting edge of our Nation’s technological progress and achievement.

The primary services provided by USPTO are processing patent and trademark applications and disseminating patent and trademark information. Through the issuance of patents, we encourage technological advancement by providing incentives to invent, invest in, and disclose new technology worldwide. Through the registration of trademarks, we assist businesses in protecting their investments, promoting quality goods and services, and safeguarding consumers against confusion and deception in the marketplace. By disseminating both patent and trademark information, we promote an understanding of IP protection and facilitate the development and sharing of new technologies worldwide.

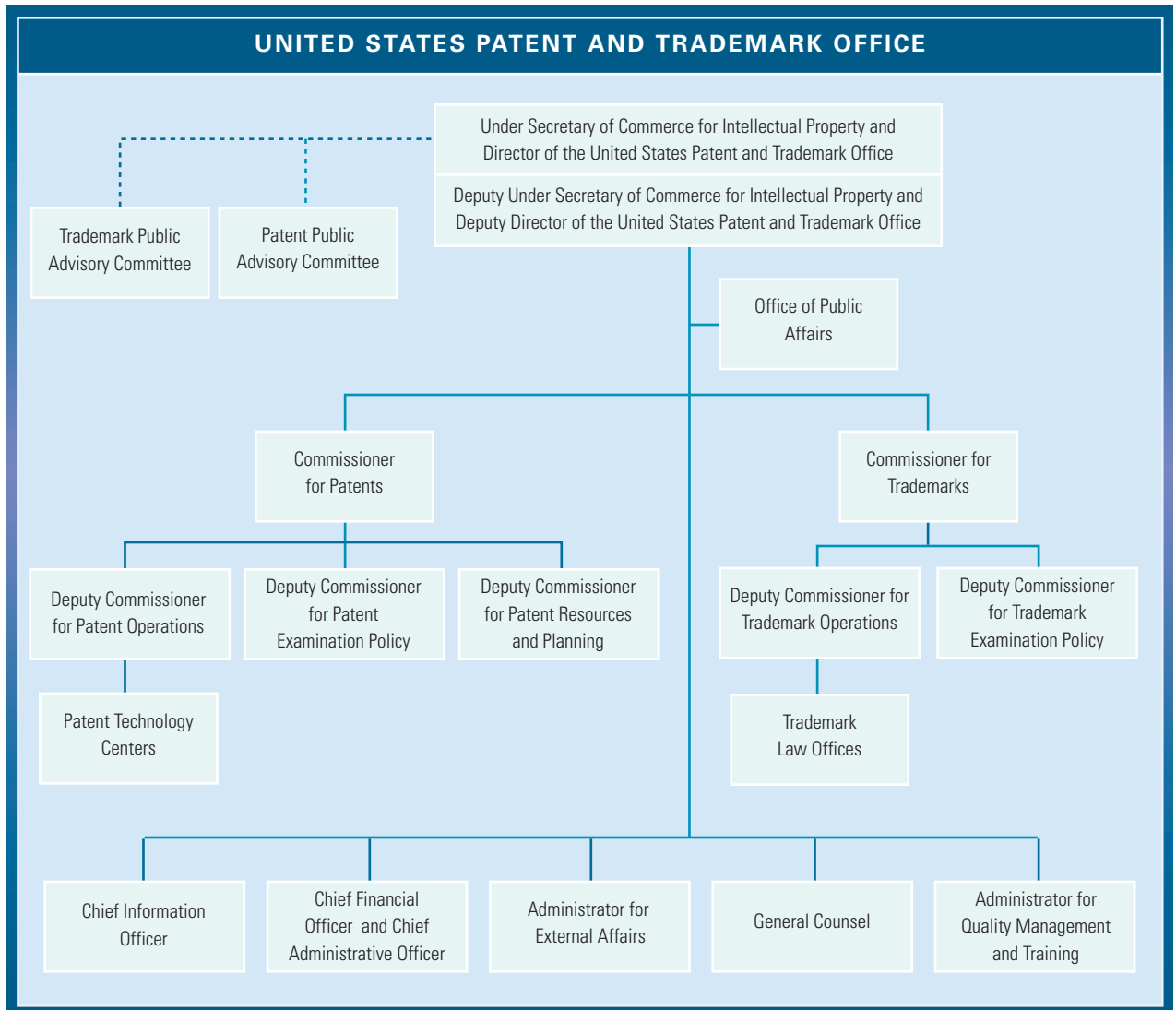
### LOCATION, ORGANIZATIONAL STRUCTURE AND WORKFORCE

The USPTO is a non-commercial Federal entity, an agency in the U.S. Department of Commerce (DOC). The office occupies a combined total of over 1,400,000 square feet in 18 buildings in the Crystal City neighborhood of Arlington, Virginia. In addition, we have two storage facilities in Springfield, Virginia and Alexandria, Virginia and leased storage space in Boyers, Pennsylvania. The USPTO workforce is comprised of 6,939 Federal employees, including 3,538 patent examiners and 258 trademark examining attorneys. In addition, we have approximately 4,000 contract employees.



The USPTO has evolved into a unique Government agency. Since 1991-- under the Omnibus Budget Reconciliation Act (OBRA) of 1990 -- the USPTO has operated in much the same way as a private business, providing valued products and services to our customers in exchange for fees which are used to fund our operations. The powers and duties of the USPTO are vested in an Under Secretary of Commerce for Intellectual Property and Director of the USPTO, who consults with the Patent Public Advisory Committee and the Trademark Public Advisory Committee. The USPTO has two major business lines – Patents and Trademarks – as shown in the following organization chart:

**USPTO ORGANIZATION CHART**



## PERFORMANCE GOALS AND RESULTS

### THE AFTERMATH OF 9/11

Fiscal year 2002 was a tumultuous year in the life of the Nation, and like many citizens and organizations in this country, the USPTO found itself acting in response to a series of previously unthinkable challenges.

In support of the efforts to respond to the attacks of September 11, 2001, the USPTO conducted a major application file reconstruction project that resulted in over 3,000 patent and 2,000 trademark applications being copied and provided to law firms formerly occupying the World Trade Centers. This service was provided at no cost to the firms.

The Anthrax mailings that followed several weeks later created significant mail processing disruptions for Patents and Trademarks. Like all Federal agencies in the Washington, DC metropolitan area, much of the USPTO's mail, including all patent correspondence, was processed at the Brentwood postal facility, which was closed after the discovery of Anthrax at that location. Out of concern for its employees and the public, the agency contacted the Centers for Disease Control and Prevention and took appropriate precautions to ensure against Anthrax contamination within the USPTO mail-room operations. Any mail that was at the Brentwood facility at the time of the Anthrax discovery was transported to a secure quarantined site and was irradiated before forwarding to the USPTO. As a result, significant time delays occurred because the USPTO did not receive any mail deliveries for 12 business days. This was a challenging undertaking since Patents receives about 4,000 letters and packages per day.



*Under Secretary Rogan briefs employees and answers questions regarding the 21st Century Strategic Plan*

Unfortunately, the closing of the Brentwood facility and subsequent precautionary measures resulted in significant mail backlogs and delays that negatively impacted our operations. The USPTO had to adopt new procedures for handling the irradiated mail as the decontamination process in some cases left papers yellowed and brittle, damaged computer disks, and blackened labels. In these cases, senders were contacted to supply duplicate correspondence when necessary and no applications were held abandoned without the agency first calling the applicant to ensure that a reply had not been delayed in the mail. In addition, the USPTO advocated the use of facsimile transmissions for any correspondence with the organization.



## USPTO STRATEGIC PLAN

The Government Performance and Results Act (GPRA) requires that agencies plan and measure the performance of their programs. In carrying out GPRA, the USPTO prepares a Strategic Plan, an Annual Performance Plan, and an Annual Performance Report. The USPTO began FY 2002 guided by the Strategic Plan that was developed in 1994 and updated in 1999 to include the period 1999-2004. While the mission, goals and strategies have served us well, the environment in which the IP system operates worldwide has changed dramatically. There are an estimated seven million pending patent applications in the world's examination pipeline. Technology has become increasingly complex, and customer demands for higher quality products and services have escalated. This dynamic, along with Congressional concerns about the USPTO's ability to continue to operate under a traditional business model, led to the development of the *21st Century Strategic Plan*.

The *21st Century Strategic Plan* is a far-reaching and aggressive plan designed to transform the USPTO into an organization that is responsive to the global economy in which it operates. After implementation of the Strategic Plan, market forces will drive our business model, geography and time will be irrelevant when doing business with the Agency, products and services will be tailored to customer needs, and examination will be our core expertise. The Strategic Plan is centered around three long-term crosscutting strategic goals:

- **Agility** – Address the 21st century economy by becoming a more agile organization. We will create a flexible organization whose leadership and work processes can handle the increasing expectations of our markets, the growing complexity and volume of our work, and the globalization that characterizes the 21st century economy. We will work with our partners, both bilaterally and multilaterally, to create a stronger, better-coordinated and more streamlined framework for protecting intellectual property around the world. We will transform the USPTO workplace by radically reducing labor-intensive paper processing.
- **Capability** – Enhance quality through workforce and process improvements. We will make patent and trademark quality our highest priority by emphasizing quality in every component of the plan. Through timely issuance of high-quality patents and trademarks, we will respond to market forces by promoting advances in technology, expanding business opportunities and creating jobs.
- **Productivity** – Accelerate processing times through focused examination. We will work to reduce patent and trademark pendency, substantially cut the size of our backlog of work, and recover our investments in people, processes and technology.



The Strategic Plan was made public in June 2002. At the same time, the USPTO proposed a reallocation of 2003 resources to fund the Plan and the Administration put forth proposed legislation to restructure the USPTO's fee schedule to generate additional fee income needed to make critical investments in support of the Plan. Although the USPTO was applauded for putting forth an innovative and comprehensive plan, a number of key components – many related to the USPTO's fee structure — generated controversy. The USPTO has listened to stakeholders and applicants and is consulting with the Patent and Trademark Public Advisory Committees to identify alternative actions that would be amenable to applicants and the public while addressing the challenges the Agency is facing in the 21st century.

MANAGEMENT DISCUSSION AND ANALYSIS

Under Secretary Rogan and USPTO CIO Doug Bourgeois (far right) are joined by e-filing partners (left to right) Robert Simpson, President, Legalstar; Jim Shay, President and CEO, First to File Inc.; Eric Patrick, CEO, Aspen Grove, Inc.; Walter Walvick, President, Autodocs, LLC; and Ken Crutchfield, Vice President, LexisNexis.



In FY 2002, the USPTO began to gradually move forward in adopting the goals and objectives put forth in the Strategic Plan, to the extent they were consistent with Congressional intent and supported by our stakeholders and applicants. The USPTO Strategic Plan can be found on the USPTO web site: <http://www.uspto.gov/web/offices/com/strat2001>

**USPTO PERFORMANCE GOALS**

The USPTO Performance Plan, which is included in our annual budget submission, has four core goals and eight performance measures reflected in the charts below:

PATENT PERFORMANCE SUMMARY				
Performance Goal	Performance Measure	FY 2001 Actual	FY 2002 Target	FY 2002 Actual
Enhance the quality of our products and services	Improve quality of patents through reducing the error rate	5.4%	5.0%	4.2%
	Increase overall customer satisfaction	64%	67%	63%
Minimize application processing time	First Action Pendency (months)	14.4	14.7	16.7
	Total Pendency (months)	24.7	26.5	24.0

TRADEMARK PERFORMANCE SUMMARY				
Performance Goal	Performance Measure	FY 2001 Actual	FY 2002 Target	FY 2002 Actual
Enhance the quality of our products and services	Improve quality of trademarks through reducing the error rate	3.1%	5.0%	4.3%
	Increase overall customer satisfaction	70%	72%	65%
Minimize application processing time	First Action Pendency (months)	2.7	3.0	4.3
	Total Pendency (months)	17.8	15.5	19.9



## PERFORMANCE DATA VERIFICATION AND VALIDATION

In accordance with GPRA requirements, the USPTO is committed to making certain that performance information reported is reliable, accurate and consistent. To ensure the highest quality data, the USPTO has developed a strategy to validate and verify the quality of the USPTO's performance information. The USPTO has undertaken the following:

- **Quality Reviews** – USPTO conducts ongoing reviews on the quality of patent and trademark examination. The focus of the review for patent applications is threefold: (1) identify patentability errors, (2) assess adequacy of the field of search and proper classification, and (3) assess proper examination practice and procedures. For trademark applications, the review includes four areas: (1) substantive statutory criteria for registrability, (2) search for confusingly similar marks, (3) proper examination practice and procedure, and (4) proper application of judicial precedents. The information from these reviews helps our business units identify necessary training with the goal of enhancing overall product quality and improving the consistency of examination. The results of the reviews provide analysis in the form of reports to Patent and Trademark management. These reports serve as a tool for educating examiners and examining attorneys. In addition to reporting specific errors, the analysis provides information on recurring problems and trends.
- **Accountability** – Responsibility for providing performance data lies in the Patent and Trademark organizations. The USPTO holds program managers accountable for ensuring procedures are in place regarding the accuracy of their data, and that the performance measurement source is complete and reliable.

The Office of the Inspector General (OIG) also contributes to the USPTO's efforts to assure audit and evaluation coordination and coverage of USPTO goals. The OIG conducted the following types of audits and evaluations:

- **Program evaluations** – The OIG reviewed the USPTO's performance measures included in the Department of Commerce's Annual Performance Plan (*Minor Improvements Needed in Reporting Performance Results, FSD-14429/March 2002*). The purpose of the review was to validate the measures and the data collection tools and methods. The results of the audit showed that management controls were in place and operating effectively regarding the collection, validation and reporting of performance measures. In addition, the report stated that the USPTO was committed to developing and producing quality performance measures. Several minor recommendations were reported and have subsequently been implemented by the USPTO.
- **Financial statement audit** - During FY 2002 financial statement audit, various tests and reviews of the primary accounting system and internal controls were conducted as required by the Chief Financial Officers' Act. In their FY 2002 internal control report the auditors reported no material deficiencies. The auditors issued an unqualified opinion on USPTO's FY 2002 financial statements.



## PATENT PERFORMANCE

Fiscal year 2002 produced many accomplishments for the Patent Organization. In addition to executing the various actions outlined by the Under Secretary in the top-to-bottom review, the Patent Organization made significant progress towards initiating many of the themes described in the *21st Century Strategic Plan*. These efforts will improve patent examination quality and processes, and will also help the USPTO meet the changing needs of its customers in this knowledge-based economy.

Along with developing many of the action items identified in the Strategic Plan, the Patent Organization supported the President's Management Agenda on many fronts, including: competitively outsourcing functions, improving strategic management and human capital as evidenced through increased employee retention, and enhancing e-Government objectives.

With respect to workload issues, the USPTO received 333,688 Utility, Plant, and Reissue (UPR) patent applications for the fiscal year just ended, a 2.3 percent increase over FY 2001 and more than any previous year despite the downturn in the economy. Additionally, the USPTO published 169,729 pending applications 18 months after filing and issued 162,221 patent grants, 8,579 short of projected achievement goals due to delays in mail delivery of patent issue fees as a result of anthrax contamination in the Brentwood Post Office.

In addition to addressing the mounting backlog issues, the Patent Organization made noteworthy attempts to decrease pendency. With an end-of-year examiner staff of 3,538, Patents produced 275,054 first office actions with an average pendency of 16.7 months, and disposed of 260,245 applications, achieving an average pendency of only 24 months – almost two months less than the projected overall pendency goal.



*Nicholas P. Godici,  
Commissioner for Patents*

Moreover, the Patent Organization demonstrated significant improvement in the areas of quality. Specifically, the percentage of allowed applications with material or significant defect was reduced by 1.2 percent over FY 2001, bringing the overall quality error rate down to 4.2 percent. This is well below the target goal of reducing the error rate to 5.0 percent. This tremendous achievement is due to a number of quality initiatives that were implemented during FY 2002, such as focused emphasis on quality, enhanced training of patent examiners, and expanded review of patent applications.



