



# United States Patent and Trademark Office FY 2012 President's Budget





**UNITED STATES PATENT AND TRADEMARK OFFICE**

**FISCAL YEAR 2012**

**PRESIDENT'S BUDGET**

**FEBRUARY 14, 2011**





## UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF THE CHIEF FINANCIAL OFFICER

February 14, 2011

MEMORANDUM FOR: Distribution

FROM: Anthony Scardino *APS*  
Chief Financial Officer

SUBJECT: The United States Patent and Trademark Office (USPTO)  
Fiscal Year 2012 President's Budget

The attached FY 2012 President's Budget for the USPTO is a requirements-based performance budget that continues to carry out the strategic goals, objectives and initiatives identified in the *USPTO 2010-2015 Strategic Plan*. Specifically, the five-year budget plan is designed to:

- Reduce the time to first office action on the merits to 10 months for patent applications by FY 2014, and average total pendency to 20 months by FY 2015.
- Reduce the accumulated backlog of unexamined patent applications to 352,400 – a 50 percent reduction – at the end of FY 2014.
- Invest in information technology (IT) infrastructure and tools to develop and implement the Patent End-To-End IT processing system, the Trademark Next Generation IT system, and the Fee Processing Next Generation (FPNG) system.

To meet these performance commitments, the FY 2012 Budget contains the following major initiatives:

- Patent Program
  - Patent workload/efficiency initiatives to reduce pendency and backlog: 1,500 new hires, including 300 for Three-Track Examination, overtime, and nationwide workforce.
  - Patent quality initiatives: quality metrics/quality index reporting and peer review.
- Trademark Program
  - Trademark workload initiative to maintain pendency: 11 hires and contractor services.
  - TTAB quality initiative
- IP PP&E Program
  - To provide domestic and international IP leadership through economic research and data base development, educational programs, and posting IP attachés abroad.

To fund these requirements, the FY 2012 Budget requests \$2,599 million (and 11,137 FTE), which is an increase of \$220 million (9.2 percent) compared to the FY 2011 President's Budget. Fee collections for FY 2012 are projected to be \$2,706 million, which assumes the current fee structure with a 1.4 percent Consumer Price Index (CPI) adjustment on patent statutory fees, and continuation of the 15 percent surcharge on patent fees that was proposed for FY 2011.

Please do not hesitate to call Mark Olechowski, Deputy CFO or me at 571-272-9200 with any questions or comments.

Attachment



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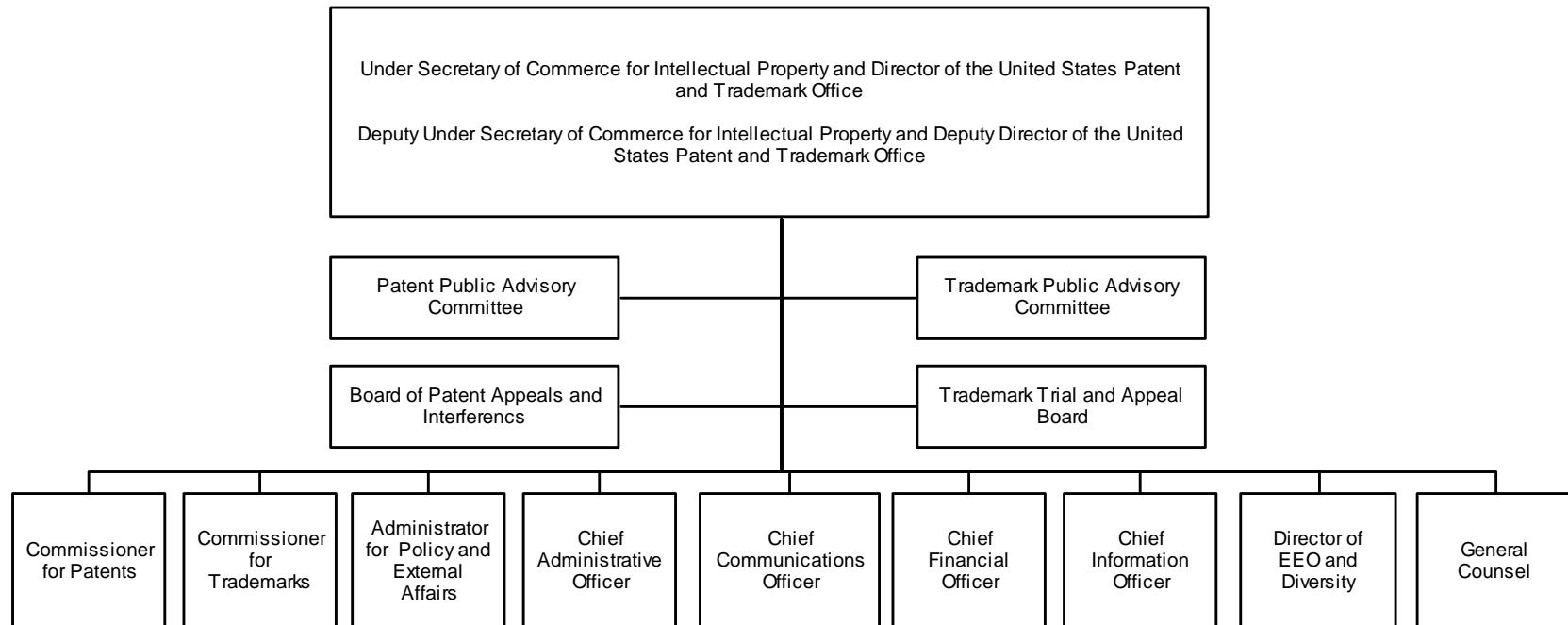
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# INTRODUCTION

## Exhibit 2 – Organization Chart

### UNITED STATES PATENT AND TRADEMARK OFFICE



## Exhibit 3 – Executive Summary

Innovation is a key driver of the United States economy, and intellectual property (IP) rights play an essential role in fostering innovation and enabling the deployment of goods and services to the marketplace. IP is also playing a critical role in economic recovery, fueling economic growth and creating jobs. Innovation in science and technology, in particular, are crucial to economic growth and to maintaining America's global competitiveness over the long term.

The Administration's "A Strategy for American Innovation: Securing Our Economic Growth and Prosperity" identifies promoting investments in ingenuity through effective IP policy as one of the building blocks to innovation for sustainable growth and quality jobs. The United States Patent and Trademark Office's (USPTO) work in fostering innovation is a crucial driver of job creation, economic recovery, and prosperity. The *USPTO 2010-2015 Strategic Plan* documents how we are working to make the USPTO more efficient, to reduce the unacceptably long pendency periods patent applicants face, and to establish a sustainable funding model.

As a fully user-fee funded organization, the USPTO is able to address these issues at no cost to the taxpayer. Funds required for FY 2012 would be offset by user fee collections under the current fee schedule and including the proposed interim fee increase on certain patent fees. As a result, the USPTO's appropriation will remain at the \$0 budget authority level.

### FY 2012 Budget Priorities

The USPTO requires \$2,599 million and 11,137 full-time equivalent (FTE) employees in FY 2012 to carry out the requirements necessary to continue implementing the *USPTO 2010-2015 Strategic Plan*, which directly contributes to the DOC's theme of Economic Growth. In addition, the USPTO needs the flexibility to set fees along with other improvements contained in proposed patent reform legislation, and the resources provided by the FY 2011 and FY 2012 Budget requests.

In FY 2012, the USPTO will continue to focus on three major priorities: patent pendency and backlog reduction, investments in information technology (IT), and seeking sustainable funding.

### Patent Pendency and Backlog Reduction

Reducing patent pendency is an Administration Priority Goal. The USPTO has committed to achieving an average first action patent pendency of 10 months, and an average total patent pendency of 20 months by 2014 and 2015, respectively. Meeting this commitment assumes efficiency improvements brought about by reengineering many USPTO management and operational processes (e.g., the patent examination process) and systems. Even assuming these ambitious efficiency gains, the USPTO estimates that it will need to hire about 3,400 patent examiners in the three-year period FY 2011 through FY 2013. This level of hiring is necessary to reduce the accumulated backlog of unexamined applications by 50 percent to 352,000 at the end of FY 2014, and achieve an average first action pendency of 10.4 months. If the budget request for additional patent examiner hires is not funded in FY 2012, the patent backlog would be more than 138,000 applications higher at the end of FY 2014 than the current projection.

To meet this commitment, in FY 2010 the USPTO initiated a new approach to examiner hiring. The new model focuses on: (1) hiring experienced professionals such as registered patent attorneys and patent agents, as well as skilled technologists having experience with the USPTO as inventors, and (2) developing a nationwide workforce which will allow us to hire employees from around the country who do not want to relocate to this area. It is expected that expanding the hiring demographic will provide a more productive and balanced workforce, and faster transition to productivity for new hires.

## **FY 2012 President's Budget**

In addition to hiring, the USPTO has a number of projects either underway or planned that will contribute to our patent pendency reduction plan and improved efficiency. These include initiating compact prosecution initiatives which encourage the practice of finding the core issues with patent applications and making prosecution more efficient. Additional initiatives for optimizing examination capacity include, for example, implementing new patent examiner performance appraisal plans; training and implementing a quality index report model; monitoring the patent examiner production (count) system; re-engineering the classification system; and increasing international work-sharing efforts.

### **Information Technology**

Because patent and trademark applicants target the important U.S. market for IP protection, the upsurge in application filings has resulted in increased demand for USPTO services. This in turn has put considerable strain on the USPTO's IT infrastructure, which can jeopardize the USPTO's ability to provide timely and quality patents and trademarks. The USPTO must build a high-quality, efficient, cost-effective, end-to-end electronic IT process that provides examiners with the tools needed to efficiently and effectively perform their jobs, and that also provides applicants and the user community with access to information and data.

The USPTO's legacy systems are based on obsolete technologies that are difficult to maintain, leaving the USPTO highly vulnerable to disruptions in patent, trademark, and other processes. For example, patent databases are among the world's largest, and continue to grow at multiple terabytes per year, further raising the possibility of failure. Automation of many manual business functions has been deferred because of the limitation of legacy systems. A new generation of patent and trademark IT systems -- built upon modern data formats to provide "end-to-end" electronic processing -- is needed.

For example, the planned Patent End-to-End (PE2E) system will provide a number of capabilities that are not possible with the current system and that will improve the patent examination process, such as:

- Examiners will use one integrated interface to process a patent application from pre-examination through post-examination.
- Patents will be represented as eXtensible Markup Language (XML) text rather than Tagged Image File Format (TIFF) images; thereby making them easier to read, resize, reformat, and cut-and-paste from. This will enable creation of automated formality reports which will automatically identify informalities in patent applications to assist examiners in creating their Office actions.
- Examiners will have near-instantaneous opening of a patent application, with extensive search results. Applications captured as XML text will be able to be "pre-searched" by automated systems, providing examiners with some prior art and suggested fields of search, in advance of the examiners' search.
- There will be automated validation of fields to reduce error and increase examination efficiency; for example application serial numbers and filing dates will not have to be entered multiple times into various automated systems.
- Bibliographic references, such as citations of foreign patents and non-patent literature will be represented in a database so examiners will not have to enter the same references multiple times.
- Examiners and managers can annotate images and text, and share annotations throughout the Examining Corps, thereby facilitating the recordation and sharing of information about patent applications amongst examiners and managers, improving examination quality.

- Search available over documents associated with previous cases, and the cases themselves; for example, examiners will be able to retrieve prior art cited in related applications that they have examined in the past.
- Instrumented data collection of the details of the patent examination process; for example, this will provide examiners and managers with granularity on where applications with similar subject matter have been searched, increasing efficiency in prior art search formulation.
- Flexible design will accelerate modifications to the system that may be required because of policy and legal decisions.
- The system will be stable, fast, maintainable, and will support a nationwide workforce.

The Department of Commerce (DOC), along with its operating units, supports and is an active participant in the Government-wide e-Government initiatives and lines of business. Each initiative or line of business is managed by another federal agency, such as the General Services Administration (GSA), and was implemented in part to avoid redundancy and duplication of government-wide activities such as rulemaking, human resource servicing, financial management, grants management, etc. The e-government initiatives and lines of business play a key role in DOC's enterprise architecture, particularly for DOC-wide administrative systems. These initiatives and lines of business promote internal DOC efficiency in acquisition and other administrative activities. DOC external customers benefit from a single source for grant postings, grant application submission and applying for Commerce benefit programs. DOC e-government participation provides better services to the citizen, promotes transparency, and actively supports our stakeholders in the business community.

### **Sustainable Funding**

In addition to reducing the patent application backlog and pendency, and improving IT, another immediate priority is to implement a sustainable funding model that will allow the agency to manage fluctuations in filings and revenues while sustaining operations on a multi-year basis. A sustainable funding model includes: (1) ensuring access to fee collections to support the agency's objectives; (2) instituting an interim patent fee increase; (3) pursuing the authority to adjust our fee structure by regulation to better align fees with the cost of providing services; and (4) funding an operating reserve to manage operations on a multi-year basis and thereby protect the agency against unforeseen disruptions in revenue.

This FY 2012 Budget proposes to appropriate spending authority for all fees the USPTO collects, and continues the interim increase on patent fees that was first requested for FY 2011. This interim increase is a bridge to provide resources until the USPTO obtains fee setting authority and develops a new fee structure that will provide sufficient financial resources in the long term. An adequately funded USPTO will optimize the administration of the U.S. patent and trademark systems, and thereby move innovation to the marketplace more quickly -- creating and sustaining jobs, and enhancing the health and living standards of Americans. Fee setting authority, coupled with maintaining an operating reserve from past fee collections, would permit the USPTO to sustain operations and adjust for volatility in the economy and/or demand for products and services without putting the agency at risk of not appropriately managing fluctuations in filings and revenues.

### **Curbing Spending**

This FY 2012 requirements-based Budget is based on comprehensive budget reviews that began in FY 2009 when the USPTO experienced a precipitous drop in fee collections. Since then, the USPTO has been taking a hard look at the activities it has been and will be funding to find savings and efficiencies. The Agency was able to make nearly \$200 million in reductions during FY 2009. While a majority of the reductions were short term in nature, the USPTO was able to implement several reductions that will have a lasting impact on budgetary requirements.

## **FY 2012 President's Budget**

Some of these items include efficiencies in IT projects, service and management contracts, and agency-wide travel and supply purchases.

The economic downturn required critical spending cuts in FY 2009 that were carried into FY 2010. As the economy rebounded in FY 2010, fee collections increased beyond the amount appropriated and a supplemental appropriation was provided by Pub. L. No. 111-224 that increased the USPTO's authority to spend an additional \$129 million of fees collected during that year. This funding was and will continue to be used to reduce the backlog in processing patent applications by expanding the examiner workforce, and making that workforce more productive by improving processes, IT and tools.

The Administration is pursuing an aggressive government-wide effort to curb non-essential administrative spending called the Administrative Efficiency Initiative. In order to be good stewards of taxpayer money the Federal Government should continue to seek ways to improve the efficiency of programs without reducing their effectiveness. As such, the President directed each agency to analyze its administrative costs and identify savings where possible. After reviewing its administrative costs, the USPTO has identified \$26 million in administrative savings, with an additional \$293,000 in savings identified through the DOC Working Capital Fund. The Patent organization will re-engineer its business processes so that the Patents End-to-End (PE2E) will be built independent of legacy systems, with no mandates to re-use those legacy systems or to build interim interfaces unless they can not be avoided. The re-engineering effort will result in \$5 million in savings that will be reinvested in creating and maintaining the system. The USPTO also took advantage of the current job market to identify another \$21 million in accrued cost avoidances resulting from a decision to not pay recruitment bonuses to over 1,400 new patent examiner hires in FY 2010 and FY 2011.

### **Budget Process/Format**

The FY 2012 Budget was formulated as a requirements-based budget. This process entailed identifying all of the funding requirements needed to fulfill the performance commitments in the *USPTO 2010-2015 Strategic Plan*. To fund these requirements, the USPTO pursued access to fee collections, instituting an interim patent fee increase for the immediate future, and funding an operating reserve. For the long-term, the USPTO is pursuing fee-setting authority.

The format of this FY 2012 Budget has been modified from previous USPTO budgets to highlight requirements for base resources and increases in major USPTO programs and activities. However, because the USPTO is a user fee funded, performance-based organization, the budget justification also relies heavily on the objectives, initiatives and performance results documented in the *USPTO 2010-2015 Strategic Plan*.

For FY 2011, the U.S. Government is currently operating under a Continuing Resolution (CR), and data shown under the FY 2011 CR (Annualized) column of budget tables and exhibits assumes that the USPTO will continue to operate at this level for all of FY 2011. Because the USPTO is anticipating that funds will be appropriated based on an updated FY 2011 fee collections estimate, including the 15 percent interim patent fee increase proposed for FY 2011, we have included a FY 2011 Current Plan column, which reflects access to these additional fees to fulfill our requirements. However, USPTO's appropriation will remain at the \$0 budget authority level. The amounts for FY 2012 through FY 2016 are based off of the FY 2011 Current Plan column. Without access to these additional fees in FY 2011, the outyear performance targets will not be achieved.

Beginning with this Budget request, the USPTO is providing a range of projected fee collections – high, working and low – for each fiscal year beginning with FY 2011. The working level represents the best estimate based on information available at this point in time, and is included in exhibits and tables.

The USPTO anticipates fee collections during FY 2012 to be between \$2,579 and \$2,842 million, with a working level estimate of \$2,706 million. The estimate is comprised of \$2,326 to \$2,566 million generated under the current fee structure, and \$253 to \$276 million generated from an interim increase on patent fees. The FY 2011 fee collections have been revised from the FY 2011 President's Budget estimate of \$2,322 million, with total collections now estimated to be between \$2,270 and \$2,436 million. More information on the fee collection ranges, including a detailed description of the modeling factors used to generate the fee projections, can be found under the "USPTO Fee Collection Estimates/Range" on page 24.

**FY 2012 President's Budget**

**USPTO FY 2012 Budget and Performance-at-a-Glance**

The performance measures shown below are the USPTO's Government Performance and Results Act (GPRA) measures that are reported externally on a regular basis. In addition, the USPTO has established a number of performance measures outlined in the *USPTO 2010-2015 Strategic Plan* which are tracked internally to manage progress toward meeting strategic objectives and initiatives. Additional information about funding by the Agency's two business lines is included below under Multi-Year Planning by Business Line.

<i>(Dollars in thousands)</i>	FY 2010 Actual	FY 2011 CR (Annualized)	FY 2011 Current Plan	FY 2012 President's Budget	FY 2013 Estimate	FY 2014 Estimate	FY 2015 Estimate	FY 2016 Estimate
<b>USPTO GOAL 1: OPTIMIZE PATENT QUALITY AND TIMELINESS</b>								
Amount	1,707,211	1,895,310	2,105,608	2,308,557	2,502,275	2,572,762	2,623,476	2,677,009
Full Time Equivalent (FTE)	8,446	8,688	9,224	10,063	10,890	10,749	10,286	9,853
UPR Applications Filed	481,483	505,300	505,300	527,600	550,800	578,000	606,600	643,000
Patent Quality Composite <sup>1</sup>	N/A	N/A	Baseline	TBD	TBD	TBD	TBD	TBD
Final Disposition Compliance Rate (Percent)	96.3	N/A	95.6--96.5	95.6--96.7	95.6--96.7	95.6--97.0	95.6--97.0	95.6--97.0
In-Process Compliance Rate (Percent)	94.9	N/A	94.6--95.6	94.6--96.0	94.6--96.3	94.6--97.0	94.6--97.0	94.6--97.0
Average First Action Pendency/Utility, Plant and Reissue (UPR) (Months)	25.7	N/A	23.0	22.3	15.2	10.4	10.6	10.3
Inventory Position (months)	26.0	N/A	20.2	15.2	10.6	8.5	8.2	9.0
UPR Units of Production <sup>2</sup>	487,126	N/A	531,600	573,700	622,600	629,300	626,500	617,700
Average Total Pendency/UPR (Months)	35.3	N/A	34.5	32.1	29.1	23.6	19.3	18.8
<b>USPTO GOAL 2: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS</b>								
Amount	183,034	208,195	213,195	219,782	231,798	233,630	239,723	246,252
FTE	840	856	856	883	904	923	946	968
Applications Received (Includes Extra Classes)	368,939	385,000	385,000	404,000	424,000	445,000	466,000	487,000
First Action Compliance Rate	96.6%	N/A	95.5%	95.5%	95.5%	95.5%	95.5%	95.5%
Final Compliance Rate	96.8%	N/A	97.0%	97.0%	97.0%	97.0%	97.0%	97.0%
Average First Action Pendency (Months)	3.0	N/A	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5
Balanced Disposals	742,000	N/A	777,100	840,500	882,100	925,800	970,000	1,014,200
Office Disposals	339,000	N/A	356,000	384,000	403,000	423,000	443,000	463,000
Average Total Pendency (Months) Excluding Suspended and <i>Inter Partes</i> Proceedings	10.5	N/A	12.5	12.5	12.5	12.5	12.5	12.5
<b>USPTO GOAL 3: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE</b>								
Amount	48,713	59,047	60,547	71,054	73,371	75,146	76,755	78,398
FTE	145	167	167	191	198	199	199	199
Percentage of prioritized countries for which country teams have implemented at least 75% of action steps in the country-specific action plans toward progress along following dimensions: 1. Institutional improvements of IP office administration for advancing Intellectual property rights (IPR) 2. Institutional improvements of IP enforcement entities 3. Improvements in IP laws and regulations 4. Establishment of government-to-government cooperative mechanisms	75	N/A	75	75	75	75	75	75
USPTO Requirements	1,938,958	2,162,553	2,379,350	2,599,393	2,807,444	2,881,538	2,939,954	3,001,659
FTE	9,430	9,710	10,246	11,137	11,992	11,872	11,431	11,020
Fee Collections	2,068,543	2,198,621	2,346,227	2,706,313	2,802,376	3,044,595	3,148,634	3,232,458
Fee Collections - Unavailable	(52,543)	(182,621)						
Other Income/Recoveries	26,939	23,000	23,000	23,000	23,000	23,000	23,000	23,000
Funding to(-) / from(+) Operating Reserve	(103,981)	123,553	10,123	(129,920)	(17,932)	(186,057)	(231,681)	(253,799)
<b>TOTAL FUNDING</b>	<b>\$1,938,958</b>	<b>\$2,162,553</b>	<b>\$2,379,350</b>	<b>\$2,599,393</b>	<b>\$2,807,444</b>	<b>\$2,881,538</b>	<b>\$2,939,954</b>	<b>\$3,001,659</b>

<sup>1</sup> New performance measure will subsume Final Disposition Compliance Rate and In-Process Compliance Rate. See Exhibit 3a.

<sup>2</sup> Reflects the impact of implementing Three-Track Examination beginning in FY 2011.



**USPTO 2010-2015 Strategic Plan – Summary of Goals and Objectives**

The *USPTO 2010-2015 Strategic Plan* became available to the Congress and the public at the end of September 2010. The Plan formally documents the USPTO's priorities, and is aligned with the Department's themes, goals and objectives as follows:

<b>DOC Themes</b>	<b>DOC Goal</b>	<b>DOC Objectives</b>	<b>USPTO Goals</b>
<b>Economic Growth</b>	Innovation and Entrepreneurship Goal: Deliver the tools, systems, policies and technologies critical to transforming our economy, fostering U.S. competitiveness, and driving the development of new businesses.	Facilitate intellectual property protection by reducing patent and trademark pendency and increasing quality of issued patents and trademarks.	Optimize Patent Quality and Timeliness  Optimize Trademark Quality and Timeliness
		Expand international markets for U.S. firms and inventors by improving the protection and enforcement of intellectual property rights.	Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide
<b>Customer Service, Organizational Excellence and Workforce Excellence</b>			Achieve Organizational Excellence

The USPTO Strategic Framework, including the mission statement, vision statement, goals, objectives and initiatives is shown on the following pages.



# United States Patent and Trademark Office Strategic Framework



## Mission

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

## Vision

*Leading the Nation and the World in Intellectual Property Protection and Policy*

## Strategic Goals

Goal I: *Optimize Patent Quality and Timeliness*

Goal II: *Optimize Trademark Quality and Timeliness*

Goal III: *Provide Domestic and Global Leadership to Improve Intellectual Property (IP) Policy, Protection and Enforcement Worldwide*

MANAGEMENT GOAL: *Achieve Organizational Excellence*

### GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS

Objective 1: Re-Engineer Patent Process to Increase Efficiencies and Strengthen Effectiveness	Objective 2: Increase Patent Application Examination Capacity	Objective 3: Improve Patent Pendency and Quality by Increasing International Cooperation and Work Sharing	Objective 4: Measure and Improve Patent Quality	Objective 5: Improve Appeal and Post-Grant Processes	Objective 6: Develop and Implement the Patent End-to-End Processing System
<ul style="list-style-type: none"> <li>Re-engineer the Patent Examiner Production (Count) System</li> <li>Prioritize Work: Green Technology Acceleration, Project Exchange, Multi-Track Customized Examination</li> <li>Institutionalize Compact Prosecution Initiatives</li> <li>Re-engineer the Patent Classification System</li> <li>Re-engineer the Manual of Patent Examining Procedure (MPEP)</li> <li>Re-engineer the Patent Examination Process</li> </ul>	<ul style="list-style-type: none"> <li>Hire Approximately 1,000 Examiners in both FY 2011 and FY 2012</li> <li>Use a Hiring Model that Focuses on Experienced IP Professionals</li> <li>Target Overtime to High Backlog Technology Areas</li> <li>Develop and Implement a Nationwide Workforce</li> <li>Reduce Attrition by Developing Mentoring, Best Practices, and Retention Strategies</li> <li>Contract for Patent Cooperation Treaty (PCT) Searching</li> </ul>	<ul style="list-style-type: none"> <li>Make More Effective Use of the PCT</li> <li>Increase Use of the Patent Prosecution Highway (PPH)</li> <li>Explore Strategic Handling of Applications for Rapid Examination (SHARE)</li> <li>Work with Trilateral Offices and the Five IP Offices (IP5) to Create New Efficiencies</li> </ul>	<ul style="list-style-type: none"> <li>Initiate 21st Century Analysis, Measurement and Tracking of Patent Quality</li> <li>Improve and Provide More Effective Training</li> <li>Reformulate Performance Appraisal Plans (PAPs)</li> <li>Implement and Monitor Revisions to Patent Examiner Production (Count) System</li> </ul>	<ul style="list-style-type: none"> <li>Develop and Implement Process Efficiency Recommendations</li> <li>Streamline the Appeal Process and Reduce Appeal Pendency</li> <li>Review the Board of Patent Appeals and Interferences (BPAI) Rules to Amend, Simplify and Optimize Process</li> <li>Increase BPAI Capacity through Additional Hires and New Chambers Organization</li> <li>Maintain High Quality BPAI Decisions</li> </ul>	<ul style="list-style-type: none"> <li>Develop and Implement eXtensible Markup Language (XML) for all Data from Application to Publication</li> <li>Build Infrastructure for Patents' End-to-End Processing System</li> <li>Redesign and Re-architect Patent Information Technology (IT) Systems to Provide End-to-End Electronic Processing</li> </ul>

<b>GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS</b>					
<b>Objective 1: Maintain Trademark First Action Pendency on Average between 2.5 - 3.5 Months with 13 Months Final Pendency</b> <ul style="list-style-type: none"> <li>Align Examination Capacity with Incoming Workloads</li> </ul>	<b>Objective 2: Continuously Monitor and Improve Trademark Quality</b> <ul style="list-style-type: none"> <li>Enhance Examination Quality by Establishing a New Quality Measure</li> </ul>	<b>Objective 3: Ensure Accuracy of Identifications of Goods and Services in Trademark Applications and Registrations</b> <ul style="list-style-type: none"> <li>Determine What Actions, if any are Needed to Ensure Accuracy of Identified Goods and Services</li> </ul>	<b>Objective 4: Enhance Operations of Trademark Trial and Appeal Board (TTAB)</b> <ul style="list-style-type: none"> <li>Maintain TTAB Workload and Pendency Metrics Within Acceptable Limits</li> <li>Develop Additional Accelerated Case Resolution (ACR) and Other Streamlining Options for Inter Partes Cases</li> <li>Improve TTAB Involvement in Parties' Settlement Negotiations</li> <li>Maintain Quality of Orders and Opinions</li> <li>Develop Law through Issuance of Precedential Decisions</li> </ul>	<b>Objective 5: Modernize IT System by Developing and Implementing the Trademark Next Generation IT System</b> <ul style="list-style-type: none"> <li>Address Trademark Business Needs with a Re-Architected, Virtualized and Service-Driven Solution</li> <li>Separate Trademark Computer Based-Resources (CBRs) from Other USPTO CBRs</li> <li>Move to Cloud Computing Based on a Sound Business Case</li> <li>Add Functionality to Meet the Needs of Users</li> </ul>	<b>Objective 6: Develop a New Generation of Trademark Leaders</b> <ul style="list-style-type: none"> <li>Improve and Provide Effective Training</li> <li>Revamp P&amp;Ps to Include Leadership Skills Development</li> <li>Develop an Effective Human Capital Succession Plan</li> </ul>
<b>GOAL III: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE</b>					
<b>Objective 1: Provide Domestic Leadership on IP Policy Issues and Development of a National IP Strategy</b> <ul style="list-style-type: none"> <li>Provide Policy Formulation in All Fields of IP Protection and Enforcement</li> <li>Provide Ongoing Policy Guidance on Key IP Issues</li> <li>Provide Domestic Education Outreach, Knowledge Enhancement and Capacity Building</li> <li>Engage other U.S. Government Agencies and Congress on Legislation that Improves the IP System</li> </ul>			<b>Objective 2: Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights</b> <ul style="list-style-type: none"> <li>Lead Efforts at the World Intellectual Property Organization (WIPO) and Other International Fora to Improve IP Protection and Enforcement</li> <li>Prioritize Countries of Interest for Purposes of Improved IP Protection and Enforcement, Capacity Building, Legislative Reform, Including Creation of Country/Region Strategic Plans and Specific Action Plans</li> <li>Improve Efficiency and Cooperation in Global IP System</li> <li>Provide International IP Policy Advice and Expertise to Other U.S. Government Agencies</li> <li>Provide Technical Expertise in the Negotiation and Implementation of Bilateral and Multilateral Agreements that Improve IP Rights Protection and Enforcement</li> <li>Create USPTO and Attaché Integrated Action Plans that Focus on Country-Specific Needs and Interagency Cooperation</li> </ul>		
<b>MANAGEMENT GOAL: ACHIEVE ORGANIZATIONAL EXCELLENCE</b>					
<b>Objective 1: Improve IT Infrastructure and Tools</b> <ul style="list-style-type: none"> <li>Establish Cost-Effective, Transparent Operations and Processes</li> <li>Improve the User Experience</li> <li>Upgrade IT Infrastructure</li> <li>Develop and Implement the Next Generation Fee Processing System (FPNG)</li> </ul>	<b>Objective 2: Implement a Sustainable Funding Model for Operations</b> <ul style="list-style-type: none"> <li>Obtain and Implement Interim Funding Authority</li> <li>Obtain and Implement Fee Setting Authority</li> <li>Reformulate the Fee Structure</li> <li>Obtain and Implement Private Sector Business Tools</li> <li>Present Requirements-Based Budgets</li> <li>Strengthen Financial and Non-Financial Internal Controls</li> </ul>	<b>Objective 3: Improve Employee and Stakeholder Relations</b> <ul style="list-style-type: none"> <li>Recruit, Develop, Train, and Retain a Highly-Skilled, Diverse Workforce</li> <li>Enhance Current and Future Agency Leadership by Focusing on Leadership Development, Accountability and Succession Planning</li> <li>Optimize Effectiveness of Patents Ombudsman Program</li> <li>Enhance the Independent Inventors Program</li> <li>Provide Information and Communication Channels for Employees and the Public</li> <li>Ensure Transparency of USPTO Information and Materials by Increasing the Availability of Public Information</li> <li>Strengthen Relationships with Department of Commerce (DOC), Office of Management and Budget (OMB), and Congress</li> </ul>			