*Under Secretary Rogan moderates a roundtable on innovation in the 21st Century during the USPTO's celebration of its bicentennial. Joining Director Rogan at the table were over 30 of America's greatest living inventors and Richard Russell, Associate Director for Technology, White House Office of Science and Technology.*

In keeping with the President's priorities and new emphasis on homeland security, the Patent Organization made strides during the fiscal year to improve its screening and reviewing processes for patent applications with national security issues. Patents coordinated with the Office of Homeland Security, Department of Defense, Department of Energy, Department of Justice, National Aeronautics and Space Administration, and Department of Health and Human Services with respect to potential interests in expanding the review of patent applications for matters of homeland security. Patents successfully implemented new security screening procedures while ensuring the 30-day mailing of filing receipts was maintained. Also, in response to the Secretary's emphasis on safety and security within the workforce, the Patent Organization improved its emergency preparations by obtaining emergency contact information for employees and ensuring that each building implemented and regularly practiced building evacuation procedures.

The Patent Organization continued its customer outreach efforts by providing educational lectures and presentations regarding recent changes to patent rules. Specifically, presentations were made to major national and regional bar associations, intellectual property organizations, legal secretaries and administrators, and at several legal conferences regarding new case law and practical tips on how to work more efficiently with the USPTO. Additionally, Patents produced lectures and training explaining the American Inventors Protection Act (AIPA) of 1999. Patents also worked with the Office of Legislative and International Affairs and the Office of the General Counsel to submit some needed technical changes to the law, which were ultimately enacted by Congress. Thereafter, Patents continued to develop and revise training materials regarding the changes.

In our quest to implement electronic Government initiatives, the USPTO's Search and Information Resources Administration (SIRA) played an important role in many of the Patent Organization's efforts to improve patent application quality, timeliness, and customer service during FY 2002. Two of SIRA's significant accomplishments include:

- Enhancing the agency's search systems by adding the full text for 2.5 million U.S. patents issued between 1920-1970;
- Developing and delivering automation training courses, customized to the requirements of each of the seven technology centers. These courses focused on teaching examiners how to search more effectively for Non-Patent Literature and were delivered to the entire Patent Examining Corps.



*Secretary Evans and Under Secretary Rogan pose with the 38 inductees of the National Inventors Hall of Fame who were special honored guests at the Bicentennial Celebration.*

The SIRA automation department also developed and implemented a significant upgrade to USPTO's legacy workflow system. The new application tracking system, called PALM (Patent Application Location and Monitoring) ExPo, provides greater flexibility in workflow tracking and greater ease of use for the technical support staff. Following deployment, SIRA developed and delivered training for every patent examiner, manager, and technical support provider for the new system.

Significant efforts were made to reduce the backlogs in Certificates of Correction including enhancements to the desktop publishing system. We designed systems and procedures in FY 2002 to support an electronic pilot to reduce patent printing errors. This pilot will allow applicants to review proofs of their patents and submit desired corrections or changes prior to issuance. Another indication that the USPTO is moving closer to an electronic application processing pipeline and a full e-Government environment, the Official Gazette is no longer published in paper and is only produced electronically.

To decrease the backlog and pendency, the USPTO hired 769 patent examiners. Over 60 percent of the new hires were placed in the electrical technology centers, where our biggest challenges exist. These highly skilled individuals will make significant impacts in reducing the backlog.

The integration of the Business Methods technology with the mechanical arts was also a significant achievement for the Patent Organization. During the year, the Business Methods unit responded to suggestions and recommendations from customers and IP groups and associations, and created a variety of prior art collections focused specifically on areas of business method application filings. By realigning Business Methods with a mechanical art group, resources were applied to create and deliver training for the examiners in Business Methods legal developments, and it allowed for the pairing of more senior primary examiners to assist with the instruction of junior examiners.



*Secretary Evans greets new patent examiners during a visit to the USPTO.*

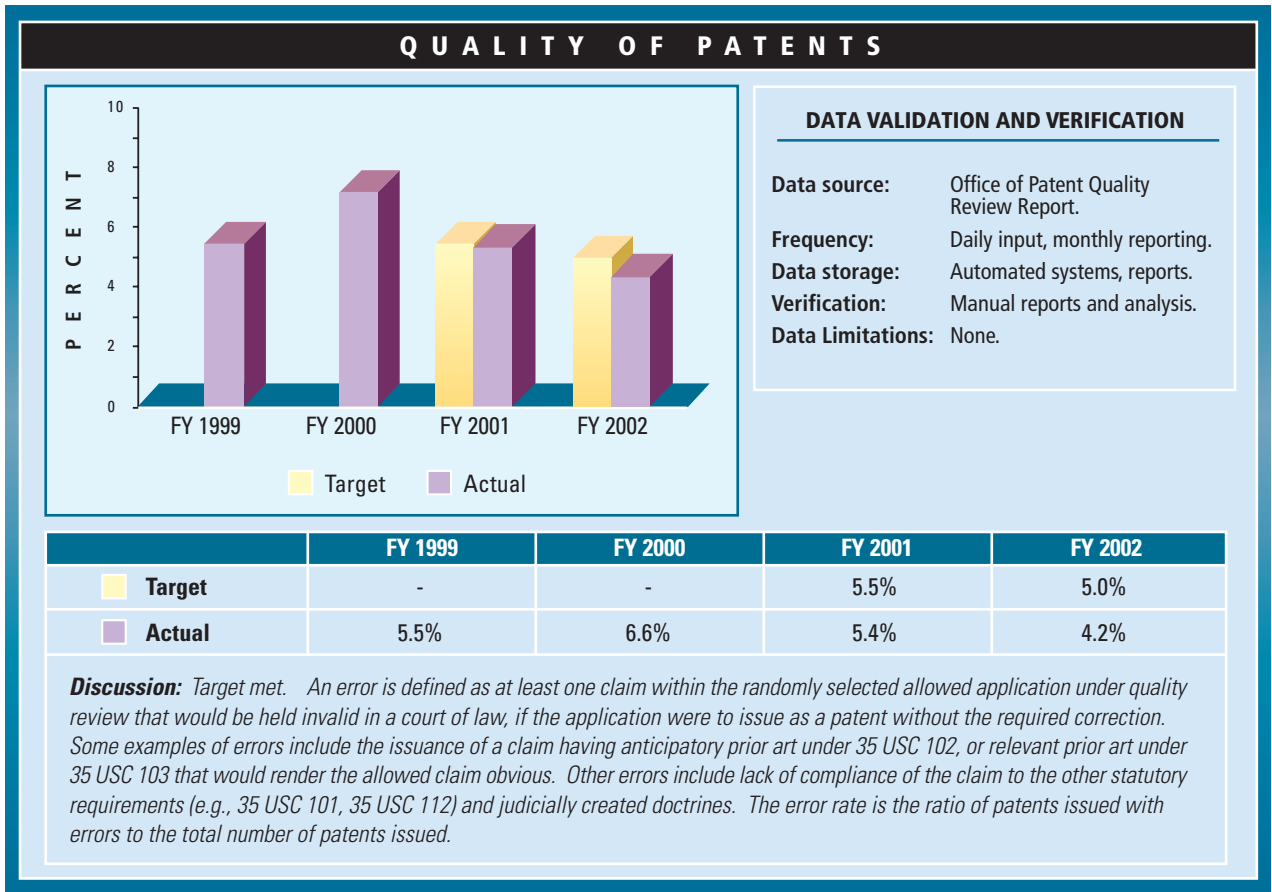
The Patent Organization implemented the second phase of the Millennium Agreement in FY 2002. The Millennium Agreement is an agreement between the USPTO management and the Patent Office Professional Association, which identifies a series of steps the Patent Organization will make to move toward an electronic Government and further address a number of long-standing issues that will help the Patent Organization reach its goals. During the second phase, the Patent Organization continued its efforts to remove the examiner paper search files, relying instead on the automated database, and deployed upgraded equipment (flat panel monitors and high speed local printers) to hundreds of patent examiners.

Specific performance results related to the Patent Organization goals and measures are as follows:

**Goal: Enhance the quality of our products and services**

Customers are concerned with the quality of the products and services they receive in exchange for the fees they pay. The Patent Organization's efforts throughout FY 2002 have provided significant quality and organizational process business benefits. The Patent Organization continues to focus its resources and planning to address the changing needs of its customers, while serving as a catalyst for the U.S. economy.

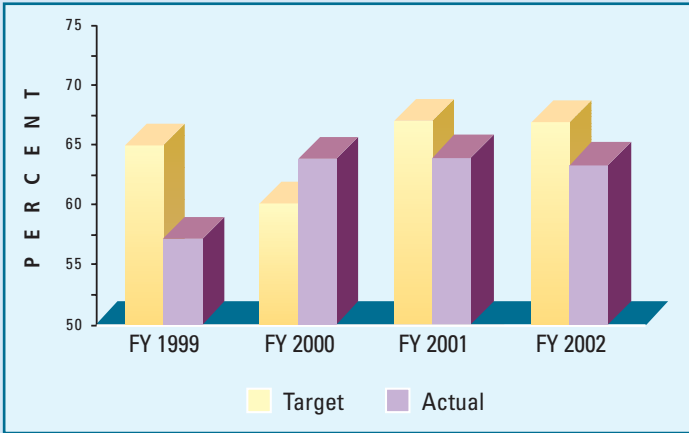
**Measure: Improve the quality of patents by reducing the error rate**



The Patent Organization is making dynamic changes to its quality processes. As a result, quality reviews will be performed throughout the entire examination process. This expanded review process, coupled with extensive implementation of newly designed examiner training should result in a significant improvement in quality.

**Measure:** *Improve overall customer satisfaction.*

**INCREASING CUSTOMER SATISFACTION**



**DATA VALIDATION AND VERIFICATION**

**Data source:** Customer surveys.  
**Frequency:** Surveys are conducted and results are reported annually.  
**Data storage:** Paper files and contractor electronic files.  
**Verification:** Independent contractor develops data instrument, conducts survey and compiles results.  
**Data Limitations:** None.

	FY 1999	FY 2000	FY 2001	FY 2002
<b>Target</b>	65%	60%	67%	67%
<b>Actual</b>	57%	64%	64%	63%

**Discussion:** *Target not met. The Patent Organization achieved 63 percent overall Customer Satisfaction, compared with the goal of 67 percent and saw improvements in several of the key drivers. Most notably were the accuracy of filing receipts and in the prompt direction of customer inquiries. Satisfaction with the thoroughness of prior art searches was the only area in which the Patent Organization demonstrated a negative turn. The Office anticipates this downward slope will soon change as a result of the many quality initiatives being implemented by the Patent Organization.*

*The USPTO has been surveying customers of the patent process since FY 1995. Overall satisfaction remained virtually the same until FY 1998 with significant improvement in FY 1999 and FY 2000. Survey contractors labeled this five percent increase "statistically significant." They cautioned that repeated "significant" increases in overall satisfaction are highly unusual.*

During FY 2002, customer service centers resolved over 50,000 total inquiries. The centers also achieved an average response time of 39.6 days for total inquiries. There were 42,059 status requests received, of which 98.5 percent were resolved. Moreover, to alleviate the need for faster processing times, the Patent Organization posted notices on the USPTO web site that encouraged and provided direction on how applicants could provide official documents by facsimile. In addition, one technology center designed and supported a Time-to-First Action software package that was deployed throughout the Patent Organization in May 2002. The latest survey provided to USPTO customers revealed the following:

Key Drivers	FY 2001	FY 2002	Difference in % Satisfaction
Directing customer inquiries promptly	70%	74%	+4
Returning calls within one business day	64%	66%	+2
Providing clear communications	62%	63%	+1
Widely disseminating information	63%	63%	0
Mailing Accurate Filing Notices	55%	61%	+6
Conducting thorough searches	63%	60%	-3



In an effort to improve overall customer satisfaction, several more customer service representatives were hired and increased customer service goals were established. USPTO has been surveying customers of the patent process since FY 1995. Overall satisfaction remained virtually the same until FY 1998, with a statistically significant five percent improvement in FY 1999 and FY 2000. Expert consultants have informed the Patent Organization that repeated "significant" increases in overall satisfaction are highly unusual. In recent surveys, the Patent Organization focused on improving key drivers of customer satisfaction, such as providing clear office communications from examiners, directing customer inquiries in a prompt and efficient manner, returning customer phone calls within one business day, and broadly disseminating information. Satisfaction with the thoroughness of prior art searches was the only area in which the Patent Organization demonstrated a negative turn. The Patent Organization anticipates this downward slope will soon change as a result of the many quality initiatives being implemented by the Patent Organization.

**Goal: *Minimize patent application processing time***

The term of patent protection is currently defined as beginning on the date the patent is granted and ending 20 years from the earliest filing date of the application. Since the amount of time the Office uses to process an application takes away from the patent term enjoyed by the inventor if the application is granted, it is incumbent upon the Patent Organization to minimize the application processing time. A shortened patent term and lengthened pendency complicate business decisions and negatively impact a patent owner's ability to collect royalties, raise capital, and bring new products to market particularly in computer-related fields where the product cycle is relatively short.

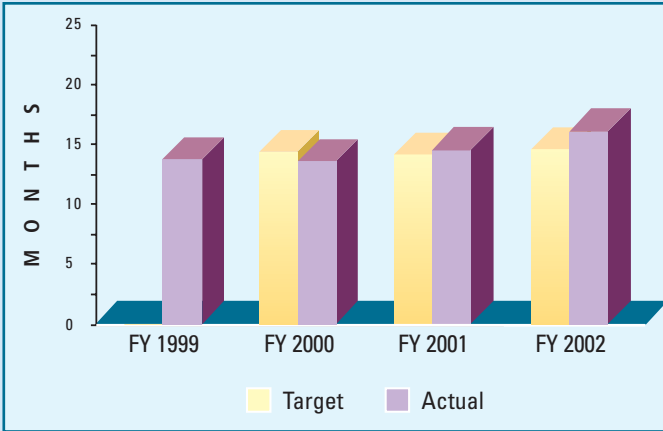
The two primary measures of Patent Organization processing time are: (1) first action pendency, which measures the average time in months from filing date until an examiner's initial determination of the patentability of an invention; and (2) total pendency, which measures the average time in months from filing until the Patent Organization grants the patent or the application is abandoned by the applicant.



*Patrick Nolan, Primary Patent Examiner Tech Center 1600 briefs Secretary Evans on electronic search tools*

**Measure: Reduce average first action pendency.**

**PATENT FIRST ACTION PENDENCY**



**DATA VALIDATION AND VERIFICATION**

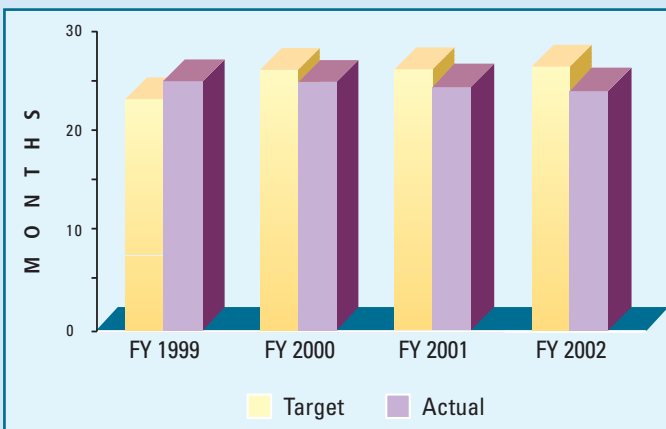
**Data source:** Patent Application Location and Monitoring (PALM) system.  
**Frequency:** Daily input, monthly reporting.  
**Data storage:** PALM, automated systems, reports.  
**Verification:** Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners and supervisory and program management.  
**Data Limitations:** None.

	FY 1999	FY 2000	FY 2001	FY 2002
<b>Target</b>	-	14.2	13.9	14.7
<b>Actual</b>	13.8	13.6	14.4	16.7

**Discussion:** Target not met. Delay in the timely hiring of new patent examiners resulted in not meeting our first action pendency target by two months. The initiatives identified in the USPTO 21st Century Strategic Plan will reduce patent pendency, substantially cut the size of the work backlog, and recover investments in people, processes and technology.

**Measure: Reduce average first action pendency.**

**TOTAL PATENT PENDENCY**



**DATA VALIDATION AND VERIFICATION**

**Data source:** PALM system.  
**Frequency:** Daily input, monthly reporting.  
**Data storage:** PALM, automated systems, reports.  
**Verification:** Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners and supervisory and program management.  
**Data Limitations:** None.

	FY 1999	FY 2000	FY 2001	FY 2002
<b>Target</b>	23.3	26.2	26.2	26.5
<b>Actual</b>	25.0	25.0	24.7	24.0

**Discussion:** Target met. Total pendency is the estimated time in months from filing to issue or abandonment of the application.