[www.uspto.gov/strategicplan2010](http://www.uspto.gov/strategicplan2010)

<b>Outcome 1: REDUCE THE TIME TO FIRST OFFICE ACTION ON THE MERITS TO 10 MONTHS FOR PATENT APPLICATIONS BY 2014</b>								
<b>Measure:</b> Patent First Action Pendency (months)			<u>FY 2007 Actual</u>	<u>FY 2008 Actual</u>	<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Target</u>	<u>FY 2012 Target</u>
			25.3	25.6	25.8	25.7	23.0	22.3
<b>Description:</b> This measure indicates the average time from the UPR application filing date to the date of mailing the first Office Actions. The measure is based on a three-month rolling time period. This is one of the two primary measures to track timeliness in the Patent organization's processing time.								
<b>Comments on Changes to Targets:</b> Reducing patent pendency is a priority goal. Action and the resources provided by the FY 2012 budget are crucial to address the current challenges at the USPTO, which include unacceptable patent pendency and backlogs of unexamined applications that are projected to get worse without attention.								
<b>Relevant Program Change(s):</b>	<b>Title:</b>						<b>Exhibit Page No.</b>	
	Sub-Activity #1: Patent Examining						51	
<u>Validation and Verification</u>								
<u>Data Source</u>	<u>Frequency</u>	<u>Data Storage</u>	<u>Internal Control Procedures</u>				<u>Data Limitations</u>	<u>Actions To Be Taken</u>
Patent Application Location Monitoring (PALM) system	Daily input, monthly reporting	PALM, automated systems, reports	Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners, supervisors, and program management analysts.				None	None

<b>Outcome 2: REDUCE THE TOTAL PENDENCY TIME TO 20 MONTHS FOR PATENT APPLICATIONS BY 2015</b>								
<b>Measure:</b> Patent Total Pendency (months)			<b><u>FY 2007 Actual</u></b>	<b><u>FY 2008 Actual</u></b>	<b><u>FY 2009 Actual</u></b>	<b><u>FY 2010 Actual</u></b>	<b><u>FY 2011 Target</u></b>	<b><u>FY 2012 Target</u></b>
			31.9	32.2	34.6	35.3	34.5	32.1
<b>Description:</b> Patent pendency is the estimated time in months for a complete review of a UPR patent application, from the filing date to issue or abandonment of the application. The measure is based on a three-month rolling time period. This is one of the two primary measures to track timeliness in the Patent organization's processing time.								
<b>Comments on Changes to Targets:</b> Reducing patent pendency is a priority goal. Action and the resources provided by the FY 2012 budget are crucial to address the current challenges at the USPTO, which include unacceptable patent pendency and inventory backlogs that are projected to deteriorate without attention.								
<b><u>Relevant Program Change(s):</u></b>	<b><u>Title:</u></b>						<b><u>Exhibit Page No.</u></b>	
	Sub-Activity #1: Patent Examining						51	
<b><u>Validation and Verification</u></b>								
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>				<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
PALM system	Daily input, monthly reporting	PALM, automated systems, reports	Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners, supervisors, and program management analysts.				None	None

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<b>Outcome 3: MEASURE AND IMPROVE PATENT QUALITY</b>	<b><u>FY 2007</u> <u>Actual</u></b>	<b><u>FY 2008</u> <u>Actual</u></b>	<b><u>FY 2009</u> <u>Actual</u></b>	<b><u>FY 2010</u> <u>Actual</u></b>	<b><u>FY 2011</u> <u>Target</u></b>	<b><u>FY 2012</u> <u>Target</u></b>
<b><u>Measure:</u> Patent Quality Composite</b>	N/A	N/A	N/A	N/A	Baseline	TBD
<i>Item 1: Final Disposition Compliance Rate</i>	N/A	N/A	94.4%	96.3%	95.6%--96.5%	95.6%--96.7%
<i>Item 2: In-Process Compliance Rate</i>	N/A	N/A	93.6%	94.9%	94.6%--95.6%	94.6%--96.0%
<i>Item 3: First Action on the Merits (FAOM) Search Review</i>	N/A	N/A	N/A	N/A	Baseline	TBD
<i>Item 4: Complete FAOM Review</i>	N/A	N/A	N/A	N/A	Baseline	TBD
<i>Item 5: Quality Index Report</i>	N/A	N/A	N/A	N/A	Baseline	TBD
<i>Item 6: External Quality Survey</i>	N/A	N/A	N/A	N/A	Baseline	TBD
<i>Item 7: Internal Quality Survey</i>	N/A	N/A	N/A	N/A	Baseline	TBD
<p><b>Description:</b> These metrics are measures of the propriety of the final disposition of individual applications, i.e., allowance or final rejection; the propriety of the actions taken during the course of examination in individual applications; i.e., first and subsequent actions on the merits by examiners; the degree to which the initial search performed by the examiner and the FAOM conforms with the best practices of the USPTO; the degree to which patent examiner behaviors in the prosecution of all patent applications reveals trends indicative of quality concerns; the degree to which the experience examiners reveals trends and issues indicative of quality concerns. The overall Quality Composite is a weighted combination of these seven components.</p>						
<p><b>Comments on Changes to Targets:</b> Prior to FY 2011, the Patent Final Disposition and In-Process Compliance Rates were stand-alone quality metrics. Beginning in FY 2011 they have been incorporated into the Patent Quality Composite, which was developed in a joint effort between the USPTO and the Patent Public Advisory Committee (PPAC)* based on interactions with stakeholders through roundtables and Federal Register notices. Since the Quality Composite is an overall weighted measure of quality improvements a baseline of individual components is used to set annual target ranges to account for potential impacts (both negative and positive) of other items within the composite. Out-year targets are incrementally increased towards a superior level of service that was established in the development of the Quality Composite. FAOM Search, Complete FAOM Review, and Internal Quality Survey components are all new metrics being collected in FY 2011. Quality Index Report and External Quality Surveys, although they are new metrics within the Quality Composite, are based on PALM data/surveys, and FY 2010 values.</p>						
<b><u>Relevant Program</u> <u>Change(s):</u></b>	<b><u>Title:</u></b>				<b><u>Exhibit Page No.</u></b>	
	Sub-Activity #1: Patent Examining				51	

Outcome 3: MEASURE AND IMPROVE PATENT QUALITY (continued)

<b><u>Validation and Verification</u></b>					
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>	<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
Office of Patent Quality Assurance (OPQA) Database System, PALM and Quality Index Report database and Collected Surveys	Daily input, semi-annual, and quarterly reporting	OPQA database, automated systems, reports	The statistician runs quality control checks in which certain dependent data fields are checked against each other; and data validation and audits per contract specifications	Since the measure is based on a sample, there is sampling error associated with the metric.	None

\* Along with the PPAC, the USPTO has engaged our stakeholders in roundtables in order to establish new metrics.

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<b>Outcome 4: DEVELOP AND IMPLEMENT THE PATENT END-TO-END PROCESSING SYSTEM</b>								
<b>Measure:</b> Patent Applications Filed Electronically			<b><u>FY 2007 Actual</u></b>	<b><u>FY 2008 Actual</u></b>	<b><u>FY 2009 Actual</u></b>	<b><u>FY 2010 Actual</u></b>	<b><u>FY 2011 Target</u></b>	<b><u>FY 2012 Target</u></b>
			49.3%	71.7%	82.4%	89.5%	90.0%	90.0%
<b>Description:</b> The measure indicates USPTO's support of and applicants' willingness to operate in an e-government environment and identifies the percent of patent applications filed electronically.								
<b>Comments on Changes to Targets:</b> The USPTO expects to meet or exceed annual targets as improvements to workflow and patents systems are finalized.								
<b><u>Relevant Program Change(s):</u></b>	<b><u>Title:</u></b> Sub-Activity #3: Patent Information Resources						<b><u>Exhibit Page No.</u></b> 63	
<b><u>Validation and Verification</u></b>								
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>				<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
PALM	Daily input, monthly reporting	PALM, automated systems, reports	Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners, supervisors, and program management analysts.				None	None



<b>Outcome 5: MAINTAIN TRADEMARK FIRST ACTION PENDENCY ON AVERAGE BETWEEN 2.5 – 3.5 MONTHS</b>								
<b>Measure:</b> Trademark Average First Action Pendency (months)			<u><b>FY 2007 Actual</b></u>	<u><b>FY 2008 Actual</b></u>	<u><b>FY 2009 Actual</b></u>	<u><b>FY 2010 Actual</b></u>	<u><b>FY 2011 Target</b></u>	<u><b>FY 2012 Target</b></u>
			2.9	3.0	2.7	3.0	2.5 – 3.5	2.5 – 3.5
<b>Description:</b> This measure reflects the timeliness of the first office action as measured from the date of application filing (or notification date for 66(a) filings) to the first office action in months								
<b>Comments on Changes to Targets:</b> Trademark applicants have requested first action pendency within 2.5 to 3.5 months as optimal for meeting their needs.								
<b>Relevant Program Change(s):</b>	<b>Title:</b>						<b>Exhibit Page No.</b>	
	Sub-Activity #1: Trademark Examining						77	
<b><u>Validation and Verification</u></b>								
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>				<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
Trademark Reporting and Monitoring (TRAM) system database	Daily input, monthly reporting	TRAM automated systems, reports	Accuracy of supporting data is controlled through internal program edits in the TRAM system. Final test for reasonableness is performed internally by trademark management, supervisors, and program management analysts.				None	None

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<b>Outcome 6: MAINTAIN TRADEMARK FINAL PENDENCY ON AVERAGE AT 13 MONTHS OR LESS</b>							
<b>Measure:</b> Trademark Average Total Pendency (months)		<u>FY 2007 Actual</u>	<u>FY 2008 Actual</u>	<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Target</u>	<u>FY 2012 Target</u>
		13.4	11.8	11.2	10.5	12.5	12.5
<b>Description:</b> This measure reflects the timeliness of the disposal of a trademark application. It is measured from the date of filing to date of registration, abandonment or issuance of a notice of allowance, excluding applications that are suspended, awaiting further action, or involved in <i>inter partes</i> proceedings.							
<b>Comments on Changes to Targets:</b> Trademark applicants have requested 13.0 months total pendency as optimal for meeting their needs.							
<b>Relevant Program Change(s):</b>	<b>Title:</b>					<b>Exhibit Page No.</b>	
	Sub-Activity #1: Trademark Examining					77	
<b><u>Validation and Verification</u></b>							
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>			<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
TRAM database	Daily input, monthly reporting	TRAM automated systems, reports	Accuracy of supporting data is controlled through internal program edits in the TRAM system. Final test for reasonableness is performed internally by trademark management, supervisors, and program management analysts.			None	None

<b>Outcome 7: CONTINUOUSLY MONITOR AND IMPROVE TRADEMARK QUALITY</b>								
<b>Measure:</b> Trademark First Action Compliance Rate			<b><u>FY 2007</u></b> <b><u>Actual</u></b>	<b><u>FY 2008</u></b> <b><u>Actual</u></b>	<b><u>FY 2009</u></b> <b><u>Actual</u></b>	<b><u>FY 2010</u></b> <b><u>Actual</u></b>	<b><u>FY 2011</u></b> <b><u>Target</u></b>	<b><u>FY 2012</u></b> <b><u>Target</u></b>
			95.9%	95.8%	96.4%	96.6%	95.5%	95.5%
<b>Description:</b> This measure is the percentage of applications reviewed meeting the criteria for decision making conducted on random sample of applications including first office actions to determine the soundness of decision-making under the Trademark Act.								
<b>Comments on Changes to Targets:</b> Trademark's management has decided that 95.5% first action compliance is an optimal level to operate.								
<b>Relevant Program Change(s):</b>	<b>Title:</b>						<b>Exhibit Page No.</b>	
	Sub-Activity #1: Trademark Examining						77	
<b><u>Validation and Verification</u></b>								
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>				<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
Office of Trademark Quality Review and Training (OTQRT) Report	Daily input, monthly reporting	OTQRT Report database	Accuracy of supporting data is controlled through internal program edits in the OTQRT system. Final test for reasonableness is performed internally by trademark examiners, supervisors, and program management analysts.				None	None

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<b>Outcome 8: CONTINUOUSLY MONITOR AND IMPROVE TRADEMARK QUALITY</b>							
<b>Measure:</b> Trademark Final Compliance Rate		<b><u>FY 2007</u></b> <b><u>Actual</u></b>	<b><u>FY 2008</u></b> <b><u>Actual</u></b>	<b><u>FY 2009</u></b> <b><u>Actual</u></b>	<b><u>FY 2010</u></b> <b><u>Actual</u></b>	<b><u>FY 2011</u></b> <b><u>Target</u></b>	<b><u>FY 2012</u></b> <b><u>Target</u></b>
		N/A	N/A	97.6%	96.8%	97.0%	97.0%
<b>Description:</b> This measure is the percentage of evaluations meeting the criteria for decision making conducted on a random sample of applications that received a final decision regarding registrability under the Trademark Act either by approval or final refusal.							
<b>Comments on Changes to Targets:</b> Trademark's management has decided that 97.0% final action compliance is an optimal level to operate.							
<b>Relevant Program Change(s):</b>	<b><u>Title:</u></b>					<b><u>Exhibit Page No.</u></b>	
	Sub-Activity #1: Trademark Examining					77	
<b><u>Validation and Verification</u></b>							
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>			<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
OTQRT Report	Daily input, monthly reporting	OTQRT Report database	Accuracy of supporting data is controlled through internal program edits in the OTQRT system. Final test for reasonableness is performed internally by trademark examiners, supervisors, and program management analysts.			None	None

<b>Outcome 9: MAINTAIN TRADEMARK FIRST ACTION PENDENCY ON AVERAGE BETWEEN 2.5 – 3.5 MONTHS WITH 13 MONTHS FINAL PENDENCY</b>								
<b>Measure:</b> Trademark Applications Processed Electronically			<b><u>FY 2007 Actual</u></b>	<b><u>FY 2008 Actual</u></b>	<b><u>FY 2009 Actual</u></b>	<b><u>FY 2010 Actual</u></b>	<b><u>FY 2011 Target</u></b>	<b><u>FY 2012 Target</u></b>
			N/A	N/A	62.0%	68.1%	68.0%	70.0%
<b>Description:</b> This measure tracks the percentage of trademark applications disposed that were received, processed, and examined using electronic communications, records and systems. The results demonstrate the extent that filing, workflow, processing and communications can and are handled without paper or manual processes.								
<b>Comments on Changes to Targets:</b> Trademark's management considered filing types and trends in the development, adoption, and usage of electronic processes and forms to set the target at 71%.								
<b><u>Relevant Program Change(s):</u></b>	<b><u>Title:</u></b> Sub-Activity #2: Trademark Examining						<b><u>Exhibit Page No.</u></b> 79	
<b><u>Validation and Verification</u></b>								
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>			<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>	
TRAM system	Daily input, monthly reporting	TRAM	Accuracy of supporting data is controlled through internal program edits in the OTQRT system. Final test for reasonableness is performed internally by trademark examiners, supervisors, and program management analysts.			None	None	

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<b>Outcome 10: PROVIDE LEADERSHIP ON INTERNATIONAL POLICIES FOR IMPROVING THE PROTECTION AND ENFORCEMENT OF IP RIGHTS</b>								
<b>Measure:</b> Percentage of prioritized countries for which country teams have implemented at least 75% of action steps in the country-specific action plans toward progress along following dimensions: 1. Institutional improvements of IP office administration for advancing IPR 2. Institutional improvements of IP enforcement entities 3. Improvements in IP laws and regulations 4. Establishment of government-to-government cooperative mechanisms			<u>FY 2007 Actual</u>	<u>FY 2008 Actual</u>	<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Target</u>	<u>FY 2012 Target</u>
			N/A	N/A	N/A	75.0%	75.0%	75.0%
<b>Description:</b> Tracks the USPTO's efforts in relation to prioritizing countries of interest for purposes of improved IP protection and enforcement, capacity building, legislative reform, including creation of country/region strategic plans and specific action plans.								
<b>Comments on Changes to Targets:</b>								
<u>Relevant Program Change(s):</u>	<u>Title:</u> Sub-Activity #1: Policy and Administrative Support						<u>Exhibit Page No.</u> 94	
<b><u>Validation and Verification</u></b>								
<u>Data Source</u>	<u>Frequency</u>	<u>Data Storage</u>	<u>Internal Control Procedures</u>				<u>Data Limitations</u>	<u>Actions To Be Taken</u>
Policy and External Affairs' reports and databases	Monthly input and reporting	Reports	Manual reports and analysis.				None	None

## **USPTO Fee Collection Estimates/Ranges**

As a fee-funded agency, the USPTO relies on user fee collections, which may fluctuate based on incoming streams, to fund operations. Due to inherent variability in estimating future year fee collections, the USPTO is presenting a range of fee collection estimates for this FY 2012 Budget.

### **Economic and Market Outlook**

The USPTO operating structure is like a business in that it receives requests for services – applications for patents and trademark registrations – and charges fees projected to cover the cost of performing the services it provides. Requests for USPTO services and products are dependent upon many factors, including economic activity in the United States and around the world. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads (requests for services and products). Major factors include the overall condition of the U.S. and global economies, spending on technological innovation activities, and investments leading to the commercialization of new products and services. The three relevant indicators used by the USPTO are Real Gross Domestic Product (RGDP), Research and Development (R&D) expenditures, and Venture Capital (VC) investments. These indicators are correlated with USPTO patent and/or trademark application filings, which are the key drivers of patent and trademark workloads. These indicators also provide insight into market conditions and the management of IP portfolios, which influence process requests for the year, and post-issuance decisions to maintain patent protection.

RGDP, the broadest measure of economic activity, is anticipated to grow approximately 4.5 percent for FY 2012 based on Administration and Congressional Budget Office (CBO) estimates. Although many of the defining indicators of economic cycles point towards renewed expansion, considerable uncertainty remains regarding the current and near-future prospects for growth. This uncertainty affects anticipated USPTO workloads and fee collection estimates.

### **Developing Workload and Fee Collection Estimates**

Economic activity is an important consideration when developing workload forecasts, primarily patent and trademark application filings. In addition to economic factors, the USPTO considers overseas activity, policies and legislation, process efficiencies, and anticipated applicant behavior when preparing estimates. Estimates of incoming workload are developed after researching and modeling these elements.

Estimates of workload production and examination and process requests are developed incorporating the realization of efforts of the *USPTO 2010-2015 Strategic Plan*, identifying and implementing the efficiencies, tools, and policies necessary to increase examination capacity and improve efficiency. These estimates factor in the resources available to complete the work. There are certain process actions that are mandatory and other actions that may be considered discretionary, such as purchasing an extended response timeframe within which to respond to USPTO actions. These discretionary actions are affected by current economic and market conditions.

Forecasts of post allowance activities, maintenance of patents in force and/or renewal of trademark registrations are developed using the same assumptions on the economic environment as incoming work. Exclusivity of post allowance rights are affected by careful management of IP portfolios against current economic and market conditions.

All workload estimates are consistently compared to past and current workloads, and projection models are regularly adjusted with additional data, knowledge, and experience. These workload estimates can then be transformed into individual estimates for each of the nearly 300 fee codes on the USPTO fee schedule. These individual estimates, multiplied by the accompanying fee amounts, become our fee collections estimate.

## **FY 2012 President's Budget**

Considering the inherent sensitivity and volatility of predicting fluctuations in the economy and market environment, interpreting policy and process efficiencies, and developing workload and fee collection estimates from assumptions of these elements, the USPTO prepares a high-to-low range of fee collection estimates. This range positions the agency with the operational flexibilities necessary to efficiently operate within an acceptable level of uncertainty.

FY 2012 fee collections are estimated between \$2,579 and \$2,842 million, comprised of \$2,326 to \$2,566 million of collections under the current fee structure, and \$253 to \$276 million of collections generated from the interim increase on patent fees. The estimates represent collection increases of approximately 16 percent compared with the revised FY 2011 estimated between \$2,270 and \$2,436 million.

### **Patent Fee Collections**

Patent fees are collected for patent related services and products occurring at different intervals within the patent application examination process and over the life of the pending patent application and granted patent. FY 2012 estimated patent fee collections include amounts expected to be received for applications filed in FY 2012, as well as work processed in FY 2012 (issues), examination and process requests for the year, and post-issuance decisions to maintain patent protection. Half of all patent fee collections are from issue and maintenance fees, which essentially subsidize examination activities. Changes in application filing levels have an immediate impact on current year fee collections because fewer patent application filings mean fewer fees collected in the current year that are devoted to production-related costs, such as new examining staff and overtime. The resulting reduction in production activities, in turn, creates an out year impact because less production output in one year results in fewer issue and maintenance fee payments in future years.

Patent fee collections are estimated to be between \$2,356 and \$2,595 million for FY 2012. These projections are based on assumptions that patent filings will increase between 2.0 to 6.0 percent, issues will reflect strengthened examination capacity and efficiencies, and patent maintenance fee payments will continue to be strong.

### **Trademark Fee Collections**

Trademark fees are paid in advance of actions taken by the USPTO. FY 2012 estimated trademark fee collections include amounts expected to be paid for applications filed in this year, as well as affidavit and renewal fees paid on registrations being renewed at ten-year intervals. More than half of all fees collected for Trademark related services and products are from trademark filings, which are correlated to the strength of the economy and individual businesses.

Trademark fee collections are estimated to be between \$224 and \$247 million for FY 2012, based on the economic outlook and the expectations of the growth of trademark application filings will be between -1.0 to 7.2 percent in FY 2012.

### **Fee Rate Assumptions**

The FY 2012 fee collection estimates assume the fee structure based on the provisions of Title VIII in the Consolidated Appropriations Act, 2005 (Pub L. No. 108-447) with the continuation of the interim increase to patent fees requested for FY 2011.

### **Continued Assessment of Estimates**

The USPTO monitors the economic environment carefully by following economic indicators and trends in international IP offices, and holding discussions with domestic filers of patent and trademark applications, as well as with the Patent and Trademark Public Advisory Committees. The USPTO analyzes workloads and fees collected on a continual basis to assess current and future year estimates and identify trends and behaviors.



**Multi-Year Planning by Business Line**

The tables below compare the estimated fee collections and other income at three levels (high, working, and low) against our requirements-based budgetary plans for the Patent and Trademark business operations. The tables highlight the need for USPTO's multi-year budget planning and for an operating reserve to manage those multi-year operating requirements. For example, in an individual year, annual budgetary requirements may exceed annual projected fee collections/other income, yet the operating reserve built in accordance with plans in prior years will fund the annual shortfall. When reading the tables below, the financial sustainability is measured in the cumulative funding section.

**Patent Business Line**

The Patent Business Line table below shows that USPTO will have sufficient resources assuming the enactment of the 15 percent patent surcharge beginning March FY 2011 through the FY 2016 planning horizon. USPTO will reevaluate the necessity of a surcharge with implementation of fee setting authority.

\$ Millions	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	Cumulative FY11-FY16
<b>Projected Fee Collections/Other Income</b>							
Low Fee Estimate	2,078	2,376	2,488	2,710	2,789	2,861	15,303
Working Fee Estimate	2,145	2,487	2,572	2,802	2,909	2,985	15,899
High Fee Estimate	2,232	2,616	2,669	2,910	3,053	3,131	16,611
<b>Budgetary Requirements</b>	2,148	2,360	2,558	2,629	2,679	2,732	15,106
<b>Current Year Funding - Surplus/(Shortfall)</b>							Cumulative
Low Fee Estimate	(70)	17	(70)	81	109	129	197
Working Fee Estimate	(3)	128	14	173	229	253	793
High Fee Estimate	84	256	111	282	374	398	1,505
<b>Cumulative Funding - Surplus/(Shortfall)</b>							Change
Ending Bal:							FY16-FY10
Low Fee Estimate	122	53	69	(0)	81	190	320
Working Fee Estimate	122	119	247	261	433	663	915
High Fee Estimate	122	206	462	573	855	1,229	1,627

**FY 2012 President's Budget**

**Trademarks Business Line**

The Trademark Business Line table below compares the estimated trademark fee collections and other income at three estimate collection levels against budgetary requirements. The table demonstrates that the current operating reserve (surplus) of \$100 million will supplement current year fee collections to fund increased production and the multi-year investment program to update and modernize the Trademark IT infrastructure assuming the working fee estimate is consistently achieved through 2016. As a result, no fee increase or reduction is being proposed.

\$ Millions	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	Cumulative FY11-FY16
<b>Projected Fee Collections/Other Income</b>							
Low Fee Estimate	214	226	240	252	252	261	1,446
Working Fee Estimate	225	242	254	266	263	270	1,520
High Fee Estimate	227	249	266	281	283	296	1,603
<b>Budgetary Requirements</b>	231	240	250	253	261	269	1,504
<b>Current Year Funding - Surplus/(Shortfall)</b>							Cumulative
Low Fee Estimate	(17)	(14)	(10)	(0)	(9)	(8)	(58)
Working Fee Estimate	(7)	2	4	13	2	1	16
High Fee Estimate	(4)	9	16	29	23	26	99
<b>Cumulative Funding - Surplus/(Shortfall)</b>							Change
Ending Bal:							FY16-FY10
Low Fee Estimate	100	83	70	60	51	43	(58)
Working Fee Estimate	100	94	96	100	113	117	16
High Fee Estimate	100	96	105	122	151	200	99

**OMB Circular A-11 Requirements**

**Education and Training for USPTO Acquisition Workforce**

The following table shows the amount of funding allocated in FY 2010 and projected for FY 2011 and FY 2012 for training and/or certification of all USPTO Contracting Officer Representatives, Program and Project Managers and Contracting Officers. The USPTO takes advantage of approved computer-based training (CBTs) for as many of its acquisition workforce as possible.

	<b>FY 2010</b>	<b>FY 2011 - Projected</b>	<b>FY 2012 - Projected</b>
Est. Number of Staff Trained	245	275	305
Est. Resources Allocated for Training	\$189,000 + no cost CBTs	\$215,000 + no cost CBTs	\$250,000 + no cost CBTs

**Energy Conservation Measures**

The USPTO has implemented or is planning to implement the following energy conservation measures:

**FY 2010:** \$13,250 for the following:

- Installed software and sub-meters to control Variable Air Volume (VAV) boxes in order to control temperatures to offices.
- Purchased renewable energy credits – 5% of USPTO energy consumption.
- Developing an employee commuting survey, and evaluating greenhouse gas emissions from survey responses.
- Numerous other initiatives at no cost to USPTO.

As part of the DOC's Strategic Sustainability Performance Plan (SSPP) funding will be directed towards meeting nine goals. The funding amount and objectives to be gained will be reported to DOC each June.

FY 2011

- \$269,000 on retrofits for garage light fixtures. The current fixtures are metal halide (228 watts per fixture). By replacing them with LED fixtures (84 watts/fixture) we can realize a payback in 2.84 years and an estimated 1.8% reduction in energy intensity.
- \$10,000 on renewable energy credits -- FY 2010's cost came in at under \$4,000 and we expect future years' costs to be similar. Per Executive Order (E.O.) 13423, the minimum requirement for FY 2011 is 5% of the total electric consumption should come from electric renewables.
- Washington Gas Energy Services has been investigating our lighting, water usage, ability for solar power, elevator power, etc. They will return a report to us by February 2011. If we opt to go forward with one of their bundled packages, the cost of the design and construction work would be paid for by the energy savings.
- \$242,000 on Campus Energy Assessment. The USPTO plans to perform full energy assessments on a four-year cycle to reduce energy usage and carbon emissions, and to promote sustainability.

FY 2012

- \$10,000 on renewable energy credits. Per E.O. 13423, the minimum requirement for FY 2011 is 5% of the total electric consumption should come from electric renewables.

# **TOTAL BUDGET REQUEST AND FINANCING**

Department of Commerce  
 U.S. Patent and Trademark Office  
**SUMMARY OF RESOURCE REQUIREMENTS**  
 (Dollar amounts in thousands)

Page No.

	Positions	FTE	Total Obligations
FY 2011 CR (Annualized)	9,767	9,710	2,162,553
FY 2011 ATBs and Other 1)	968	536	216,798
FY 2011 Current Plan	10,735	10,246	2,379,350
FY 2012 Adjustments to base:	0	458	118,940
FY 2012 Base	10,735	10,704	2,498,290
Administrative Saving 2)			[-26,000]
plus: 2012 Program changes	1,190	433	101,103
FY 2012 Estimate	11,925	11,137	2,599,393

Comparison by activity:		2010 Enacted		2011 CR (Annualized)		2011 Current Plan		2012 Base		2012 Estimate		Increase/Decrease Over 2012 Base	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Patents	Pos./Obl.	8,518	1,707,211	8,698	1,895,310	9,666	2,105,608	9,666	2,219,459	10,817	2,308,557	1,151	89,098
	FTE	8,446		8,688		9,224		9,658		10,063		405	
Trademarks	Pos./Obl.	833	183,034	888	208,195	888	213,195	888	216,447	903	219,782	15	3,335
	FTE	840		856		856		873		883		10	
IP Policy Protection and Enforcement	Pos./Obl.	156	48,713	181	59,047	181	60,547	181	62,384	205	71,054	24	8,671
	FTE	145		167		167		173		191		18	
Total	Pos./Obl.	9,507	1,938,958	9,767	2,162,553	10,735	2,379,350	10,735	2,498,290	11,925	2,599,393	1,190	101,103
	FTE	9,430		9,710		10,246		10,704		11,137		493	
Adjustments for:													
Offsetting Fee Collections			(2,068,543)		(2,198,621)		(2,346,227)		(2,706,313)		(2,706,313)		0
Other Income / Recoveries			(26,939)		(23,000)		(23,000)		(23,000)		(23,000)		0
Operating Reserve, start of year			(118,692)		(222,674)		(222,673)		(212,550)		(212,550)		0
Operating Reserve, end of year			222,673		99,121		212,550		443,573		342,470		(101,103)
<b>Total Budget Authority</b>			(52,543)		(182,621)		0		0		0		0
Financing from transfers / other:													
Amounts Unavailable for Spending			52,543		182,621								
Transfer to other accounts (+)													
<b>Total Net Appropriation</b>			0		0		0		0		0		0

1) Assumes the allowance of anticipated fee surcharges along with FY 2011 ATBs.