*Secretary Evans delivers remarks and a toast at the Bicentennial Reception and Dinner held at the Library of Congress.*

Patents received 333,688 Utility, Plant and Reissue applications during the fiscal year, a growth rate two percent above the previous year's filings. In order to address mounting backlogs and decrease pendency, 769 patent examiners were hired. Patents ended the year with a staff of 3,538 patent examiners and an attrition rate of seven percent, down from 8.2 percent in FY 2001. The examiner corps issued 275,054 first office actions, for a pendency of 16.7 months, and disposed of 260,245 applications, achieving 24.0 months' total pendency, significantly below our target for the year.

Filings under the Patent Cooperation Treaty (PCT) continue to be steady. During FY 2002, the USPTO received approximately 42,889 international applications; 27,828 demands for International Preliminary Examination; and 29,846 National Stage applications filed under the PCT.

## PATENT COMMISSIONER'S PERFORMANCE FOR FY 2002

The American Inventors Protection Act (AIPA), Title VI, Subtitle G, the Patent and Trademark Office Efficiency Act, established the USPTO as an agency of the United States, within the Department of Commerce, on March 29, 2000. The legislation provides for appointment of a Commissioner for Patents as the Chief Operating Officer for Patents, and a Commissioner for Trademarks as the Chief Operating Officer for Trademarks. It also requires that an annual performance agreement be established between the Commissioners and the Secretary of Commerce. The agreement outlines measurable organizational goals and objectives for the organization. The Commissioners may be awarded a bonus, based upon an evaluation of their performance as defined in the agreement, of up to 50 percent of their base salary.

The Patent Organization goals formed the foundation for the annual performance agreement between the Commissioner for Patents and the Secretary of Commerce, as required by the AIPA. The performance agreement outlined measurable organizational goals and objectives for the Patent Organization based on the above goals and performance measures. Upon an evaluation by the Secretary of Commerce, and consistent with the AIPA, the Commissioner for Patents received a performance bonus of 25 percent of his annual rate of basic pay for his contribution toward the successful achievement of these goals and objectives.

## THE PATENT ORGANIZATION – WHAT'S AHEAD

The USPTO is facing critical challenges. The need for change stems from various sources:

- (1) continued increase in patent application filings, especially in complex technologies;
- (2) demands from customers for higher quality products and services in a timely manner; and
- (3) pressures from Congress, the owners of intellectual property, the patent bar, and the public to address their concerns in an aggressive and time-sensitive manner.



In response to these needs, the Patent Organization focused on transformation throughout FY 2002. As a result of the top-to-bottom review conducted in the first half of the fiscal year and the creation of the *21st Century Strategic Plan*, the Patent Organization was given the challenge to improve processes in order to achieve higher quality issued patents, implement an e-Government system, reduce patent application pendency, and create greater customer satisfaction. The Patent Organization embraced these challenges. In support of customer demands, the changes resulting from a market-driven economy, and the goals defined in the Strategic Plan, the Patent Organization established several teams led by senior Patent managers to direct and manage the achievement of each of the Patent initiatives outlined in the Strategic Plan.



*Left to right Stephen G. Kunin, Deputy Commissioner for Patent Policy, Brad Huther, Senior Advisor and Lynn Beresford, Deputy Commissioner for Trademark Policy answer employees questions regarding the 21st Century Strategic Plan.*

The directives set forth by the Under Secretary placed patent quality as the highest priority for the USPTO. As such, the Patent Organization is now integrating several quality enhancement programs into the overall quality assurance program located in each technology center. In addition, the Patent Organization is expanding application work product reviews and is strengthening the connection between the collection of quality review data and the subsequent training needed for improved application

examination. The unique quality needs of each technology center will be met through the use of Technology Quality Leads who collaborate with Quality Assurance Supervisors and the Office of Patent Training for necessary training and process changes. These projects bring quality and training to the front lines. In particular, the Patent Organization's quality initiatives are based on the following elements:

examination. The unique quality needs of each technology center will be met through the use of Technology Quality Leads who collaborate with Quality Assurance Supervisors and the Office of Patent Training for necessary training and process changes. These projects bring quality and training to the front lines. In particular, the Patent Organization's quality initiatives are based on the following elements:

- Patent professionals, support staff, and supervisors will be held accountable for the requisite skills needed to carry out their responsibilities during the patent examination process.
- The Patent Organization will address employee skills needed for implementing e-Government processes.
- Pre-employment testing will be utilized to screen all potential patent examiners, including the assessment of written and oral communication skills.
- Primary examiners will be responsible for staying current in patent law, practices, and procedures. This will be monitored through the use of re-certification testing and training courses.
- Legal competency and negotiation abilities will be certified before patent examiners are promoted to GS-13 level.
- More rigorous standards will be put into effect for the selection and training of supervisory patent examiners and quality assurance specialists. New skill sets will be one of the most effective methods for training patent examiners and increasing the thoroughness of examiner work product reviews.



As all of these efforts are implemented over the next few years, the Patent Organization expects these quality initiatives will result in significant quality improvements to patent examination. The Patent Organization and its customers can expect:

- Improved patent application examination
- Increased examiner legal and technical knowledge
- Reduced rework from USPTO Office actions
- Higher standards for examiner promotions
- Confidence in examiner ability
- More thorough Patent Organization communications
- Better review of U.S., foreign, and non-published literature prior art
- Increased training for Patent Organization employees on key areas

Initiatives started in FY 2002 that will continue in subsequent years to implement the above quality improvements include the following:

#### ***Knowledge, Skills and Abilities –***

The establishment and testing of formal Knowledge, Skills and Abilities (KSAs) for those involved in the patent examining process ensures that patent examiners, supervisory patent examiners, and quality assurance specialists have the requisite tools to perform the patent examination functions, training, and quality reviews at the highest possible level. It also accommodates proper hiring, training, retention, and promotions for all patent examiners, supervisory patent examiners, and quality assurance specialists. At the end of FY 2002, the basic KSA concepts were developed and the validation process begun. Additional information regarding patent examiner training can be found in the “Other Accompanying Information” section at the end of this report.

#### ***Pre-employment Testing for Patent Examiners –***

Pre-employment testing permits the Office to better evaluate applicants and their abilities, such as oral and written communication skills, to perform the functions of the job. An interim process was established during FY 2002 and is being utilized until the final KSAs are implemented.

#### ***Re-certification of KSA for Primary Examiners and Certification of Junior Examiners –***

The recertification of primary examiners and certification of junior examiners was initiated to ensure examiners maintain the requisite KSAs in current patent law, practice, and procedure. The process includes continuing legal education classes and extended work reviews. By the end of FY 2002, the Patent Organization developed a strategy to implement the increased work reviews and began the development of course criteria and schedules necessary for recertification.

#### ***Improved Selection and Training of Management –***

The management team is responsible for training patent examiners and ensuring examiners have a full understanding of the examination process. In addition, managers must have the skills necessary to guide their employees. For these reasons, the Patent Organization developed the criteria necessary to improve its management staff selection process and is building the training courses that will provide managers with the fundamental skills necessary to be effective.

**Expansion of Patent Application Work Product Reviews –**

By the end of the fiscal year, the Patent Organization began implementing an expanded quality assurance program in the technology centers. The program provides each technology center with a central quality assurance program that reviews quality throughout the examination process. The Patent Organization will be creating new positions, which will guide the overall training in FY 2003.

**Enhanced Reviewable Record –**

Improving the patent application file wrapper record generated during the prosecution and providing better explanations for Patent Organization actions will substantively contribute to the overall quality of a patent. By the end of the FY 2002, the Patent Organization established new guidelines and drafted policy changes for the Manual of Patent Examiner Procedures for improving file wrapper contents.

**E-Government –**

E-Government is also a high priority for the Patent Organization. At the May 2002 Technical Trilateral meeting in The Hague, an agreement was reached between the European Patent Office (EPO) and the USPTO to foster collaborative development in the areas of e-filing and e-processing of patent applications. In accordance with the agreement, the Patent Organization implemented an electronic application processing prototype based on the EPO's Phoenix image-based system. The prototype includes 40-50 employees from three art units within two technology centers. The prototype will provide an opportunity to study the integration of EPO's capabilities into the Patent Organization's current automation systems. Additionally, the use of EPO's system will allow the USPTO to accelerate its transition to a completely electronic environment, and will leverage their experience with processing image-based applications into the redesign of USPTO application processing.

The ultimate goal is to create an end-to-end patent application pipeline that will provide e-processing of applications from authoring and filing to publication. Together with the Tools for Electronic Application Management (TEAM) project, which will provide a document management and workflow system to electronically process patent applications, the system will integrate and capitalize on features from a variety of information technology systems currently in use at the USPTO. This change will reduce the dependency on increasing electronic filing rates in the short-term, since all applications (even those submitted in paper format) will be converted to electronic format.

All forecasts indicate that the future will be dynamic for Patents. With requisite funding and staffing resources, it is anticipated that many of the projects initiated in FY 2002 will be operational in FY 2003. Additionally, using the revised patent processes based on the concepts outlined in the Strategic Plan, it is predicted that the Patent Organization will see dramatic results over the next five years, including:

- Enhanced quality for patent examining operations
- 50 percent reduction in first action response time
- Continuing to strive for pendency reduction toward the ultimate target of 18 months
- Outsourcing of classification and search functions
- Full implementation of an electronic image file wrapper based on the EPO Phoenix system



## TRADEMARK PERFORMANCE

The word that best describes FY 2002 for the Trademark Organization is *unprecedented*. The past year brought any number of new challenges that required significant rethinking for managing the continued decline in trademark filings. At the start of the year, the Trademark Organization was faced with the very real possibility that the examination process would be seriously disrupted if drastic actions were not taken to redirect available resources to focus on other work. The most significant operational challenge addressed in the past year was the decision to conduct a reduction-in-force to balance our examiner staff with workloads. The decision was made after carefully considering a number of options, and was consistent with the USPTO's goal of running an efficient and effective Trademark operation. The nature of the work, registering trademarks, makes the Trademark Organization susceptible to the same economic forces that have led many businesses to reduce the size of their workforce over the past two years.



Anne H. Chasser,  
Commissioner for Trademarks

Given the second year of declining new filings, Trademark's strategy was to focus attention on three areas within the examination process with a goal to reduce the pending inventory of paper files prior to the implementation of electronic file management in FY 2004 and the relocation of Trademark Operations to the Carlyle campus in the near future.

The results were dramatic. A record number of applications were registered and disposed of, and pending inventories were substantially reduced. Registrations increased by more than 30 percent to 133,225 including 164,457 classes. Total Office disposals were 228,191 including 284,559 classes. The inventory of total applications under examination was reduced by 30 percent from 332,900 files with more than 458,300 classes at the start of the fiscal year to 233,100 files including 318,300 classes. The decrease is due in part to lower filings but more significantly to the concerted effort to complete work on applications already under examination or still in process pending publication and registration. As a result of this focus, the inventory of files under examination was reduced by 48 percent due to a combination of examiner action and applications that were abandoned. Applications that had previously been approved by the examiner were completed, reducing the inventory of applications in the publication cycle by 36 percent.

Highlights of the Trademark Organization's performance during FY 2002 are shown below:

### **Trademark e-Government –**

The Trademark Organization is well positioned to achieve the objectives of the USPTO's *21st Century Strategic Plan*, which relies on electronic communications to offer market-based services and improve the availability of trademark information to more effectively serve an increasingly larger, global client-base. Internet access has provided advantages that were not possible in a paper environment. Customers may now access information at their convenience that previously may not have been known or available to them. They can also file applications on-line and correspond electronically. Electronic filing and access increases the opportunity for filing for Federal registration, which affords protection to business owners and consumers by providing notice of marks in use. Electronic filing and information systems serve customers in two very important ways, by improving the time and accessibility of information and by improving the quality of the initial application as well as the quality of the data that is captured and shared in the publication and registration of trademarks.

Trademark's goal for 2002 was to expand the use of the Internet to receive 50 percent of all trademark applications electronically, increasing to 80 percent by 2003. The goal is to perform nearly all communications with customers electronically by 2004.

In FY 2002, the Trademark Organization received 38 percent of the initial applications for registration electronically. In the last quarter of the fiscal year, just over 50 percent were filed electronically. Two new electronic forms were added in midyear and showed significant use. More than 47,300 requests were received electronically to change the correspondence address of an application. Nearly 5,600 responses to office actions or preliminary amendments were filed. The addition of these two forms significantly improves the time in which the Trademark Organization can respond to requests as well as offering a more convenient way to transact business for all applicants.

#### **Electronic Access –**

Trademark's customers have the ability to access the same data used internally in the processing and examination of trademarks and conduct nearly all their trademark-related business electronically on the USPTO web site. Customers may conduct an electronic search to determine the status of pending and registered trademarks, conduct a preliminary search prior to filing an application, access general information, examination manuals, treaties, laws and regulations, obtain weekly information on marks published (registered and renewed), and file applications.



*Under Secretary Rogan delivers keynote address at the annual International Trademark Association (INTA) meeting, which was held in Washington for the first time last year.*

#### **Trademark Electronic Search System (TESS) –**

TESS supports the USPTO's approach to e-Government by providing greater access and information resources to those who need it. TESS allows anyone from any location to search and retrieve, for free via an Internet browser, the more than 3.3 million records of pending, registered, abandoned, cancelled or expired trademark applications or registrations. The USPTO has made available to the public the entire database and search system used by the USPTO's trademark examining attorneys for making decisions regarding the registrability of a mark. Access to this database is leading to increased electronic communications with trademark customers and is a critical component for the success for achieving the goal of e-Government. The public initiates more than one million queries per month through TESS.

#### **Trademark Application Registration Retrieval (TARR) –**

TARR is a web-based system providing information on pending and registered trademarks to the public at no cost. TARR represents the USPTO's continuing commitment to maximize implementation of e-Government initiatives. USPTO customers can access the Internet or call the status line and help lines to monitor the current status of their filings. The public initiates more than 1.3 million queries a month through TARR.

The Trademark Trial and Appeal Board (TTAB) Information System Index supplements status information available from TARR by including the status of search proceedings for the TTAB.



**Trademark Electronic Application System (TEAS) –**

The Trademark Organization continued to build on improving the content and offerings available through its web site presence that has driven much of its e-Government success. Since its debut four years ago, TEAS, has generated an ever-increasing level of filings. From its first year of operation, when eight percent of initial applications were filed electronically, the percentage of applications filed for registration has increased to 38 percent. Making more forms as well as trademark-related information available via the Internet improves the ability of the public to gain access to Government information.

The ability to accept applications electronically is critical to meeting the USPTO goal for conducting business electronically by FY 2004, as well as providing access to those who otherwise would not have filed for trademark registration. Over the past year, the Trademark Organization continued to take steps to make TEAS the cornerstone of the overall transformation of Trademark operations into an effective e-Government operation focusing on specific strategies to increase the number of applications filed electronically, and the number of applicants adopting electronic filing as their preferred method of conducting business with the USPTO.



*Trademark customers flock to USPTO booth for TEAS demonstration during annual INTA meeting held last year in Washington DC.*

**Initiatives to Promote e-Government –**

Several fora to promote electronic filing and communication were jointly sponsored by the USPTO and law firms, associations, and universities in the greater Washington metropolitan area and major cities across the U.S. These fora provided a unique collaboration between the USPTO and senior law firm and corporate trademark practitioners to share information and ideas with the goal of ensuring that business needs are met as the USPTO continues its transition to an e-commerce environment.

**Electronic Publication and Distribution –**

The production process for the Trademark Official Gazette, the weekly publication of current information covering several thousand marks and other office actions, is created electronically and sent to the Government Printing Office for printing and distribution. Text and images are extracted from electronic records, making the entire layout of the Gazette and the printing of the registration certificate, fully automatic. The weekly Trademark Official Gazette, registration certificates and updated registration certificates for the five most recent weekly issues are available electronically from the USPTO web site. Previously, the Official Gazette was available only in paper form from the Government Printing Office or through the Patent and Trademark Depository Libraries. Copies of registration certificates were only available in paper at the USPTO or for a fee. Now, the entire publication and copies of registration certificates are also available as a PDF file that can be downloaded via the Internet. The products are available more quickly to the consumer, and the electronic versions are free.

**Trademark Manual of Examining Procedure (TMEP) –**

The 2002 edition of the TMEP was distributed electronically in a searchable, downloadable format. The TMEP, along with other trademark information resources, has been provided in both an electronic and a paper format for several years. Electronic distribution through the USPTO web site and FirstGov is recognition of the flexibility and convenience Internet access provides in reaching an expanded network of businesses and the public.

**Trademark Information Capture and Retrieval System (TICRS) –**

TICRS is the first step toward creating a fully electronic file, and eventually, an electronic file management system. All incoming applications filed since FY 1999, whether filed electronically or on paper, are captured and stored electronically through TICRS. Electronic images of applications have replaced the need for generating paper copies or for microfilming new applications. In the past year, TICRS was made available to all Trademark employees at their desktop computers, and to the public through computers in our public search library. Examiners are now able to conduct their initial examination of the application from the TICRS image, the first step in transitioning to a completely electronic process.

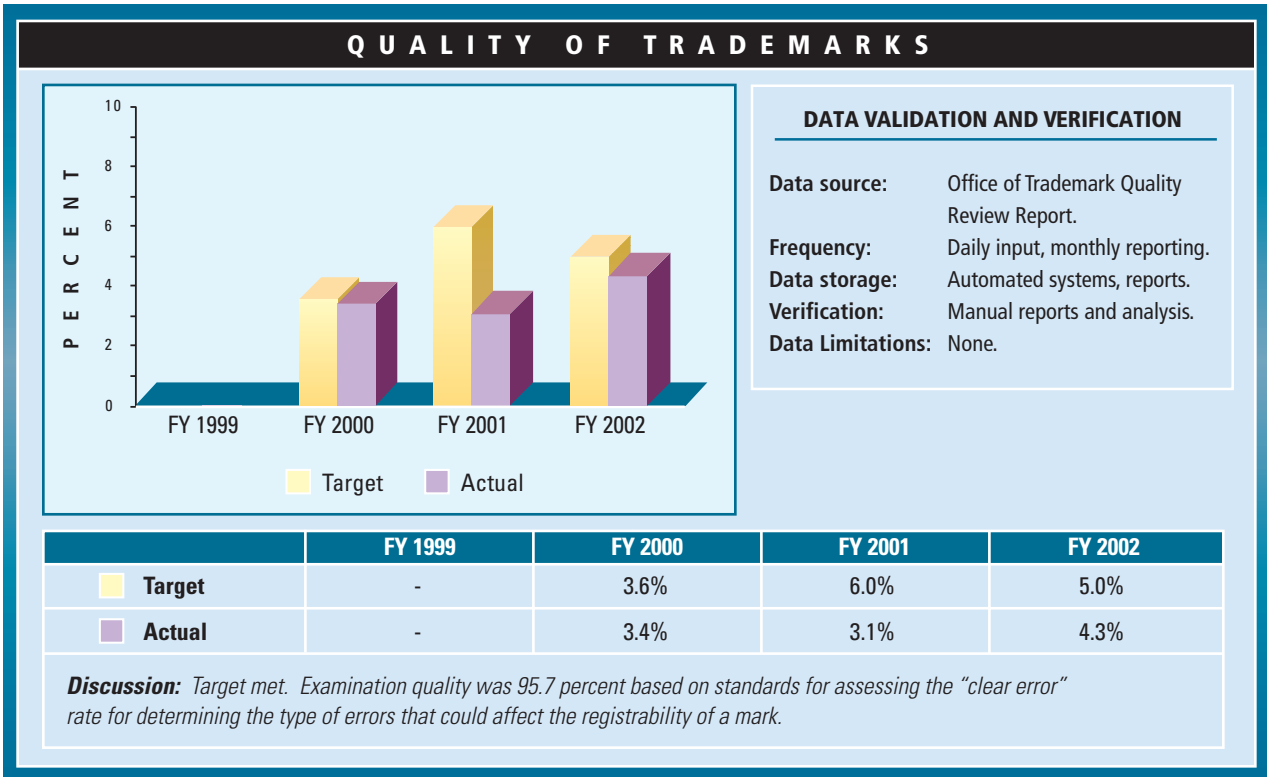
**Filings –**

The USPTO received 207,287 trademark applications, including 258,873 classes for registration in FY 2002. Filings in FY 2002 were nearly 13 percent less than filings in FY 2001, which followed a decline of 21 percent from FY 2000 to FY 2001. The drop in new application filings marked the second year in a row in which fewer applications were received than in the previous year. The level of filings over the past two years represents a significant turnaround following two consecutive years with increases of 27 percent preceded by nearly a decade of annual increases of 10 to 14 percent.

Specific performance results related to the Trademark Organization goals and measures are as follows:

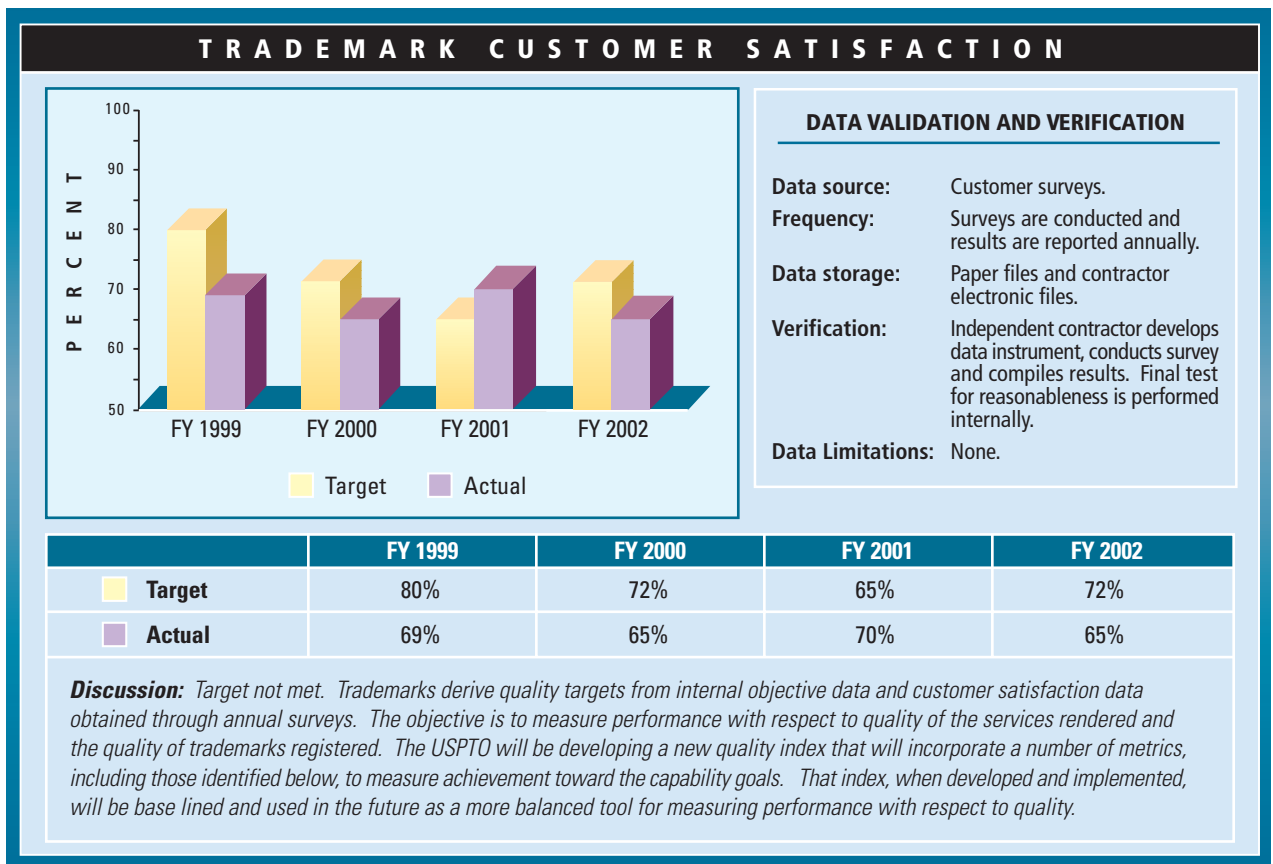
**Goal: Enhance the quality of our products and services**

**Measure: Improve the quality of trademarks by reducing the error rate**



The review of pending, registered, and abandoned files by the Office of Trademark Quality Review determined the “clear error” rate (average error rate affecting registrability) to be 4.3 percent for the year. Errors related to marks that would be considered “confusingly similar” under section 2(d) of the statute were determined in 4.4 percent of applications for a quality rating of 95.6 percent. The quality rate was 97.1 percent for findings on procedural errors. During the past year, the Trademark Organization worked in cooperation with the Office of Quality Management and Training and the Office of Trademark Quality Review to benchmark a more consistent set of quality measures that would better reflect the current quality of examination. The Trademark Organization has initiated plans for the creation of a new set of measures for first action quality and current quality and to create the infrastructure needed to support incorporating the results of the reviews into examination practice.

**Measure: Improve overall customer satisfaction**



Results of the annual customer satisfaction survey indicate that considering all customer experiences with the Trademark process, 65 percent of our customers report satisfaction with our service, a decline of five percentage points from FY 2001 results. Overall, the Trademark Organization received high marks for its quality improvement initiatives, shorter cycle times, outstanding customer service and satisfaction with electronic filing.



The Trademark Assistance Center was restructured in the past year in an effort to address handling customer complaints and improving problem resolution, areas for improvement that were identified from customer survey results. Results have been extremely favorable. Service level, a measure indicating the percent of calls responded to within 20 seconds, improved significantly – from 55 percent at the beginning of the year to 84 percent at years' end. Improvements that focus on identifying the source of customer complaints with the objective of preventing future occurrences were implemented during the year.

#### **Telework –**

The Trademark Organization is a leader in the Federal government in telecommuting. The Trademark telecommuting program was initially designed so that examining attorneys could perform the same work and access the same information technology systems from home as they do in the office. In FY 2002, the total number of employees who worked from home was further expanded to include other employees who could perform some of their work without access to Trademark information systems. As of September 30, 2002, of the 291 trademark employees who are considered eligible, 122 or 42 percent are currently working at least one day a week from home.



*Commissioner Chasser address INTA regarding current trademark issues.*

In addition, Trademarks conducted a pilot program to test the concept of "hoteling" for a portion of its work-at-home workforce. This pilot allowed examining attorneys to work from home for a majority of the workweek and tested the use of an automated reservation system to assign office space on an as-needed basis. The objective of this program is to greatly reduce office space requirements and their associated costs. Employees in this pilot give up a permanent office at the USPTO and instead share an office with other work-at-home attorneys when at the office. Evaluation of the pilot shows that it is has been successful in raising employee productivity and job satisfaction. In FY 2003, Trademarks plans to utilize the hoteling concept for all of its work-at-home examining attorneys in order to consolidate its workforce and reduce office space requirements.

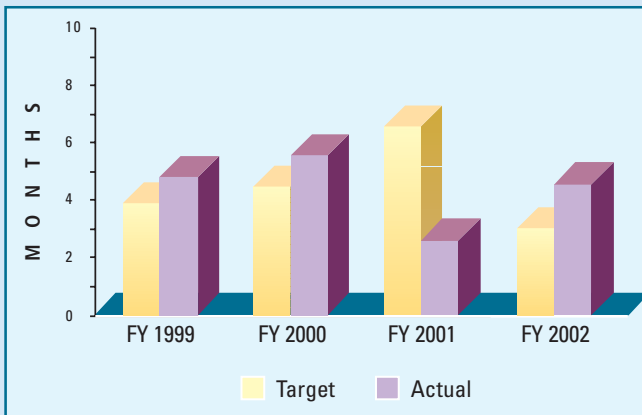
In October of FY 2002, the USPTO received the 2001 Government Agency Excellence in Telework award given by the International Telework Association and Council (ITAC). ITAC honored the USPTO for the Trademark Work-at-Home Program. ITAC presents awards annually to leading businesses, legislators, government agencies and telework trailblazers to promote and foster advances in the field, to provide international recognition for leadership and innovation and to motivate and inspire corporations, organizations and individuals to excel in their telework practices.



**Goal:** Minimize trademarks application processing time

**Measure:** Reduce average first action pendency.

**TRADEMARK FIRST ACTION PENDENCY**



**DATA VALIDATION AND VERIFICATION**

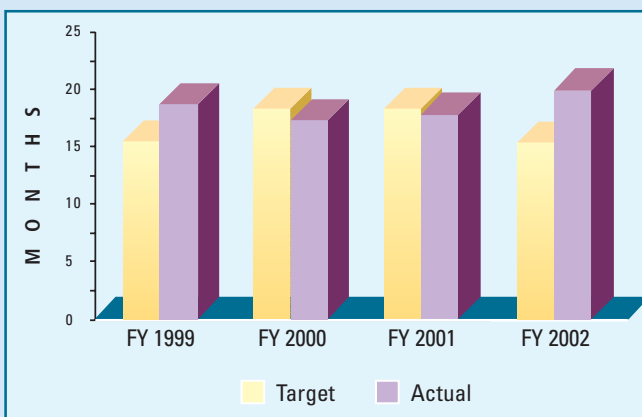
**Data source:** Trademark Reporting and Monitoring (TRAM) system.  
**Frequency:** Daily input, monthly reporting.  
**Data storage:** TRAM, automated systems, reports.  
**Verification:** Accuracy of supporting data is controlled through internal program edits in the TRAM system. Final test for reasonableness is performed internally by examining trademark attorneys and supervisory and program management.  
**Data Limitations:** None.

	FY 1999	FY 2000	FY 2001	FY 2002
<b>Target</b>	3.9	4.5	6.6	3.0
<b>Actual</b>	4.6	5.7	2.7	4.3

**Discussion:** Target not met. The time from filing to mailing an examiner's first office action increased by the end of the fiscal year to 4.3 months from 2.7 months at the end of the prior fiscal year. The increase was due to shifting priorities for examination on completing applications already under examination.

**Measure:** Reduce average total pendency

**TOTAL TRADEMARK PENDENCY**



**DATA VALIDATION AND VERIFICATION**

**Data source:** TRAM system.  
**Frequency:** Daily input, monthly reporting.  
**Data storage:** TRAM, automated systems, reports.  
**Verification:** Accuracy of supporting data is controlled through internal program edits in the TRAM system. Final test for reasonableness is performed internally by examining trademark attorneys and supervisory and program management.  
**Data Limitations:** None.

	FY 1999	FY 2000	FY 2001	FY 2002
<b>Target</b>	15.5	18.0	18.0	15.5
<b>Actual</b>	18.9	17.3	17.8	19.9

**Discussion:** Target not met. High levels of applications under examination from prior years kept overall pendency to registration, notice of allowance or abandonment above the 13-month goal at 19.9 months. As the total number of applications under examination continues to be reduced and first actions decline once again to the three-month goal, overall pendency to registration will decrease.

## TRADEMARK COMMISSIONER'S PERFORMANCE FOR FY 2002

The American Inventors Protection Act, Title VI, Subtitle G, the Patent and Trademark Office Efficiency Act, established the USPTO as an agency of the United States, within the Department of Commerce, on March 29, 2000. The legislation provides for appointment of a Commissioner for Patents as the Chief Operating Officer for Patents, and a Commissioner for Trademarks as the Chief Operating Officer for Trademarks. It also requires that an annual performance agreement be established between the Commissioners and the Secretary of Commerce. The agreement outlines measurable organizational goals and objectives for the organization. The Commissioners may be awarded a bonus, based upon an evaluation of their performance as defined in the agreement, of up to 50 percent of their base salary.

The Trademark Business goals formed the foundation for the annual performance agreement between the Commissioner for Trademarks and the Secretary of Commerce, as required by the AIPA. The performance agreement outlined measurable organizational goals and objectives for the Trademark Business based on the above goals and performance measures. Upon an evaluation by the Secretary of Commerce, and consistent with the AIPA, the Commissioner for Trademarks received a performance bonus of 17 percent of her annual rate of basic pay for her contribution toward the successful achievement of these goals and objectives.

## THE TRADEMARK ORGANIZATION – WHAT'S AHEAD

Trademarks will move aggressively over the next two years to implement the objectives of the *21st Century Strategic Plan* by completing the redesign of its operations to implement e-Government as the primary means of doing business with applicants and registrants, and as the sole means for processing work inside the examining operation.