2) Of the administrative savings, \$5M in strategic sourcing savings reduce Total Requirements and increase the Operating Reserve, while \$21M in savings are accrued from decisions made in prior years

Department of Commerce  
U.S. Patent and Trademark Office  
**SUMMARY OF RESOURCE REQUIREMENTS**  
(Dollar amounts in thousands)

		2011		2012		2013		2014		2015		2016	
		Estimate		Estimate		Estimate		Estimate		Estimate		Estimate	
Comparison by activity:		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Patents	Pos./Obl.	9,666	2,105,608	10,817	2,308,557	10,947	2,502,275	10,482	2,572,762	10,035	2,623,476	9,607	2,677,009
	FTE	9,224		10,063		10,890		10,749		10,226		9,853	
Trademarks	Pos./Obl.	888	213,195	903	219,782	930	231,798	947	233,630	971	239,723	991	246,252
	FTE	856		883		904		923		946		968	
IP Policy Protection and Enforcement	Pos./Obl.	181	60,547	205	71,054	207	73,371	207	75,146	207	76,755	207	78,398
	FTE	167		191		198		199		199		199	
Total	Pos./Obl.	10,735	2,379,350	11,925	2,599,393	12,084	2,807,444	11,636	2,881,538	11,214	2,939,954	10,805	3,001,659
	FTE	10,246		11,137		11,992		11,872		11,431		11,020	
Adjustments for:													
Offsetting Fee Collections			(2,346,227)		(2,706,313)		(2,802,376)		(3,044,595)		(3,148,634)		(3,232,458)
Other Income / Recoveries			(23,000)		(23,000)		(23,000)		(23,000)		(23,000)		(23,000)
Operating Reserve, start of year			(222,673)		(212,550)		(342,470)		(360,402)		(546,459)		(778,140)
Operating Reserve, end of year			212,550		342,470		360,402		546,459		778,140		1,031,939
<b>Total Budget Authority</b>			0		0		0		0		0		0
Financing from transfers / other:													
Amounts Unavailable for Spending													
Transfer to other accounts (+)													
<b>Total Net Appropriation</b>			0		0		0		0		0		0

Exhibit 6

Department of Commerce  
 U.S. Patent and Trademark Office  
**SUMMARY OF REIMBURSABLE OBLIGATIONS**  
 (Dollar amounts in thousands)

	2010 Actual		2011 Annualized CR		2011 Current Plan		2012 Base Program		2012 Estimate		Increase/ (Decrease)	
	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Reimbursable Obligations	0	7,143	0	8,000	0	8,000	0	8,000	0	8,000	0	0
<b>Total Reimbursable Obligations</b>	<b>0</b>	<b>7,143</b>	<b>0</b>	<b>8,000</b>	<b>0</b>	<b>8,000</b>	<b>0</b>	<b>8,000</b>	<b>0</b>	<b>8,000</b>	<b>0</b>	<b>0</b>
<b>Adjustments to Reimbursable Obligations:</b>												
Other Income	-	(7,143)	0	(8,000)	-	(8,000)	-	(8,000)	-	(8,000)	-	-
<b>Total Budget Authority</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Financing from Transfers and Other:</b>												
<b>Net Appropriation</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Department of Commerce  
U.S. Patent and Trademark Office

SUMMARY OF FINANCING  
(Dollar amounts in thousands)

	FY 2010 Actual	FY 2011 CR (Annualized)	FY 2011 Current Plan	FY 2012 Base	FY 2012 Estimate	Increase/ Decrease/ over 2012 Base
Total Direct Obligations	1,931,815	2,154,553	2,371,350	2,490,290	2,591,393	101,103
Reimbursable Obligations	7,143	8,000	8,000	8,000	8,000	-
Total Obligations	1,938,958	2,162,553	2,379,350	2,498,290	2,599,393	101,103
Offsetting collections from:						
Non-Federal sources / User Fee Collections	(2,068,543)	(2,198,621)	(2,346,227)	(2,706,313)	(2,706,313)	0
Other Income	(7,143)	(8,000)	(8,000)	(8,000)	(8,000)	0
Adjustments for:						
Recoveries	(19,796)	(15,000)	(15,000)	(15,000)	(15,000)	0
Unobligated balance, start of year	(118,692)	(222,674)	(222,673)	(212,550)	(212,550)	0
Unobligated balance, end of year	222,673	99,121	212,550	443,573	342,470	(101,103)
<b>Total Budget Authority</b>	<b>(52,543)</b>	<b>(182,621)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Financing:						
Amounts Unavailable for Spending	52,543	182,621	0			
Transfer from other accounts (-)	0	0	0	0	0	
<b>Net Appropriation</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>



Department of Commerce  
U.S. Patent and Trademark Office

ADJUSTMENTS TO BASE  
(Dollar amounts in thousands)

	<u>FTE</u>	<u>Amount</u>
<b>Adjustments to Base:</b>		
2011 Pay raise		-
2012 Pay raise		-
Full-year cost in 2012 of positions financed for part-year in 2011	458	49,122
Other Compensation Adjustments		43,062
Change in compensable days		-
Civil Service Retirement System (CSRS)		(2,282)
Federal Employees Retirement System (FERS)		3,813
Thrift Savings Plan		652
Federal Insurance Contribution Act (FICA) - OASDI		1,962
Health insurance		6,562
Post-Retirement Benefits to OPM		4,798
Rental payments to GSA		2,354
Printing and reproduction		1,180
Working Capital Fund		(293)
General Pricing Level Adjustment		8,007
		<hr/>
<b>Total, adjustments to base</b>	458	118,940

Department of Commerce  
U.S. Patent and Trademark Office

JUSTIFICATION OF ADJUSTMENTS TO BASE  
(Dollar amounts in thousands)

	FTE	Amount \$000	FTE	Amount \$000
Other Changes:				
<u>Pay Raises</u>				0
<u>Full-year cost in 2012 of positions financed for part-year in 2011</u>			458	49,122
An increase of \$55,188k is required to fund the full-year cost in 2012 of positions financed for part-year in 2011. The computation follows:				
Full-year cost of personnel compensation	1,022	85,712		
Less personnel compensation included in the 2011 budget	(564)	(47,335)		
Subtotal, personnel compensation	458	38,377		
Adjustment for 2011 pay raise for 3/4 of year	0	0		
Add'l amount required for personnel compensation	458	38,377		
Benefits	0	10,746		
Total adjustment-to-base	458	49,122		
<u>Other Compensation Adjustments</u>				43,062
This adjustment reflects the net difference between USPTO detailed Compensation Model and the prescribed formulation. As a result of increased hires, WIGI, and accelerated promotions for Patent hires, USPTO has a higher requirement than could be absorbed through the formulation process. The Compensation Model calculates on an individual basis compensation including factoring in WIGI, promotions, hires, attritions, and lapses.				
<u>Changes in compensable days</u>				0
<u>Civil Service Retirement System (CSRS)</u>				(2,282)
The number of employees covered by the Civil Service Retirement System (CSRS) continues to drop as positions become vacant and are filled by employees who are covered by the Federal Employees Retirement System (FERS). The estimated percentage of payroll for employees covered by CSRS will drop from 4.5% in 2011 to 1.4% in 2012. Contribution rates will remain the same.				
Regular:				
2012 \$1,081,689,779 x .014 x .07			1,030	
2011 \$1,081,689,779 x .045 x .07			3,312	
			(2,282)	
Total adjustment-to-base				(2,282)

Department of Commerce  
U.S. Patent and Trademark Office

JUSTIFICATION OF ADJUSTMENTS TO BASE  
(Dollar amounts in thousands)

	FTE	Amount \$000	FTE	Amount \$000
<u>Federal Employment Retirement System (FERS)</u>				3,813
<p>The number of employees covered by FERS continues to rise as employees covered by CSRS leave and are replaced by employees covered by FERS. The estimated percentage of payroll for employees covered by FERS will rise from 95.5% in 2011 to 98.6% in 2012. The contribution rate for regular employees will remain the same.</p> <p>Regular:</p>				
2012		\$1,081,689,779 x .986 x .117		121,293
2011		\$1,081,689,779 x .955 x .117		117,480
				3,813
Total adjustment-to-base				3,813
<u>Thrift Savings Plan</u>				652
<p>The cost of agency contributions to the Thrift Savings Plan will also rise as FERS participation increases. The contribution rate is expected to remain 2%.</p> <p>Regular:</p>				
2012		\$1,081,689,779 x .986 x .02		20,734
2011		\$1,081,689,779 x .955 x .02		20,082
				652
Total adjustment-to-base				652
<u>Federal Insurance Contribution Act (FICA)</u>				1,962
<p>As the percentage of payroll covered by FERS rises, the cost of OASDI contributions will increase. In addition, the maximum salary subject to OASDI tax will increase from \$106,800 in 2011 to \$110,175 in 2012. The OASDI tax rate will remain 6.2% in 2012.</p> <p>Regular:</p>				
2012		\$1,081,689,779 x .986 x .8833 x .062		56,774
2011		\$1,081,689,779 x .955 x .8833 x .062		54,989
				1,785

Department of Commerce  
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 JUSTIFICATION OF ADJUSTMENTS TO BASE  
 (Dollar amounts in thousands)

	FTE	Amount \$000	FTE	Amount \$000
Other Salaries:				
2012 \$91,996,794 x .986 x .8833 x .062		5,620		
2011 \$91,996,794 x .985 x .8833 x .062		5,444		
		177		
Total adjustment-to-base		1,962		
<u>Health Insurance</u>				6,562
Effective January 2011, this bureau's contribution to Federal employees' health insurance premiums increased by 9.5%. Applied against the 2011 estimate of \$68,888,000, the additional amount required is \$6,562k.				
<u>Post-Retirement Benefits to OPM</u>				4,798
The USPTO is required to fund the present costs of post-retirement benefits for the Federal Employees Health Program (FEHB), Federal Employees Group Life Insurance and the Civil Service Retirement System (CSRS) and Federal Employees Retirement System pension liabilities. Funds for this purpose are transferred to the Office of Personnel Management. The required increase reflects the increase in retiree medical costs along with the increase in number of employees.				
<u>Rental Payments to GSA</u>				2,354
GSA rates are projected to increase 1.7% in 2012. This percentage was applied to the 2011 estimate to arrive at an increase of \$2,354k.				
<u>GPO Printing</u>				1,180
GPO has provided an estimated rate increase of 1.5%. This percentage was applied to the 2011 estimate to arrive at an increase of \$1,180k.				
<u>Working Capital Fund</u>				(293)
\$293,000 in savings identified through the Department's Working Capital Fund (see Departmental Management Working Capital Fund section for more details)				
<u>General Pricing Level Adjustment</u>				8,007
This request applies OMB economic assumptions for FY 2012 to object classes where the prices the government pays are established through the market system. Inflation Factors at an average of 1.3% were applied to travel, transportation of things, rental payments to others, communications, utilities and miscellaneous charges; other contractual services; supplies and materials and equipment.				
Total, Adjustments to Base			516	118,940

# **PATENT PROGRAM**

**Department of Commerce**  
**U.S. Patent and Trademark Office**  
**PATENT PROGRAM**  
**PROGRAM AND PERFORMANCE: TOTAL OBLIGATIONS**

(Dollar amounts in thousands)

Activity:		Patent Program									
		FY 2010		FY 2011		FY 2012		FY 2012		Increase/	
		Actuals		Current Plan		Base		Estimate		(Decrease)	
Sub-Activity:		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Patent Examining	Pos./Obl	7,514	1,228,053	8,498	1,444,002	8,498	1,536,926	9,526	1,609,194	1,028	72,269
	FTE	7,447	-	8,124	-	8,509	-	8,838	-	329	-
Patent Appeals and Interferences	Pos./Obl	195	30,046	257	39,995	257	44,791	316	54,655	59	9,864
	FTE	192		231		255		287		32	-
Patent Information Resources	Pos./Obl	291	77,267	320	131,560	321	136,515	327	141,784	6	5,269
	FTE	288		314		318		323		5	-
Subtotal Direct	Pos./Obl	8,000	1,335,366	9,075	1,615,557	9,076	1,718,232	10,169	1,805,634	1,093	87,402
	FTE	7,926	0	8,670	0	9,082	0	9,448	0	365	0
Management Goal - Allocated	Pos./Obl	518	371,844	591	490,052	590	501,227	648	502,923	58	1,696
	FTE	519		554		576		615		39	
<b>Total</b>	Pos./Obl	8,518	1,707,211	9,666	2,105,608	9,666	2,219,459	10,817	2,308,557	1,151	89,098
	FTE	8,446		9,224		9,658		10,063		405	

## Exhibit 12 – Justification of Patent Program and Performance

### Appropriation Account: Salaries and Expenses

#### **Budget Activity: Patent Program**

For FY 2012, the USPTO requires an increase of \$202.9 million and 839 FTE over the FY 2011 Current Plan (\$89.1 million and 405 FTE over the FY 2012 base program) for a total of \$2,308.6 million and 10,063 FTE for the Patent Program.

#### **Base Justification for FY 2012:**

The USPTO's Patent Program, through its strategic goal to optimize patent quality and timeliness, supports the Department's strategic objective to "facilitate intellectual property protection by reducing patent and trademark pendency and increasing quality of issued patents and trademarks."

The Patent Program also supports the Administration's Priority Goal to reduce patent pendency for first action and for final action from the end of 2009 levels of 25.8 and 34.6 months respectively by the end of 2011, as well as the patent backlog.

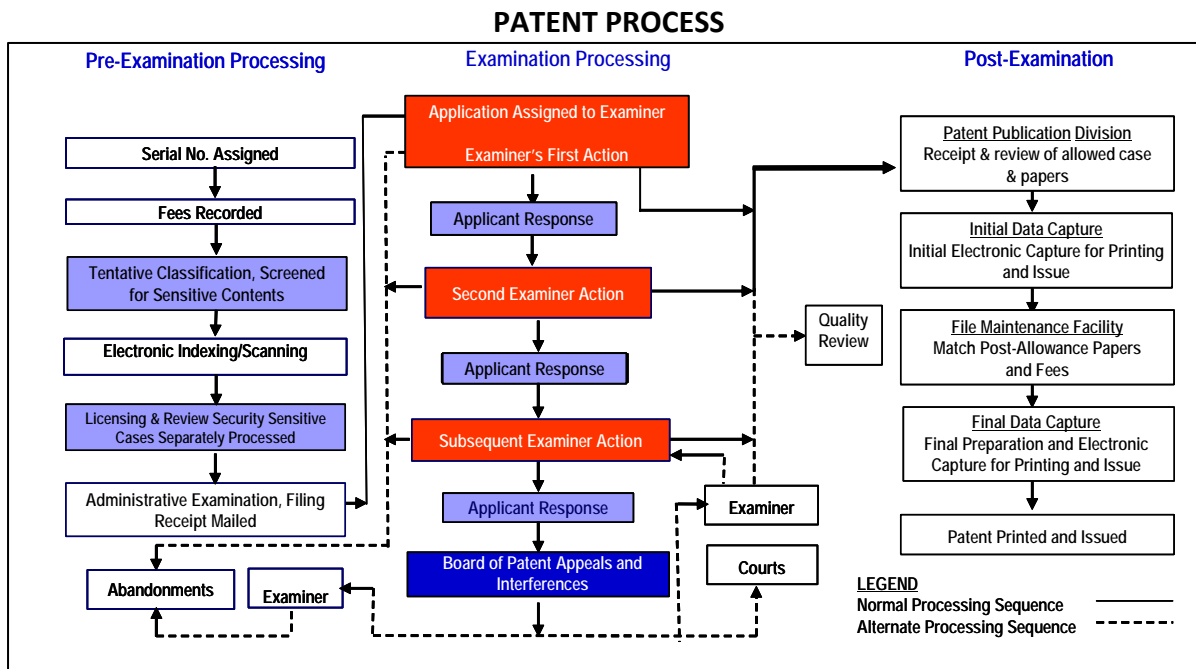
These goals will be met by achieving the following objectives as set forth in the *USPTO 2010-2015 Strategic Plan*:

- Re-engineer Patent Process to Increase Efficiencies and Strengthen Effectiveness
- Increase Patent Application Examination Capacity
- Improve Patent Pendency and Quality by Increasing International Cooperation and Work Sharing
- Measure and Improve Patent Quality
- Improve Appeal and Post-Grant Processes
- Develop and Implement the Patent End-to-End Processing System
- Improve Employee and Stakeholder Relations

The base Patent Program (\$2,219.5 million and 9,658 FTE) consists of the following four sub-activities--described below--which directly or indirectly contribute to the attainment of the patent strategic and priority goals and objectives:

- Sub-Activity #1: Patent Examining
- Sub-Activity #2: Patent Appeals and Interferences
- Sub-Activity #3: Patent Information Resources
- Sub-Activity #4: Management Goal -- Allocated

The Patent Program is dedicated to carrying out the Agency's mission to deliver "...high quality and timely examination of patent ... applications..." in accordance with laws, regulations and practices, and consistent with the strategies and objectives in the *USPTO 2010-2015 Strategic Plan*. The patent process consists of the activities shown on the following schematic and major functions, as described below, with budget estimates for sub-activities allocated according to processing functions.



**Sub-Activity #1: Patent Examining (\$1,536.9 million and 8,509 FTE)**

**Patent Pre-Examination Processing - \$132.4 million and 168 FTE**

When a patent application is received at the USPTO, the office conducts an administrative review to determine compliance with requirements for form, content, adequacy, and payment of appropriate fees. Currently, almost 90 percent of patent applications are filed electronically. If the application is filed in paper form, it is converted to an electronic image. From this point forward, the application is managed electronically, including assignment of the official filing date and application tracking number, and inputting the patent bibliographic data (e.g., filing date, priority date, abstract) in the PALM system.

Most applications are subject to the pre-grant publication process, whereby the application is published 18 months after the earliest effective filing date.

**Patent Examination Processing - \$1,341.7 million and 8,311 FTE**

In this stage, the application is placed on the docket of one of the approximately 6,128 UPR and design patent examiners working in one of the nine technology centers. During the examination process, the patent examiner compares the application's subject matter to a large body of technological information to determine the patentability of the claimed invention, whether or not the invention is new, useful, non-obvious, adequately described or enabled, and claimed in definite terms that are clearly understood by individuals knowledgeable in that subject matter.

During the search and patentability review, the patent examiner generally performs a first and second office action on the merits, which can include any of the following actions: office action of rejection, final rejection, abandonment or notice of allowance.

Support for the patent examination process is provided by organizations within the Patent Information Resources sub-activity. A patent classification system is necessary to address the effective assignment of applications for examination, and to improve the system used for locating prior art relevant to determining patentability. The current examiner search files contain more than 10.9 million U.S. patent documents and 32.3 million foreign patent documents. Examiners also have access to over one thousand commercial databases containing non-patent technical literature documents.



Quality and Training are also integral parts of the entire examination process, and the resources required for a quality examination and patent are integrated with the total examination costs. This includes the quality assurance program whereby a random sample of patent examiners' work products are reviewed to provide timely, reliable and meaningful indicators of examination quality, as well as resources for carrying out the new initiatives identified in the *USPTO 2010-2015 Strategic Plan* and this budget request.

The USPTO has recently given all of its patent examiners detailed training in efficient interview techniques, and compact prosecution. These are all targeted to streamline the examination process by working with the applicants to identify and resolve issues early in the process, thereby reducing patent application backlogs and overall pendency times.

Policy and Legal Another critical component of the patent examination process is its policy and legal function. This component includes establishing patent examination and documentation policy standards, serving as the authority on patent laws, rules and examining practices and procedures; implementing Court decisions; publishing rules for public comment and then publishing final rules; and maintaining the Manual of Patent Examining Procedure. It also includes processing petitions and Patent Cooperation Treaty (PCT) legal advisory activities.

**Patent Post-Examination Processing - \$62.8 million and 30 FTE**

Patent issuance occurs after the examiner has allowed the application, and the issue fee has been paid. The application is then prepared for issue, printing, and publication in a weekly edition of the electronic Official Gazette for dissemination to the public. Post-issue activities also include processing withdrawals and assignments.

**Sub-Activity #2: Patent Appeals and Interferences (\$44.8 million and 255 FTE)**

If the applicant has received two actions from the examiner and disagrees with the position of the examiner, the applicant can appeal the examiner's decision by filing a notice of appeal and an appeal brief. The examiner may file an examiner's answer to the appeal brief. The Board of Patent Appeals and Interferences (BPAI) will make a decision based upon the record. The BPAI also determines priority and patentability of inventions in interferences.

**Sub-Activity #3: Patent Information Resources (\$136.5 million and 318 FTE)**

Patent Information Resources includes a base level of resources for on-going patent information management activities, making capital improvements to patent business systems, and operating and maintaining existing patent business systems. Each of these areas is described in more detail below.

Patent Information Management activities provide patent scientific, technical, search support and classification services, as well as program and user requirements for automated systems relating to domestic and international IT systems. The patent process relies heavily on IT systems and this function focuses on developing user requirements and providing user testing and evaluation for a patent end-to-end electronic system, including pre-examination and publication functions.

Capital Improvement resources are used to continue the Patent End-to-End system, which includes developing and implementing XML for all data from application to publication; and building an infrastructure for patent end-to-end systems; and redesigning and re-architecting patent systems to provide end-to-end electronic processing.

Resources are also used for Operating and Maintaining the automated information systems which directly support the patent process, as follows:

- The PALM system provides current application file location, status, title, legal representation, and other statistics about examiner production, docket information, and maintenance fee payments.

## FY 2012 President's Budget

- The Examiner Automated Search Tool (EAST) is a client-based system that provides search and retrieval capabilities from the desktop. It provides a single user interface that can be used to search for prior art of any type and integrates with other activities performed by patent examiners in order to reduce the time required to examine applications.
- The Web-Based Examiner Search Tool (WEST) is USPTO's Web based search tool. The USPTO deployed a browser-based client as a means to attract more examiners to use automated search tools. The rationale was that browser based clients are more intuitive and therefore more user friendly.
- Patents-on-the-Web provides the public with access to the full text of U.S. patents, including bibliographic data, the abstract, description of the invention and the claims.
- The Public Patent Application Information Retrieval system (Public PAIR) allows the public to search by application/patent/publication number, and view or download documents.
- The Electronic Filing System (EFS Web) is a web-based patent application and document submission solution that enables users to submit PDF documents directly to the USPTO, while providing all the benefits of paper filing, including an electronic receipt that acknowledges the filing date.
- The Image File Wrapper (IFW) is a document and application management system that captures images of new applications, follow-on papers and outgoing correspondence, which are indexed and used for end-to-end processing.
- The Office Action Correspondence Subsystem (OACS) allows examiners to write and edit their office actions and send them electronically to be approved and then mailed out to the applicant.

For additional information, please see USPTO's Exhibit 300.

### **Sub-Activity #4: Management Goal – Allocated (\$501.2 million and 576 FTE)**

This sub-activity represents all of the management activities that support the accomplishment of the Patent goal. These can be specifically Patent-related, such as Office of Human Resources activities dedicated to recruitment of patent examiners, or cross-cutting management functions that are dedicated to overall USPTO activities, such as financial management systems. These activities are described under the Management Goal while the costs are allocated to Patents based on the Agency's Activity Based Information (ABI) analysis and results.

### **Significant Adjustments to Base (ATBs):**

The USPTO requires a net increase of 434 FTE and \$113.9 million to fund adjustments to current programs for the Patent Program activities. This increase will provide the annualization of the FTE increase and inflationary increases for non-labor activities, including service contracts, utilities, lease payments, and rent charges from the GSA.

### **Administrative Cost Savings:**

The Administration is pursuing an aggressive government-wide effort to curb non-essential administrative spending called the Administrative Efficiency Initiative. In order to be good stewards of taxpayer money the Federal Government should continue to seek ways to improve the efficiency of programs without reducing their effectiveness. As such, the President directed each agency to analyze its administrative costs and identify savings where possible.

After reviewing its administrative costs, the USPTO has identified \$26 million in administrative savings, of which \$5 million is from strategic sourcing, reducing Total Requirements and allowing USPTO to increase its Operating Reserve, and another \$21,000,000 is accrued from decisions made in prior years. These administrative savings will be reinvested back into the Patent organization. The Patent organization took advantage of the current job market to

identify \$21 million in accrued cost avoidances resulting from a decision to not pay recruitment bonuses to over 1,400 new patent examiner hires in FY 2010 and FY 2011.

The Patent organization currently relies on approximately four dozen systems that support nearly every aspect of patent business operations. These legacy systems were developed over the past four decades, making them difficult and increasingly expensive to modify and operate. The Patent organization is planning a comprehensive modernization effort to replace these legacy systems with a fully integrated system that provides robust, flexible, scalable, and maintainable support for fully electronic patent business operations, called the Patents End-to-End (PE2E) program. The Patent organization will re-engineer its business processes so that PE2E will be built independent of legacy systems, with no mandates to re-use those legacy systems or to build interim interfaces unless they can not be avoided. PE2E will enable improvements in Patent business processes with the goal to create a new generation of patent systems built upon modern data formats to provide end-to-end electronic processing. The business process re-engineering effort that is included as part of PE2E therefore will result in savings that will be reinvested in creating and maintaining the system.

**FY 2012 President's Budget**

**Patent Program Performance Goals and Measurement Data:**

	<b>FY 2010 Actuals</b>	<b>FY 2011 Current Plan</b>	<b>FY 2012 Estimate</b>	<b>FY 2013 Estimate</b>	<b>FY 2014 Estimate</b>	<b>FY 2015 Estimate</b>	<b>FY 2016 Estimate</b>
UPR Units of Production	487,126	531,600	573,700	622,600	629,300	626,500	617,700
UPR Applications Filed	481,483	505,300	527,600	550,800	578,000	606,600	643,000
UPR Applications Filed Percent Change Over Previous FY	4.5%	4.9%	4.4%	4.4%	4.9%	4.9%	6.0%
UPR Disposals	526,767	520,900	562,600	616,500	623,200	638,900	630,000
UPR Issues	209,754	222,900	240,700	263,800	266,600	273,300	269,500
UPR First Actions	447,485	542,200	584,800	628,600	635,500	614,100	605,500
UPR Examiners On-Board at End-of-Year	6,128	7,016	7,955	8,000	7,575	7,176	6,894
Applications Awaiting First Office Action	708,535	659,000	549,600	427,300	352,400	332,500	355,200
Inventory Position (Months)	26.0	20.2	15.2	10.6	8.5	8.2	9.0
Total Cost Per Patent Production Unit	\$3,723	\$4,041	\$4,115	\$4,109	\$4,177	\$4,277	\$4,423
Patent Quality Composite <sup>3</sup>	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Without funding increase	NA	NA	TBD	TBD	TBD	TBD	TBD
Average First Action Pendency/UPR (Months)	25.7	23.0	22.3	15.2	10.4	10.6	10.3
Without funding increase	NA	NA	22.8	16.8	12.8	11.7	11.6
Average Total Pendency/UPR (Months)	35.3	34.5	32.1	29.1	23.6	19.3	18.8
Without funding increase	NA	NA	32.0	29.7	25.8	23.1	22.2
Applications Filed Electronically	89.5%	90.0%	90.0%	94.0%	96.0%	97.0%	97.0%
Without funding increase	NA	NA	90.0%	94.0%	96.0%	97.0%	97.0%

<sup>3</sup> New performance measure will subsume Final Disposition Compliance Rate and In-Process Compliance Rate. See Exhibit 3a.

## Exhibit 13 – 15: Patent Program Changes by Sub-Activity

Exhibit 13

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR 2012  
(Dollar amounts in thousands)

		2012 Base		2012 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Patent Program	Pos./Obl.	9,666	1,718,232	10,817	1,805,634	1,093	87,402
	FTE	9,658	-	10,063	-	365	-
<i>Patent Examining</i>	Pos./Obl.	8,498	1,536,926	9,526	1,609,194	1,028	72,269
	FTE	8,509	-	8,838	-	329	-
<i>Administrative Savings</i>	Pos./Obl.				(5,000)		(5,000)
	FTE						-
<i>Workload</i>							
Patent Examiner New Hires and Training	Pos./Obl					714	29,163
	FTE.					193	
Overtime	Pos./Obl						4,766
	FTE.						
Nationwide Workforce	Pos./Obl					-	3,781
	FTE.					-	
Pendency Awards	Pos./Obl					-	9,740
	FTE.					-	
Recruitment Bonus	Pos./Obl					-	(3,683)
	FTE.					-	
PCT Searching Contract	Pos./Obl					-	(2,400)
	FTE.					-	
Workload Processing Contracts	Pos./Obl.					-	18,526
	FTE					-	
<i>Process Changes</i>							
Three-Track Examination	Pos./Obl					300	11,582
	FTE.					124	
Patent Process Reengineering	Pos./Obl					-	1,000
	FTE						

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR 2012\*  
(Dollar amounts in thousands)

		2012 Base		2012 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
<i>Quality</i>							
Quality Metrics/Quality Index Reporting	Pos./Obl.					3	1,122
	FTE					2	
Peer Review	Pos./Obl.					3	299
	FTE					2	
Patent Management, Supervisory and Other Training	Pos./Obl.					-	2,006
	FTE					-	
<i>Stakeholder Relations</i>							
Customer Relationship Management Program	Pos./Obl.					3	495
	FTE					3	
Innovation Development and Inventor Outreach Program	Pos./Obl.					5	871
	FTE					5	
<i>Patent Appeals and Interferences</i>	<i>Pos./Obl.</i>	<i>257</i>	<i>44,791</i>	<i>316</i>	<i>54,655</i>	<i>59</i>	<i>9,864</i>
	<i>FTE</i>	<i>255</i>		<i>287</i>		<i>32</i>	<i>-</i>
Increase BPAI Production	Pos./Obl.					59	6,664
	FTE					32	
Adjudicated Case Tracking System (ACTS)	Pos./Obl.					-	3,200
	FTE					-	
<i>Patent Information Resources</i>	<i>Pos./Obl.</i>	<i>321</i>	<i>136,515</i>	<i>327</i>	<i>141,784</i>	<i>6</i>	<i>5,269</i>
	<i>FTE</i>	<i>318</i>	<i>-</i>	<i>323</i>	<i>-</i>	<i>5</i>	
IP5 Work Sharing Program Management	Pos./Obl.					6	16,243
	FTE					5	
Patent IT Capital Improvements	Pos./Obl.						(10,974)
	FTE						

Department of Commerce  
 U.S. Patent and Trademark Office  
**INCREASES FOR FISCAL YEARS 2012-2016**  
 (Dollar amounts in thousands)

		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Patent Program	Pos./Obl.	1,093	87,402	1,205	183,412	743	166,091	308	139,313	(100)	110,992
	FTE	365	-	1,097	-	961	-	511	-	90	-
Patent Examining	Pos./Obl	1,028	72,269	1,071	144,036	611	134,807	181	108,168	(221)	79,592
	FTE	329	-	995	-	829	-	384	-	(32)	-
Administrative Savings	Pos./Obl		(5,000)								
	FTE										
Workload											
Patent Examiner New Hires and Training	Pos./Obl	714	29,163	657	70,695	197	52,724	(233)	8,467	(635)	(37,668)
	FTE	193	-	639	-	415	-	(30)	-	(446)	-
Overtime	Pos./Obl	-	4,766	-	3,393	-	(6,500)	-	(6,232)	-	(5,982)
	FTE	-	-	-	-	-	-	-	-	-	-
Nationwide Workforce	Pos./Obl	-	3,781	-	6,011	-	4,409	-	4,443	-	4,370
	FTE	-	-	-	-	-	-	-	-	-	-
Pendency Awards	Pos./Obl	-	9,740	-	12,154	-	13,390	-	13,715	-	13,702
	FTE	-	-	-	-	-	-	-	-	-	-
Recruitment Bonus	Pos./Obl	-	(3,683)	-	(9,556)	-	(10,856)	-	(11,105)	-	(11,361)
	FTE	-	-	-	-	-	-	-	-	-	-
PCT Searching Contract	Pos./Obl	-	(2,400)	-	(2,291)	-	(2,177)	-	(2,058)	-	(1,932)
	FTE	-	-	-	-	-	-	-	-	-	-
Workload Processing Contracts	Pos./Obl	-	18,526	-	24,938	-	35,863	-	48,399	-	60,812
	FTE	-	-	-	-	-	-	-	-	-	-
Process Changes											
Three-Track Examination	Pos./Obl	300	11,582	400	33,178	400	42,199	400	46,604	400	51,576
	FTE	124	-	341	-	400	-	400	-	400	-
Patent Process Reengineering	Pos./Obl	-	1,000	-	1,017	-	1,034	-	1,052	-	1,070
	FTE	-	-	-	-	-	-	-	-	-	-

Department of Commerce  
 U.S. Patent and Trademark Office  
**INCREASES FOR FISCAL YEARS 2012-2016**  
 (Dollar amounts in thousands)

		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
<i>Quality</i>											
Quality Metrics/Quality Index Reporting	Pos./Obl	3	1,122	3	599	3	617	3	642	3	658
	FTE	2	-	3	-	3	-	3	-	3	-
Peer Review	Pos./Obl	3	299	3	424	3	434	3	449	3	460
	FTE	2	-	3	-	3	-	3	-	3	-
Patent Management, Supervisory and Other Training	Pos./Obl	-	2,006	-	2,063	-	2,223	-	2,286	-	2,352
	FTE	-	-	-	-	-	-	-	-	-	-
<i>Stakeholder Relations</i>											
Customer Relationship Management Program	Pos./Obl	3	495	3	537	3	549	3	579	3	592
	FTE	3	-	3	-	3	-	3	-	3	-
Innovation Development and Inventor Outreach Program	Pos./Obl	5	871	5	873	5	897	5	927	5	943
	FTE	5	-	5	-	5	-	5	-	5	-
<i>Appeal and Interferences</i>											
	<b>Pos./Obl</b>	<b>59</b>	<b>9,864</b>	<b>128</b>	<b>20,765</b>	<b>126</b>	<b>25,373</b>	<b>121</b>	<b>24,854</b>	<b>115</b>	<b>24,263</b>
	<b>FTE</b>	<b>32</b>	<b>-</b>	<b>96</b>	<b>-</b>	<b>126</b>	<b>-</b>	<b>120</b>	<b>-</b>	<b>115</b>	<b>-</b>
Increase BPAI Production	Pos./Obl	59	6,664	128	19,565	126	24,173	121	23,654	115	23,063
	FTE	32	-	96	-	126	-	120	-	115	-
Adjudicated Case Tracking System (ACTS)	Pos./Obl	-	3,200	-	1,200	-	1,200	-	1,200	-	1,200
	FTE	-	-	-	-	-	-	-	-	-	-
<i>Patent Information Resources</i>											
	<b>Pos./Obl</b>	<b>6</b>	<b>5,269</b>	<b>6</b>	<b>18,612</b>	<b>6</b>	<b>5,911</b>	<b>6</b>	<b>6,291</b>	<b>6</b>	<b>7,138</b>
	<b>FTE</b>	<b>5</b>	<b>-</b>	<b>6</b>	<b>-</b>	<b>6</b>	<b>-</b>	<b>6</b>	<b>-</b>	<b>6</b>	<b>-</b>
IP5 Work Sharing Program Management	Pos./Obl	6	16,243	6	22,415	6	22,778	6	23,169	6	23,545
	FTE	5	-	6	-	6	-	6	-	6	-
Patent IT Capital Improvements	Pos./Obl	-	(10,974)	-	(3,803)	-	(16,867)	-	(16,878)	-	(16,407)
	FTE	-	-	-	-	-	-	-	-	-	-



### **Sub-Activity #1: Patent Examining**

The goal to optimize patent quality and timeliness and the Administration's Priority Goal are being accomplished through the following objectives and initiatives for which funds are required in FY 2012.