The Trademark Organization is scheduled to implement an electronic file management system and begin e-Government operations on November 2, 2003, concurrent with the implementation of the Madrid Protocol in the U.S. This will complete a ten-year business process reengineering plan to move Trademarks from primarily doing business with paper to doing business in an electronic environment. With the implementation of electronic processing in FY 2004, Trademarks is committed to reducing pendency to first action to two months with disposal pendency reduced to 12 months by FY 2006. Implementing an electronic file management system, in addition to our currently available electronic filing and information systems, will permit:

- Reduction in cycle times by consolidating separate processes and eliminating the potential for "lost" or missing papers which create additional delays and poor service, and
- Capture and creation of electronic documents that can be tracked and forwarded to appropriate employees for further action.



*Commissioner Chasser is joined by Jon Kent, INTA Government Relations (left) and Alan Drewsen, INTA Executive Director (right) at the opening of the exhibit, "Trademarks the Fingerprints of Commerce" at the USPTO museum. The exhibit, which ran through the summer, opened in conjunction with the INTA Conference.*

As the reliance on paper disappears from internal processes, the cost for handling applications and related materials, along with the reliance on increasing numbers of employees or contractors to handle increases in filings will be substantially reduced. Applicants will see improved quality as Trademarks moves to using data submitted or captured electronically to support examination and to publish documents and registrations. Electronic file management presents an opportunity for the USPTO to offer options for filing that allow applicants to select the method of filing that best suits their business needs.

In an effort to improve the quality of trademark examination, the USPTO expects to implement the following programs by 2004:

- ***In-Process Review*** – A statistically meaningful sample of all first actions and final actions will be selected on a continuous basis, and reviewed for quality and correctness. Information regarding examination errors will be used for training and other purposes to improve the quality of examination decisions.
- ***Second Set of Eyes Review*** – Any proposed substantive refusal of an application filed under a "fast track" examination option (one of the "multiple examination options" for Trademark applicants) will not be issued unless approved by a senior level attorney.
- ***Certification of Knowledge, Skills and Abilities*** – The USPTO will implement a program to certify and re-certify that examiners and managers possess the KSAs needed to perform their jobs. Re-certification will occur periodically throughout the employee's career at the USPTO. Additional information regarding trademark examining attorney training can be found in the "Other Accompanying Information" section at the end of this report.

***Madrid Protocol*** – Legislation implementing the Madrid Protocol was enacted on November 2, 2002. The Madrid Protocol is a trademark filing treaty that currently includes 56 member countries. Under the terms of the treaty, U.S. trademark owners will be able to file a single application with the USPTO in English, pay the appropriate fees in U.S. dollars, and potentially have their mark protected in any or all of the countries that are Protocol members. Non-U.S. trademark owners of member countries may elect to seek an extension of protection of their international registration in the U.S. by filing through the International Bureau.



*The Academy of Motion Pictures Arts and Sciences loaned the Oscar won by Bette Davis for "Jezebel" to the USPTO for the trademark exhibit. The Oscar statuette is a registered trademark.*

The USPTO intends to implement the terms of the Protocol one year from the enacted date by incorporating filing and processing requirements into the design of its electronic systems. Based on the experience of other countries that have joined the Protocol, the USPTO anticipates that filings in the system will start slowly and increase gradually over time.

## INTELLECTUAL PROPERTY POLICY AND LEADERSHIP PERFORMANCE

As the largest IP office in the world, the USPTO is leading efforts to develop and strengthen domestic and international IP protection. The growing importance of IP rights and the globalization of economic activity has led to new cooperative initiatives between the USPTO, international bodies, and other IP offices, including the European Patent Office (EPO), the Japan Patent Office, the European Union's Office for Harmonization in the Internal Market for Trademarks and Designs, the World Intellectual Property Organization (WIPO), and the World Trade Organization (WTO). International negotiations, consultations, and information-sharing efforts led by USPTO leaders and international specialists are geared to providing more efficient and cost-effective means of protecting the IP rights of U.S. nationals throughout the world.

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office serves as the principal adviser to the President on public policy matters related to IP protection. The USPTO, therefore, plays a critical role in formulating policy on patent, trademark, and copyright issues. Ongoing activities include:

- **Patent Cooperation Treaty (PCT) Reform** – In September 2002, WIPO's PCT Assembly approved several major reforms to the PCT based upon reforms first put forward by the U.S. in FY 2000. These reforms will assist in reducing workloads internationally and, through new combined search and examination procedures, will result in a more efficient method for processing applications.
- **Standing Committee on Law of Patents** – The USPTO continued to participate in WIPO's Standing Committee of the Law of Patents in an effort to agree to a harmonized set of substantive patent laws. If successful, a final substantive patent law treaty will help control workloads and enable applicants to use a single application to obtain patent protection in a number of different countries.
- **Trilateral Offices** – The USPTO hosted the 19th Annual Trilateral Conference in San Francisco in November 2001. The meeting focused on identifying possibilities for Trilateral collaboration to address USPTO workload issues.
- **Standing Committee on Trademarks** – In FY 2002 the USPTO succeeded in promoting Trademark Law Treaty (TLT) reform as the primary focus of work by the Standing Committee. The TLT presently requires members to accept certain trademark filings on paper. Reform of the TLT would give the USPTO flexibility to convert to complete electronic processing for trademarks. The USPTO also continued its educational work aimed at raising awareness of the need for fair treatment of trademarks and geographical indications.



*Under Secretary Rogan (left) and Deputy Secretary of Commerce Samuel W. Bodman present a special bicentennial award to Helen Free for her contributions to American innovation as the co-inventor of a diagnostic test for detecting glucose.*



- **WTO/Trade-Related Aspects of Intellectual Property Rights (TRIPs)** – The USPTO actively participated in U.S. delegations to the TRIPs Council of the WTO over the past year. The TRIPs Council continued to review the IP regimes of numerous countries and undertook discussions regarding compulsory licensing of patents in the pharmaceutical sector, the protection of geographical indications, technology transfer and other issues. With the launch of a new round of multilateral trade negotiations in the WTO at Doha, Qatar, in November 2001, the USPTO has remained actively involved in WTO IP issues.
- **Special 301** – The USPTO continued to advise the Office of the U.S. Trade Representative (USTR) in the administration of the "Special 301" provisions in U.S. trade law, which requires USTR to identify those countries that do not provide adequate and effective protection for IP rights. The USPTO provided analyses of IP laws of several countries, and participated in numerous bilateral consultations and negotiations conducted by USTR under "Special 301."
- **Free Trade Agreements** – The USPTO assisted USTR on IP issues in negotiations with Singapore and Chile on Free Trade Agreements. Through these negotiations, the Administration hopes to foster economic growth and eliminate bilateral barriers to trade and investment. To this end, the USPTO has worked with USTR and delegations from each country to assure standards are created that build on the foundation established in the TRIPs Agreement and other international IP agreements to protect intellectual property.
- **Enforcement/Training** – In FY 2002, the USPTO was engaged on a number of fronts to strengthen IP administration and enforcement abroad. For example, in December 2001 USPTO hosted the U.S.-Russia Intellectual Property Rights Enforcement Program in Washington, D.C. The conference was attended by Russian officials representing various government agencies involved in the enforcement of IP rights in Russia. In April, the USPTO organized an enforcement seminar in Nanjing and Dalian, China, focusing on TRIPs obligations in developing adequate and effective enforcement systems. In conjunction with the International Intellectual Property Institute (IIPI), the USPTO co-sponsored a program on technology transfer in Beijing, Shenzhen and Dalian, China, in August of 2002. In September 2002, the USPTO organized a program with the IIPI, the Court of Appeals for the Federal Circuit, and George Washington University Law School on the capacity building for specialized IP courts.
- **APEC Intergovernmental Meeting** – In July 2002, the USPTO sponsored the 15th Biannual Asian Pacific Economic Cooperation Intellectual Property Experts Group (APEC-IPEG) IP enforcement seminar in Los Angeles. The APEC-IPEG is a forum for government-to-government cooperation and policy dialogue on IP issues in the Asia-Pacific Region. Following the two-day meeting, the USPTO also hosted a separate seminar on IP enforcement. The goal of the seminar was to provide a forum to focus on the process of investigating IP infringements, running effective raids, and preparing an effective prosecution. Presenters at the seminar included prosecutors from the U.S. Department of Justice, agents from the U.S. Customs Service, prosecutors from the Chinese Taipei's Ministry of Justice, and an Assistant Commissioner with the Hong Kong China Customs and Excise Department.



*Under Secretary Rogan holds bi-lateral discussions with Italian Patent officials.*

- **Detailee to China** – In FY 2002, USPTO detailed a staff member to the U.S. Embassy/Beijing to provide assistance on IP matters, including monitoring WTO compliance, training Chinese officials, and conducting conferences with national and local government officials involved in enforcement, technology transfer, patents, trademarks, copyrights, and trade secrets matters. The staff member traveled throughout China and was invited back to Beijing in October 2002 to chair various sessions of a one-day roundtable on IP.
- **WIPO Copyright Treaties** – The two landmark WIPO copyright treaties designed to ensure international protection of copyrighted works, performances, and sound recordings in the digital environment -- the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty -- entered into force on March 6, 2002, and May 20, 2002, respectively. The USPTO had worked for several years to secure their entry into force.
- **Copyright Conference** – In April 2002, the USPTO and the U.S. Copyright Office sponsored a two-day conference to discuss issues confronting copyright policy makers. The Copyright Conference drew participants and speakers from across the U.S. and from three continents.
- **Standing Committee on Copyright and Related Rights (SCRR) of the WIPO** – The USPTO continued to participate in the work of the SCRR to develop its proposal on treaty language for a new WIPO treaty for the Protection of the Rights of Broadcasting, Cable-casting, and Web-casting Organizations. The SCRR also monitored national developments in the legal protection of databases and reported on related developments in U.S. legislation.
- **WIPO Intergovernmental Committee** – In FY 2002, the USPTO led the U.S. delegation to the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore. The focus of the U.S. effort was to encourage developing countries to meet stated concerns about protecting genetic resources, traditional knowledge and folklore either through current IP regimes or through non-IP laws, and to strongly discourage the creation of new legal regimes.
- **International Science and Technology Agreements** – The USPTO continued working closely with the Department of State in the negotiation of cooperative Science and Technology (S&T) agreements with other countries, including the provisions of the IP annex to S&T agreements that ensure equitable allocation of rights to intellectual property created in the course of cooperative research.



*Peter Schulz (left) and Donald Keck (right) co-inventors of fiber optics receive their bicentennial award from Under Secretary Rogan and Deputy Secretary Bodman.*

## MANAGEMENT CHALLENGES

### THE 21ST CENTURY STRATEGIC PLAN

The *21st Century Strategic Plan* is aggressive and far-reaching. Anything less would fall short of the expectations of the U.S. Congress, the applicants for, and owners of, patents and trademarks, the patent and trademark bar, and the public-at-large. Additionally, the failure to adopt the Strategic Plan will have serious negative consequences. The USPTO will be unable to enhance quality, implement e-Government initiatives, reduce pendency (in fact pendency would rise to uncontrollable levels), and reduce paper handling and operating costs. Following is a discussion of the management challenges that the USPTO will face in implementing the plan:

- **Multilateral and Bilateral Agreements** – To streamline the intellectual property system and protections, the USPTO must enter into new bilateral and multilateral initiatives and agreements with other IP offices. This includes accelerating PCT reform efforts, focusing on the USPTO’s proposal for simplified processing; developing a “universal” electronic application by leveraging the USPTO’s experience with trademark applications and the EPO’s experience with patent filings; and promoting harmonization to strengthen the rights of American IP holders, making it easier to obtain international protection for their inventions and creations. Reaching agreements on these aspects will require all sides to openly communicate and collaborate toward a more global convergence of patent and trademark standards.
- **Legislation/Rules** – The USPTO will propose legislative and regulatory changes to current patent and trademark laws. The fee restructuring aspects will generate additional fee collections to be used to fund the critical investments in resources and technology in support of Strategic Plan goals. Additional changes, including the establishment of corresponding fees, are also being proposed to provide customer choice and streamline the patent and trademark examination processes. The implementation of these changes, particularly enactment of the fee restructuring legislation, is essential and critical to accomplishing the Strategic Plan.
- **Labor Relations** – The Strategic Plan introduces a large number of changes to current work processes and procedures. The USPTO will notify the three bargaining units representing USPTO employees of the proposed changes and negotiate, where necessary, on any changes in working conditions. The USPTO must be able to implement these changes in work processes in a timely manner in order to meet Strategic Plan goals and objectives. This must be done in light of labor requirements for coordination, communication, and negotiation.
- **Funding** – Sufficient and sustained funding over the five-year lifecycle of the Strategic Plan is essential. Without this, the USPTO will not be able to make critical investments in resources and technology necessary for enhancing quality, developing and/or acquiring automated systems to move to a fully electronic operating environment, and improving pendency.



## SPACE CONSOLIDATION - MOVE TO CARLYLE IN ALEXANDRIA, VIRGINIA

The USPTO will be concentrating on the high priority of relocating employees to a consolidated campus in Alexandria, Virginia, while minimizing any adverse effects on employees, applicants and the public. The USPTO is quickly moving into the implementation phase of the relocation of its facilities from 18 buildings spread throughout Crystal City to a single lease in a consolidated campus. Relocation to Alexandria will be phased to coincide with delivery of five interconnected buildings.

The USPTO will face numerous logistical and operational challenges in executing the consolidation. Dual operations, including dual computer facilities, will be required during the phasing of the relocation because the space will be delivered over a protracted period. Supporting employees and customers at geographically separate locations will require careful planning. And the disruptions and downtime during the move must be minimized to avoid a significant impact on productivity. However, the long-term benefit will be a world-class facility with operational efficiencies and improved allocation of work space to accommodate the USPTO's growing and changing workplace. This consolidation is expected to save \$72 million over the 20-year term of the lease.

In FY 2002, the space consolidation project officially entered the construction phase. In October 2001, the developer, LCOR, began engaging in a number of pre-construction activities, including relocation of site utilities and preliminary soil work for excavation. On December 19, 2001, the General Services Administration (GSA) executed an amended and restated lease that incorporated the design changes that the City of Alexandria required as a condition of the special use permit that LCOR needed before proceeding with construction. The amended lease also memorialized several lease modifications that facilitated the bond sale that occurred later that same day, enabling LCOR to receive project funding and to purchase the underlying land from the Norfolk Southern Railroad. Immediately after receiving financing, LCOR awarded a contract to Roy F. Weston, Inc., for excavation, and to Turner Construction for general construction.

With the aid of exceptionally conducive weather for construction throughout the entire fiscal year, all phases of construction are currently either on or ahead of schedule. On October 17, 2002, the developer and general contractor hosted a "topping out" ceremony at the site to mark the completion of the concrete superstructures for the first two buildings which will be occupied in December 2003. Full occupancy is expected by mid-2005.













*The Remsen Building, seen here under construction, is scheduled to be occupied in December 2003.*



*On the left is the Jefferson Building, like the Remsen Building, it is scheduled for occupancy in December 2003.*

**STRENGTHENING MANAGEMENT:  
The President's Management Agenda USPTO Scorecard**

*The President has established a bold strategy for improving the Federal Government's management and performance, and calls on Government agencies to focus on the most critical of these problems and solve them. The chart below provides the USPTO's assessment on the five Government-wide initiatives described in the President's Management Reform Agenda.*

INITIATIVE	STATUS: 11/01	STATUS: 9/02
<p><b>Human Capital:</b> The USPTO's new <i>21<sup>st</sup> Century Strategic Plan</i> supports the human capital elements. The current organization structure supports decision-making at the lowest appropriate level. In the primary examination units – the Patent Organization and the Trademark Organization – only one layer of management exists between the Senior Executive Service level and the patent examiner or trademark examining attorney. Primary patent examiners and trademark attorneys have full signatory authority to grant patents and register trademarks on behalf of the United States without further supervisory review. Pre-employment testing of patent examiners was implemented in July 2002. Reorganizations in support of the Strategic Plan will redirect approximately 173 positions to the front line and streamline organization structures to maximize quality and efficiency; the redirection of all targeted employees is subject to full budget funding in FY 2003. Transition planning is not an issue for the USPTO as the average age of employees is 40.</p>		
<p><b>Competitive Sourcing:</b> USPTO has completed the reassignment of 101 Legal Instrument Examiners (from FY 2000 FAIR Act Inventory) ahead of the scheduled completion by the end of FY 2002. As a result, USPTO has met the President's five percent outsourcing goal for 2002. In FY 2002, our FAIR Act inventory identified approximately 45 percent of our Federal workforce or 3,028 employees as performing commercial type activities (ten percent increase over FY 2000 report). Of these positions, USPTO has initiated pilot projects to be completed by the end of FY 2003 to outsource over 230 positions. These actions will ensure that USPTO meets the President's outsourcing goal of ten percent for FY 2003. Our Strategic Plan has identified other outsourcing opportunities for classification and search functions that will be outsourced subject to full budget funding in FY 2003.</p>		
<p><b>Improved Financial Management:</b> For FY 2001, USPTO received its ninth consecutive unqualified audit opinion and fifth year with no material weaknesses. The USPTO is in compliance with all Federal accounting principles and standards (e.g., SFFAS and SFFAC) and has encountered no instances of material weaknesses in internal controls or non-compliance with Federal accounting regulations. The USPTO Enterprise Data Warehouse (EDW) accommodates both financial and operational data and is used extensively by Supervisory Patent Examiners to manage processing timeframes. The USPTO also operates a mature Activity Based Cost (ABC) system that documents all costs for the organization, both direct and indirect, and captures costs for core mission activities. Data from the ABC system are used to analyze the cost of operations when making management decisions regarding improving processes or setting fees and in developing budget requirements.</p>		
<p><b>E-Government:</b> All major system investments are included in Exhibit 53 and have submitted business cases in Exhibit 300 format. The USPTO web site was rated number one out of 148 web sites by PricewaterhouseCoopers Endowment for the Business of Government. The USPTO achieved 72 percent on time success for major IT systems. The Strategic Plan accelerates the USPTO's strategy for implementing both Patent and Trademark e-Gov. Trademarks will implement the final application, an electronic file management system called Trademark Information System (TIS), in 2003 completing a ten-year effort to provide an end-to-end fully electronic processing environment. Tools for Electronic Application Management (TEAM), the centerpiece of the Patent e-Gov initiative, is a document management/workflow system that the USPTO will develop to provide the capability to electronically process a patent application. The USPTO has also been actively working with the European Patent Office (EPO) to assess the feasibility of implementing two EPO applications - Phoenix, an imaging tool, and epoline, an e-filing tool - as part of the USPTO's accelerated Patent e-Gov initiative.</p>		
<p><b>Budget/Performance Integration:</b> The USPTO develops an annual corporate plan that is an integrated performance plan and budget. Budget resources are allocated to the programs based on the requirements identified to achieve organizational goals and forecasted incoming workload. As workload projections and fee income change, resource allocations are modified accordingly. In June 2002, the USPTO issued a Strategic Plan that included detailed documentation analyzing all of the related issues, a five-year implementation plan with identified critical tasks, proposed revisions to the fiscal year 2003 budget request to enable early implementation of the Strategic Plan, and corresponding proposed legislation and regulations necessary for a successful multi-year implementation. The Strategic Plan provides the USPTO and external organizations (e.g., Administration, OMB, Congress, stakeholders) with a long-term vision of agency goals, expectations for funding, and planned outcomes.</p>		

## MANAGEMENT CONTROLS AND COMPLIANCE WITH LAWS AND REGULATIONS

This section provides information on the USPTO's compliance with the following legislative mandates:

- Federal Managers' Financial Integrity Act (FMFIA)
- Inspector General (IG) Act Amendments
- Federal Financial Management Improvement Act (FFMIA)
- OMB Financial Management Indicators
- Prompt Payment Act
- Civil Monetary Penalty Act
- Debt Collection Improvement Act
- Biennial Review of Fees

### FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT

The FMFIA requires Federal agencies to provide annually a statement of assurance regarding management controls and financial systems. The statement of assurance is provided in the Director's opening letter in the front of this report. This statement was based on the review and consideration of a wide variety of evaluations, internal analyses, reconciliations, reports, and other information, including DOC OIG audits, and independent public accountant's opinion on USPTO financial statements and reports on internal control and compliance with laws and regulations. In addition, USPTO is not identified on the General Accounting Office's (GAO) High Risk List related to controls governing various areas.

During the second quarter of FY 2002, the OIG reviewed the USPTO Information Technology (IT) Security Program and reported that none of USPTO's eight critical information systems were certified and accredited. These eight systems include patent applications, trademark processing, revenue accounting, and the USPTO local area network. Although the USPTO made great strides in this past fiscal year to establish a robust IT Security Program and certify and accredit its critical information systems, none of its information systems were certified and accredited by the end of the fiscal year. The USPTO has declared a material weakness in recognition of the need for compliance with Government guidance on IT Security and to reconfirm its commitment to the protection of our Nation's intellectual capital information assets.

USPTO aggressively pursued and accomplished the following in FY 2002 regarding certification and accreditation (C&A):

- Detailed vulnerability analyses for critical systems as part of a C&A pilot;
- Independent vulnerability analysis of our network perimeter;
- Award and in-process execution of a Security Architecture contract, which creates the template by which USPTO's other systems can imitate to the benefit of a reduced effort C&A; and
- Award and in-process execution of a C&A delivery contract beginning with the Perimeter Access System.

The entire process for C&A of these systems has not yet been completed, but is scheduled for completion in FY 2003.



## INSPECTOR GENERAL ACT AMENDMENTS

Section 106 of the IG Act Amendments (Public Law 100-504) of The Inspector General Act (as amended) requires semi-annual reporting on IG audits and related activities as well as agency follow-up. The report is required to provide information on the overall progress on audit follow-up and internal management controls, statistics for audit reports with disallowed costs, and statistics on audit report with funds put to better use. The USPTO did not have audit reports with disallowed costs or funds put to better use.

The USPTO's follow-up actions on audit findings and recommendations are essential to improving the effectiveness and efficiency of our programs and operations. For FY 2002, management completed action on one outstanding recommendation on reports issued in FY 2001 and prior, leaving two recommendations open. In addition, action was taken to close two recommendations contained in two audit reports issued in FY 2002. These two audit reports still have two recommendations remaining open. For summary of audit findings and recommendations, see page 43.

## FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT

The FFMIA requires Federal agencies to report on agency substantial compliance with Federal financial management system requirements, Federal accounting standards, and the U.S. Government Standard General Ledger. The USPTO complied substantially with the FFMIA for FY 2002.

## OMB FINANCIAL MANAGEMENT INDICATORS

The OMB prescribes the use of quantitative indicators to monitor improvements in financial management. The USPTO tracks other financial performance measures as well. The table below shows the USPTO's performance during FY 2002 against performance targets established internally and by OMB:

Financial Performance Measure	FY 2002 Target	FY 2002 Performance
Percentage of Timely Vendor Payments	95%	99%
Percentage of Payroll by Electronic Transfer	90%	99%
Percentage of Treasury Agency Locations Fully Reconciled	95%	100%
Timely Posting of Inter-Agency Charges	30 days	29 days
Timely Reports to Central Agencies	95%	100%
Average Processing Time for Travel Payments	8 days	6 days
Audit Opinion on FY 2002 Financial Statements	Unqualified	Unqualified
Material Weaknesses Reported for FY 2002	None	None

## STATUS OF AUDIT RECOMMENDATIONS *as of September 30, 2002*

Report for Fiscal Year	Status	Recommendation	Action Plan	Completion Date
FY 2001	Open	To improve overall personnel operations regarding the clearing of backlogged personnel actions forms and strengthening internal controls over the OPFs.	All OPFs were reviewed for physical/chronological integrity and accurate SCD dates as of September 2002. Printing all missing SF-50's started in January 2002 and is still in progress.	Estimated September 2004
FY 2001	Closed	Consider additional alternative training methods to maximize training resources, including (a) increasing the use of joint training sessions with WIPO and industry associations, (b) using contractors who are experts in intellectual property and can be relied upon to promote U.S. government objectives to conduct training seminars, and (c) using Internet-technology and other methods for long distance education for training.	A proposal covering a twelve month period of time was prepared in January 2002 with a focus on problem countries. The first video conference training was conducted in February 2002.	January 2002
FY 2001	Open	Coordinate training in international intellectual property law enforcement and provide clarification of the Council's role to the other agencies involved.	New methods for evaluation have been implemented for beta testing. The remaining action items to roll out completed methodology, record the baseline measurement, develop qualitative goals for effectiveness measure, and begin measuring effectiveness against goals have been delayed due to lack of funding.	Estimated January 2004
FY 2002	Open	Reexamine the recruiting process to determine whether recruiting techniques can be developed to better identify those applicant most suited, and those not suited, for the patent examination process.	The action plans to (a) partner with OPM to conduct a study to determine if we can develop examiner candidate characteristics and a series of questions for use as a recruiting tool to identify candidates that would be successful as a patent examiner and (b) implement pre-employment testing of applicants for oral and written communication skills have been delayed due to lack of funding.	Estimated October 2003
FY 2002	Open	Reexamine the recruiting process to better inform patent examiner applicants about the nature of USPTO's production-oriented work environment.	The vacancy announcements have been revised to describe the patent examiner position in more detail. A training session for new recruiters on interviewing techniques was conducted on September 3, 2002. It was also emphasized at that training the importance of informing job applicants on the quality, timeliness and production requirements of the examiner job. The hiring brochures have been updated and printed. They include information on skills required for the job. We have continued to build on relationships with universities. We have provided an intellectual property lecture at West Virginia University to both senior engineering students and to faculty over the past 3 years. We also provided a lecture to a senior design class in electrical engineering. Other efforts include IP lectures with Brown University, University of Maryland, Virginia Tech, University of Puerto Rico, Penn State and University of Alabama.	Estimated September 2003
FY 2002	Closed	Ensure that criteria for technical assistance activities to developing countries and countries moving to a market economy be clearly documented and updated on a regular basis.	The Office of Legislative and International Affairs has updated the list and will keep it current on a regular basis by documenting any additions or deletions to the list.	May 2002
FY 2002	Closed	Require that the description of verification procedures for patent and trademark performance measures reported in the Department's Annual Performance Plan and Annual Program Performance Report be revised to more accurately and completely describe the procedures performed.	The Office of Corporate Planning has drafted new language describing the verification procedures for patent and trademark performance measures. The new verification procedures are identified in the Department of Commerce FY 2003 Annual Performance Plan/2001 Annual Performance Report and in the USPTO's FY 2001 Performance and Accountability Report.	May 2002



## PROMPT PAYMENT ACT

The Prompt Payment Act requires Federal agencies to report on their efforts to make timely payments to vendors, including interest penalties for late payments. In FY 2002, the USPTO did not pay interest penalties on 97.8 percent of the 10,684 vendor invoices processed, representing payments of approximately \$357.4 million. Of the 347 invoices that were not processed in a timely manner, the USPTO was required to pay interest penalties on 115 invoices, and was not required to pay interest penalties on 232 invoices, where the interest was calculated at less than \$1. The USPTO paid only \$139 in interest penalties for every million dollars disbursed in FY 2002. Virtually all recurring payments were processed by electronic funds transfer (EFT) in accordance with the EFT provisions of the Debt Collection Improvement Act of 1996.

## CIVIL MONETARY PENALTY ACT

There were no Civil Monetary Penalties assessed by the USPTO during FY 2002.

## DEBT COLLECTION IMPROVEMENT ACT

The Debt Collection Improvement Act prescribes standards for the administrative collection, compromise, suspension, and termination of Federal agency collection actions, and referral to the proper agency for litigation. Although the Act has no material effect on the USPTO since it operates with minimal delinquent debt, the organization transferred all debt more than 180 days old to the U.S. Department of Treasury (Treasury) for cross-servicing.

## BIENNIAL REVIEW OF FEES

The Chief Financial Officers Act of 1990 requires a biennial review of agency fees, rents, and other charges imposed for services and things of value it provides to specific beneficiaries as opposed to the American public in general. The objective of the review is to identify such activities and to begin charging fees, where permitted by law, and to periodically adjust existing fees to reflect current costs or market value so as to minimize general taxpayer subsidy of specialized services or things of value (such as rights or privileges) provided directly to identifiable non-Federal beneficiaries. The USPTO is a fully fee-funded agency without subsidy of general taxpayer revenue. For non-legislative fees, it uses activity-based cost accounting to evaluate the costs of activities and determine if fees are set appropriately. When necessary, fees are adjusted to be consistent with the program and with the legislative requirement to recover full cost of the goods or services provided to the public.

## FINANCIAL HIGHLIGHTS

### FINANCIAL MANAGEMENT SUPPORTS THE 21ST CENTURY STRATEGIC PLAN

The USPTO continues to operate from a solid financial and administrative management foundation that is well positioned to successfully support the requirements of the USPTO *21st Century Strategic Plan* and the President's Management Agenda. USPTO has sound financial and administrative management policies, procedures, and systems in place that are operating effectively. The challenge in the years to come will be to maintain this level of excellence while the USPTO undergoes its transformation to a "quality-focused, highly productive, responsive organization supporting a market-driven intellectual property system," as envisioned in our *21st Century Strategic Plan*. To meet the goals of the Strategic Plan, our program and business area managers must continue to have access to reliable, timely, and consistent financial and cost information to support day-to-day operational and strategic actions, including decision-making in the areas of budget, investment, personnel, procurement, new initiatives, and taking other actions affecting the finances and performance of the USPTO.

For an agency entrusted with over \$1 billion of customers' money each fiscal year, making superior resource management decisions and safeguarding those assets is of utmost importance. It is our duty to use this money responsibly and to be held accountable for achieving desired performance results through the appropriate use of these resources. Audited financial statements or an understanding of the underlying production processes and systems do not independently provide program and operating officials the financial information required for long-range planning, strategic leadership, and decision-making. Rather, we will continue to link and leverage fully the underlying financial data, as conveyed in our Management Discussion and Analysis financial highlights and the financial statements that follow, to increase reliability, accountability, asset use and stewardship, and performance.

To continue providing our business areas with relevant financial information for decision-making, we will further improve and enhance the management tools used for business and process analyses. In this regard, improving our use of cost analysis information from our activity-based cost accounting system continues to be a key financial management challenge. By interlocking program and financial data, we can continue to realize cost savings and reductions, add greater value to current activities, and realize various operational efficiencies and advantages.

As required by the President's Management Agenda, we must also seek better ways to integrate budget and performance data, which is playing an ever-growing role in the planning and budgeting processes. By knowing the "true" cost of doing business, we are better able to integrate cost and performance information, which makes for more informed resource decisions, as well as better long-range and strategic planning decisions.

Recently we converted our financial accounting system to a fully web-enabled, client/server platform, opening the door for a wide array of efficiencies from more timely and accurate internal reports and ad-hoc analyses, to on-line payment and procurement features. We are also exploring the integration of various other business and financial systems to achieve a seamless operational and financial reporting process. Through the integration of systems, functions, activities, and processes, we can place greater focus than ever before on analysis, innovation, efficiency, and leadership, without the need for expending more effort and additional resources.



Improving systems, functions, activities, and processes requires us also to improve our methods for measuring performance and results. To accomplish this, we will focus on the key elements of performance measurement: people, process, technology, and environment. For performance to improve, our employees must fully understand their tasks and responsibilities and be held accountable for performance against realistic targets and goals. The processes and technologies used for production must be increasingly more efficient and effective. And finally, through trust, empowerment and communication with our employees, the USPTO can achieve an environment where performance and results truly drive business operations.

Beyond the financial management challenges outlined above, in FY 2003 we will also initiate our move to the Carlyle campus and will continue the moving process over the next two years. The move will occur in phases as construction is completed to take full financial advantage of our new location. In this re-location of the entire enterprise, we will be challenged to address various financial, administrative, security, and logistical issues that we have not had to deal with in the past.

Because the USPTO currently adheres to sound financial management fundamentals, we are confident that we are well equipped and ready to face our financial management challenges head on.

## FINANCIAL MANAGEMENT SUPPORTS THE 21ST CENTURY STRATEGIC PLAN

USPTO's financial statements, provided on pages 61 to 82, received an unqualified (clean) audit opinion issued by the independent auditing firm of Ernst & Young, LLP. This is the tenth consecutive year USPTO has been issued an unqualified audit opinion.

### FINANCIAL CONDITION

#### *Net Position*

The following table depicts the USPTO's financial condition for the past four fiscal years. There have been gradual increases in both assets and liabilities, indicating steady growth.