- Re-engineer Patent Process to Increase Efficiencies and Strengthen Effectiveness
  - Re-engineer the patent examiner production (count) system
  - Prioritize work: Green technology acceleration, Project Exchange, and multi-track customized examination
  - Institutionalize compact prosecution initiatives
  - Re-engineer the patent classification system
  - Re-engineer the patent examination process
- Increase Patent Application Examination Capacity
  - Hire approximately 1,000 examiners in both FY 2011 and FY 2012
  - Use a hiring model focused on experienced IP professionals
  - Target overtime to high backlog technology areas
  - Develop and implement a Nationwide Workforce
  - Reduce attrition by developing mentoring, best practices, and retention strategies
  - Contract for Patent Cooperation Treaty (PCT) searching
- Measure and Improve Patent Quality
  - Initiate 21<sup>st</sup> century analysis, measurement and tracking of patent quality
  - Improve and provide more effective training
  - Reformulate performance appraisal plans (PAPs)
  - Implement and monitor revisions to the patent examiner production (count) system
- Improve Employee and Stakeholder Relations
  - Optimize effectiveness of Patents Ombudsman Program
  - Enhance the Independent Inventors Program
  - Provide information and communication channels for employees and the public
  - Ensure transparency of USPTO information and materials by increasing the availability of public information
- Develop and Implement the Patent End-to-End Processing System
  - Develop and implement XML for all data from application to publication
  - Build infrastructure for patents' end-to-end processing system
  - Redesign and re-architect patent IT systems to provide end-to-end electronic processing

#### **Program Changes for FY 2012:**

Patent Examination Processing (+329 FTE and \$72.3 million): The USPTO requires an increase of \$77.3 million and 329 FTE for a total of \$1,609.2 million and 8,838 FTE to process incoming work for which fees have been paid, and which are focused on the previously identified objectives. This request supports the Department's Economic Growth goal to advance economic prosperity by using IP as a tool to create a business environment that cultivates and protects new ideas, technologies, services and products. Patent Examining consists of the following three components that are described in the Patent Program section above: Pre-Examination, Examination, and Post-Examination.

### Proposed Actions:

This program change encompasses the patent workload, efficiency, quality, and stakeholder relations initiatives designed to provide quality and timely examination of patent applications. Along with base resources, this program change will enable the Patent Program to process incoming work, reduce the current backlog and thereby reduce pendency times, and enhance the quality of patents and thereby increase the value of the patent to the inventor.

This program change represents a number of inter-related initiatives that collectively will enable the Patent Program to address the approximately 528,000 new applications that are projected to be received in FY 2012, and to reduce the current backlog of unexamined patent applications by almost 17 percent over the projected FY 2011 level. This in turn will enable the USPTO to achieve its Priority Goal and the strategic objective to provide timely examination of patent applications by reducing the time to first office action on the merits to 10 months by 2014, and average total pendency to 20 months by 2015. These initiatives are necessary because the Office continually faces heavy workloads and a shift of applications from traditional arts to more complex technologies, and are categorized as follows:

- **Workload Initiatives.** These are initiatives that are driven by the requirement to process incoming work for which applicants have paid fees. Such initiatives, more fully described below, increase examination capacity and include hiring additional patent examiners under a new hiring model, providing needed training and awards to generate maximum production, and ensuring that there is adequate logistical, production, and administrative support to complete the work carried out by the patent examiners.
- **Process Changes.** In addition to enhancing patent examination capacity, the Patent organization is committed to identifying and implementing the process changes, tools and policies necessary to increase the number of applications it is capable of examining and disposing (rejection or issuance). The increase in requirements is for initiatives that ultimately will make systemic improvements to patent examination workflow and management.
- **Quality.** Quality and training are an integral part of the examination process. The quality initiatives will enhance the measurement and improvement of patent quality, and provide more effective training.
- **Stakeholder Relations.** Program requirements have increased for initiatives that focus on enhancing the interactions between the Office and users of the patent system.

### Statement of Need and Economic Benefits:

This program change would improve patent pendency times and reduce backlog levels. At the end of FY 2010, patent first action pendency was at 25.7 months, and total pendency was at 35.3 months. There were 6,128 UPR patent examiners on board, about the same as at the end of FY 2009, yet patent application filings were 481,483 at the end of the FY 2010 – a 4.5 percent increase over the prior year.

The program change also would enable the USPTO to re-engineer its patent quality management program from top to bottom and improve the efficiency and quality of the entire examination and prosecution process.

American innovators and businesses rely on the legal rights associated with a patent in order to reap the benefits of their innovations. The longer it takes for the USPTO to review a patent application, the longer it will take for an applicant to receive the patent rights that ultimately may be granted for the invention.

Quality issuance of patents provides certainty in the market and allows businesses and innovators to make informed and timely decisions on product and service development. The quality of application review is critical to ensure the value of an issued patent. Without well-

defined claims, for example, the value of a patent is uncertain. Uncertainty means there is a risk that a patent is invalid, does not cover the patentee's product, or that a competitor infringes the patent but cannot determine its scope. Such patents exact a high cost by decreasing public confidence in the IP system. On the other hand, the economic value of a patent increases when its metes and bounds are clearly defined and consistently interpreted under the law. Clarity leads to certainty, which enables efficient and confident determination of value. This in turn creates high value for high quality patents and bolsters public confidence.

### **Patent Workload-Driven Initiatives**

**Patent Examiner New Hires and Training.** Funds are required for salaries and benefits associated with hiring an additional 1,200 patent examiners in FY 2012 less attritions, and for patent examiner training. Hiring plans assume a mix of experienced and traditional hires. This will enable the USPTO to make progress on its patent pendency reduction plan to achieve an average first action pendency of 10 months and average total pendency of 20 months. Failure to receive spending authority for the required level of examiner hires will have significant negative impact on pendency and backlog reduction. Current and future fee collections will also be negatively impacted due to the reduction and delay in revenue generating examination.

Because work handled by new and current examiners is on the cutting edge of technology, required funds would also be used to provide employee development and growth opportunities, such as:

**New Examiner Training:** Two-Phase 12-Month Program for newly hired examiners where they are provided an in-depth study of the statutes and rules which pertain to patent examination; and IP Experienced Program for new examiners who already have substantial prior work experience in the IP field, but need a high level overview of the legal aspects of their responsibilities, and the use of automation tools and searches.

**Legal Training:** Non-Duty Hours Legal Studies Program offers tuition reimbursement to examiners who have been accepted to an accredited law school. An employee who participates in this program is obligated to continue service with the federal government for one month for each credit or portion thereof paid for by the USPTO. This program increases the depth of legal knowledge within the Patent Examining Corps. In-house Legal Training Program, directed to IP topics, such as patent law and evidence and the patent litigation process, is offered periodically to patent examiners. Continuing Legal Education is offered periodically to examiners focusing on patent law that may be relevant to particular technology areas. Specialized topics are developed and presented on an as-needed basis when the courts make precedent-setting decisions or the Office establishes new policy.

**Technical Training:** In-house Technical Program is designed to keep examiners abreast of emerging technologies (e.g., digital TV, Internet, etc.) and multi-discipline technologies (e.g., electrical engineering for non-electrical engineers, etc.). Specific technology sessions are presented by outside expert practitioners. Non-Duty Hours Technical Program offers tuition assistance to examiners who take training at an accredited university to enhance their technical knowledge in performing their examining duties. This program is designed to encourage employees to take additional technical training that will keep them up-to-date on rapidly changing and emerging technologies.

**Development of High Performing Managers and Employees:** To improve examiner performance, the Patent Organization has dedicated substantial resources in the following areas: (1) promoting peer assistance, (2) improving supervisory capacity to encourage performance improvement, and (3) providing opportunities for examiner refresher training.

**Unit Cost Rate.** When the USPTO hires additional patent examiners, there is an ancillary impact on support organizations (e.g., more personnel-type actions to be processed, more employee-related legal services to be provided, etc.). Therefore, the USPTO has established a

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unit cost rate (UCR) which reflects the incremental cost impact on support units that is attributable to the increase or decrease in workload associated with net new patent examiner hires. These funds are included in the Management Goal section of this budget, and are supplemental to other initiatives for new hires/support costs.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$29,163	\$70,695	\$52,724	\$8,467	(\$37,668)
FTE	193	639	415	(30)	(446)

**Overtime.** To achieve 10 months to first office action pendency and 20 months to total pendency, the USPTO will provide for examiner overtime, which is more efficient on a per-hour basis than an equivalent regular-time hour. Funding the full amount of examiner overtime is essential to achievement of our pendency and backlog goals.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$4,766	\$3,393	(\$6,500)	(\$6,232)	(\$5,982)
FTE	-	-	-	-	-

**Nationwide Workforce.** One of the USPTO's key priorities is the establishment of a Nationwide Workforce, which will consist of employees using telework from off-site locations, as well as from the USPTO headquarters in Alexandria, VA. Already, while the majority of employees work at USPTO's headquarters, there is a presence of USPTO hoteling employees distributed throughout the country. Outside of Maryland and Virginia, there is at least one employee working in 33 of the remaining 48 states.

The agency has recognized the need to widen its hiring practices to keep up with its hiring targets and tap the expertise that lies outside the USPTO's geographical boundary. The USPTO has also increased efforts to hire experienced IP candidates that require less training and can be deployed faster to the examining corps. The USPTO must be prepared to locate and successfully recruit the experienced IP new hires from around the country.

This initiative would provide for a USPTO presence in one or more metropolitan areas. A nationwide workforce will directly aid the hiring of patent examiners by creating an awareness of the USPTO and its role in the U.S. economy, educating potential applicants about the job of patent examination, and serving as an outlet for IP education to inventors, law students, practitioners and the public education systems.

The initiative meets agency hiring needs and space demands, and enables the expansion of the USPTO presence as a business and academic partner for innovation. During the initial phase, the USPTO will be evaluating the program based on customer, stakeholder and employee input, and will be seeking to leverage opportunities for greater efficiency and flexibility arising from development of end-to-end electronic patent processing and other ongoing process improvement efforts. For example, the USPTO is currently transitioning the examiners' personal computer equipment such that each examiner will exclusively have a laptop that they will use when working from home as well as when they are working on campus. In the days following the 2010 snow storm that shut down the government for a week, the USPTO had close to 3,000 people logged into our virtual private network. At the agency, we have about 5,300 people teleworking. The laptop will be equipped with collaboration tools as well as all automated systems needed for examiners to prosecute patent applications electronically. The collaboration tools will allow the office to provide training for examiners who can be located in their homes distributed across the country, in Alexandria, or in regional locations. Following an evaluation of the first satellite office, the USPTO will consider opening additional offices, which would provide the patent applicant community and our nation's innovators greater access to the

USPTO and the services it offers. Training will be in a variety of formats to meet examiners' needs such as streaming classes, computer based training (including interactive quizzes), and a library of topical selections. The USPTO is also examining how to leverage new telecommunications technologies and practices to expand its geographic reach. This mode of training will allow the USPTO to continue to conduct its business throughout the country without compromising quality.

FY 2012 funds would be used for travel, furniture, staff, and office equipment for establishing the off-site location. The nationwide workforce new hires are accounted for as part of the overall examiner hiring effort for FY 2012.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$3,781	\$6,011	\$4,409	\$4,443	\$4,370
FTE	-	-	-	-	-

**Pendency Awards.** The USPTO established a task force to craft new PAPs for Supervisory Patent Examiners (SPEs) and patent examiners that would focus on enhanced examination quality, reduced application pendency and improved stakeholder responsiveness. A strong emphasis was placed on clearly defined objective measures that will be universally applied during the performance appraisal process.

One of the initiatives addressed by the task force was a proposed new Docket Management System that is based on the average number of days to complete actions. The advantage of this system is that it rewards early submission of work, balancing workload for IT systems, SPEs, support staff, and examiners. In addition, it creates a new Pendency Award that aligns with, and supports, agency goals.

The newly proposed Patent Examiner Pendency Award better aligns the examiners' expected processing times with the Agency's statutory processing time targets than the current award. Four criteria have been identified to align with the Agency's statutory processing time targets, and serve to encourage better response time to applicants. These are:

- Average days applications are awaiting action on examiners dockets;
- Time to respond to Board of Appeal decisions;
- Allowing no amendments to go over 75 days on an examiners amended docket; and
- Working on more new applications.

These funds will be used to address new objective measures in patent examiner and SPE PAPs.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$9,740	\$12,154	\$13,390	\$13,715	\$13,702
FTE	-	-	-	-	-

**Recruitment Bonus.** The USPTO does not expect that the current pool of patent examiner applicants will have the same competition from the private industry as existed in FYs 2006-2009. Therefore we don't anticipate the need for initial recruitment bonus payments to new employees. The existing obligations in the form of subsequent payments to those already hired will be honored. The program decrease is being reinvested back into the Patent Program.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	(\$3,683)	(\$9,556)	(\$10,856)	(\$11,105)	(\$11,361)
FTE	-	-	-	-	-

**Patent Cooperation Treaty (PCT) Searching Contract.** Due to somewhat lower filings than expected from the prior year, less funds are required to continue contracting for international search reports and written opinions from the USPTO as an International Searching Authority (ISA) under the PCT. Investments in contracting enable the USPTO to meet the PCT time frames for issuance of the required reports, and enable the USPTO to focus its resources towards reducing the backlog of pending national applications. In the complete absence of this program, PCT filings would have to be examined by examiners, resulting in fewer U.S. national applications being processed, which would equate to reduced production and fewer fee collections.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	(\$2,400)	(\$2,291)	(\$2,177)	(\$2,058)	(\$1,932)
FTE	-	-	-	-	-

**Workload Processing Contracts.** Patent's largest contracts are driven by the growth and increasing experience and productivity of the examination workforce. Work due to increasing numbers of applications, examiner production, and output must be funded commensurately in order to continue processing work and issuing patents. Specifically funds will be used for:

- Formalities review, copy provisions, and courier services for petition and publications – all driven by the increase in application filings.
- Front end processing, indexing and scanning of newly filed applications and incoming/outgoing documents, and quality assurance of electronic filings – based on the increase in electronically-filed applications, as well as the number of pages per application.
- Data capture of applications subject to publication at 18 months as a pre-grant publication. The key driver is the number of applications.
- Pre-grant and initial classification services whereby the contractor classifies all incoming applications once they have been through the initial security review. The key driver is the number of applications.
- Text conversion of applications whereby the contractor performs all tasks related to the electronic data capture of newly filed and perfected applications, including troubleshooting problem applications and producing reports. The key driver is the number of applications filed.
- IT resource providers and search strategy experts provide training, assistance, and support to develop and enhance examiner skills in navigating and using workflow tools, as well as technology-oriented training support and one-on-one assistance in the development and execution of search strategies. Examiners rely heavily on these services because of the wide array of workflow tools required to examine applications; therefore, loss of these services will negatively affect examiner production and training. Requirements are based on the size of the examination staff and training needs.
- Administrative support, operational services, program management and technical assistance for supervisory examiners, and quality assurance specialists. Services include maintenance of management and workgroup data bases, identifying potential abandonments, monitoring and analyzing production reports, providing facilities, property custodian management and hiring support. The key driver is the size of the examination staff.
- Patent publication, which includes the data capture of granted patents that generate both a text searchable file and an image file for paper printing and electronic dissemination on the Internet. The key driver is the volume of applications.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$18,526	\$24,938	\$35,863	\$48,399	\$60,812
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to increase patent application examination capacity can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**Patent Process Change Initiatives**

**Three-Track Examination.** Funds are required for 300 additional patent examiners to meet the objective of providing 12 months pendency under the first track of a proposed “Three Track” initiative while maintaining traditional pendency under the second track. Consistent with “Startup America”, the Administration’s initiative to encourage entrepreneurship and innovation, the USPTO has proposed a “Three Track” initiative to provide applicants with greater control over when their applications are examined and to promote greater efficiency in the patent examination process. Entrepreneurs bring a wealth of transformative innovations to market, and also play a critical role in job creation in the United States. For these reasons and others, it is critical that they have an avenue to get their patents resolved quickly and more efficiently. This program provides them this opportunity. Under the proposed “Three Track” initiative, for applications filed first in the United States, an applicant may request:

- **Track I:** A prioritized examination process with a 12 month completion target.
- **Track II:** The traditional examination process, which currently takes 34 months on average to complete.
- **Track III:** For non-continuing applications, an applicant-controlled delay lasting up to 30 months prior to docketing for examination.

Under Track I, applicants that request prioritized examination would be required to pay a fee set to recover the cost to the agency of maintaining the planned pendency of non-prioritized applications while expediting the examination of the prioritized application. The USPTO is working on revisions to respond to input from the IP community.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$11,582	\$33,178	\$42,199	\$46,604	\$51,576
FTE	124	341	400	400	400

**Patent Process Reengineering.** Transition of processes and practices requires services that include documenting changes in work processes and procedures, developing production standards, and identifying training needs. Funds are required for a contractor to study and analyze the Patent process, evaluate and make recommendations on efficiency improvements that will encompass operational, business, staffing, production standards, and functional design requirements, and provide impact assessments related to recommendations that could be implemented. Identification of workforce training services may also be required.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$1,000	\$1,017	\$1,034	\$1,052	\$1,070
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to re-engineer the patent process to increase efficiencies and strengthen effectiveness can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**Patent Quality Initiatives**

**Quality Metrics/Quality Index Reporting.** The USPTO has in the past received feedback that its quality measures do not accurately measure the quality of patents issued by the USPTO or the quality of the USPTO's examination process. Feedback suggests that some measures taken to improve the quality of the patents the USPTO issues have resulted in prolonging the prosecution of applications. To address this issue, the USPTO created a Quality Task Force, which was co-chaired by a member of the Patent Public Advisory Committee and the Associate Commissioner for Patent Examination Policy. The USPTO views quality improvement as a continuous process that must include public input on the best ways to improve quality, and measure that improvement, without extending the examination/prosecution process.

As a first step, the Quality Task Force collected public comments, and released a preliminary report in March, 2010. The report suggested a framework for additional public comment, suggestions for data analysis, and initial ideas for quality improvement. To further this discussion two public round tables were held in May 2010 with respect to methods to enhance the quality of issued patents, to identify appropriate indicia of quality, and to establish metrics for the measurement of the indicia. In October, 2010, the USPTO adopted new, more comprehensive procedures for measuring the quality of patent examination, which measure seven diverse aspects of the examination process to form a more comprehensive composite of quality metric.

These initial steps are part of an ongoing effort that will require continuous monitoring and refining of metrics over time. The participation of the public is not limited to the initial discussion, but must continue in parallel with our internal improvement efforts. The ongoing efforts will require staff who can build expertise in the collection, monitoring, and evaluation of quality metrics; and staff who can work with focus groups and the public to gather input and feedback. This requirements reflects the staff increases necessary to fulfill the goals and objectives defined by the Patent Quality Task Force.

In addition to the quality metrics, the Patent organization has implemented a quality index reporting (QIR) tool used to help identify examiners who fall outside of the quality standard range in a variety of areas, including restrictions, first action, allowance rate, actions per disposals, and Requests for Continuing Examination (RCEs) to name a few. This tool will help to identify examiners as well as managers and units that require additional training and mentoring. Currently, the QIR database needs to be scaled up for the entire patent examining corps and dedicated resources are required to measure, analyze and evaluate are series of data points to draw a comprehensive conclusion and come up with the best course for action for improvement.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$1,122	\$599	\$617	\$642	\$658
FTE	2	3	3	3	3

**Peer Review.** The purpose of the Peer Review pilot program was for the USPTO and the Community Patent Review Project to conduct a pilot program to determine whether an Internet-based collaborative review of a patent application can effectively locate prior art that might not otherwise be located by the USPTO during the typical examination process. The pilot was



conducted in cooperation with the Peer-to-Patent Project, organized by the New York Law School's (NYLS) Institute for Information Law and Policy. Among other duties, NYLS facilitated the public peer review process for those applications provided by the USPTO through the design and development of the Peer to Patent program website and backend systems, as well as necessary program administration.

Funds are required for the USPTO to begin administering the aspects of the program formerly overseen by NYLS, such as expanded program management as a result of increases in third party submissions from pending patent law changes.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$299	\$424	\$434	\$449	\$460
FTE	2	3	3	3	3

**Patent Management, Supervisory and Other Training.** The USPTO is committed to providing employee development and growth opportunities. Funds are required for the following programs that provide an opportunity for Patent staff to enhance their technical skills and abilities.

- **Management Training** – Funds are required for managers/supervisors to attend the Office of Personnel Management classes, including the Federal Executive Institute and Management Development Centers.
- **Development Training for Supporting Organizations** – Funds are required to enhance business processes, to keep employees abreast of new software applications, and for project management, technical support, and knowledge management skills training.

These programs also directly support the vision of the USPTO Strategic Human Capital Plan to create a culture in which continuous learning is valued and rewarded.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$2,006	\$2,063	\$2,223	\$2,286	\$2,352
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to measure and improve patent quality can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**Patent Stakeholder Relations Initiatives**

**Customer Relationship Management Program.** Currently the Patent organization has implemented an Ombudsman Pilot Program that is helping applicants address their issue(s) when an application is stuck within the prosecution pipeline. There is a need to implement this program on a larger scale and integrate it into an automated system that would tell applicants the status of their applications as well as provide options to talk to a customer service line. Funds are required for program analysis staff.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$495	\$537	\$549	\$579	\$592
FTE	3	3	3	3	3

**Innovation Development and Inventor Outreach Program.** The USPTO plans to establish an Associate Commissioner for Innovation Development office which will serve a key role in promoting innovation and technology creation in the United States. The office will oversee programs that foster and support innovation in independent inventor communities, universities,

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and non-profits. These programs would support and enhance the understanding of IP by advocating for independent inventors, entrepreneurs, and the innovation community at a national level. They will ensure that America's IP protection system continues to play a vital role in creating jobs and driving the nation's economy as building blocks of American innovation.

The office will promote innovation and creativity by leveraging expertise inside and outside the Agency, supporting award and recognition prizes and competitions, forming high-impact collaborations with researchers, the private sector and civil society, and building programs to create public awareness of the vital role innovation plays in our society. The office will work with appropriate business areas to identify legal, regulatory, technical, and other barriers for developing a USPTO prize and/or educational outreach initiative. The outreach and education may include educational materials, a dedicated USPTO website, instructional videos, and teaching tool kits.

An important aspect of outreach and education is the mentoring experience that provides direct support and knowledge transfer from mentor to student. The office will create opportunities for independent inventors, industry experts, or patent examiners to connect with students working on research projects within regular curricula. The mentoring activities will take advantage of virtual collaboration, social media and internet tools to provide a presence and support for students.

The USPTO has an ongoing university outreach and recruitment program to identify and hire new patent examiners. The Associate Commissioner for Innovation Development will develop opportunities and programs that support and enhance the existing university outreach by focusing on IP, and processes of innovation. The office will form partnerships with universities that have existing education outreach to leverage the connections with leading scientists, educators and with future scientists, engineers, and technologists.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$871	\$873	\$897	\$927	\$943
FTE	5	5	5	5	5

**Schedules/Milestones/Deliverables** for the strategic objective to measure and improve employee and stakeholder relations can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

## Sub-Activity #2: Patent Appeals and Interferences

The goal to optimize patent quality and timelines is being accomplished through the following objective and initiatives:

- Improve Appeal and Post-Grant Processes
  - Develop and implement process efficiency recommendations
  - Streamline the appeal process and reduce appeal pendency
  - Review the BPAI rules to amend, simplify and optimize process
  - Increase BPAI capacity through additional hires and new chambers organization
  - Maintain high quality BPAI decisions

### **Program Changes for FY 2012:**

Improve Appeal and Post-Grant Processes (+32 FTE and \$9.9 million): The USPTO requires an increase of \$9.9 million and 32 FTE for a total of \$54.7 million and 287 FTE to implement two critical initiatives at the BPAI. These address current needs, such as additional hires to address the workload coming from the Patent Examining Corps, and an upgrade to the Adjudicated Case Tracking System (ACTS).

This request supports the Department's Economic Growth goal to advance economic prosperity by using IP as a tool to create a business environment that cultivates and rewards new ideas, technologies, services and products.

### **Proposed Actions:**

The BPAI is an administrative tribunal that consists of Administrative Patent Judges (APJs) who review appeals cases and decide to affirm, reverse, or affirm in part a rejection in a patent application under appeal. APJs also review claims of interferences with existing patents and patent applications during the filing stage of a patent application. The BPAI will ultimately decide whom, if anyone is entitled to the right of the patent in question. The BPAI tracks information on each patent appeals case, *inter partes* case and interference. The average number of cases under review at any given time is approximately 1,500, some of which can take more than a year to resolve. These requirements outline a consolidated effort to increase BPAI capacity, increase BPAI productivity and quality, and optimize workflow.

### **Statement of Need and Economic Benefit:**

Decisions made by the BPAI on appeals involve some of the most important applications pending in the Office. When these decisions are delayed, it can and will continue to have an adverse impact on America's economy. When patents are developed commercially, they create jobs for the companies marketing products and for their suppliers, distributors and retailers. The BPAI may have any one such patent in its inventory awaiting decision. Proper and promptly-issued patents are vital to the growth of the economy. Additionally, any one appeal may, in fact, hold a scientific, engineering, or technological breakthrough in any number of fields, such as medicine, materials, electronics, or energy. Without the appropriate resources to review and decide the appeals, the breakthroughs will simply have to wait.

**Increase BPAI Production.** Funds are required to match Patents' hiring over the last several years, and address historic growth in workload.

In FY 2009 and FY 2010, the BPAI docketed 15,483 and 12,582 *ex parte* appeals respectively, and is projecting over 12,000 docketed appeals during FY 2011. During this time, BPAI staffing did not stay current with the extensive hiring done in the Patent Examining Corps. With additional staff and support resources in FY 2012, the BPAI will be able to more effectively manage the ever escalating inventory and stem an unacceptable pendency level. Specifically, these positions will provide the critical resources for the timely and quality review and

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adjudication of appealed applications and ensure the BPAI's ability to meet specific objectives outlined in the *USPTO 2010-2015 Strategic Plan*.

Delaying decisions on these appeals has an adverse impact on America's economy. When patents are developed commercially, they create jobs for the companies marketing products, and for their suppliers, distributors, and retailers. Proper and promptly-issued patents are vital to the growth of the economy.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$6,664	\$19,565	\$24,173	\$23,654	\$23,063
FTE	32	96	126	120	115

**Adjudicated Case Tracking System (ACTS).** Funds are required to upgrade the ACTS, which records and manages appeals information using a client server application with automated workflow software to control the movement and record the disposition of each patent appeal case. ACTS enables the BPAI to track the status of cases and provide relevant information pertaining to each patent appeal case. Public interference proceedings are also available for electronic viewing with a web application known as I-Filing. I-Filing enables the practitioners to submit their interference proceeding documents on-line.

ACTS is barely meeting current requirements and is showing great strain to support changing BPAI policies and processes. Currently, ACTS is not:

- Fully integrated with the modernized patent systems assuring contiguous and efficient appeal processing and workflow
- Integrated with the Electronic Freedom of Information Act (EFOIA) assuring contiguous document publication
- Ready to support of post grant review legislation ensuring the ultimate legislation results are in an effective post grant system
- Flexible enough to generate personalized ad hoc reports using a robust reporting tool
- Capable of handling business process changes

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$3,200	\$1,200	\$1,200	\$1,200	\$1,200
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to improve appeal and post-grant processes can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**Sub-Activity #3: Patent Information Resources**

The goal to optimize patent quality and timelines is being accomplished through the following objective and initiatives:

- Improve Patent Pendency and Quality by Increasing International Cooperation and Work Sharing
  - Make more effective use of the PCT
  - Increase use of the Patent Prosecution Highway (PPH)
  - Work with the Trilateral offices and the five IP offices (IP5) to create new efficiencies
- Develop and Implement the Patent End-to-End Processing System
  - Develop and implement XML for all data from application to publication
  - Build infrastructure for Patents end-to-end processing system
  - Redesign and re-architect patent IT systems to provide end-to-end electronic processing

**Program Changes for FY 2012:**

Patent Information Resources (+5 FTE and \$5.3 Million): The USPTO requires an increase of \$5.3 million and an increase of 5 FTE for a total of \$141.8 million and 323 FTE to improve examination efficiency by developing work-sharing arrangements, and managing a capital improvement fund.

**Proposed Actions:**

This program change includes the initiatives designed to provide quality and timely examination of patent applications by increasing international cooperation and work-sharing, and continue development of the Patent End-to-End IT capability.

**Statement of Need and Economic Benefit:**

This program change would improve patent pendency times and backlog levels (at the end of FY 2010, patent first action pendency was at 25.7 months, and total pendency was at 35.3 months), and improve IT infrastructure and tools.

**IP5 Work Sharing Program Management.** Funds are required to improve examination efficiency and to use resources wisely through the development of work-sharing arrangements, which have evolved as a significant tool to attack the pendency issues. The five largest IP offices (Europe, Japan, Korea, China, and the United States) formed a partnership referred to as the IP5 to develop a collaborative IT structure, and processes and procedures for sharing information. The objective is to facilitate work-sharing and information exchange by building a foundation for information and work exchange.

With this shared objective, the offices defined 10 Foundation Projects. Together the projects aim to build trust among the offices; to ensure examiners easily understand exactly how an application was treated by the examiner before them, and to have confidence in the results and decisions made by that office.

The USPTO has taken the responsibility of heading the effort associated with common search and examination support tools, and the common approach to sharing and documenting search. These efforts will create an equivalent environment for exchange of information between international offices. The goal of this effort is to create harmonization of global IP, and includes the evaluation of different approaches to reaching the goal of common tools, environment and procedures between IP5 offices.

The development of a common IP5 classification system will offer sufficient depth and detail according to the needs in the different technical areas, and will cover the main body of the global patent document collection. It will also ensure that classification-based searches carried out in the IP5 offices are centered on similar search strategies. This paves the way to an

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increased level of trust and greatly facilitates work sharing among the IP5 offices, as well as improving search and classification efficiency, uniformity and quality.