Composition of USPTO Assets and Liabilities (dollars in millions)	FY 2002	FY 2001	FY 2000	FY 1999
Cash	\$ 9.3	\$ 11.5	\$ 20.0	\$ 9.9
Fund Balance with Treasury	926.1	923.4	810.4	673.9
Property and Equipment, Net	119.2	128.6	124.8	129.2
Accounts Receivable and Prepayments	<u>40.9</u>	<u>9.1</u>	<u>7.3</u>	<u>5.3</u>
Total Assets	<u>\$1,095.5</u>	<u>\$1,072.6</u>	<u>\$ 962.5</u>	<u>\$ 818.3</u>
Deferred Revenue	\$ 466.0	\$ 375.0	\$ 338.8	\$ 279.4
Accounts Payable	74.9	60.2	52.1	53.5
Accrued Payroll, Leave, and Benefits	68.0	80.7	69.0	59.8
Customer Deposit Accounts	64.8	57.5	55.1	50.2
Other Liabilities	<u>11.1</u>	<u>20.6</u>	<u>18.0</u>	<u>10.9</u>
Total Liabilities	<u>\$ 684.8</u>	<u>\$ 594.0</u>	<u>\$ 533.0</u>	<u>\$ 453.8</u>
Net Position	<u>\$ 410.7</u>	<u>\$ 478.6</u>	<u>\$ 429.5</u>	<u>\$ 364.5</u>



Net position was \$410.7 million as of September 30, 2002, a decrease of \$67.9 million, or 14.2 percent, from the FY 2001 balance of \$478.6 million. The FY 2002 net position consisted of:

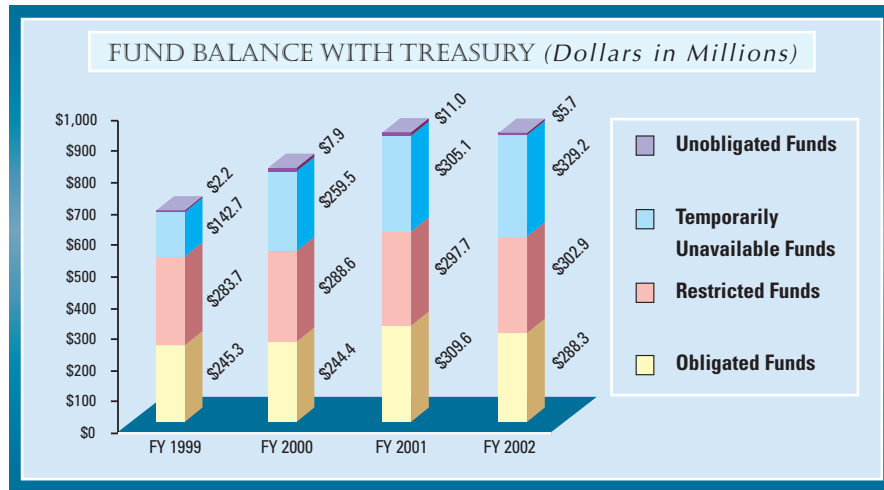
- Surcharge revenue withheld of \$233.5 million from FY 1992 through FY 1998, which is segregated as a portion of net position pursuant to the Omnibus Budget and Reconciliation Act (OBRA) of 1990, as amended, and is restricted as to its availability;
- Unexpended appropriations of \$0.7 million; and
- Cumulative results of operations of \$176.5 million.

Adjusting for net property and equipment, accounts receivable, and prepayments, the cash and Fund Balance with Treasury portion of net position is only \$16.3 million. The \$16.3 million is calculated on a financial accounting basis and does not reflect the impact of obligations for \$198.4 million in unpaid undelivered orders (goods and services ordered, but not yet received) less \$0.1 million in receivables that provide budgetary resources. Therefore, after considering these items, future funding in the amount of \$182.0 million will have to be earned to liquidate unfunded liabilities as of September 30, 2002.

**Cash and Fund Balance with Treasury**

Cash and Fund Balance with Treasury was \$935.4 million as of September 30, 2002, an increase of \$0.5 million, or 0.1 percent, over the FY 2001 balance of \$934.9 million.

Of the \$935.4 million, only \$2.7 million, or 0.3 percent, was available to meet FY 2003 needs. The other 99.7 percent was earmarked or set aside as follows:



- \$9.3 million represents cash or checks in transit;
- \$288.3 million is set aside for the payment of existing obligations as of September 30, 2002;
- \$233.5 million continues to be restricted as required by the OBRA;
- \$4.6 million is being held on behalf of the WIPO;
- \$64.8 million represents funds held on deposit in trust for customers;
- \$329.2 million that is restricted for use until subsequent fiscal years; and
- \$3.0 million represents unobligated funds that were not apportioned for use at the end of FY 2002.



During FY 2002, the USPTO generated net cash of \$0.5 million from patent and trademark fees and other activities, a decrease of \$104.0 million, or 99.5 percent, from the \$104.5 million generated during FY 2001, summarized as follows.

USPTO Cash Flows (dollars in millions)	FY 2002	FY 2001	FY 2000	FY 1999
Operating Activities	\$ 59.8	\$ 173.6	\$ 208.8	\$ 122.3
Investing Activities	(60.2)	(69.1)	(59.3)	(77.4)
Financing Activities	0.9	-	(3.0)	(72.0)
Net Cash Provided/(Used)	\$ 0.5	\$ 104.5	\$ 146.5	\$ (27.1)

Of the \$60.7 million generated from operating and financing activities during FY 2002, \$60.2 million of cash generated was invested in new property and equipment. This amount represented a decrease of \$8.9 million, or 12.9 percent, from the \$69.1 million of net cash invested in property and equipment during FY 2001.

**Property and Equipment**

Net property and equipment was \$119.2 million as of September 30, 2002, which consists of the original acquisition value of \$378.6 million less accumulated depreciation of \$259.4 million. The acquisition values for property and equipment at the end of the past fiscal year, for the past four years, are presented in the table below:

Property and Equipment Acquisition Values (dollars in millions)	FY 2002	FY 2001	FY 2000	FY 1999
IT Equipment	\$ 211.3	\$ 192.3	\$ 167.7	\$ 167.0
Software	123.1	108.3	92.8	70.4
Software in Progress	19.6	18.7	19.6	30.7
Furniture	14.5	16.0	17.1	17.0
Non-IT Equipment	10.1	9.1	8.7	9.9
Total Property and Equipment Acquisition Values	\$ 378.6	\$ 344.4	\$ 305.9	\$ 295.0

The \$34.2 million increase in acquisition value from FY 2001 to FY 2002 is the result of \$60.2 million of assets purchased during the fiscal year, less \$26.0 million of assets disposed in the normal asset life cycle process.

**Deferred Revenue**

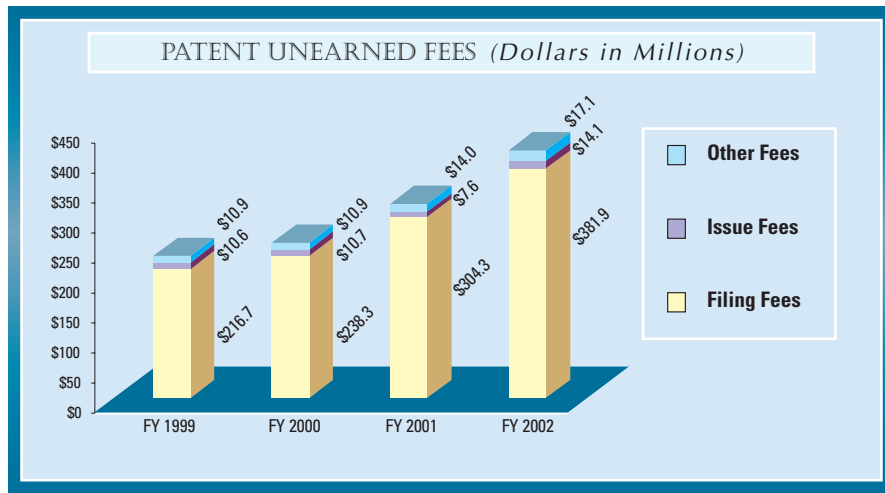
Deferred revenue was \$466.0 million as of September 30, 2002, an increase of \$91.0 million, or 24.3 percent, over the FY 2001 balance of \$375.0 million. The deferred revenue liability includes unearned patent and trademark fees and undeposited checks at the end of the fiscal year, for the past four years, as summarized below:

Deferred Revenue (dollars in millions)	FY 2002	FY 2001	FY 2000	FY 1999
Patent Unearned Fees	\$ 413.1	\$ 325.9	\$ 259.9	\$ 238.2
Trademark Unearned Fees	43.9	38.4	59.7	32.0
Undeposited Checks	9.0	10.7	19.2	9.2
Total Liability	\$ 466.0	\$ 375.0	\$ 338.8	\$ 279.4

**Patents**

The following chart summarizes the details of unearned patent fees:

Unearned patent fees at the end of FY 2002 were \$413.1 million, an increase of \$87.2 million, or 26.8 percent, over the prior year balance of \$325.9 million. This is due to an increase of more than 16 percent in patent application filings during FY 2002 and an increase in patent pendency from 14.4 months at the end of FY 2001 to 16.7 months at the end of FY 2002. An increase in other unearned patent fees of \$3.1 million is primarily due to an increase of \$2.6 million for PCT International, or a 21.7 percent increase from the prior fiscal year due to an increase of 42 days in average pendency.



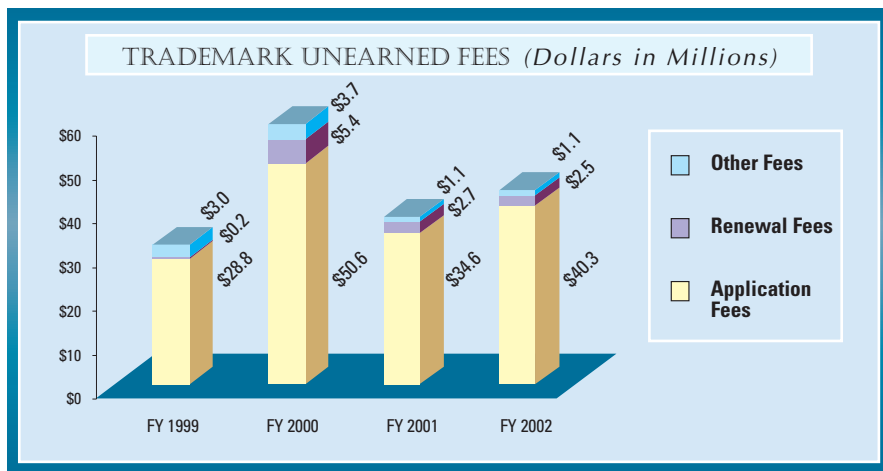
The undeposited checks component of patent deferred revenue decreased \$1.4 million, or 15.7 percent, from \$8.9 million at the end of FY 2001 to \$7.5 million at the end of FY 2002.



**Trademarks**

The following chart summarizes the details of unearned trademark fees:

Unearned trademark fees at the end of FY 2002 were \$43.9 million, an increase of \$5.5 million, or 14.3 percent, over the prior year balance of \$38.4 million. An increase in new applications resulted in an increase in pre-first action unearned trademark fees of \$15.7 million. This increase was offset by a \$10.4 million decrease in post-first action unearned trademark fees resulting from a decrease in inventory from the prior fiscal year.



The undeposited checks component of trademark’s deferred revenue decreased \$0.3 million, or 16.7 percent, from \$1.8 million at the end of FY 2001 to \$1.5 million at the end of FY 2002.

**RESULTS OF OPERATIONS**

**Net Income/Loss**

The following table depicts the USPTO’s financial operations for the past four fiscal years.

Components of Net Income/Loss (dollars in millions)	FY 2002	FY 2001	FY 2000	FY 1999
<b>Earned Revenue</b>				
Patents	\$ 910.1	\$ 859.0	\$ 817.4	\$ 805.0
Trademarks	151.3	181.2	139.1	104.3
<b>Total Earned Revenue</b>	<u>\$1,061.4</u>	<u>\$1,040.2</u>	<u>\$ 956.5</u>	<u>\$ 909.3</u>
<b>Program Cost</b>				
Patents	\$1,022.3	\$ 882.5	\$ 781.3	\$ 734.0
Trademarks	138.7	134.1	130.0	127.8
<b>Total Program Cost</b>	<u>\$1,161.0</u>	<u>\$1,016.6</u>	<u>\$ 911.3</u>	<u>\$ 861.8</u>
<b>Net Income/(Loss)</b>	<u>\$ (99.6)</u>	<u>\$ 23.6</u>	<u>\$ 45.2</u>	<u>\$ 47.5</u>

The USPTO incurred a net loss of \$99.6 million for FY 2002, as compared to net income of \$23.6 million for FY 2001.

The net loss for the patent business line was \$112.2 million in FY 2002, an increase of \$88.7 million, or 377.4 percent, over the FY 2001 net loss of \$23.5 million. This is primarily due to an additional \$87.2 million of patent revenue deferred in FY 2002. This change contributed greatly to the Patent Business Line's net loss, as increases in revenue deferred reduce net income.

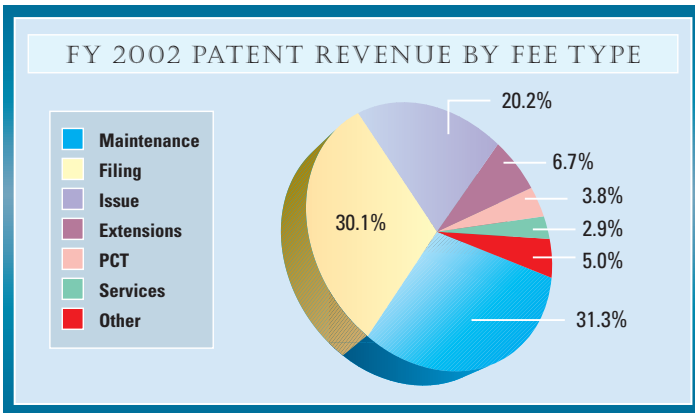
The Trademark Business Line generated net income of \$12.6 million in FY 2002, a decrease of \$34.5 million, or 73.2 percent, as compared to the FY 2001 net income of \$47.1 million. This is partly due to the completion of large volumes of work in FY 2001 received in prior years and a decline in new applications submitted during FY 2002.

**Earned Revenue**

Earned revenue totaled \$1,061.4 million for FY 2002, an increase of \$21.2 million, or 2.0 percent, over FY 2001 earned revenue of \$1,040.2 million. Of fees earned during FY 2002, \$307.8 million related to revenue deferred in prior fiscal years, \$323.6 million related to maintenance fees collected during FY 2002, which are considered earned immediately, and \$430.0 million related to work performed on fees collected during FY 2002. Patent and Trademark operating results are discussed in greater detail below.

**Patents**

Patent operations earned \$910.1 million in revenue for FY 2002, a \$51.1 million, or 5.9 percent, increase over \$859.0 million of revenue in FY 2001.



Traditionally, patent maintenance fees are the largest category of patent fees. Therefore, fluctuations in rates of renewal affect patent revenue significantly. However, there can be no assurance that the USPTO will be able to sustain or improve on historic or current renewal rates in future years. For FY 2002, \$323.6 million was collected in this category, a \$16.1 million, or 5.2 percent, increase over the \$307.5 million collected in maintenance fees for FY 2001.

Patent Renewal Rates *	FY 2002	FY 2001	FY 2000	FY 1999
First Stage	85.1%	84.5%	84.3%	83.1%
Second Stage	59.5%	59.9%	59.4%	57.9%
Third Stage	38.4%	39.1%	38.8%	37.7%

\* Note: the First Stage refers to the end of the 3<sup>rd</sup> year after the patent is issued; the Second Stage refers to the end of the 7<sup>th</sup> year after the patent is issued; and the Third Stage refers to the end of the 11<sup>th</sup> year after the patent is issued

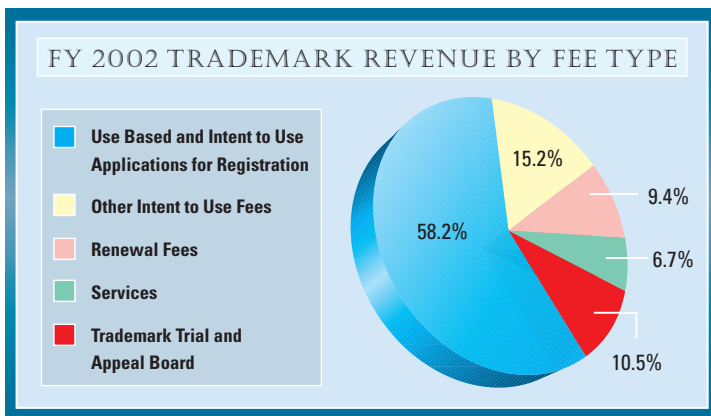


**Trademarks**

Trademark operations earned \$151.3 million in revenue for FY 2002, a 16.5 percent decrease from \$181.2 million in FY 2001 earned revenue. This decrease is due to recognizing revenue that was deferred in prior years, but earned in FY 2001 when trademark business operations completed a backlog of work that had accumulated during previous years.

The USPTO charges a combined fee for the registration of both Use Based and Intent to Use applications. Then, another fee is charged for Intent to Use applications because these applications require additional disclosures for trademark examiner review.

Trademark renewals are required only if continued protection is requested. To some extent, renewals subsidize costs incurred during the initial registration process.



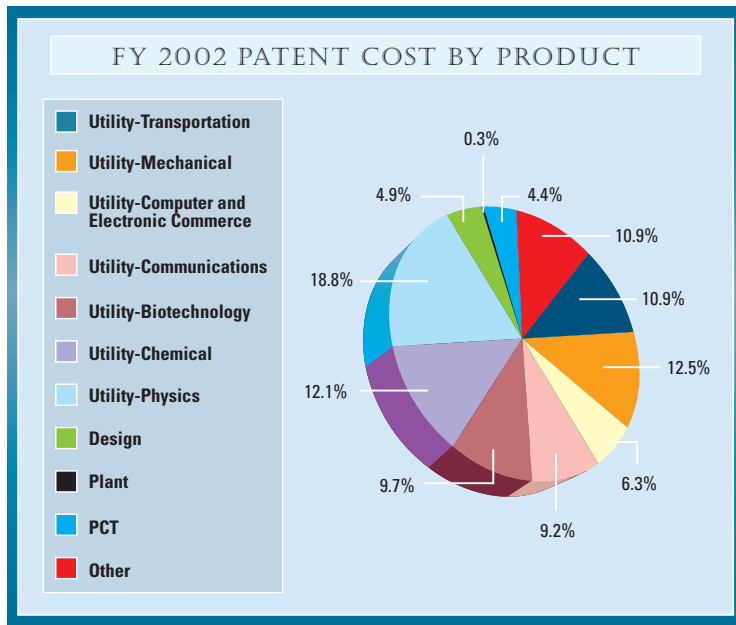
Trademark Renewal Rates *	FY 2002	FY 2001	FY 2000	FY 1999
Renewals	25.2%	21.2%	19.2%	9.6%

*\* Note: the renewals occur every 10<sup>th</sup> year for trademarks registered after November 15, 1989. For trademarks issued or renewed before November 15, 1989, renewal will occur after the 20<sup>th</sup> year and the renewal will be for a 10-year period.*

**Program Costs**

Program costs totaled \$1,161.0 million for the year ended September 30, 2002, an increase of \$144.4 million, or 14.2 percent, over FY 2001 program costs of \$1,016.6 million. The USPTO’s most significant program costs relate to personnel services and benefits costs. These personnel costs traditionally comprise over 50 percent of USPTO’s total program costs. Any significant change or fluctuation in staffing or pay rate patterns directly impacts the change in total program costs from year to year. Total direct personnel services and benefits costs for the year ended September 30, 2002, were \$587.7 million, an increase of \$85.8 million, or 17.1 percent, over FY 2001 direct personnel services and benefits costs of \$501.9 million. This change is the result of a net increase of 513 personnel, from 6,426 at the end of FY 2001 to 6,939 at the end of FY 2002 (8.0 percent increase), and a 4.8 percent increase in the Federal pay scale.

Rent, communications, utilities, contractual services, and depreciation costs traditionally comprise one third of USPTO’s total program costs each year. Contractual services directly attributable to business lines for the year ended September 30, 2002, were \$143.4 million, an increase of \$26.2 million, or 22.4 percent, over FY 2001 contractual service costs of \$117.2 million. Increases were largely in the patent business line due to increasing information technology costs, primarily automated systems operational support, and file maintenance and related office administrative support.

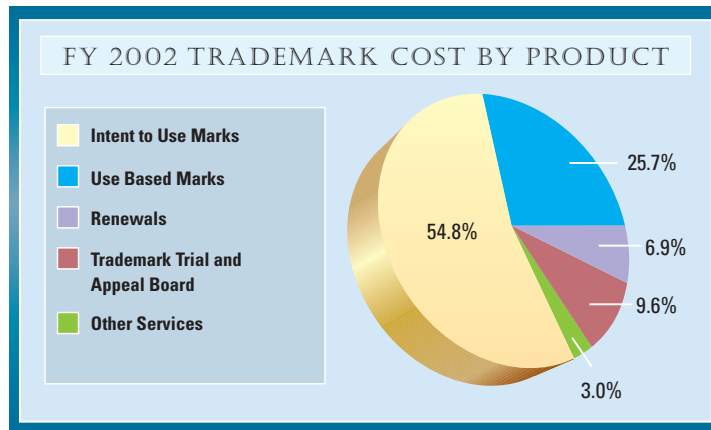


**Patents**

Program costs attributable to patent operations totaled \$1,022.3 million for FY 2002, an increase of \$139.8 million, or 15.8 percent, over a total patents program cost of \$882.5 million in FY 2001. Patent costs are spread over four main patent products: utility patents, design patents, plant patents, and PCT. The cost percentages presented are based on direct and indirect costs allocated to patent operations and are a function of the volume of applications processed in each product area.

**Trademarks**

Program costs attributable to trademark operations totaled \$138.7 million in FY 2002, an increase of \$4.6 million, or 3.4 percent, over the total trademarks program cost of \$134.1 million in FY 2001. Trademark costs are comprised of processing three main products: Intent to Use marks, Use Based marks, and renewals after registration, which involves processing affidavits, corrections, and amendments. While contractual service costs directly attributable to the trademark business increased 35.4 percent, several other cost categories decreased in FY 2002 compared to FY 2001, including maintenance and repairs, supplies and materials, depreciation, and amortization costs.



The Intent to Use cost include costs related to examining both the application and the additional intent to use disclosures. The overall cost percentages presented are based on both direct costs and indirect costs allocated to trademark operations and are a function of the volume of applications processed in each product area.



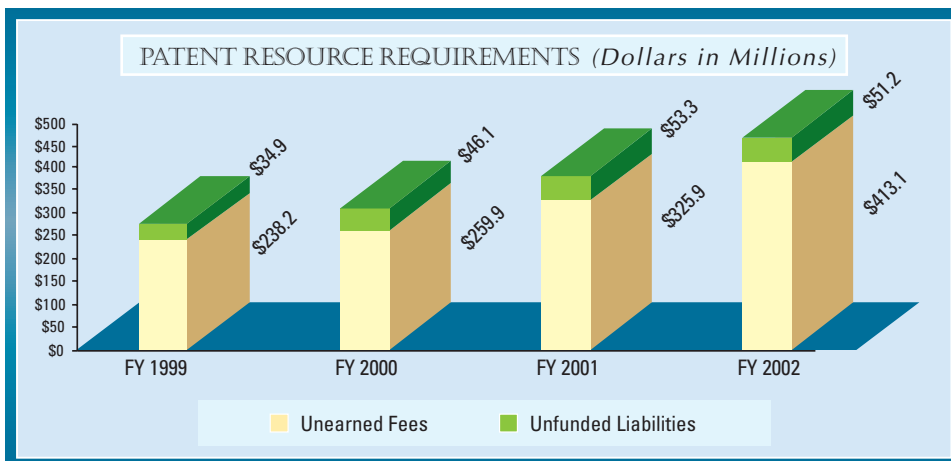
**BUDGETARY RESOURCES AND REQUIREMENTS**

For FY 2002, budgetary resources available for spending totaled \$1,146.7 million, a 9.2 percent increase over the FY 2001 total of \$1,049.8 million. Financially, the USPTO is a self-sufficient Federal government agency that funds the cost of its operations from user fees rather than appropriations from taxes paid into the general fund of the U.S. Department of the Treasury. As a Government agency, the USPTO's goal is to realize budgetary resources provided through the collection of user fees that are equal to budgetary spending incurred to fill customer orders, rather than generating net income. Major fees are set by statute and activity-based cost accounting techniques assist in approximating fee amounts necessary to recover the cost of non-statutory fees. The USPTO is refining these cost accounting techniques continually and furthering its fee analyses to improve its assessment of fee requirements.

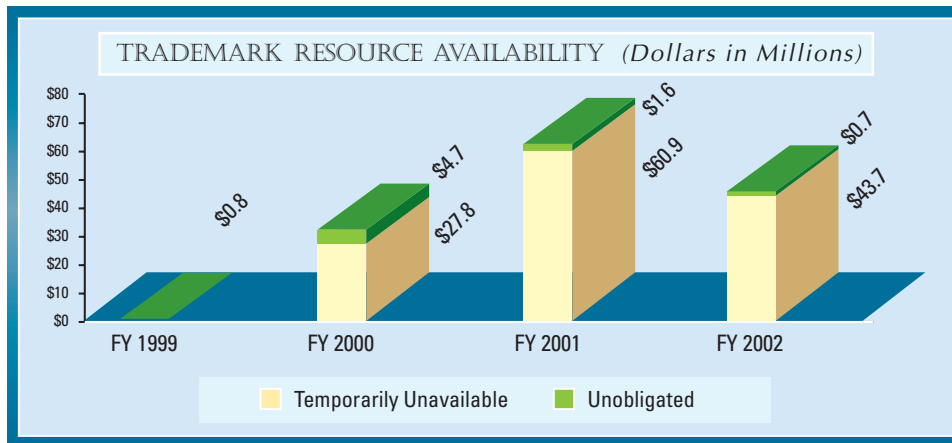
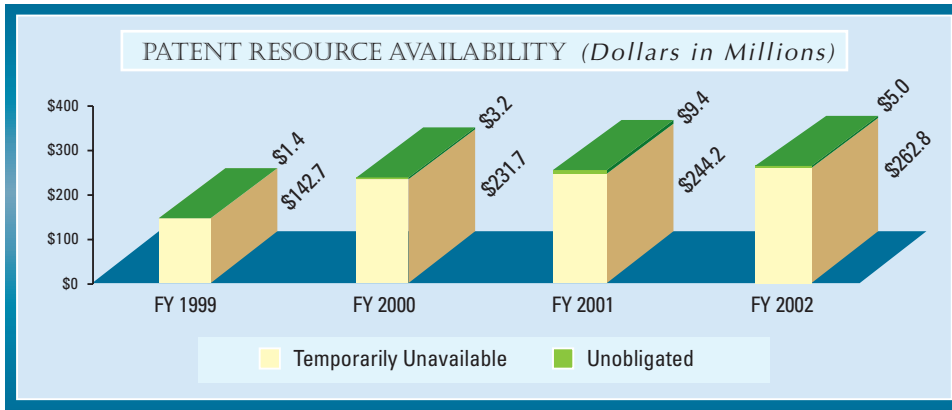
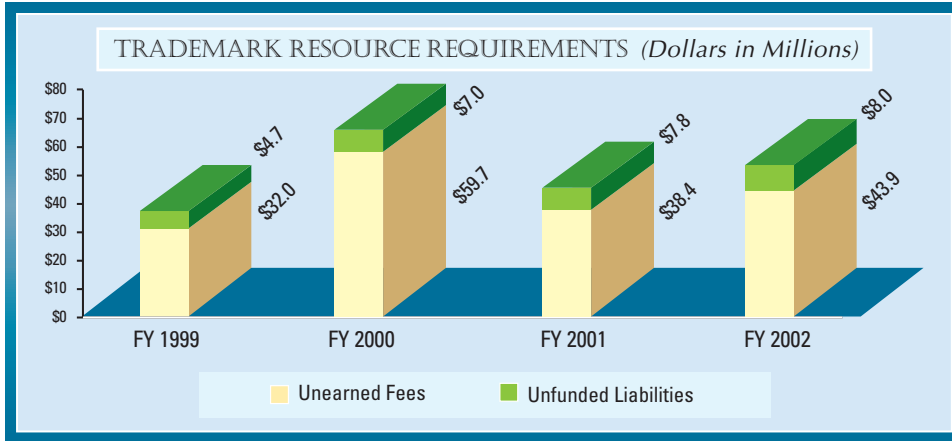
Temporarily unavailable fee collections occur when the Congress does not allow the USPTO to spend all fees collected during a given fiscal year. In FY 2002, the USPTO was appropriated \$282.3 million from fees collected in fiscal years 2000 and 2001, leaving only \$22.8 million in FY 2001 fees still not available for spending. The USPTO was also appropriated \$843.7 million for fees collected during FY 2002. During FY 2002, the USPTO collected an additional \$304.1 million that was not available for spending. \$318.9 million was appropriated under a continuing resolution for spending through January 11, 2003. The USPTO does not know when the remaining \$22.8 million from FY 2001 fees and \$303.5 million from FY 2002 fees will be appropriated.

During FY 2002, a total of \$555 thousand in fees was rescinded, reducing a portion of the USPTO fee resources. These fees were withheld to fund homeland security programs.

The following charts show the resources required to meet financial responsibilities compared to the resources available for this purpose. Unfunded liabilities related to earned fee collections, as well as a liability for work to be performed on unearned fee collections are a measure of commitment to vendors and customers for services and orders that the USPTO has received and taken through FY 2002.







## LIMITATIONS

The USPTO has prepared its FY 2002 Financial Statements in accordance with the requirements of OMB Bulletin Number 01-09, *Form and Content of Agency Financial Statements*, and guidance provided by the Department of Commerce. OMB Bulletin Number 01-09 incorporates the concepts and standards contained in the Statements of Federal Financial Accounting Concepts (SFFAC) and the Statements of Federal Financial Accounting Standards (SFFAS) recommended by the Federal Accounting Standards Advisory Board (FASAB) and approved by the Secretary of the Treasury, the Director of the OMB, and the Comptroller General.

On October 19, 1999, the American Institute of Certified Public Accountants Council designated the FASAB as the accounting standards-setting body for Federal government entities. Therefore, the SFFAS constitute accounting principles generally accepted in the United States for the Federal government. These concepts and standards have been set by FASAB to help Federal agencies comply with the requirements of the *Chief Financial Officers Act of 1990*, as amended by the *Government Management and Reform Act of 1994*. These two Acts demand greater financial accountability from Federal agencies and require the integration of accounting, financial management, and cost accounting systems.

The financial data in this report and the financial statements that follow have been prepared from the accounting records of the USPTO in conformity with accounting principles generally accepted in the United States. The USPTO's financial statements consist of the Balance Sheet, the Statement of Net Cost, the Statement of Changes in Net Position, the Statement of Budgetary Resources, the Statement of Financing, and the Statement of Cash Flows. The following limitations apply to the preparation of the financial statements:

- The financial statements were prepared to report the USPTO's financial position, net cost of operations, budgetary resources, and cash flows pursuant to the requirements of 31 U.S.C. 3515 (b).
- While the statements are prepared from books and records in accordance with the formats prescribed by the OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records.
- The statements should be read with the realization that the USPTO is a component of the U.S. Government, a sovereign entity. One implication is that unfunded liabilities cannot be liquidated without legislation that provides resources to do so.

In addition, certain information contained in this financial discussion and analysis and in other parts of this report may be deemed forward-looking statements regarding events and financial trends that may affect future operating results and financial positions. Such statements may be identified by words such as "estimate," "project," "plan," "intend," "believe," "expect," "anticipate," or variations or negatives thereof or by similar or comparable words or phrases. Prospective statements are subject to risks and uncertainties that could cause actual results to differ materially from those expressed in the statements. Such risks and uncertainties include, but are not limited to, the following: changes in U.S. or international intellectual property laws; changes in U.S. or global economic conditions; the availability, hiring and retention of qualified staff employees; management of patent and trademark growth; Government regulations; disputes with labor organizations; and deployment of new technologies. The USPTO undertakes no obligation to publicly update these prospective statements to reflect events or circumstances after the date hereof, or to reflect the occurrence of unanticipated events.

## MANAGEMENT RESPONSIBILITIES

USPTO management is responsible for the fair presentation of information contained in the principal financial statements, in conformity with accounting principles generally accepted in the United States and the requirements of OMB Bulletin Number 01-09 and guidance provided by the DOC. Management is also responsible for the fair presentation of the USPTO's performance measures in accordance with OMB requirements. The quality of the USPTO's internal control rests with management, as does the responsibility for identifying and complying with pertinent laws and regulations.