Funds will be used to continue the efforts to manage and develop (with contractor support) the necessary processes, procedures and systems to meet the goals outlined in both the USPTO strategic plan and IP5 agreements.

It is estimated that up to 250,000 patent applications are filed at two or more of the IP5 offices. In FY 2009, 42 percent of patent applications filed at the USPTO were also filed in other IP offices. The ability to reuse work done by other IP5 offices for these duplicate applications has the potential to significantly improve the efficiency of patent examination among the IP5 offices.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$16,243	\$22,415	\$22,778	\$23,169	\$23,545
FTE	5	6	6	6	6

**Patent IT Capital Improvements.** The USPTO manages its resources to ensure a consistent level of funding for IT capital improvements from year-to-year. These are base resources and do not contain funds for IT operations and maintenance. The capital improvement funds are administered in accordance with USPTO's Capital Planning and Investment Control (CPIC) process.

Specifically in FY 2012, the Patent Program requires fewer funds to modify legacy systems. Whereas the Patent Program was required to make changes to its legacy systems in FY 2011 to accommodate process changes associated with new patent examination workflow (i.e. new Docket Management System), similar changes are not planned in FY 2012. Instead, in FY 2012 the sole focus will be to complete the development work necessary to launch Patent End-To-End IT capability, version 1.0.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	(\$10,974)	(\$3,803)	(\$16,867)	(\$16,878)	(\$16,407)
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objectives to improve patent pendency and quality by increasing international cooperation and work sharing, and to develop and implement Patent end-to-end processing system can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

PROGRAM CHANGE PERSONNEL DETAIL  
(Dollar amount in thousands)

Activity: Patents  
Subactivity:

Title:	Location	Grade	Number of Positions	Annual Salary	Total Salaries
Associate Commissioner Innovation Development	Alexandria, VA	GS SES	1	155,500	155,500
Examination Practice Manager	Alexandria, VA	GS 15	1	150,173	150,173
Interns	Alexandria, VA	GS 4	5	34,516	172,580
IT Project Manager	Alexandria, VA	GS 14	2	119,238	238,476
Management & Program Analyst	Alexandria, VA	GS 13	2	100,904	201,808
Management & Program Analyst	Alexandria, VA	GS 14	1	119,238	119,238
Patent Examiner	Alexandria, VA	GS 5	94	47,563	4,470,922
Patent Examiner	Alexandria, VA	GS 7	397	67,589	26,832,833
Patent Examiner	Alexandria, VA	GS 9	294	74,837	22,002,078
Patent Examiner	Alexandria, VA	GS 11	261	83,877	21,891,897
Patent Examiner	Alexandria, VA	GS 12	-14	90,852	(1,271,928)
Patent Examiner	Alexandria, VA	GS 13	-2	108,036	(216,072)
Patent Examiner	Alexandria, VA	GS 14	-19	127,665	(2,425,635)
Patent Examiner	Alexandria, VA	GS 15	-2	150,173	(300,346)
Program Analyst	Alexandria, VA	GS 13	2	100,904	201,808
Program Analyst	Alexandria, VA	GS 11	1	62,467	62,467
Program Analyst	Alexandria, VA	GS 13	2	89,033	178,066
Program Assistant	Alexandria, VA	GS 11	1	62,467	62,467
Program Manager	Alexandria, VA	GS 15	1	140,259	140,259
Project Manager	Alexandria, VA	GS 14	1	119,238	119,238
Statistician	Alexandria, VA	GS 12	1	74,872	74,872
Statistician	Alexandria, VA	GS 15	1	123,758	123,758
Worksharing Program Manager	Alexandria, VA	GS 15	1	140,259	140,259
Worksharing Project Manager	Alexandria, VA	GS 14	2	119,238	238,476
Administrative Patent Judges	Alexandria, VA	GS SES	23	165,300	3,801,900
Paralegal Specialist	Alexandria, VA	GS 11	9	70,794	637,146
Patent Attorney	Alexandria, VA	GS 14	27	127,665	3,446,955
<b>Total</b>			<b>1,093</b>		<b>81,050,565</b>
Less Average Lapse		60%	727.6		48,269,246
Total full-time permanent (FTE)			365.4		32,781,319
2011 Pay Adjustment	0.0%				-
2012 Pay Adjustment	0.0%				-
<b>TOTAL</b>					<b>32,781,319</b>
<b>Personnel Data</b>			<b>Number</b>		
Full-Time Equivalent Employment					
Full-time permanent				365	
Other than full-time permanent				0	
Total				365	
Authorized Positions:					
Full-time permanent				1,093	
Other than full-time permanent				0	
Total				1,093	

**PROGRAM CHANGE DETAIL BY OBJECT CLASS**  
**(Dollar amounts in thousands)**

Activity: **Patents**

Subactivity:

<b>Object Class</b>	<b>2012 Increase</b>
11 Personnel compensation	
11.1 Full-time permanent	32,781
11.3 Other than full-time permanent	
11.5 Other personnel compensation	14,405
11.8 Special personnel services payments	
11.9 Total personnel compensation	<u>47,187</u>
12 Civilian personnel benefits	5,822
13 Benefits for former personnel	
21 Travel and transportation of persons	1,082
22 Transportation of things	-
23.1 Rental payments to GSA	549
23.2 Rental payments to others	-
23.3 Communications, utilities and miscellaneous charges	283
24 Printing and reproduction	11,227
25.1 Advisory and assistance services	3,378
25.2 Other services	14,923
25.3 Purchases of goods & services from Gov't accounts	380
25.4 Operation and maintenance of facilities	
25.5 Research and development contracts	
25.6 Medical care	
25.7 Operation and maintenance of equipment	
25.8 Subsistence and support of persons	
26 Supplies and materials	177
31 Equipment	2,393
32 Lands and structures	
33 Investments and loans	
41 Grants, subsidies and contributions	
42 Insurance claims and indemnities	
43 Interest and dividends	-
44 Refunds	
99 Total obligations	<u><b>87,402</b></u>



# TRADEMARK PROGRAM

**Department of Commerce**  
**U.S. Patent and Trademark Office**  
**TRADEMARK PROGRAM**  
**PROGRAM AND PERFORMANCE: TOTAL OBLIGATIONS**  
 (Dollar amounts in thousands)

Activity:		Trademark Program									
Sub-Activity:		FY 2010 Actuals		FY 2011 Current Plan		FY 2012 Base		FY 2012 Estimate		Increase/ (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Trademark Examining	Pos./Obl	599	93,631	617	96,829	617	96,770	621	99,284	4	2,515
	FTE	606	-	608	-	611	-	614	-	3	-
Trademark Appeals and <i>Inter Partes</i> Proceedings	Pos./Obl	59	9,747	73	10,577	73	11,631	79	12,107	6	476
	FTE	60	-	67	-	73	-	77	-	5	-
Trademark Information Resources	Pos./Obl	62	16,702	65	26,310	66	26,995	66	26,045	-	(950)
	FTE	63	-	61	-	65	-	65	-	-	-
Subtotal Direct	Pos./Obl	720	120,080	755	133,716	756	135,396	766	137,436	10	2,040
	FTE	729	-	736	-	749	-	756	-	7	-
Management Goal - Allocated	Pos./Obl	113	62,954	133	79,479	132	81,051	137	82,346	5	1,291
	FTE	111	-	120	-	124	-	127	-	3	-
<b>Total</b>	Pos./Obl	833	183,034	888	213,195	888	216,447	903	219,782	15	3,336
	FTE	840	-	856	-	873	-	883	-	10	-

## Exhibit 12 – Justification of Trademark Program and Performance

### Appropriation Account: Salaries and Expenses

#### **Budget Activity: Trademark Program**

For FY 2012, the USPTO requires an increase of \$6.6 million and 27 FTE over the FY 2011 Current Plan (\$3.3 million and 10 FTE over the FY 2012 base program) for a total of \$219.8 million and 883 FTE to support the requirements of the Trademark Program.

#### **Base Justification for FY 2012:**

The USPTO's Trademark Program, through its strategic goal to optimize trademark quality and timeliness, supports the Department's strategic objective to "facilitate IP protection by reducing patent and trademark pendency and increasing quality of issued patents and trademarks."

This strategic goal will be met by achieving the following objectives as set forth in the *2010-2015 Strategic Plan*:

- Maintain Trademark First Action Pendency on Average Between 2.5-3.5 Months, with 13 Months Final Pendency
- Continuously Monitor and Improve Trademark Quality
- Ensure Accuracy of Identifications of Goods and Services in Trademark Applications and Registrations
- Enhance Operations of Trademark Trial and Appeal Board (TTAB)
- Modernize IT System by Developing and Implementing the Trademark Next Generation IT System
- Develop a New Generation of Trademark Leaders

The base Trademark Program (\$216.4 million and 873 FTE) consists of the following four sub-activities that are described below. This program directly or indirectly contributes to the attainment of the Trademark strategic goal and objectives:

- Sub-Activity #1: Trademark Examining
- Sub-Activity #2: Trademark Appeals and *Inter Partes* Proceedings
- Sub-Activity #3: Trademark Information Resources
- Sub-Activity #4: Management Goal -- Allocated

The Trademark Program is dedicated to carrying out the Agency's mission to deliver "high quality and timely examination of ... trademark applications" in accordance with laws, regulations and practices, consistent with the strategies and objectives in the USPTO's *2010-2015 Strategic Plan*.

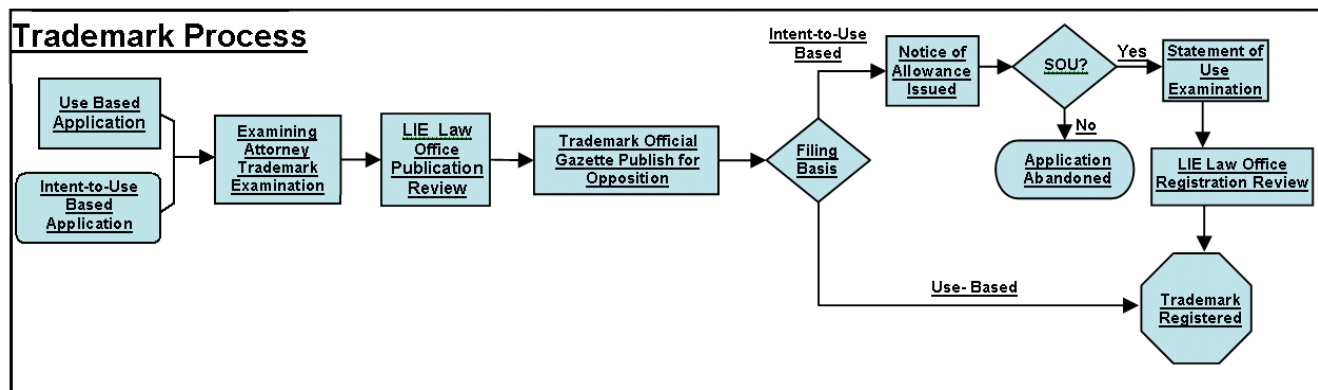
#### **Trademark Process**

The trademark process begins when a customer desires information on trademarks or becomes interested in registering a trademark and proceeds to submit a trademark application based on a mark currently used, or intended for use, in commerce. During the examination process, trademark examining attorneys evaluate applications for compliance with current trademark laws, regulations, and policies. At this time, the applicant may submit amendments and the examining attorney may enter amendments or refuse registration unless certain requirements are met. Upon completion of the examination process, including any possible appeal from a refusal, a trademark application enters the publication process for inclusion in the Official Gazette. Those marks that pass through the opposition period without challenge, or survive any

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opposition, move along to issuance of either a trademark registration for an application based on use, or a notice of allowance for an application based on intent to use.

The examination of trademark applications consists of the activities shown on the following schematic, and major functions as described below.



### **Sub-Activity #1: Trademark Examining (\$96.8 million and 611 FTE)**

The USPTO plays a critical role in providing notice of marks in use, or for which there is an intent to use, through its on-line resources of registered and pending trademarks. Prior to filing an application for registration, establishing or investing in a mark, a business owner would be able to survey existing marks in use or proposed for use by utilizing on-line resources and support services available for customers to prepare and file their applications with the office. This support consists of the public search rooms located at the USPTO's facilities in Alexandria VA, on-line search systems, support for the Patent and Trademark Depository Libraries located across the country, and a customer service call center operated by the Trademark Assistance Center.

### **Input Processing- \$12.1 million and 68 FTE**

More than 98 percent of trademark applications for registration of a mark are currently filed electronically, and 68 percent are processed electronically from receipt to final disposition. When an application is received at the USPTO, it is subject to a quality review process. In that process the electronically tagged application data is reviewed to add the international classification and design search codes that facilitate searching. The tagged data in a trademark application is transferred automatically to the appropriate data fields in trademark electronic automated systems. Trademark automated systems are the source for application data that is used in the processing and examination of trademarks – as well as the information that is made available to the public through [www.uspto.gov](http://www.uspto.gov). The automated systems are also the source of the Official Gazette, which provides notice of marks approved by examiners, those in use and maintained by registrants, and those available to the public. Initial examination also encompasses the processing of applications filed under the Madrid Protocol.

### **Examination Processing- \$81.7 million and 515 FTE**

One of the nearly 375 Trademark examining attorneys will determine if the mark in each newly filed application is entitled to registration under the provisions of the Trademark Act. As part of the process, the examining attorney conducts a search of prior filed and registered marks to evaluate if a conflict exists between the mark in the application and a previously filed application or registration. Examining attorneys evaluate many types of marks, such as trademarks, service marks, certification marks, and collective membership marks against the criteria for registrability set out in the Trademark Act of 1946, as amended, and make a determination to approve or deny an application for registration. The examining attorney searches a database of

about 1,500,000 registered marks and nearly 500,000 pending marks in order to determine if the mark in the subject application is confusingly similar to an existing mark.

An approved application is published prior to registration to provide notice to interested parties who may file an opposition to registration. Marks based on use in commerce that are unopposed, or survive any filed opposition, are registered. Marks filed based on intent to use receive a notice of allowance following the opposition period, if they are unopposed or survive any filed opposition, with registration occurring following issuance of a Notice of Allowance by the Office and subsequent filing and acceptance of a Statement of Use from the applicant.

### Quality and Training

Quality and training are important components of the examination process, and the resources required for a quality examination of a trademark application, and registration is integrated with the total examination costs.

Under the quality assurance program the results of an examiner's first and final office action are reviewed for the quality of the substantive basis for decision making, search strategy, evidence, and writing. Based on the data collected from those reviews, the agency has targeted both electronic and traditional training initiatives addressing specific problem areas. This program also provides prompt feedback to examining attorneys when their work products are reviewed. Specific comments on any work product found to be either "excellent" or "deficient," are sent to the appropriate examining attorney and supervisor. As a result, training takes place on the micro level, with specific feedback, as well as on the macro level, with training modules that address trends, targeting topics that warrant improvement. Examiners have the opportunity to take a series of self-paced e-learning tutorials, as part of the USPTO's commitment to improve quality of examination and ensure that all examiners possess the knowledge, skills and abilities necessary to perform their jobs. New e-learning modules are implemented throughout the year based on topics that are identified through quality review evaluations.

The Trademark organization continues efforts to improve quality in a cost-effective manner. To raise the bar, the Trademark organization is emphasizing comprehensive excellence in office actions, which expands upon the existing first and final action standards for correct decision-making. While a comprehensively excellent office action certainly reflects correct decision-making, it also includes excellent evidentiary support and is very well-written.

### Policy/Legal

A critical component of the trademark examination process is its policy and legal function. This consists of establishing trademark examination policy standards; serving as the authority on trademark laws, rules, and examining practices and procedures; implementing treaty obligations; implementing judicial and Trademark Trial and Appeal Board decisions; publishing rules for public comment and then publishing final rules; and maintaining the Trademark Manual of Examining Procedure. The costs of performing these functions are included in the cost of examination.

### **Trademark-Post Registration Processing - \$3.0 million and 28 FTE**

Trademark registrations can be maintained indefinitely, for as long as the registered mark is in use under the Trademark Act. Registrations require periodic renewal – every 10 years for marks on the Principal and Supplemental registers. In order to maintain rights to a mark, the owner must first file an affidavit five years from the date of registration. To renew a Trademark registration, the owner must file an acceptable affidavit under §8 and an application for renewal under §9 one year before the end of every ten-year registration period. Owners of marks on the Principal Register can also make a claim of incontestability under §15 to claim exclusive rights after the mark has been in continuous use in commerce for a period of five consecutive

years after the date of registration. The owner can also request to correct or amend a Trademark registration by filing requests under §7.

Filings are examined for completeness and compliance with statutory requirements. Failure to file the required affidavit and proof of use results in cancellation of the registration. These requirements serve to remove trademarks from the register when the marks are no longer in use.

**Sub-Activity #2: Trademark Appeals and *Inter Partes* Proceedings (\$11.6 million and 73 FTE)**

Administrative Trademark Judges on the TTAB review adverse registrability determinations by examining attorneys at the applicant's request, conduct opposition hearings where an interested party believes that it will be harmed by the registration of a published mark, and conduct other proceedings involving registrations where a third party wishes to challenge the validity of a registration.

**Sub-Activity #3: Trademark Information Resources (\$27.0 million and 65 FTE)**

Trademark Information activities coordinate the modernization, development and management of the Trademark IT, including Trademark support personnel who serve as business process experts in working with the IT technical experts by providing technical expertise and project management in the development of Trademark program systems supporting electronic filing, and Trademark business operations.

Base level resources are used for Making Capital Improvements for modernizing the Trademark IT by developing and implementing the Trademark Next Generation IT system.

Resources are also used for Operating and Maintaining the automated information systems which directly support the trademark process, as follows:

- TRAM supports all facets of Trademark operations from receipt of new application to the publication of the *Trademark Official Gazette* and post-registration activities, and includes a database consisting of bibliographic text and prosecution history data.
- The Trademark Search System (X-Search), an automated search application which provides the necessary access mechanism to search the trademark database. Users can enter queries and retrieve results which include images in display and print format.
- The Trademark Electronic Application System (TEAS), which provides users with the ability to submit their trademark applications and responses to examiner actions electronically over the Internet.
- The Trademark Electronic Search System (TESS), which enables members of the public to search pending and registered trademarks using a web browser over the Internet.
- The Trademark Application and Registration Retrieval System (TARR), which provides customers with access to trademark status information via the Internet; i.e., for applications and registrations as identified by the associated serial number or registration number.

**Sub-Activity #4: Management Goal – Allocated (\$81.1 million and 124 FTE).**

This sub-activity represents all of the Management activities that support the accomplishment of the Trademark goal. These can be specifically Trademark-related, or cross-cutting management functions that are dedicated to overall USPTO activities, such as financial management systems. These activities are described under the Management goal while the costs are allocated to Trademarks based on the Agency's ABI analysis and results.

**Significant Adjustments to Base (ATBs):**

The USPTO requests a net increase of 17 FTEs and \$3.3 million to fund adjustments to current programs for the Trademark Program activities. This increase will provide the annualization of the FTE increase and will also provide inflationary increases for non-labor activities, including service contracts, utilities, lease payments, and rent charges from the GSA.

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**Trademark Program Performance Goals and Measurement Data:**

<i>(Dollars in thousands)</i>	<b>FY 2010 Actuals</b>	<b>FY 2011 Current Plan</b>	<b>FY 2012 Estimate</b>	<b>FY 2013 Estimate</b>	<b>FY 2014 Estimate</b>	<b>FY 2015 Estimate</b>	<b>FY 2016 Estimate</b>
Total Balanced Disposals	742,000	777,100	840,500	882,100	925,800	970,000	1,014,200
Total Office Disposals	339,000	356,000	384,000	403,000	423,000	443,000	463,000
Applications Received – (Includes Additional Classes)	368,939	385,000	404,000	424,000	445,000	466,000	487,000
Applications Filed Percent Change Over Previous FY	4.8%	4.4%	4.9%	5.0%	5.0%	4.7%	4.5%
Examining Attorneys On-Board at End-of-Year	372	362	366	393	406	428	445
Excellent First Action Rate <sup>4</sup>	-	15%	15%	17%	17%	17%	19%
Total Cost Per Trademark Office Disposal	\$520	\$650	\$621	\$619	\$597	\$588	\$582
First Action Compliance Rate	96.6	95.5%	95.5%	95.5%	95.5%	95.5%	95.5%
Without funding increase	NA	NA	95.5%	95.5%	95.5%	95.5%	95.5%
Final Compliance Rate	96.8	97.0%	97.0%	97.0%	97.0%	97.0%	97.0%
Without funding increase	NA	NA	97.0%	97.0%	97.0%	97.0%	97.0%
Average First Action Pendency (Months)	3.0	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5
Without funding increase	NA	NA	4.0	5.5	6.5	8.0	9.0
Average Total Pendency (Months) Excluding Suspended and <i>Inter Partes</i> Proceedings	10.5	12.5	12.5	12.5	12.5	12.5	12.5
Without funding increase	NA	NA	13.0	14.0	15.5	16.5	18.0
Applications Processed Electronically	68.1%	70%	70%	72%	72%	75%	75%
Without funding increase	NA	NA	70%	70%	70%	70%	70%

<sup>4</sup> The “excellent first action “rate is a new quality measure for FY 2011.



## Exhibit 13 – 15: Trademark Program Changes by Sub-Activity

Exhibit 13

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR 2012\*  
(Dollar amounts in thousands)

		2012 Base		2012 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Trademark Program	Pos./Obl.	756	135,396	766	137,436	10	2,040
	FTE	749	-	756	-	7	-
<i>Trademark Examining</i>	<i>Pos./Obl.</i>	<i>617</i>	<i>96,770</i>	<i>621</i>	<i>99,284</i>	<i>4</i>	<i>2,515</i>
	<i>FTE</i>	<i>611</i>	-	<i>614</i>	-	<i>3</i>	-
Trademark Workload-Related Increase	Pos./Obl.					4	2,515
	FTE					3	
<i>Trademark Appeals and Inter Partes Proceedings</i>	<i>Pos./Obl.</i>	<i>73</i>	<i>11,631</i>	<i>79</i>	<i>12,107</i>	<i>6</i>	<i>476</i>
	<i>FTE</i>	<i>73</i>	-	<i>77</i>	-	<i>5</i>	-
TTAB Quality Initiative	Pos./Obl.					6	476
	FTE					5	
<i>Trademark Information Resources</i>	<i>Pos./Obl.</i>	<i>66</i>	<i>26,995</i>	<i>66</i>	<i>26,045</i>	-	<i>(950)</i>
	<i>FTE</i>	<i>65</i>	-	<i>65</i>	-	-	-
Trademark IT Capital Improvements	Pos./Obl.					-	(950)
	FTE					-	

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR FISCAL YEARS 2012-2016

(Dollar amounts in thousands)

		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Trademark Program	Pos./Obl	10	2,040	36	5,615	50	2,296	74	5,302	93	7,545
	FTE	7	-	25	-	42	-	64	-	84	-
<i>Trademark Examining</i>	<i>Pos./Obl</i>	<i>4</i>	<i>2,515</i>	<i>30</i>	<i>5,761</i>	<i>43</i>	<i>7,596</i>	<i>67</i>	<i>10,517</i>	<i>86</i>	<i>12,627</i>
	<i>FTE</i>	<i>3</i>	<i>-</i>	<i>19</i>	<i>-</i>	<i>36</i>	<i>-</i>	<i>57</i>	<i>-</i>	<i>78</i>	<i>-</i>
Trademark Workload-Related Increase	Pos./Obl	4	2,515	30	5,761	43	7,596	67	10,517	86	12,627
	FTE	3	-	19	-	36	-	57	-	78	-
<i>Trademark Appeals and Inter Partes Proceedings</i>	<i>Pos./Obl</i>	<i>6</i>	<i>476</i>	<i>6</i>	<i>720</i>	<i>7</i>	<i>800</i>	<i>7</i>	<i>896</i>	<i>7</i>	<i>989</i>
	<i>FTE</i>	<i>5</i>	<i>-</i>	<i>6</i>	<i>-</i>	<i>6</i>	<i>-</i>	<i>7</i>	<i>-</i>	<i>7</i>	<i>-</i>
TTAB Quality Initiative	Pos./Obl	6	476	6	720	7	800	7	896	7	989
	FTE	5	-	6	-	6	-	7	-	7	-
<i>Trademark Information Resources</i>	<i>Pos./Obl</i>	<i>-</i>	<i>(950)</i>	<i>-</i>	<i>(867)</i>	<i>-</i>	<i>(6,100)</i>	<i>-</i>	<i>(6,112)</i>	<i>-</i>	<i>(6,071)</i>
	<i>FTE</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>
Trademark IT Capital Improvements	Pos./Obl	-	(950)	-	(867)	-	(6,100)	-	(6,112)	-	(6,071)
	FTE	-	-	-	-	-	-	-	-	-	-

**Sub-Activity #1: Trademark Examining**

The strategic goal to optimize trademark quality and timeliness is being accomplished through the following objectives and initiatives for which funds are required in FY 2012:

- Maintain Trademark First Action Pendency on Average Between 2.5-3.5 Months, with 13 Months Final Pendency
  - Align examination capacity with incoming workloads
- Continuously Monitor and Improve Trademark Quality
  - Enhance examination quality by establishing a new quality measure
- Ensure Accuracy of Identifications of Goods and Services in Trademark Applications and Registrations
  - Determine what actions, if any, are needed to ensure accuracy of identified goods and services
- Modernize IT System by Developing and Implementing the Trademark Next Generation IT System
  - Address trademark business needs with a re-architected, virtualized and service-driven solution
  - Separate trademark CBRs from other CBRs
  - Move to cloud computing based on a sound business case
  - Add functionality to meet the needs of users
- Develop a New Generation of Trademark Leaders
  - Improve and provide effective training
  - Revamp PAPs to include leadership skills development
  - Develop an effective human capital succession plan

**Program Changes for FY 2012:**

Maintain Trademark First Action Pendency on Average Between 2.5-3.5 Months, with 13 Months Final Pendency (+\$2.5 million and 3 FTE): The USPTO requires an increase of \$2.5 million and an increase of 3 FTE for a total of \$99.3 million and 614 FTE to increase trademark application examination capacity. This will enable the Trademark Program to process incoming work in a timely manner.

**Proposed Actions:**

This program change will enable the USPTO to maintain trademark pendency at the current levels by addressing the need to balance forecasted new filings and workload (application classes are projected to increase eight percent over the FY 2011 President's Budget projections), existing inventories, and examination capacity.

This request supports the Department's Economic Growth goal to advance economic prosperity by using IP as a tool to create a business environment that cultivates and rewards new ideas, technologies, services and products.

**Statement of Need and Economic Benefits:**

Trademark application filings (classes) are projected to increase by eight percent from the FY 2011 President's Budget projections (and five percent from the revised FY 2011 projections) while the examiner pool will decrease by eight positions via attrition. Post-registration workload, which refers to the affidavits registrants must file periodically to maintain and renew their marks as long as the marks are being used in commerce, will surge by 32 percent in FY 2012 relative to FY 2011, a reflection of the increase in registration following the 2000-2001 dotcom bubble.

## FY 2012 President's Budget

Trademarks perform a valuable function by identifying the source of products and services, and being an indicator of reliable quality to the consumer. A mark registered with the USPTO serves as *prima facie* evidence of ownership and the right to use the mark, can provide access to the Federal court system, and when registered with U.S. Customs and Border Protection, can be used to stop the importation of infringing goods. Timely indication of the viability of a trademark application enables businesses to develop their financial and marketing plans.

**Trademark Workload-Related Increase.** Funds are required to address a projected eight percent increase in FY 2012 application filings, and a 32 percent increase in post registration filings. The required funds will enable the Trademark organization to establish and fill four additional examiner attorney positions (and seven replacements for a total of 11 hires), to fund higher overtime usage, and to support changes in workload-driven contractor services. Workload-driven contractor services benefit from increased electronic filing and processing and show a decrease.

Trademark filings have a strong correlation with the state of the economy and business expectations. In FY 2010, filings reflected the on-going economic recovery and have rebounded from the FY 2009 levels with an annual growth rate of about five percent. There is a general consensus among economists and professional forecasters that the positive economic momentum will be sustained over the next few years by private investments and personal consumption. Trademark filings are then expected to increase four to six percent per year between FY 2012 and FY 2016.

The increase in FY 2010 filings, and the expectation of a sustainable economic recovery lead to a revised filing projection; i.e., a FY 2012 projection of 404,000 application filings (classes), which represents an eight percent increase from the FY 2011 President's Budget projection for application filings of 374,000 classes. Over the next five years from FY 2012 to FY 2016, new application filings are projected to increase more than 20 percent while the examining attorney FTE will increase by about 18 percent, in line with the projected workload increase.

Increases in the out-year budget request are projected to be beyond the rate of inflationary adjustments in order to support the projected increases in filings and maintain strategic goals. Increases in hiring are directly related to the increase in filings and staffing needed to support workload increases.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$2,515	\$5,761	\$7,596	\$10,517	\$12,627
FTE	3	19	36	57	78

**Schedules/Milestones/Deliverables** for the strategic objective to maintain trademark first action pendency on average between 2.5-3.5 months with 13 months final pendency can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *2010-2015 Strategic Plan*.

**Sub-Activity #2: Trademark Appeals and *Inter Partes* Proceedings**

The goal to optimize trademark quality and timeliness is being accomplished through the following objective and initiatives:

- Enhance Operations of Trademark Trial and Appeal Board (TTAB)
  - Maintain TTAB workloads and pendency goals within acceptable limits
  - Develop additional accelerated case resolution (ACR) and other streamlining options for *inter partes* cases
  - Improve TTAB involvement in parties' settlement negotiations
  - Maintain quality of orders and opinions
  - Develop law through issuance of precedential decisions

**Program Changes for FY 2012:**

Enhance Operations of TTAB (+\$0.5 million and 5 FTE): The USPTO requires an increase of \$0.5 million and 5 FTE for a total of \$12.1 million and 77 FTE to enhance the operations of the TTAB.

**Proposed Actions:**

Funds are required to:

- Create a permanent TTAB Quality Review Unit to support the Trademark strategic goal by setting standards for the quality of work performed by paralegals and other support personnel, and continuously monitoring the efforts for an optimal level of internal and external customer satisfaction.
- Support TTAB's effort to maintain its current systems and interfaces and provide data management and reporting services while transitioning TTAB's IT to a 21<sup>st</sup> century environment.

**Statement of Need and Economic Benefits:**

Trademarks perform a valuable function by identifying the source of products and services, and being an indicator of reliable quality to the consumer. A mark registered with the USPTO serves as *prima facie* evidence of ownership and the right to use the mark, and can provide access to the Federal court system, and when registered with U.S. Customs and Border Protection, can be used to stop the importation of infringing goods.

**TTAB Quality Initiative.** TTAB proposes to enhance the quality of its pending matters while enhancing its customer service support.

**Quality Review Unit.** To efficiently and effectively manage the docket and pendency of matters before the TTAB, paralegal specialists issue orders directly to the party or stakeholder under their own signature, dispose of cases that do not require a decision on the merits by the Administrative Trademark Judges (e.g., when complaints or appeals are withdrawn, dismissed for failure to prosecute, when there is a default, and when the parties in *inter partes* proceedings file consented settlements); and accurately docket upcoming deadlines for pending cases, while exercising a complete understanding of all possible procedural paths for appeals and *inter partes* cases.

The number of orders issued by paralegal specialists has been rising since FY 2007 – an average increase of almost 30 percent over FY 2008 through FY 2010 compared to 2007 -- without any standardized sampling and review for quality. It is imperative that these outgoing orders are examined for quality since incorrect or incomplete orders can negatively affect how the case proceeds toward procedural disposition or a final decision on the merits, and can have a major impact on TTAB attorneys or judges who may subsequently work on the case, or on

## FY 2012 President's Budget

parties to the case. Incorrect or incomplete orders often require rework by Board attorneys or counsel for the parties.

In addition to providing quality review ratings and statistics, the Quality Review Unit will be responsible for creating Standard Operating Procedures (SOP) manuals and updates, accessing and making recommendations to managers on training needs, providing training as needed to all paralegals and other administrative support personnel and providing management reports on overall trends in quality. The Quality Review Unit will conduct studies regarding best practices and analyze workflow processes and inconsistencies to optimize the quality of work being performed in the technical area.

**Management and Program Analyst.** Currently, TTAB receives more than 90 percent of its filings electronically, and most filings are available for viewing immediately. This allows customers to search and view the prosecution history and images of filed documents and Board orders in proceedings 24 hours a day. The USPTO is modernizing its IT systems by developing and implementing the Trademark Next Generation IT system, which will include all TTAB IT systems. To support this effort, TTAB will need to work with the Trademark organization to revamp its entire workflow system, define requirements, and provide use cases, user acceptance testing, system administration and training and support to TTAB employees after deployment. This requires the services of an additional management and program analyst position.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$476	\$720	\$800	\$896	\$989
FTE	5	6	6	7	7

**Schedules/Milestones/Deliverables** for the strategic objective to enhance operations of TTAB can be found in the Work Plans identified in the Balanced Scorecard that accompanies the 2010-2015 Strategic Plan.

**Sub-Activity #3: Trademark Information Resources**

The goal to optimize trademark quality and timelines is being accomplished through the following objective and initiatives:

- Modernize IT system by developing and implementing the Trademark Next Generation IT system
  - Address Trademark business needs with a re-architected, virtualized and service-oriented solution
  - Separate Trademark computer-based resources (CBRs) from other CBRs
  - Move to cloud computing based on a sound business case
  - Add functionality to meet the needs of users

**Program Changes for FY 2012:**

Trademark Information Resources (-\$1.0 million): The USPTO requires a change of (\$1.0 million) for a total of \$26.0 million and 65 FTE to manage its capital improvement fund.

**Proposed Actions:**

This program change includes the initiative to continue establishing the Next Generation of Trademark IT capability.

**Statement of Need and Economic Benefits:**

This program change would improve IT infrastructure and tools.

**Trademark IT Capital Improvements.** The USPTO manages its resources to ensure a consistent level of funding for IT capital improvements from year-to-year. These are base resources and do not contain funds for IT operations and maintenance. The capital improvement funds are administered in accordance with USPTO's Capital Planning and Investment Control (CPIC) process.

Specifically in FY 2012, the Trademark Program requires fewer funds to improve its IT capability and continue establishing the next generation of Trademark IT capability.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	(\$950)	(\$867)	(\$6,100)	(\$6,112)	(\$6,071)
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to modernize IT system by developing and implementing the Trademark Next Generation IT system can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *2010-2015 Strategic Plan*.

**PROGRAM CHANGE PERSONNEL DETAIL**

(Dollar amount in thousands)

Activity: Trademarks  
 Subactivity:

<b>Title:</b>	<b>Location</b>	<b>Grade</b>	<b>Number of Positions</b>	<b>Annual Salary</b>	<b>Total Salaries</b>
TM Examiner Attorney	Alexandria, VA	GS 11	4	68,712	274,848
Management and Program Analyst	Alexandria, VA	GS 13	1	100,904	100,904
Supervisory Technical Quality Review Analyst	Alexandria, VA	GS 13	1	97,936	97,936
Technical Quality Review Analyst	Alexandria, VA	GS 11	4	70,794	283,176
<b>Total</b>			<b>10</b>		<b>756,864</b>
less Lapse		27%	2.7		182,531
Total full-time permanent (FTE)			7.3		574,333
2011 Pay Adjustment 0.0%					-
2012 Pay Adjustment 0.0%					-
<b>TOTAL</b>					<b>574,333</b>
<b>Personnel Data</b>			<b>Number</b>		
Full-Time Equivalent Employment					
Full-time permanent			7.3		
Other than full-time permanent			0		
Total			7.3		
Authorized Positions:					
Full-time permanent			10		
Other than full-time permanent			0		
Total			10		



**PROGRAM CHANGE DETAIL BY OBJECT CLASS  
(Dollar amounts in thousands)**

Activity: **Trademarks**

Subactivity:

<b>Object Class</b>	<b>2012 Increase</b>
11 Personnel compensation	
11.1 Full-time permanent	574
11.3 Other than full-time permanent	
11.5 Other personnel compensation	2,132
11.8 Special personnel services payments	
11.9 Total personnel compensation	<u>2,706</u>
12 Civilian personnel benefits	152
13 Benefits for former personnel	
21 Travel and transportation of persons	5
22 Transportation of things	
23.1 Rental payments to GSA	
23.2 Rental payments to others	-
23.3 Communications, utilities and miscellaneous charges	(3)
24 Printing and reproduction	(1)
25.1 Advisory and assistance services	-
25.2 Other services	(888)
25.3 Purchases of goods & services from Gov't accounts	
25.4 Operation and maintenance of facilities	
25.5 Research and development contracts	
25.6 Medical care	
25.7 Operation and maintenance of equipment	
25.8 Subsistence and support of persons	
26 Supplies and materials	20
31 Equipment	48
32 Lands and structures	
33 Investments and loans	
41 Grants, subsidies and contributions	
42 Insurance claims and indemnities	
43 Interest and dividends	-
44 Refunds	
99 Total obligations	<u>2,040</u>

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**INTELLECTUAL PROPERTY POLICY,  
PROTECTION AND ENFORCEMENT  
PROGRAM**

Department of Commerce  
U.S. Patent and Trademark Office

**Intellectual Property Policy Protection and Enforcement Program**  
**PROGRAM AND PERFORMANCE: TOTAL OBLIGATIONS**

(Dollar amounts in thousands)

Activity:	Intellectual Property Policy	FY 2010		FY 2011		FY 2012		FY 2012		Increase (Decrease)
		Actuals		Current Plan		Base		Estimate		
Sub-Activity:		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel
Policy and Administrative Support *	Pos./Obl	55	16,976	54	14,714	54	15,190	66	20,150	12
	FTE	47		52		53		63		10
Governmental Affairs	Pos./Obl	8	1,211	10	1,680	10	1,811	10	1,811	-
	FTE	8		9		10		10		-
Global Intellectual Property Academy (GIPA) *	Pos./Obl	16	659	16	7,621	16	7,768	16	7,768	-
	FTE	15		16		16		16		-
IPR Attaché Program *	Pos./Obl	2	6,918	7	7,849	7	7,939	7	9,041	-
	FTE	2		7		7		7		-
IP PP&E Information Resources	Pos./Obl		70		40		41		530	
	FTE									
Subtotal Direct	Pos./Obl	81	25,834	87	31,904	87	32,748	99	39,300	12
	FTE	72	0	84	0	86	0	95	0	10
Management Goal - Allocated	Pos./Obl	75	22,879	94	28,643	94	29,635	106	31,755	12
	FTE	73		83		87		96		9
<b>Total</b>	Pos./Obl	156	48,713	181	60,547	181	62,384	205	71,054	24
	FTE	145		167		173		191		18

\* Prior to FY 2011 Global Intellectual Property Academy (GIPA) and IPR Attaché Programs were included in Policy and Administrative Support

## **Exhibit 12 – Justification of IP Policy, Protection and Enforcement Program and Performance**

### **Appropriation Account: Salaries and Expenses**

#### **Budget Activity: Intellectual Property Policy, Protection & Enforcement (IP PP&E) Program**

For FY 2012, the USPTO requires an increase of \$10.5 million and 25 FTE over the FY 2011 Current Plan (\$8.7 million and 18 FTE over the FY 2012 base program for a total of \$71.1 million and 191 FTE for the IP PP&E Program.

#### **Base Justification for FY 2012:**

The USPTO's IP PP&E Program, through its strategic goal to provide global leadership to improve IP policy, protection and enforcement worldwide, supports the Department's strategic objective to expand international markets for U.S. firms and inventors by improving the protection and enforcement of IP rights.

The USPTO strategic goal will be met by achieving the following objectives as set forth in the *2010-2015 Strategic Plan*:

- Provide Domestic Leadership on IP Policy Issues and Development of a National IP Strategy
- Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights

The base IP PP&E Program consists of the following six sub-activities that are described below. This program and its sub-activities directly or indirectly contribute to the attainment of the strategic goal and objectives:

- Sub-Activity #1: Policy and Administrative Support
- Sub-Activity #2: Governmental Affairs
- Sub-Activity #3: Global Intellectual Property Academy (GIPA)
- Sub-Activity #4: Intellectual Property Rights Attaché Program
- Sub-Activity #5: IP PP&E Information Resources
- Sub-Activity #6: Management Goal -- Allocated

#### **Sub-Activity #1: Policy and Administrative Support (\$15.2 million and 53 FTE)**

The Administrator for Policy and External Affairs (P/EA) is the principal advisor to the Under Secretary on public policy matters relating to IP protection including proposed legislation and international activities of the United States. P/EA includes attorneys in various subject matter fields (trade, enforcement, patents, copyright, and trademarks) who perform the policy and representation work, representation travel, and all program analysts and a number of administrative coordinators who support the entire office.

#### **Intellectual Property Policy**

P/EA plays a critical role in the U.S. Government's (USG) efforts and obligations to provide IP technical assistance throughout the world, which includes providing policy advice, and defining a course or method of action that is intended to guide and determine present and future decisions on IP.

P/EA participates in the World Intellectual Property Organization (WIPO), a specialized agency of the United Nations (UN) devoted to IP matters. WIPO has standing committees devoted to IP

## FY 2012 President's Budget

law. The USPTO initiates, crafts, coordinates, negotiates, and represents the USG position. The P/EA also participates in the World Trade Organization (WTO), which is an international forum for liberalizing trade. The United States is a member and has worked to include a substantial IP component known as Trade-Related Aspects of IP (TRIPS) agreement. The USPTO provides technical expertise in IP dispute-settlement cases before the WTO, in support of and at the request of the office of the U.S. Trade Representative (USTR). The USPTO has been the USG's IP technical representative in several cases, most recently in the USG's successful copyright challenge to certain aspects of China's IP regime. P/EA also participates at the World Health Organization (WHO), which is the directing and coordinating authority for health within the UN system. IP issues surround access to medicines for influenza pandemics, among others.

P/EA's statutory obligation to provide IP guidance and advice to the Administration with respect to international IP policy and protection includes bilateral, regional, and multilateral IP discussions, and IP-Office cooperation leading directly to patent work sharing. These efforts benefit the USG and U.S. interests, especially American companies and entities seeking to do business overseas, by ensuring the availability and enforceability of IP rights, thereby leveling the playing field for U.S. IP-based trade. Some of these initiatives include supporting Free Trade Agreement (FTA) and Trilateral cooperative activities, and working to simplify and harmonize administrative and technical processing of patent and trademark applications.

P/EA also coordinates patent cooperative activities with the Japan Patent Office (JPO), the European Patent Office (EPO), the Korean IP Office, and the State IP Office of the Peoples Republic of China (PRC) through the IP5, which lead to work-sharing and patent prosecution highway projects that will help address the patent backlog.

### **Chief Economist**

The Chief Economist (CE) is the primary advisor to the Under Secretary regarding all economic issues at the USPTO. The CE undertakes research that influences and guides USPTO regulatory initiatives and policy recommendations with respect to the broader functioning of IP systems. This involves long-term research and policy planning on an ongoing basis. The CE assists the USPTO and other USG agencies by evaluating market data and trends to assist in targeting examination, enforcement, and outreach resources. The CE also conducts research into the causes and consequences of significant developments in U.S. markets, prevailing practices among users and producers of IP, and U.S. IP policy.

### **Sub-Activity #2: Office of Governmental Affairs (OGA) (\$1.8 million and 10 FTE)**

OGA formulates legislative and policy proposals, and prepares supporting documentation to carry out the legislative and policy proposals, as well as supporting documentation to carry out the legislative programs and policy of USPTO. Staff also reviews and prepares analyses of legislative proposals concerning IP matters that originated in other executive agencies or that were proposed by members of Congress. The OGA prepares Congressional testimony on IP for the Under Secretary, and other USPTO and Departmental officials, and maintains liaison with Congress, the IP bar associations, industry, and others concerned with proposed and pending legislation. The office analyzes other IP-related policy issues that are before the Executive Branch and obtains public views through various means, including public hearings. The mission of the office is to advance the legislative agenda of the Under Secretary; generate goodwill; provide education and outreach; prepare for hearings and legislation; manage responses to Congressional inquiries; and liaison with main Commerce and other agencies.

### **Sub-Activity #3: Global Intellectual Property Academy (GIPA) (\$7.8 million and 16 FTE)**

GIPA provides training, technical assistance and capacity building programs and activities to foreign government officials from other IP offices or other foreign government officials responsible for IP enforcement policy or law enforcement, such as customs officials, police officers, IP enforcement office administrators, public prosecutors, and members of the judiciary as well as U.S. right holders. These programs focus on the protection and enforcement of IP rights, and are conducted by P/EA attorneys and subject matter experts from other USG agencies invited as speakers.

Specific programs include:

- High-level capacity building and technical assistance training to foreign government officials (judges, prosecutors, customs officials, IP enforcement personnel, as well as officials from IP offices).
- Providing patent officials from other countries with patent examiner training at the Patent Training Academy, with financial support from those countries.
- Conducting an advanced trademark examination program for examiners from other IP offices, such as Brazil and India. The program provides the senior examiners with an in-depth analysis of the U.S. approach to the examination of trademark applications.
- Organizing and hosting capacity-building joint projects, such as those conducted with the Asia Pacific Economic Cooperation (APEC); the Association of South East Asian Nations (ASEAN); and the Pacific Islands Forum (PIF) capacity-building events.
- Conducting study tour programs on IP rights enforcement and the U.S. legal system for foreign government judges and prosecutors.

### **Sub-Activity #4: Intellectual Property Rights (IPR) Attaché Program (\$7.9 million and 7 FTE)**

The attaché program was formally instituted in 2006 to promote the value and importance of strong IP protection and enforcement internationally for the benefit of U.S. foreign, economic and political interests. Since its creation, the IPR Attaché Program has placed individuals in seven countries: Brazil, China (posts exist in both Beijing and Guangzhou), Egypt, India, Russia, Switzerland, and Thailand. There are currently attachés at all posts except Egypt and Russia. The IPR Attaché Program is closely aligned with and supports achievement of USPTO's mission, the IP PP&E strategic goal, and the objectives identified in the *2010-2015 Strategic Plan*. The IPR Attachés bring unique technical IP expertise and experience to their posts. Attachés have helped influence laws, regulations, and IPR practices in their host countries.

### **Sub-Activity #5: IP PP&E Information Resources (\$0.04 million)**

IP PP&E Information Resources include a minimal level of base resources for making capital improvements to, as well as operating and maintaining existing IP PP&E systems. The most noteworthy business system is related to an on-site library that is used by the USPTO staff and the public. The library contains files for over 200 separate countries, legislative files, subject files, Federal Register notices, public hearings and comments, and treaties and agreements. The system used to store and access this library is called the Office of Legislative and International Affairs Document System (OLIADS).

### **Sub-Activity #6: Management Goal – Allocated (\$29.6 million and 87 FTE)**

This sub-activity represents all of the management activities that support accomplishment of the IP PP&E goal. These can be specifically IP PP&E related or cross-cutting functions that are

## **FY 2012 President's Budget**

dedicated to overall USPTO activities, such as financial management systems. These activities are described under the Management Goal while the costs are allocated to the IP PP&E program based on the Agency's ABI analysis and results.

### **Significant Adjustments to Base (ATBs):**

The USPTO requests a net increase of 6 FTEs and \$1.8 million to fund adjustments to current programs for the IP PP&E Program activities. This increase will provide the annualization of the FTE increase and will also provide inflationary increases for non-labor activities, including service contracts, utilities, lease payments, and rent charges from the GSA.



**IP PP&E Performance Goal and Measurement Data:**

<i>(Dollars in thousands)</i>	FY 2010 Actuals	FY 2011 Current Plan	FY 2012 Estimate	FY 2013 Estimate	FY 2014 Estimate	FY 2015 Estimate	FY 2016 Estimate
Percent of prioritized countries for which country teams have implemented at least 75% of action steps in the country-specific action plans toward progress along following dimensions: 1. Institutional improvements of IP office administration for advancing IP rights 2. Institutional improvements of IP enforcement entities 3. Improvements in IP laws and regulations 4. Establishment of government-to-government cooperative mechanisms	75%	75%	75%	75%	75%	75%	75%
Without funding	NA	NA	50%	50%	50%	50%	50%

## Exhibit 13 – 15: IP Policy, Protection and Enforcement Program Changes by Sub-Activity

Exhibit 13

Department of Commerce  
U.S. Patent and Trademark Office  
**INCREASES FOR 2012\***  
(Dollar amounts in thousands)

		2012 Base		2012 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Direct Total, Intellectual Property Policy, Protection and Enforcement</b>	<b>Pos./Obl.</b>	<b>87</b>	<b>32,748</b>	<b>99</b>	<b>39,300</b>	<b>12</b>	<b>6,551</b>
	<b>FTE</b>	<b>86</b>	<b>-</b>	<b>95</b>	<b>-</b>	<b>10</b>	<b>-</b>
<i>Policy and Administrative Support</i>	<i>Pos./Obl.</i>	<i>59</i>	<i>15,190</i>	<i>66</i>	<i>20,150</i>	<i>12</i>	<i>4,960</i>
	<i>FTE</i>	<i>63</i>	<i>-</i>	<i>63</i>	<i>-</i>	<i>10</i>	<i>-</i>
Chief Economist: Development of IP Social Science Data Base	Pos./Obl.					1	598
	FTE					1	
Chief Economist: Economic Research Projects Fund	Pos./Obl.					1	1,098
	FTE					1	
Chief Economist: Public Awareness Meetings	Pos./Obl.					1	603
	FTE					1	
Policy and External Affairs – Staff for Existing and Projected Workload	Pos./Obl.					9	2,662
	FTE					7	
<i>IPR Attaché Program</i>	<i>Pos./Obl.</i>	<i>7</i>	<i>7,939</i>	<i>7</i>	<i>9,041</i>	<i>-</i>	<i>1,102</i>
	<i>FTE</i>	<i>7</i>	<i>-</i>	<i>7</i>	<i>-</i>	<i>-</i>	<i>-</i>
Posting of IP Attachés	Pos./Obl.	-				-	1,102
	FTE	-				-	
<i>IP PP&amp;E Information Resources</i>	<i>Pos./Obl.</i>	<i>-</i>	<i>41</i>	<i>-</i>	<i>530</i>	<i>-</i>	<i>489</i>
	<i>FTE</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>
IP PP&E – IT Capital Improvements	Pos./Obl.					-	489
	FTE					-	

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR FISCAL YEARS 2012-2016  
(Dollar amounts in thousands)

		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Intellectual Property Policy, Protection and Enforcement	Pos./Obl	12	6,551	12	7,132	121	7,391	12	7,661	12	7,948
	FTE	10	-	12	-	12	-	12	-	12	-
<i>Policy and Administrative Support</i>	Pos./Obl	12	4,960	12	5,474	12	5,662	12	5,861	12	6,071
	FTE	10	-	12	-	12	-	12	-	12	-
		-	-								
Chief Economist: Development of IP Social Science Data Base	Pos./Obl	1	598	1	645	1	657	1	670	1	682
	FTE	1	-	1	-	1	-	1	-	1	-
Chief Economist: Economic Research Projects Fund	Pos./Obl	1	1,098	1	1,137	1	1,140	1	1,144	1	1,147
	FTE	1	-	1	-	1	-	1	-	1	-
Chief Economist: Public Awareness Meetings	Pos./Obl	1	603	1	712	1	826	1	952	1	1,086
	FTE	1	-	1	-	1	-	1	-	1	-
Policy and External Affairs – Staff for Existing and Projected Workload	Pos./Obl	9	2,662	9	2,979	9	3,038	9	3,096	9	3,157
	FTE	7	-	9	-	9	-	9	-	9	-
<i>IPR Attaché Program</i>	Pos./Obl	-	1,102	-	1,154	-	1,208	-	1,264	-	1,324
	FTE	-	-	-	-	-	-	-	-	-	-
Posting of IP Attachés	Pos./Obl	-	1,102	-	1,154	-	1,208	-	1,264	-	1,324
	FTE	-	-	-	-	-	-	-	-	-	-
<i>IP PP&amp;E Information Resources</i>	Pos./Obl	-	489	-	505	489	520	505	536	520	553
	FTE	-	-	-	-	-	-	-	-	-	-
IP PP&E – IT Capital Improvements	Pos./Obl	-	489	-	505	-	520	-	536	-	553
	FTE	-	-	-	-	-	-	-	-	-	-

### **Sub-Activity #1: Policy and Administrative Support**

The goal to improve IP policy, protection and enforcement will be achieved by carrying out the following objectives, either through base resources or with the funding requirements identified and documented below.

- Provide Domestic Leadership on IP Policy Issues and Development of a National IP Strategy
  - Provide policy formulation in all fields of IP protection and enforcement
  - Provide ongoing policy guidance on key IP issues
  - Provide domestic education outreach, knowledge enhancement and capacity building
  - Engage U.S. Government agencies and Congress on legislation that improves the IP system
- Improve Employee and Stakeholder Relations by recruiting, developing, training and retaining a highly-skilled diverse workforce

#### **Program Changes for FY 2012:**

Provide Domestic Leadership on IP Policy Issues and Development of a National IP Strategy, and Improve Relations with Employees (+\$5.0 million and + 10 FTE): The USPTO requests an increase of \$5.0 million and 10 FTE to provide policy formulation in all fields of IP protection and enforcement through the research and studies of the Office of the Chief Economist, and recruiting additional staff for existing and projected workload.

This request supports the Department's Economic Growth goal to expand international markets for U.S. firms and inventors by improving the protection and enforcement of IP rights.

#### **Proposed Actions:**

Funds would be used to provide the empirical basis for building awareness by investigating, documenting, and understanding the interplay of ideas and economic growth. This will establish a framework capable of analyzing the growth of an economy increasingly dominated by conceptual products.

Funds would be used to recruit, develop, train and retain a highly-skilled diverse workforce. This will be achieved through this budget request by providing the resources to ensure that organizations are adequately staffed to meet current and projected workload levels.

#### **Statement of Need and Economic Benefits:**

The USPTO is committed to raising public awareness, both domestically and internationally, of the link between IP rights protection, innovation, exports, and economic growth.

To fulfill its responsibility in promoting innovation and competitiveness, the USPTO must work to ensure that U.S. IP systems continually adapt to new technological advances; that foreign IP offices similarly adapt and improve their IP systems; that efforts to adapt and improve IP systems are based on the best available data; and that the IP rights of United States' businesses are protected at home and abroad.

Chief Economist: Development of IP Social Science Data Base. Funds are required to develop an IP social science database. The tangible output -- the creation of an *Interagency IP Economics Research Dataset* -- is envisioned to be hosted at the U.S. Census Research Data Centers (not at the USPTO), but fully available to researchers at the USPTO for internal studies. This *Dataset* will improve the ability of the USPTO to conduct its duties to advise the President and other entities in the USG, accomplish its mandate to inform the public with respect to patents and trademarks, forecast its resource needs, and better understand and predict the economic consequences of patent and trademark policy. As such, the creation of such a

dataset directly supports the mission of the Agency to deliver “intellectual property information and education worldwide....”

The Office of the Chief Economist (OCE) has been tasked with producing rigorous, data-driven studies on the role of IP in promoting innovation, jobs, and economic growth. Rigor in economic work requires the *best available data*, and the best available data would be produced by creating a match between the data in the USPTO and data contained in other departments of USG concerning the economic performance of the entities that choose to use the IP system.

Moreover, the creation of the dataset will aid in the achievement of a number of other objectives, including work on a White Paper on U.S. Innovation and Creativity, formulation of datasets for use in developing the U.S. National IP Strategy, and work with other key federal agencies involved in innovation policy issues.

In cooperation with other USG agencies, such as the DOC Census Bureau, Internal Revenue Service, National Science Foundation, and Library of Congress, we will create an enterprise-level dataset which will match information on patents, trademarks, and copyrights to enterprises and economic-performance information related to these entities. With the rich set of data available from Census and the IRS (such as employment, income, and assets), we will allow researchers to conduct cutting-edge, rigorous research that will have implications for all aspects of our mission. Since these data will likely include sensitive information, we plan to utilize Census’ regional “Census Research Data Centers” (RDCs) that restricts access to researchers who can demonstrate an actual need for the data, and ensure that outputs protect the privacy of individuals and entities. To the extent possible, we will ensure that other non-sensitive data is distributed to the public more widely.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$598	\$645	\$657	\$670	\$682
FTE	1	1	1	1	1

**Chief Economist: Economic Research Projects Fund.** Funds are required to establish an economic Research Projects Fund, which will substantially improve the ability of the USPTO to conduct its duties to advise the President and other entities in the USG, while also accomplishing its mandate to inform the public with respect to patents and trademarks. Such a fund would provide the Agency with a means of conducting programs and studies relating to IP policy.

The USPTO lacks adequate resources to investigate all the topics of interest to the Agency. The creation of a Research Projects Fund recognizes and leverages the talent, ideas, knowledge, and skills that exist outside the USPTO in individuals, universities, and other non-governmental organizations.

Given the demonstrated importance of high-quality IP to innovation and competitiveness, the USPTO must gather data on American innovation, and how IP rights function in the marketplace and optimize the interaction of the IP system with other legal regimes. A call for research project proposals that address this area of economic research will be made public and separate projects will be funded. The number and scope of the projects, whether one-year or multi-year, will be determined in response to the proposals received. One new IP Program Manager will be hired to oversee the various projects, funding, contract oversight, and reporting.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$1,098	\$1,137	\$1,140	\$1,144	\$1,147
FTE	1	1	1	1	1

**FY 2012 President's Budget**

**Chief Economist: Public Awareness Meetings.** Funds are required to create a series of public awareness meetings that are intended to inform the public and collect reactions and information about the planned 2012 USPTO Economics White Paper on “Intellectual Property and Job Creation.” These meetings will substantially improve the ability of the USPTO to conduct its duties to inform the public with respect to patents and trademarks. In addition, collecting information at various public meetings will improve the Agency’s ability to advise the President and other entities in the USG on IP rights.

Funds are required for a series of 10 public meetings each year across the United States meant to both educate the public on the economic impact of the USPTO and IP more generally, as well as to take public comment.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$603	\$712	\$826	\$952	\$1,086
FTE	1	1	1	1	1

**Policy and External Affairs – Staff for Existing and Projected Workload.** Funds are required to fill nine positions to meet current and future workload demands. This includes an anticipated increase in demand for policy and trade advice by the USTR in order to fully implement the President’s trade agenda. P/EA serves at the call of USTR for trade negotiations or delivery of IP enforcement training to promote capacity building. Delivery of this policy advice to USTR for trade negotiations and providing training in accordance with a number of Treaty obligations (WTO, TRIPS, various FTAs, Central American Free Trade Agreement (CAFTA), Anti-Counterfeiting Trade Agreement (ACTA) is a critical part of fulfilling the IP PP&E goal and objectives. Funds are also required for positions for the GIPA, to pursue funding from the U.S. Agency for International Development (USAID) for joint programs, and to meet the programmatic demands and increased work loads.

Examples of the increased or new work include:

- In conjunction with USTR, work on the Trans-Pacific Partnership and, upon completion, provide IP training and technical assistance to other countries joining the treaty.
- Work with Department of State’s International Narcotics and Law Enforcement (INL), particularly for capacity building training.
- Support increased training and technical assistance obligations under the ACTA that USTR has recently concluded negotiating.
- The White House is pursuing Congressional approval of Trade Promotion Authority, and we anticipate an accelerated amount of FTA activity including completion of negotiations with Panama, Korea, Colombia and Malaysia.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$2,662	\$2,979	\$3,038	\$3,096	\$3,157
FTE	7	9	9	9	9

**Schedules/Milestones/Deliverables** for the strategic objective to provide domestic leadership on IP policy issues and development of a national IP strategy can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *2010-2015 Strategic Plan*.

**Sub-Activity #4: Intellectual Property Rights Attaché Program**

The goal to improve IP policy, protection and enforcement will be achieved by carrying out the following objective, either through base resources or with the funding requirements identified and documented below.

- Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights
  - Lead efforts at WIPO and other international fora to improve IP protection and enforcement
  - Prioritize countries of interest for purposes of improved IP protection and enforcement, capacity building, legislative reform, including creation of country/region strategic plans and specific action plans
  - Improve efficiency and cooperation in global IP systems
  - Provide international IP advice and expertise to other USG Agencies
  - Provide technical expertise in the negotiation and implementation of bilateral and multilateral agreements that improve IP rights protection and enforcement
  - Create USPTO and attaché integrated action plans that focus on country-specific needs and interagency cooperation

**Program Changes for FY 2012:**

Posting of IP Attachés (+\$1.1 million): The USPTO requires an increase of \$1.1 million to expand the IPR Attaché program.

**Proposed Actions:**

The USPTO proposes to expand the IPR Attaché program in order to focus on Sub-Sahara Africa, and Mexico and countries in Central America.

**Statement of Need and Economic Benefits:**

The USPTO created its IPR attaché program to address country-specific and regional IP problems in key parts of the world. The primary responsibilities of the attachés are: advancing U.S. policy abroad; dialoguing with foreign counterparts on IP issues; providing training and technical assistance for foreign counterparts; supporting U.S. companies and right holders abroad; facilitating enforcement of IP laws and regulations; and promoting public awareness of IP issues. The work done by some of the current attachés has resulted in collaborative efforts with the host country IP offices which, ultimately, will help reduce patent pendency in the United States. Three agreements that have been signed as a result of the efforts between the IP attachés in-country and USPTO personnel, and the host countries, merit mentioning: Russia – the primary focus of a recently signed MOU with Rospatent will be to raise awareness for IP protection, and to build work-sharing programs, including a Patent Prosecution Highway (PPH) agreement, in order to reduce backlogs and shorten patent pendency; China – a PPH pilot program is slated to begin as a result of the MOU; and Brazil – the MOU focuses on cooperative efforts between two agencies on matters related to the acquisition, utilization, and protection of IP rights.

**Posting of IP Attachés.** Funds required for FY 2012 would be used to expand the program as follows:

Sub-Sahara Africa figures prominently in much of the technical assistance and training P/EA is tasked with as part of treaty and trade agreement obligations focusing on least developed countries (LDCs). This posting would replace the IP attaché position that previously had been posted to Cairo, Egypt. The funding for that position was voluntarily given up by P/EA in FY 2008.

## FY 2012 President's Budget

Mexico and the other countries in Central America comprise a region in which USPTO has major technical assistance and training obligations in association with the CAFTA and the North American Free Trade Agreement (NAFTA). In addition to the responsibilities contained in those two treaties, we have a different but related responsibility to assist developing and LDCs to obtain membership in the WTO in order to enjoy the trading benefits of membership. We have responsibilities to assist these countries in revising their IP laws to comply with WTO requirements and to train examiners in their patent and trademark offices to international standards. Much of the training can be accomplished at the regional level, using Spanish as the standard regional language, thereby minimizing costs while taking advantage of centralization.

Posting is for a three to five year period. When USPTO employees are posted, during their time abroad they leave the USPTO, and become Foreign Commercial Service (FCS) employees with full return rights to the USPTO. Costs other than salary and benefits include program funds to conduct training and technical assistance, travel within the region, Embassy office space rental, charges for security within the Embassy and other International Cooperative Administrative Support Services charges associated with Embassy space, housing and education allowances for attaché children of school age. FCS suggests budgeting at the rate of 4.7 percent increase per year.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$1,102	\$1,154	\$1,208	\$1,264	\$1,324
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to provide leadership on international policies for improving the protection and enforcement of IP rights can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *2010-2015 Strategic Plan*.



**Sub-Activity #5: IP PP&E Information Resources**

The strategic goal to provide global leadership to improve IP policy, protection and enforcement is being accomplished through the following objective and initiatives:

- Improve IT Infrastructure and Tools
  - Improve the user experience

**Program Changes for FY 2012:**

IP PP & E Information Resources (+\$0.5 million): The USPTO requires a change of \$0.5 million for a total of \$0.5 million to improve IT tools.

**Proposed Actions:**

This program change includes the initiative to continue ensuring the effective use of IT systems for the accomplishment of this goal.

**Statement of Need and Economic Benefit:**

This program change would improve the user experience.

IP PP&E IT Capital Improvements. The USPTO manages its resources to ensure a consistent level of funding for IT capital improvements from year-to-year. These are base resources and do not contain funds for IT operations and maintenance. The capital improvement funds are administered in accordance with the USPTO’s Capital Planning and Investment Control (CPIC) process.

Specifically in FY 2012, in support of improving IT capability for the IP PP&E program, capital improvement funds will be used to make the P/EA library -- containing country files for over 200 separate countries, legislative files, subject files, Federal Register notices, public hearings and comments, and treaties and agreements -- accessible to staff stationed abroad by means of a secure connection via the USPTO Web Site.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$489	\$505	\$520	\$536	\$553
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to improve IT infrastructure and tools can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *2010-2015 Strategic Plan*.

**PROGRAM CHANGE PERSONNEL DETAIL**

(Dollar amount in thousands)

Activity: IP PP&E

Subactivity:

<b>Title:</b>	<b>Location</b>	<b>Grade</b>	<b>Number of Positions</b>	<b>Annual Salary</b>	<b>Total Salaries</b>
Attorney Advisor	Alexandria, VA	GS 15	5	140,259	701,295
Program Analyst	Alexandria, VA	GS 13	1	100,904	100,904
Conference Coordinator	Alexandria, VA	GS 12	1	84,855	84,855
Administrative Coordinator	Alexandria, VA	GS 9	2	58,511	117,022
IT Specialist	Alexandria, VA	GS 14	1	105,211	105,211
IP Program Manager	Alexandria, VA	GS 14	2	105,211	210,422
<b>Total</b>			<b>12</b>		<b>1,319,709</b>
less Lapse		25%	2		329,927
Total full-time permanent (FTE)			10		989,782
2011 Pay Adjustment	0.0%				-
2012 Pay Adjustment	0.0%				-
<b>TOTAL</b>					<b>989,782</b>

**Personnel Data**

	<b>Number</b>
Full-Time Equivalent Employment	
Full-time permanent	10
Other than full-time permanent	0
Total	10
Authorized Positions:	
Full-time permanent	12
Other than full-time permanent	0
Total	12

**PROGRAM CHANGE DETAIL BY OBJECT CLASS**  
**(Dollar amounts in thousands)**

Activity: **IP PP&E**

Subactivity:

<b>Object Class</b>	<b>2012 Increase</b>
11 Personnel compensation	
11.1 Full-time permanent	990
11.3 Other than full-time permanent	
11.5 Other personnel compensation	40
11.8 Special personnel services payments	
11.9 Total personnel compensation	<u>1,030</u>
12 Civilian personnel benefits	237
13 Benefits for former personnel	
21 Travel and transportation of persons	375
22 Transportation of things	-
23.1 Rental payments to GSA	-
23.2 Rental payments to others	-
23.3 Communications, utilities and miscellaneous charges	-
24 Printing and reproduction	5
25.1 Advisory and assistance services	-
25.2 Other services	4,649
25.3 Purchases of goods & services from Gov't accounts	180
25.4 Operation and maintenance of facilities	
25.5 Research and development contracts	
25.6 Medical care	
25.7 Operation and maintenance of equipment	
25.8 Subsistence and support of persons	
26 Supplies and materials	24
31 Equipment	51
32 Lands and structures	
33 Investments and loans	
41 Grants, subsidies and contributions	
42 Insurance claims and indemnities	
43 Interest and dividends	-
44 Refunds	
99 Total obligations	<u>6,551</u>

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# **MANAGEMENT PROGRAM**

**Department of Commerce**  
**U.S. Patent and Trademark Office**  
**MANAGEMENT PROGRAM**  
**PROGRAM AND PERFORMANCE: DIRECT OBLIGATIONS**  
(Dollar amounts in thousands)

Activity:	Management Program	FY 2010		FY 2011		FY 2012		FY 2012		Increase/	
		Actuals		Current Plan		Base		Estimate		(Decrease)	
Sub-Activity:		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Executive Direction and Communications	Pos./Obl	34	3,983	49	4,603	49	4,885	55	6,524	6	1,640
	FTE	25		30		32		36		5	-
Financial Management Services	Pos./Obl	85	16,483	101	19,122	101	18,987	109	19,961	8	974
	FTE	85		95		94		98		4	-
Human Resource Management and Administrative Services	Pos./Obl	172	29,511	196	34,786	196	36,400	211	41,988	15	5,588
	FTE	168		185		196		208		12	
Legal Services	Pos./Obl	71	12,940	87	14,683	87	15,416	111	19,350	24	3,933
	FTE	76		82		86		104		18	-
Management Information Resources	Pos./Obl	98	16,700	109	29,834	115	30,162	117	39,563	2	9,401
	FTE	99		103		111		112		1	-
IT Infrastructure and IT Support Services	Pos./Obl	245	184,956	277	261,073	269	264,759	289	248,333	20	(16,426)
	FTE	251		262		269		279		10	
Miscellaneous General Expense	Pos./Obl	0	193,104	0	234,073	0	241,305	0	241,305	-	(0)
	FTE	0		0		0		0		-	-
<b>Total</b>	Pos./Obl	706	457,677	818	598,174	816	611,914	891	617,023	75	5,109
	FTE	703		757		787		838		51	
<b>Management Goal - Allocation:</b>											
Patent Program	Pos./Obl	518	371,844	591	490,052	590	501,227	648	502,923	58	1,696
	FTE	519	0	554	0	576	0	615	0	39	0
Trademark Program	Pos./Obl	113	62,954	133	79,479	132	81,051	137	82,346	5	1,294
	FTE	111	0	120	0	124	0	127	0	3	0
IPPP&E Program	Pos./Obl	75	22,879	94	28,643	94	29,635	106	31,755	12	2,119
	FTE	73	0	83	0	87	0	96	0	9	0
Total Management Goal Allocation	Pos./Obl	706	457,677	818	598,174	816	611,914	891	617,023	75	5,109
	FTE	703		757		787		838		51	

## Exhibit 12 – Management Program and Performance

### Appropriation Account: Salaries and Expenses

#### **Budget Activity: Management Program**

The costs associated with the management program activities have already been allocated to the Patent, Trademark, and IP PP&E programs. In total for FY 2012, the USPTO requires an increase of \$18.8 million and 81 FTE over the FY 2011 Current Plan (\$5.1 million and 51 FTE over the FY 2012 base program) for a total of \$617.0 million and 838 FTE for the Management Program.

#### **Base Justification for FY 2012:**

The USPTO's Management Program, through its strategic goal to achieve organizational excellence, enables the USPTO to carry out its mission and accomplish its goals and objectives. The USPTO's management goal is consistent with the Department of Commerce management themes of: customer service, organizational excellence, and workforce excellence.

This strategic goal will be met by achieving the following management objectives as set forth in the *USPTO 2010-2015 Strategic Plan*:

- Improve IT Infrastructure and Tools
- Implement a Sustainable Funding Model for Operations
- Improve Employee and Stakeholder Relations

The Management Program Activity (\$611.9 million and 787 FTE) is organized into the following seven sub-activities which are described below. This Program and its sub-activities are dedicated to carrying out the Agency's mission in a manner that meets all Federal rules and regulations, and is consistent with sound resource management, solid workforce planning, corporate support services, and effective use of IT.

- Sub-Activity #1: Executive Direction and Communications
- Sub-Activity #2: Financial Management Services
- Sub-Activity #3: Human Resource Management and Administrative Services
- Sub-Activity #4: Legal Services
- Sub-Activity #5: Management Information Resources
- Sub-Activity #6: IT Infrastructure and IT Support Services
- Sub-Activity #7: Miscellaneous General Expense

NOTE: Management Program funding includes the base resources required by these sub-activities in FY 2012. These funds are then allocated to the USPTO's Patent, Trademark, and IP PP&E Programs using the Agency's ABI results.

#### **Sub-Activity #1: Executive Direction and Communications (\$4.9 million and 32 FTE)**

Executive Direction and Communications entail determining the policies and directing the programs of the USPTO. The Under Secretary and Director receives advice from the Patent Public Advisory Committee and the Trademark Public Advisory Committee on office policies, goals, performance, budget, and user fees. Communications entails media relations and speech writing; business liaison, outreach and community relations; internal communications; and museum services, special events, and web services.

### **Sub-Activity #2: Financial Management Services (\$19.0 million and 94 FTE)**

Financial Management Services contributes to the efficient and effective management of organizational resources in support of the strategic goals by:

- Ensuring that USPTO's annual performance supports the strategic plan, that the budget is efficiently and effectively formulated and executed to achieve optimal performance levels across all business units, and actionable information is provided to executive management.
- Awarding quality, fiscally responsible and timely procurement actions by anticipating and exceeding stakeholders' ever-changing needs with their knowledge of business practices and market dynamics, innovative strategies, and well defined and standardized processes.
- Implementing and managing financial accounting and control systems, collecting financial data, and analyzing financial reports leading to sound financial decisions. These activities have enabled the USPTO to earn an unqualified audit opinion on its annual financial statements for 18 consecutive years, and the Association of Government Accountants' Certificate of Excellence in Accountability Reporting award for eight consecutive years.

### **Sub-Activity #3: Human Resource Management and Administrative Services (\$36.4 million and 196 FTE)**

Efficient and effective human resources management entails:

- Developing and implementing a comprehensive strategic human capital plan to enable the USPTO to attract and retain an inclusive workforce at the optimum level required by business units. This includes hiring large numbers of patent examiners, as well as staff for other organizations, and focusing on talent management, results-oriented performance culture, leadership, and development.
- Continuing and expanding the award winning telework programs, and creating a long-distance telework pilot to facilitate employee recruitment, training, and retention.

Efficient and effective administrative services entail providing an environment that creates a productive and safe workplace. This is accomplished by:

- Overseeing a broad range of administrative and employee service programs (i.e., security and safety, facilities management, printing and graphics, mail center operations, move services, transportation services, conference services, and file repository) responsive to the needs of the USPTO workforce.
- Administering facility related discussions with multiple landlords, and in partnership with GSA, negotiating multiple leases to ensure a safe environment for the USPTO staff and visitors.
- Developing program office policy and procedural guidance, and providing agency liaison with the local government and city officials.

### **Equal Employment and Diversity**

The promotion of equal employment opportunity and a diverse workforce is achieved by providing: reasonable accommodation of disabilities, strategic affirmative employment, special emphasis programs, workforce diversity, EEO complaints processing and alternative dispute resolution processing, and facilitating identification, recruitment, development, and retention of a diverse and multicultural work force.

### **Sub-Activity #4: Legal Services (\$15.4 million and 86 FTE)**

Legal services provided by the offices under the General Counsel entail:

- Serving as legal counsel to the USPTO on IP law matters, and working in collaboration with the DOC on interagency IP law matters. Primary responsibilities of the Solicitor's Office



include defending decisions by the BPAI and the TTAB before the United States Court of Appeals for the Federal Circuit and the federal district courts; representing the Under Secretary in district court actions that are filed against the USPTO pursuant to the Administrative Procedure Act (APA); providing legal advice on IP law policy and regulation; prosecuting attorneys and agents who practice before the agency for alleged ethical violation, and defending USPTO employees at deposition.

- Representing the USPTO in legal matters other than those involving IP, such as providing advice, written legal opinion, and litigation in areas concerning the management of the USPTO, and administrative, employment, and labor law.
- Evaluating applications of persons seeking registration as attorneys and agents, and reciprocal recognition of Trademark agents; registering and maintaining a roster of registered attorneys and agents to practice before the USPTO in patent cases; and investigating and bringing disciplinary proceedings against registered attorneys and agents as well as attorneys practicing in trademark matters.

**Sub-Activity #5: Management Information Resources (\$30.2 million and 111 FTE)**

Management Information Resources includes a base level of resources for ongoing operations and maintenance, and making capital improvements to management business systems.

The ongoing operations and maintenance is for the following IT systems supporting management areas such as:

- The consolidated financial system, including an enterprise data warehouse, and the revenue accounting and management system for Financial Management Services in accordance with the Chief Financial Officer's Act;
- The legal case-management and FOIA distribution systems for Legal Services; and
- The electronic time-and-attendance, personnel folder tracking, and EEO case-management systems for Human Resources Management, as well as other Administrative Services systems.

Some capital improvement funds are used to improve the existing legal, financial, and human resources management and administrative services systems. However, a majority are used to continue executing the strategic initiative to implement the Fee Processing Next Generation (FPNG) System, a mission critical fee collection system that serves as a subsidiary to the core financial system.

**Sub-Activity #6: IT Infrastructure and Support Services (\$264.8 million and 269 FTE)**

IT Infrastructure and Support Services includes a base level of resources for operating and maintaining the underlying infrastructure supporting the business systems and the IT support services (e.g., Operations and Maintenance), making capital improvements to those same IT infrastructure and support services, and disseminating information to the public. Each of these areas is described in more detail below.

Operations and Maintenance – This function “keeps the trains running” or maintains the USPTO's existing enterprise-wide IT systems (e.g., email services) and infrastructure at current functionality and level of performance. This includes:

- Infrastructure Engineering and Operations: providing day-to-day operational support for the USPTO automated information systems, and maintaining the USPTO data center facilities, production hardware, and telecommunications infrastructure, including the USPTO's internal and external networks.

## FY 2012 President's Budget

- Application Engineering and Development: managing the USPTO's automated information systems consistent with the USPTO's strategic IT plans and supporting technical architecture; designing and developing systems, and validating that the business areas' functional and performance requirements are met prior to delivery to Operations for production testing and deployment.
- Information Management Services: providing IT support across the USPTO through a portfolio of services, such as web, desktop, help desk, collaboration, configuration management, and the CIO Command Center.
- Program Administration and Governance: registering work requests, project planning, coordination and monitoring, and updating the project repository; ensuring that appropriate budgetary, contractual, and human capital resources are in place to support the planned USPTO's IT investments; managing the acquisition activities for IT and services; coordinating workforce strategy, planning, development and support programs for OCIO employees; overseeing agency-wide cyber security activities and ensuring the USPTO adherence to U.S. laws and policies.

IT Infrastructure Capital Improvements – The capital improvement resources are used to continue to make improvements to the IT infrastructure and purchase and install hardware on a designated replacement cycle.

- IT Infrastructure Improvements. These activities will bring the USPTO IT infrastructure to a level that will support the USPTO's strategic objectives of 21<sup>st</sup> century Patent and Trademark systems and IT communication tools for the modern world. It includes activities such as standardizing processes, stabilizing the data center, stabilizing desktops and bringing them into compliance with Federal Desktop Core Configuration (FDCC), creating a business continuity and disaster recovery program, and upgrading the internal telecommunications capabilities.
- Capital IT Hardware Replacement Program (CHiRP). This function is responsible for replacing IT equipment on a regular cycle in order to keep operations and maintenance costs stable and low, to take advantage of vendor releases for new COTS products, and to manage capital hardware-replacement projects that will improve business capabilities. CHiRP consists of two parts: replacement of equipment located in formal IT Facilities and replacement of end-user equipment such as desktops and laptops.

### **Dissemination**

This function delivers quality information products and services to meet USPTO, public, and IP community needs and ensures the quality and integrity of IP data. This includes providing access to collections of patents, trademarks, and related information through multiple nodes, and promoting dissemination of information to the public on the use of patent and trademark information systems.

### **Sub-Activity #7: Miscellaneous General Expense (\$241.3 million and 0 FTE)**

This sub-activity entails cross-cutting functions that affect all USPTO employees and or operations, such space rental, utilities, and the USPTO's participation in the DOC Working Capital Fund. It also includes funding for post-retirement benefits, whereby the USPTO is required to fund the present costs of post-retirement benefits for the Federal Employees Health Benefits (FEHB) Program, Federal Employees Group Life Insurance (FEGLI) Program, and the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) pension liabilities. Funds for this purpose are transferred to the Office of Personnel Management.

**Significant Adjustments to Base (ATBs):**

The Management Program activities ATBs have already been allocated back to the three main goal activities and included with their costs.

## Exhibit 13 – 15: Management Program Changes by Sub-Activity

Exhibit 13

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR 2012\*  
(Dollar amounts in thousands)

		2012 Base		2012 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Total, Management Program</b>	<b>Pos./Obl.</b>	<b>816</b>	<b>611,914</b>	<b>891</b>	<b>617,023</b>	<b>75</b>	<b>5,109</b>
	<b>FTE</b>	<b>787</b>	<b>-</b>	<b>838</b>	<b>-</b>	<b>51</b>	<b>-</b>
<b>Executive Direction and Communications</b>	<b>Pos./Obl.</b>	<b>49</b>	<b>4,885</b>	<b>55</b>	<b>6,524</b>	<b>6</b>	<b>1,640</b>
	<b>FTE</b>	<b>32</b>	<b>-</b>	<b>36</b>	<b>-</b>	<b>5</b>	<b>-</b>
Executive Direction and Communications	Pos./Obl.					6	1,640
	FTE					5	
<b>Financial Management Services</b>	<b>Pos./Obl.</b>	<b>91</b>	<b>18,987</b>	<b>99</b>	<b>19,961</b>	<b>8</b>	<b>974</b>
	<b>FTE</b>	<b>94</b>	<b>-</b>	<b>98</b>	<b>-</b>	<b>4</b>	<b>-</b>
Implement & Support Fee Setting & Strengthen Financial Management Services	Pos./Obl.					8	974
	FTE					4	
<b>Human Resource Management and Administrative Services</b>	<b>Pos./Obl.</b>	<b>196</b>	<b>36,400</b>	<b>211</b>	<b>41,988</b>	<b>15</b>	<b>5,588</b>
	<b>FTE</b>	<b>196</b>	<b>-</b>	<b>208</b>	<b>-</b>	<b>12</b>	<b>-</b>
Recruitment Activities to Support Patent Hiring & Recruitment Diversity Strategy	Pos./Obl.					5	2,833
	FTE					5	
EEO and Diversity Program Enhancements	Pos./Obl.					10	1,196
	FTE					8	
USPTO Leadership Development Program/ SES	Pos./Obl.					-	1,408
	FTE					-	
Handheld Scanners for Asset Management	Pos./Obl.					-	150
	FTE					-	
<b>Legal Services</b>	<b>Pos./Obl.</b>	<b>87</b>	<b>15,416</b>	<b>111</b>	<b>19,350</b>	<b>24</b>	<b>3,933</b>
	<b>FTE</b>	<b>86</b>	<b>-</b>	<b>104</b>	<b>-</b>	<b>18</b>	<b>-</b>
Improve Practitioner Maintenance and Quality	Pos./Obl.					-	500
	FTE					-	
Additional Staff to Address Existing and Projected Workload in the OGC	Pos./Obl.					24	3,433
	FTE					18	

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR 2012\*  
(Dollar amounts in thousands)

		2012 Base		2012 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Management Information Resources</b>	<i>Pos./Obl.</i>	115	30,162	117	39,563	2	9,401
	<i>FTE</i>	111	-	112	-	1	-
Financial Management Information Resources	<i>Pos./Obl.</i>					2	5,193
	<i>FTE</i>					1	
Human Resources Management and Administrative Services Information Resources	<i>Pos./Obl.</i>						4,208
	<i>FTE</i>						
<b>IT Infrastructure and IT Support Services</b>	<i>Pos./Obl.</i>	269	264,759	289	248,333	20	(16,426)
	<i>FTE</i>	269	-	279	-	10	-
IT Infrastructure Capital Improvements	<i>Pos./Obl.</i>					20	(23,896)
	<i>FTE</i>					10	
Telecommunications	<i>Pos./Obl.</i>					-	7,470
	<i>FTE</i>					-	

Department of Commerce  
U.S. Patent and Trademark Office  
INCREASES FOR FISCAL YEARS 2012-2016  
(Dollar amounts in thousands)

		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Total, Management Program</b>	<b>Pos./Obl</b>	<b>75</b>	<b>5,109</b>	<b>96</b>	<b>(2,870)</b>	<b>96</b>	<b>(10,491)</b>	<b>85</b>	<b>(18,637)</b>	<b>65</b>	<b>(5,709)</b>
	<b>FTE</b>	<b>51</b>	<b>-</b>	<b>94</b>	<b>-</b>	<b>92</b>	<b>-</b>	<b>80</b>	<b>-</b>	<b>70</b>	<b>-</b>
<i>Executive Direction and Communications</i>	<i>Pos./Obl</i>	<i>6</i>	<i>1,640</i>	<i>6</i>	<i>1,429</i>	<i>6</i>	<i>1,459</i>	<i>6</i>	<i>1,491</i>	<i>6</i>	<i>1,520</i>
	<i>FTE</i>	<i>5</i>	<i>-</i>	<i>6</i>	<i>-</i>	<i>6</i>	<i>-</i>	<i>6</i>	<i>-</i>	<i>6</i>	<i>-</i>
Executive Direction and Communications	Pos./Obl	6	1,640	6	1,429	6	1,459	6	1,491	6	1,520
	FTE	5	-	6	-	6	-	6	-	6	-
<i>Financial Management Services</i>	<i>Pos./Obl</i>	<i>8</i>	<i>974</i>	<i>8</i>	<i>1,576</i>	<i>8</i>	<i>1,569</i>	<i>8</i>	<i>1,491</i>	<i>6</i>	<i>1,417</i>
	<i>FTE</i>	<i>4</i>	<i>-</i>	<i>8</i>	<i>-</i>	<i>8</i>	<i>-</i>	<i>7</i>	<i>-</i>	<i>7</i>	<i>-</i>
Implement Fee Setting & Strengthen Financial Management Services	Pos./Obl	8	974	8	1,576	8	1,569	8	1,491	6	1,417
	FTE	4	-	8	-	8	-	7	-	7	-
<i>Human Resource Management &amp; Administrative Services</i>	<i>Pos./Obl</i>	<i>15</i>	<i>5,588</i>	<i>24</i>	<i>6,591</i>	<i>23</i>	<i>5,637</i>	<i>16</i>	<i>4,476</i>	<i>8</i>	<i>3,366</i>
	<i>FTE</i>	<i>12</i>	<i>-</i>	<i>24</i>	<i>-</i>	<i>22</i>	<i>-</i>	<i>15</i>	<i>-</i>	<i>9</i>	<i>-</i>
Recruitment Activities to Support Patent Hiring & Recruitment Diversity Strategy	Pos./Obl	5	2,833	13	3,437	12	2,445	6	1,289	-	195
	FTE	5	-	13	-	11	-	5	-	0	-
EEO and Diversity Program Enhancements	Pos./Obl	10	1,196	11	1,723	11	1,736	10	1,686	8	1,642
	FTE	8	-	11	-	11	-	10	-	9	-
USPTO Leadership Development Program/ SES	Pos./Obl	-	1,408	-	1,432	-	1,456	-	1,481	-	1,506
	FTE	-	-	-	-	-	-	-	-	-	-
OCS Handheld Scanners for Asset Management	Pos./Obl	-	150	-	-	-	-	-	20	-	22
	FTE	-	-	-	-	-	-	-	-	-	-

Department of Commerce  
 U.S. Patent and Trademark Office  
 INCREASES FOR FISCAL YEARS 2012-2016  
 (Dollar amounts in thousands)

		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Legal Services</b>	<i>Pos./Obl</i>	<b>24</b>	<b>3,933</b>	<b>36</b>	<b>6,361</b>	<b>37</b>	<b>6,607</b>	<b>33</b>	<b>6,089</b>	<b>23</b>	<b>5,620</b>
	<i>FTE</i>	<b>18</b>	-	<b>35</b>	-	<b>35</b>	-	<b>30</b>	-	<b>26</b>	-
Improvements in Practitioner Maintenance and Quality-OED	Pos./Obl	-	500	-	150	-	150	-	150	-	150
	FTE	-	-	-	-	-	-	-	-	-	-
Additional Staff to Address Existing and Projected Workload in the OGC	Pos./Obl	24	3,433	36	6,211	37	6,457	33	5,939	23	5,470
	FTE	18	-	35	-	35	-	30	-	26	-
<b>Management Information Resources</b>	<i>Pos./Obl</i>	<b>2</b>	<b>9,401</b>	<b>2</b>	<b>13,892</b>	<b>2</b>	<b>9,107</b>	<b>2</b>	<b>1,059</b>	<b>2</b>	<b>(3,609)</b>
	<i>FTE</i>	<b>1</b>	-	<b>1</b>	-	<b>1</b>	-	<b>1</b>	-	<b>1</b>	-
Financial Management Information Resources	Pos./Obl	2	5,193	2	6,151	2	6,024	2	5,257	2	650
	FTE	1	-	1	-	1	-	1	-	1	-
Human Resources Management and Administrative Services Information Resources	Pos./Obl	-	4,208	-	7,741	-	3,083	-	(4,198)	-	(4,258)
	FTE	-	-	-	-	-	-	-	-	-	-
<b>IT Infrastructure and IT Support Services</b>	<i>Pos./Obl</i>	<b>20</b>	<b>(16,426)</b>	<b>20</b>	<b>(13,338)</b>	<b>20</b>	<b>(2,060)</b>	<b>20</b>	<b>3,375</b>	<b>20</b>	<b>13,829</b>
	<i>FTE</i>	<b>10</b>	-	<b>20</b>	-	<b>20</b>	-	<b>20</b>	-	<b>20</b>	-
IT Infrastructure Capital Improvements		20	(23,896)	20	(22,958)	20	(13,448)	20	(9,966)	20	(1,667)
		10	-	20	-	20	-	20	-	20	-
Telecommunications	Pos./Obl	-	7,470	-	9,620	-	11,388	-	13,341	-	15,496
	FTE	-	-	-	-	-	-	-	-	-	-

### **Sub-Activity #1: Executive Direction and Communication**

The goal to achieve organizational excellence is being accomplished through the following objective and initiatives for which funds are required in FY 2012:

- Improve Employee and Stakeholder Relations
  - Recruit, develop, train, and retain a highly-skilled diverse workforce
  - Provide information and communication channels for employees and the public
  - Ensure transparency of USPTO information and materials by increasing the availability of public information
  - Strengthen relationships with DOC, OMB and Congress

#### **Program Changes for FY 2012:**

Improve Relations With Stakeholders (+\$1.6 million and + 5 FTE): The USPTO requests an increase of \$1.6 million and 5 FTE to provide information and feedback channels for both employees and customers, and to provide transparency of all USPTO information.

This request supports the Department's Management Theme of Customer Service.

#### **Proposed Actions:**

To operate in a truly businesslike manner, the USPTO must maintain strong relations with its stakeholders. From the perspective of stakeholders, this means providing information and an opportunity for feedback, as well as transparency of the USPTO information.

#### **Statement of Need and Economic Benefits:**

The USPTO strategic goals cannot be achieved without good stakeholder relations. The USPTO operates like a business and, as such, it must build stronger working relationships with its applicants, attorneys, agents, and owners of patents and trademarks, Congress and the public. The USPTO management must be transparent, adopting metrics that measure relevant data, and publish that data to keep itself and the public adequately informed of progress.

Strong, robust international markets are increasingly significant to U.S. businesses and American competitiveness, which has led to the growing importance of IP to the world economy. Without strong relationships with its employees and its stakeholders, the USPTO will be unable to satisfy an increasing level of demand for USPTO products and services.

**Executive Direction and Communications.** Funds are required to design and execute an effective education outreach program, to enhance the Communication program, and to conduct outreach to the IP community.

**Education Outreach.** Funds are required to design and staff a comprehensive education/awareness program that will respond to the President's Science, Technology, Engineering and Math (STEM) initiative. The program will promote science and technology -- especially math and engineering -- throughout all levels of education and will support programs developed by the Department of Commerce. The purpose of this outreach will be to cultivate a new generation of patent and trademark examiners, as well as promoting science to the general public. Specifically, funds are required to hire a full-time Education Program Specialist, supporting staff, and related expenses.

**Communication Program Enhancements.** Funds are required to produce two new videos on innovation that play in the USPTO museum's Isaac Fleischmann Theatre. The videos are valuable communication tools and are quite often the initial introduction to the USPTO and the U.S. patent and trademark systems for foreign IP officials participating in a GIPA program, K-12 and college students, inventors and entrepreneurs, as well as the general public. The information must be kept fresh and up-to-date in order to keep educating the public in an accurate, informative, and interesting manner.



Outreach to the IP Community. Funds are required to enable the Under Secretary's and Communications offices to meet the needs of the IP community. Domestic and international travel enables these offices to discuss USPTO initiatives, build stakeholder awareness and support, collaborate with domestic and international IP organizations, and learn about the issues facing the IP community. Funds are also needed to print brochures, educational booklets and other handouts; provide media training for employees; and for cameras, equipment, and other media-related accoutrements.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$1,640	\$1,429	\$1,459	\$1,491	\$1,520
FTE	5	6	6	6	6

**Schedules/Milestones/Deliverables** for the strategic objective to improve employee and stakeholder relations can be found in the Communication Work Plan identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

## **Sub-Activity #2: Financial Management Services**

The goal to achieve organizational excellence is being accomplished through the following objective and initiatives for which funds are required in FY 2012:

- Implement a Sustainable Funding Model for Operations
  - Obtain and implement interim funding authority
  - Obtain and implement fee setting authority
  - Reformulate the fee structure
  - Obtain and implement private sector business tools
  - Present requirements-based budgets
  - Strengthen financial and non-financial internal controls
- Improve Employee and Stakeholder Relations
  - Recruit, develop and retain a highly-skilled diverse workforce

### **Program Changes for FY 2012:**

Implement a Sustainable Funding Model for Operations and Improve Employee Relations (+\$1.0 million and 4 FTE ): The USPTO requires an increase of \$1.0 million and 4 FTE for a total of \$20.0 million and 98 FTE to implement fee setting, reformulate the USPTO fee structure, and adequately staff financial management services functions.

This supports the Department's Management Theme of Organizational Excellence, and is critical for the accomplishment of the USPTO's mission, goals and performance commitments.

### **Proposed Actions:**

To operate in a truly businesslike manner, the USPTO must have the means to ensure a sufficient and predictable revenue stream year-over-year. A sustainable funding model will allow the agency to manage fluctuations in filings and revenues, while sustaining operations on a multi-year basis. It also gives the USPTO the ability to proactively adjust its fees in response to changes in demand for services, processing costs, or other factors.

### **Statement of Need and Economic Benefit:**

The USPTO strategic goals cannot be achieved without a reliable and sustainable source of funding. The USPTO operating structure is like a business in that it receives requests for services – applications for patents and trademark registrations – and charges fees projected to cover the cost of performing the services it provides. Like a business, the USPTO needs the flexibility to adjust its fees or spending authority if filings and revenues change.

Routine evaluation of the fee structure will enable the USPTO to compare the cost of activities with fees to ensure the rates are set at appropriate levels and the structure is achieving its intended result. An optimal fee structure will:

- Align fees with the full aggregate cost to achieve the USPTO's mission;
- Facilitate the effective administration of patent and trademark processes; and
- Offer stakeholders application processing options.

The USPTO will use historical cost information as a framework for comparing the cost of products and services to current fee rates and prospective, multi-year production and cost estimates to ensure fee rates are set to recover the aggregate estimated cost of the USPTO requirements for achieving strategic priorities and performance goals, and facilitating the effective administration of our nation's IP system. The USPTO will engage stakeholders in discussions to obtain input, and use a variety of communication tools including roundtables, Federal Register notices, and speeches to provide notice to the public, public advisory committees, and Congress for review and comment.

Strong, robust international markets are increasingly significant to U.S. businesses and American competitiveness, which has led to the growing importance of IP to the world economy. Without a sustainable funding model, the USPTO will be unable to satisfy an increasing level of demand for USPTO products and services.

**Implement Fee Setting, and Strengthen Financial Management Services.** Funds are required to implement timely fee rate analysis and changes, and maintain a continuous process for comparing actual results with the planned assumptions that influenced the calculation for prospective fee rates.

To ensure a sustainable funding model, the USPTO must maintain a continuous process for comparing actual results with the planned assumptions that influenced the calculation for prospective fee rates. These assumptions could range from historical cost of activities supporting fees to production and fee workloads and economic assumptions. Changes in operating processes may require updates to activity based information (ABI) cost models activity unit rate calculations, which in turn should be factored into fee rate adjustments.

When the USPTO is operating in this continuous fee analysis, calculation, and setting environment, the OCFO must complete these actions in a timely manner to ensure fee rates are maintained at levels to fund operating requirements. Two economists/statisticians are needed for forecasting and analysis, and two financial analysts and minimal contractor resources are required to support the existing ABI function. Examples of specific activities that would be supported by these resources are:

- Conducting regular historical cost analyses of activities supporting fees to provide sufficient trending information to justify fee changes.
- Providing historical cost information to support proposed notices of rulemaking for fee changes.
- Conducting fee analysis including cost-obligation-revenue comparison, trends, and Net Present Value (NPV) calculations.
- Developing ad hoc fee/cost calculation and business case studies for new fees and changes in fee philosophy.
- Updating cost models and data collection/staging components of the ABI system to support continuous fee studies and on-demand reporting.

Funds will be used to improve the transparency of financial information and strengthen financial management services, such as travel processing, planning, and formulation services in support of the USPTO mission and goals. These resources will support all aspects of budget formulation, performance reporting, and strategic planning to ensure the USPTO meets reporting requirements such as the preparation of the Performance and Accountability Report (PAR), strategic planning updates, and budget submissions to the OMB and Congress. Resources will also support financial analysis to improve oversight and strengthen internal controls, reduce the risk of errors and audit findings, and assist with processing maintenance fee payments, deposit account replenishments, and related requests.

Funds also will be applied to the USPTO's unit cost rate (UCR) which reflects the incremental cost impact on the Financial Management Services sub-activity that is attributable to the increase in workload associated with new patent examiner hires.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$974	\$1,576	\$1,569	\$1,491	\$1,417
FTE	4	8	8	7	7

**FY 2012 President's Budget**

**Schedules/Milestones/Deliverables** for the strategic objective to implement a sustainable funding model for operations can be found in the Sustainable Funding Model Plan identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**Sub-Activity #3: Human Resource Management and Administrative Services**

The goal to achieve organizational excellence is being accomplished through the following objective and initiatives for which funds are required in FY 2012:

- Improve Employee and Stakeholder Relations
  - Recruit, develop, train, and retain a highly-skilled diverse workforce
  - Enhance current and future agency leadership by focusing on leadership development, accountability and succession planning

**Program Changes for FY 2012:**

Improve Relations with Employees (+\$5.6 million and + 12 FTE): The USPTO requires an increase of \$5.6 million and 12 FTE for a total of \$42.0 million and 208 FTE to recruit and retain a highly skilled diverse workforce, to develop agency leadership, and to provide information and feedback channels for employees.

This request supports the Department's Management Theme of Workforce Excellence.

**Proposed Actions:**

To operate in a truly businesslike manner, the USPTO must establish and maintain strong relations with its employees. This means emphasizing the hiring and retention of a skilled and diverse workforce, establishing a results-oriented culture, establishing and implementing a leadership development program, and providing employees with the information and opportunity for feedback that they need to succeed in their jobs.

**Statement of Need and Economic Benefits:**

The USPTO strategic goals cannot be achieved without good employee relations. The USPTO operates like a business and, as such, it must build stronger working relationships with its workforce.

Strong, robust international markets are increasingly significant to U.S. businesses and American competitiveness, which has led to the growing importance of IP to the world economy. Without strong relationships with its employees, the USPTO will be unable to satisfy an increasing level of demand for USPTO products and services.

**Recruitment Activities to Support Patent Hiring and Recruitment Diversity Strategy.**

Funds are required to support the Patent organization's aggressive hiring plan that is designed to address the growth of patent pendency and backlog of patent applications. Funds will be used by the Office of Human Resources (OHR) for developing innovative and progressive recruiting strategies, recruitment trips, outreach activities, implementing virtual career fairs, and providing OHR staff with technical training in specialized HR functions to accomplish the hiring of about 3,400 examiners in FYs 2011 through 2013.

Funds are also required by the Equal Employment Opportunity (EEO) and Diversity Office for expert consultants to (1) develop a marketing strategy and campaign to recruit diverse and qualified individuals to apply for patent examiner positions, and (2) to assess the work of the Patents High Performance Team in promoting peer and mentoring assistance; improving supervisory capacity; and providing opportunities for examiners to receive refresher training. In addition, required funds would support an intern program to supplement the agency's recruiting initiative, with a focus on exposing the USPTO's employment opportunities to qualified under-represented students in undergraduate and professional schools, and expand an EEO outreach program.

Funds will also be applied to the USPTO's unit cost rate (UCR) which reflects the incremental cost impact on the Human Resources and Administrative Services sub-activity that is attributable to the increase in workload associated with new patent examiner hires.

**FY 2012 President's Budget**

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$2,833	\$3,437	\$2,445	\$1,289	\$195
FTE	5	13	11	6	0

**EEO and Diversity Program Enhancements.** Funds are required to meet EEO program requirements by hiring an EEO Counselor, a Supervisory Attorney Advisor, and staff for the newly-created corporate structure consisting of a Compliance Branch and an Organizational Excellence Branch (OEB). The OEB will provide: enterprise-wide diversity, inclusion strategy, and benchmarking services; proactive dispute resolution services and training; independent investigative services; diversity and inclusion data analysis; and benchmarking.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$1,196	\$1,723	\$1,736	\$1,686	\$1,642
FTE	8	11	11	10	9

**USPTO Leadership Development Program/SES.** Funds are required to support, develop and deliver programs and courses for the USPTO's Leadership Development Program (LDP), including for members of the Senior Executive Service (SES). The LDP creates the infrastructure for supervisors and employees to efficiently and effectively identify and address competency gaps, enhance communications and collaborative efforts, and strengthen leadership values and behaviors. The long-term result will be increased retention of high performing employees, especially in mission critical occupations, to help the agency meet its goals to optimize patent and trademark quality and timeliness.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$1,408	\$1,432	\$1,456	\$1,481	\$1,506
FTE	-	-	-	-	-

**Handheld Scanners for Asset Management.** Funds are required to replace the handheld scanners used to track over 92,000 USPTO personal property assets. Whenever a piece of property is deployed, relocated or surplus, the handheld equipment is used to scan the property into the USPTO's Enterprise Asset Management System (EAMS) inventory database, averaging over 2,000 scans daily. The current handheld devices will be over five years old in FY 2012, and can no longer be maintained. Failure to provide replacements will create a risk that assets will not be properly tracked. Providing the agency with working units with up-to-date technology will employ the latest software/hardware processes needed to ensure assets are quickly and accurately recorded in EAMS. This request represents an initial purchase of 60 handheld units with three years of warranty. Maintenance costs will begin in FY 2015.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$150	\$0	\$0	\$20	\$22
FTE	0	0	0	0	0

**Schedules/Milestones/Deliverables** for the strategic objective to improve employee and stakeholder relations can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**Sub-Activity #4: Legal Services**

The goal to achieve organizational excellence is being accomplished through the following objectives and initiatives for which funds are required in FY 2012.

- Improve IT Infrastructure and Tools: Ensure effective use of IT
- Improve Employee and Stakeholder Relations
  - Recruit, develop, train, and retain a highly-skilled diverse workforce

**Program Changes for FY 2012:**

Improve IT Tools and Relations with Employees (+\$3.9 million and + 18 FTE): The USPTO requires an increase of \$3.9 million and 18 FTE for a total of \$19.4 million and 104 FTE to improve IT and employee relations.

**Proposed Actions:**

To operate in a truly businesslike manner, the USPTO must establish and maintain strong legal skills by hiring and retaining a skilled and diverse workforce, and provide IT tools to its employees and customers.

**Statement of Need and Economic Benefit:**

The USPTO strategic goals cannot be achieved without quality legal services that impact both employees and stakeholders.

Strong, robust international markets are increasingly significant to U.S. businesses and American competitiveness, which has led to the growing importance of IP to the world economy. Without strong legal services, the USPTO will be unable to satisfy an increasing level of demand for USPTO products and services.

**Improve Practitioner Maintenance and Quality.** Funds are required to provide enhancements to IT systems that will allow practitioners to apply for registration online and provide the USPTO public with increased information on registered practitioners. The Roster of Attorneys and Agents (the Roster) registered to practice before the USPTO is maintained by the Office of Enrollment and Discipline (OED).

In order to ensure the capture of each practitioner's history, an online application process will electronically collect information from applicants for registration, provide timely and efficient processing of applications, and collect information which may impact later investigations. In addition, an improved roster will provide more information concerning each practitioner, similar to information provided by state bar associations.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$500	\$150	\$150	\$150	\$150
FTE	0	0	0	0	0

**Additional Staff to Address Existing and Projected Workload in the Office of the General Counsel (OGC).** Funds are required by the OGC to handle workload increases related to conducting court proceedings, non-IP law matters, and enrollment and discipline matters.

Twelve positions are required for the Solicitor's office (SO), which has experienced a significant increase in work, including appeals from BPAI decisions to the U.S. Court of Appeals for the Federal Circuit (CAFC), OED disciplinary cases, district court cases, amicus participation in IP cases (Supreme Court and other), *inter partes* patent and trademark case monitoring, legal advice to the DOC, Department of Justice (DOJ), USPTO Director and business units, *Official Gazette* notice review, and deposition and subpoena requests. Cases are increasingly more complex, requiring additional attorney time. Projected SO workload in IP litigation and BPAI

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appeals track with BPAI cases, resulting in a projected 40 percent increase for SO in both areas between 2011 and 2016. Further, OED cases are expected to increase approximately 24 percent in the same time period. Of the requested positions, nine are attorney positions, which represent a 32 percent staffing increase over the planned FY 2011 level.

Four additional positions are required for the General Law Office (GLO) which represents the Agency in non-IP litigation matters, such as before the Merit Systems Protection Board, the Equal Employment Opportunity Commission, in labor relations cases, and in OED appeals. GLO also provides advice and legal services pertaining to critical mission support functions such as procurement, fiscal issues, rule making and FOIA requests. Funds are required to address higher workload projections due to new patent examiner and other agency hiring.

Two additional staff are required to support the OED's responsibilities to register and maintain rosters of practitioners (attorneys and agents) to practice before the USPTO in patent cases, and investigate and adjudicate disciplinary matters regarding attorneys and agents, including removal from the roster. Enrollment is projected to increase by approximately 2,000 new practitioners per year through 2016, which also will generate a corresponding proportion of grievances. Similar increases in enrollment matters and the provision of continuing education to practitioners (practitioner exam) are also projected.

Funds will also be applied to the USPTO's unit cost rate (UCR) which reflects the incremental cost impact on the Legal Services sub-activity that is attributable to the increase in workload associated with new patent examiner hires.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$3,433	\$6,211	\$6,457	\$5,939	\$5,470
FTE	18	35	35	30	26

**Schedules/Milestones/Deliverables** for the strategic goal to achieve organizational excellence are in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.



**Sub-Activity #5: Management Information Resources**

The goal to achieve organizational excellence is being accomplished through the following objective and initiatives for which funds are required in FY 2012.

- Improve IT Infrastructure and Tools: Ensure effective use of IT
  - Develop and implement the next generation fee processing system (FPNG)
- Improve Employee and Stakeholder Relations
  - Recruit, develop, train, and retain a highly-skilled diverse workforce

**Program Changes for FY 2012:**

Improve IT Tools and Improve Relations with Employees (+\$9.4 million and + 1 FTE): The USPTO requires an increase of \$9.4 million and 1 FTE for a total of \$39.6 million and 112 FTE to make capital improvements to the business systems supporting the financial and human resources management, and administrative and legal services. Funds are also required to improve relations with employees.

This request supports the Department's Theme of Organizational Excellence.

**Proposed Actions:**

Funding these requests will improve the USPTO's management IT systems which are an essential component in achieving organizational excellence.

**Statement of Need and Economic Benefits:**

IT is a mission-critical enabler for every USPTO business function. The productivity of all USPTO operations is directly correlated to the performance of its IT systems, which are in need of replacement (or continually need to be modernized). This sub-activity includes the IT resources required to keep the USPTO's management support functions operational and improved to meet the needs of the USPTO's mission programs. Many of these support functions rely upon IT as the fundamental backbone of their processes; for example, both the Financial Management Services, and Human Resources Management and Administrative Services sub-activities rely on a core financial system and an electronic time-and-attendance system, respectively. Without 21<sup>st</sup> century IT systems throughout the organization, the USPTO will be unable to satisfy an increasing level of demand for USPTO products and services.

**Management IT Capital Improvements.** The USPTO manages its resources to ensure a consistent level of funding for IT capital improvements from year-to-year. These resources do not contain funds for IT operations and maintenance, or compensation (i.e., salaries and benefits). The capital improvement funds are administered in accordance with the USPTO's Capital Planning and Investment Control (CPIC) process.

As discussed in the Patent and Trademark Program sections, base resources for FY 2011 capital improvements were primarily used to fund Patent and Trademark business system IT capabilities and fewer capital improvement funds are required for these mission functions in FY 2012. In FY 2012, capital improvement funds will be used to support improving IT capability for the Management Program. Specifically, the resources will be used to meet the needs of many USPTO management support systems and critical IT capability used by support organizations. In FY 2012, the capital improvement resources will be used to improve business systems in the following Management Program sub-activities:

- Financial Management Services, including the strategic initiative to develop the FPNG capability; and
- Human Resources Management and Administrative Services, including the initial development of the *Human Resources Line of Business* capability.

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Financial Management Information Resources. Funds are required to support the USPTO financial management systems, which entails developing the FPNG capability, hosting the financial applications in an external data center, compliance with Homeland Security Presidential Directive 12 (HSPD-12), participating in Government-wide efforts for a Budget Formulation System (BFS), and Enterprise Data Warehouse (EDW) user training.

- Financial Management Systems Hosting. Funds are required to move Momentum to an external hosting provider that also performs financial system application management.
- HSPD-12 Compliance. Funds are required to begin complying with Federal mandates to use HSPD-12 credentials to authenticate the identify of federal employees and contractors.
- Budget Formulation to Execution Improvements. Funds are required to participate in BFS initiatives, and to expand the Compensation Projection and Budget Execution Models to other USPTO business units. The result will be a much more efficient and collaborative budget process that is easier, faster, and produces more transparent information.
- Financial Management Services Support. Two positions are needed to more proactively address stakeholder needs and keep abreast of changing technologies. These positions will fill four specific areas of need: support transition to FPNG capability; expand trouble shooting capacity; follow IT best practices which means being able to exploit the financial management data framework that we have in place today; and expand the ability to plan, implement and support financial systems including the ability to oversee systems integrations and trouble shoot software and hardware problems related to system architecture. Funds also will be applied to the USPTO's unit cost rate (UCR), which reflects the incremental cost impact on the Financial Management Information Resources sub-activity that is attributable to the increase in workload associated with new patent examiner hires.
- EDW Training. Funds are required to reestablish training to provide Business Unit users with self-service to obtain financial, patent and human resource data and information on demand. The EDW contains a powerful amount of data, but if users do not understand how to obtain this data and turn it into information, we are not getting the predicted benefits.
- FedTraveler. Funds will be required in FY 2013 to upgrade FedTraveler in anticipation of the vendor making a change in the version of XML. No resources are required in FY 2012.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$5,193	\$6,151	\$6,024	\$5,257	\$650
FTE	1	1	1	1	1

Human Resources Management and Administrative Services Information Resources. The implementation of a modern, enterprise Human Resource Information System is an opportunity for the Office of Human Resources to transform its organization and business processes, so that it can meet the demands of the USPTO and effectively manage its workforce. Across the Federal Government other agencies have experienced similar challenges. As a result, the Office of Personnel Management (OPM) has created the *Human Resources Line of Business* (HR LOB). The HR LOB is a blueprint for all federal agencies to use, which leads to more efficient and effective human resources functions across the Federal Government. The cornerstone of the HR LOB effort is a Human Resources Information System (HRIS). Under the HR LOB concept of operations, agencies license proven enterprise-wide solutions from OPM approved service providers. The HR LOB service providers have responsibility for providing, supporting, hosting, upgrading, and maintaining the human resources systems. The overall vision of the HR LOB is government wide, modern, cost-effective, standardized, and

interoperable HR solutions providing common, core functionality to support the strategic management of human capital and addressing duplicative HR systems and processes across the Federal Government. Funds are needed to license an HR LOB solution from the OPM.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$4,208	\$7,741	\$3,083	(\$4,198)	(\$4,258)
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to improve IT infrastructure and tools, and the initiative to develop and implement the next generation fee processing system, can be found in the work plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

## **Sub-Activity #6: IT Infrastructure and IT Support Services**

The goal to achieve organizational excellence is being accomplished through the following objective and initiatives for which funds are required in FY 2012:

- Improve IT Infrastructure and Tools
  - Establish cost-effective, transparent operations and processes
  - Improve the user experience
  - Upgrade IT infrastructure
- Improve Employee and Stakeholder Relations
  - Recruit, develop, train, and retain a highly-skilled diverse workforce

### **Program Changes for FY 2012:**

Improve IT infrastructure and tools (-\$16.4 million and + 10 FTE): The USPTO requires a decrease of \$16.4 million and an increase of 10 FTE to make the USPTO data easily accessible to USPTO customers, partners, industry and the public; simplify user interfaces to USPTO systems, and expand the technologies used to collaborate within and with the USPTO; and replace the aging IT infrastructure with expandable, reliable, secure technologies.

This supports the Department's Theme of Organizational Excellence.

### **Proposed Actions:**

Funding these requirements will improve the USPTO Web site with Web 2.0 assistance technologies, expand collaboration tools and expand e-learning, all contributing to an improved user experience. Funding also will stabilize and consolidate the USPTO data centers, expand the network, expand business continuity and disaster recovery capabilities, stabilize desktops, and improve cyber-security.

### **Statement of Need and Economic Benefits:**

IT is a mission-critical enabler for every USPTO business function. The productivity of patent and trademark operations is directly correlated to the performance of its IT systems, which are in dire need of modernization. To accomplish its performance-based strategies, the USPTO must engage in an aggressive multi-year effort to upgrade its IT infrastructure by realigning the OCIO, updating automation processes, stabilizing the aging data centers and networks, and evolving to web-based virtualized computing technologies.

Strong, robust international markets are increasingly significant to U.S. businesses and American competitiveness, which has led to the growing importance of IP to the world economy. Without a 21<sup>st</sup> century IT system, the USPTO will be unable to satisfy an increasing level of demand for USPTO products and services.

### **Operations and Maintenance**

IT Organization Staffing. Funds are required to replace attritions and add 20 positions to modernize skills in key technical areas, primarily architecture, development and testing. Without such in-house expertise to address its Capital Improvement Program, USPTO would have to acquire it from the private sector. When the capital improvements are complete, there would be no in-house technical staff knowledgeable of the improvement. The USPTO would be reliant upon private sector staff to provide operations and maintenance support. It is this "cycle of perpetual IT contractor support" that USPTO is seeking to break.

As part of the USPTO's investment to strengthen its IT organization, the OCIO plans to reverse a trend of declining staff. In FY 2011 the CIO plans to replace attrition and add 20 staff to modernize skills in key technical areas, primarily architecture, development, and testing. These are precisely the skills required to successfully complete the planned capital improvements

during the next several years. For FY 2012, the CIO is planning the same; i.e., replace attritions and add 20 additional staff to modernize skills in key technical areas.

Funds will also be applied to the USPTO's unit cost rate (UCR) which reflects the incremental cost impact on the IT Infrastructure and IT Services sub-activity that is attributable to the increase in workload associated with new patent examiner hires.

Increased Security Remediation/Reporting. On April 21, 2010, the OMB issued a memorandum titled "Reporting Instructions for the Federal Information Security Management Act (FISMA) and Agency Privacy Management". In the memo, the OMB provided instructions on how it expects Agencies to meet the reporting requirements of FISMA. Specifically, OMB stated that the new reporting requirements will require:

- data feeds directly from security management tools,
- Government-wide benchmarking on security posture, and
- agency-specific interviews.

In addition to addressing OMB's new assessment and reporting requirements, these funds will be used to perform remediation activities for the most severe vulnerabilities associated with the 190 automated information systems currently in operation, and which will not be addressed by capital improvement projects such as Patent End-to-End and Trademark Next Generation.

Increased C3 Monitoring. In FY 2009, the OCIO established a CIO Command Center (C3), which is the central point of all monitoring of IT capability. The C3 provides situational awareness to management necessary to prevent outages and restore services. In the first few years of operation, staffing has been limited to mainly core business hours, and primarily limited to security monitoring. These funds would be used to establish dedicated contractor support (i.e., "First Responders") within the Command Center, to focus upon two key areas: a) data and telecommunications network, and b) server and storage capability.

IT Infrastructure Capital Improvements. The USPTO manages its resources to ensure a consistent level of funding for IT capital improvements from year to year. These resources do not contain funds for IT operations and maintenance, or compensation (i.e., salaries and benefits). The capital improvement funds are administered in accordance with USPTO's Capital Planning and Investment Control (CPIC) process.

Specifically, in FY 2012, the USPTO requires fewer funds in support of improving the IT infrastructure capability because a significant portion of the work necessary to reform the infrastructure occurred in FY 2010 and is planned for FY 2011.

The IT Infrastructure improvements funded by the CIF in FY 2012 are:

- the continued replacement of aging hardware located in USPTO's IT Facilities
- a more robust and reliable back-up storage capability
- continued implementation of Federal Desktop Configuration Standards
- completion of the Business Continuity and Disaster Recovery efforts outlined in the Road Map
- complete deployment of the new USPTO's *Unified Communications and Collaboration* capability

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	(\$23,896)	(\$22,958)	(\$13,448)	(\$9,966)	(\$1,667)
FTE	10	20	20	20	20

Telecommunications. Funds are required to address the USPTO's telecommunications budget. Over the past decade, the USPTO has enjoyed a relatively small and stable

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telecommunications budget, due primarily to a telecommunications infrastructure which focused primarily on voice and minimal data traffic. However, within the past two years, the USPTO has seen a significant increase in telecommunications traffic due to:

- Remote government workers (i.e., teleworking, hoteling),
- Video-teleconferencing,
- Remote IT/Data Facilities (i.e., Boyers), and
- Remote contractors.

Over the next two years, the USPTO expects to see an even higher level of usage, above today’s workloads, to accommodate:

- Nationwide Workforce,
- Data.gov,
- Electronic collaboration with applicants,
- Work-sharing with other IP offices, and
- Increased Business Continuity and Disaster Recovery capability.

Connections to Remote Facilities - Funds will be used to install an additional circuit and expand the capacity circuit at Boyers. These additional high speed circuits are required to allow all patent and trademark data to be replicated to the Boyers Disaster Recovery site.

In addition, the USPTO has begun discussions with the Census Bureau to use a portion of their facility in Bowie, MD, to provide remote data/system capability. These funds are necessary to establish a proper connection between the Alexandria IT Facility and this new Bowie IT Facility. Finally, all existing circuits between Alexandria and remote facilities must be transitioned to the new contract (Networx), and upgraded to comply with the OMB mandate. These funds will also enable these actions to be taken.

Internet Connections – Funds are required to increase the “broadband” capacity of the USPTO’s internet connections to accommodate a greater data transfer workload due to initiatives such as Nationwide Workforce, Data.gov, and work-sharing.

The funds will also be used to convert the MTIPS internet circuits from Standard to Managed Trusted to meet OMB federal mandates for all agencies. This change is based on the Trusted Internet Connections (TIC) initiative to optimize the individual network services into a common solution for the entire federal government

SONET Ring Connections - All voice and data telecommunication circuits enter and exit USPTO Headquarters, in Alexandria, via a high-speed, redundant “SONET Ring” infrastructure operated and maintained by Verizon. With plans to expand, increase, and upgrade the existing number and type of circuits for the Internet and Remote Facilities, action and funding is required to upgrade and expand the SONET Ring. These resources will enable the Office to issue a scope of work to Verizon.

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Amount (\$ in thousands)	\$7,470	\$9,620	\$11,388	\$13,341	\$15,496
FTE	0	0	0	0	0

**Schedules/Milestones/Deliverables** for the strategic objective to improve IT infrastructure and tools can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *2010-2015 Strategic Plan*.

**PROGRAM CHANGE PERSONNEL DETAIL**

(Dollar amount in thousands)

Activity: Management

Subactivity:

Title:	Location	Grade	Number of Positions	Annual Salary	Total Salaries
Education Specialist	Alexandria, VA	GS 14	2	119,238	238,476
Management Analyst	Alexandria, VA	GS 13	1	100,904	100,904
Website/IT Position	Alexandria, VA	GS 11	1	70,794	70,794
Office Manager	Alexandria, VA	GS 7	1	47,838	47,838
Public Affairs Specialist	Alexandria, VA	GS 14	1	119,238	119,238
Economist/Statistician	Alexandria, VA	GS 13	1	100,904	100,904
Economist/Statistician	Alexandria, VA	GS 14	1	119,238	119,238
Financial Analyst	Alexandria, VA	GS 13	1	100,904	100,904
Financial Analyst	Alexandria, VA	GS 14	1	119,238	119,238
Budget Analyst	Alexandria, VA	GS 13	2	100,904	201,808
Financial Analyst	Alexandria, VA	GS 13	1	100,904	100,904
Financial Analyst	Alexandria, VA	GS 9	1	58,511	58,511
Equal Employment Specialist	Alexandria, VA	GS 13	1	89,033	89,033
Attorney Advisor	Alexandria, VA	GS 14	1	105,211	105,211
Statistician/ Analyst	Alexandria, VA	GS 14	1	105,211	105,211
Organizational Branch Chief	Alexandria, VA	GS 15	1	123,758	123,758
Alternative Dispute Resolution Coordinator	Alexandria, VA	GS 14	1	105,211	105,211
Diversity Outreach Coordinator	Alexandria, VA	GS 14	1	105,211	105,211
Investigator	Alexandria, VA	GS 14	1	105,211	105,211
Compliance Branch Chief	Alexandria, VA	GS 15	1	123,758	123,758
Management & Program Analyst	Alexandria, VA	GS 14	1	105,211	105,211
Management & Program Analyst	Alexandria, VA	GS 12	1	74,872	74,872
HR Specialist	Alexandria, VA	GS 13	5	100,904	504,520
Attorney	Alexandria, VA	GS 15	9	155,500	1,399,500
Paralegal	Alexandria, VA	GS 12	3	97,333	291,999
Attorney	Alexandria, VA	GS 15	2	140,259	280,518
Attorney	Alexandria, VA	GS 15	1	155,500	155,500
Investigator	Alexandria, VA	GS 11	1	70,794	70,794
Manager	Alexandria, VA	GS 11	1	66,630	66,630
Patent/TM Attorney	Alexandria, VA	GS 15	1	155,500	155,500
Paralegal	Alexandria, VA	GS 12	5	84,855	424,275
Patent/TM Attorney	Alexandria, VA	GS 15	1	155,500	155,500
IT Specialist	Alexandria, VA	GS 13	2	100,904	201,808
IT Specialist	Alexandria, VA	GS 12	2	84,855	169,710
IT Specialist	Alexandria, VA	GS 13	8	100,904	807,232
IT Specialist	Alexandria, VA	GS 14	6	119,238	715,428
IT Specialist	Alexandria, VA	GS 15	4	140,259	561,036
<b>Total</b>			<b>75</b>		<b>8,381,394</b>
Less Lapse		33%	24		2,791,027
Total full-time permanent (FTE)			51		5,590,367
2011 Pay Adjustment	0.0%				-
2012 Pay Adjustment	0.0%				-
<b>TOTAL</b>					<b>5,590,367</b>
<b>Personnel Data</b>			<b>Number</b>		
Full-Time Equivalent Employment					
Full-time permanent			51		
Other than full-time permanent			0		
Total			51		
Authorized Positions:					
Full-time permanent			75		
Other than full-time permanent			0		
Total			75		

**PROGRAM CHANGE DETAIL BY OBJECT CLASS**  
**(Dollar amounts in thousands)**

Activity: **Management**

Subactivity:

<b>Object Class</b>	<b>2012 Increase</b>
11 Personnel compensation	
11.1 Full-time permanent	5,590
11.3 Other than full-time permanent	
11.5 Other personnel compensation	84
11.8 Special personnel services payments	
11.9 Total personnel compensation	<u>5,674</u>
12 Civilian personnel benefits	1,430
13 Benefits for former personnel	
21 Travel and transportation of persons	420
22 Transportation of things	6
23.1 Rental payments to GSA	1
23.2 Rental payments to others	61
23.3 Communications, utilities and miscellaneous charges	(624)
24 Printing and reproduction	35
25.1 Advisory and assistance services	30
25.2 Other services	21,122
25.3 Purchases of goods & services from Gov't accounts	38
25.4 Operation and maintenance of facilities	
25.5 Research and development contracts	
25.6 Medical care	
25.7 Operation and maintenance of equipment	
25.8 Subsistence and support of persons	
26 Supplies and materials	36
31 Equipment	(23,049)
32 Lands and structures	
33 Investments and loans	
41 Grants, subsidies and contributions	
42 Insurance claims and indemnities	
43 Interest and dividends	-
44 Refunds	
99 Total obligations	<u>5,109</u>



**EXHIBITS: 16 – 32**

Department of Commerce  
U.S. Patent and Trademark Office

SUMMARY OF REQUIREMENTS BY OBJECT CLASS

(Dollar amounts in thousands)

Object Class	FY 2010 Actuals	FY 2011 Current Plan	FY 2012 Base	FY 2012 Estimate	Increase/ (Decrease) over 2012 Base
11.1 Salaries	959,429	1,051,415	1,129,263	1,169,199	39,936
11.5 Other personnel compensation	70,057	104,086	113,974	130,636	16,662
<b>11.9 Total personnel compensation</b>	<b>1,029,487</b>	<b>1,155,500</b>	<b>1,243,237</b>	<b>1,299,835</b>	<b>56,597</b>
12.1 Civilian personnel benefits	339,836	377,415	397,369	405,009	7,641
21 Travel and transportation of persons	3,085	5,431	5,501	7,390	1,888
22 Transportation of things	290	456	462	464	2
23.1 Rental payments to GSA	83,876	95,788	97,416	97,416	0
23.2 Rental payments to others	8,921	8,500	8,645	8,645	0
23.3 Commun., util., and misc. charges	16,752	34,210	34,792	35,862	1,070
24 Printing and reproduction	80,880	90,805	91,985	103,246	11,261
25.1 Advisory and assistance services	25,038	33,540	34,057	37,465	3,408
25.2 Other services from non-federal sources	116,324	155,822	134,252	174,059	39,807
25.3 Other goods and services from federal sources	20,195	27,052	29,620	30,218	599
25.4 Operation and maintenance of facilities	7,287	9,761	10,904	10,904	0
25.7 Operation and maintenance of equipment	143,429	192,131	214,618	214,618	0
26 Supplies and materials	10,303	39,130	39,638	39,823	185
31 Equipment	53,255	152,600	154,584	134,027	(20,557)
42 Insurance claims and indemnities	398	1,210	1,210	1,210	0
<b>99.9 Total Obligations</b>	<b>1,938,958</b>	<b>2,379,350</b>	<b>2,498,290</b>	<b>2,599,393</b>	<b>101,103</b>
Fee Collections	(2,068,543)	(2,346,227)	(2,706,313)	(2,706,313)	0
Less prior year other income/recoveries	(26,939)	(23,000)	(23,000)	(23,000)	0
Less prior year unobligated balance	(118,692)	(222,673)	(212,550)	(212,550)	0
Less end year unobligated balance	222,673	212,550	443,573	342,470	(101,103)
Total Budget Authority	(52,543)	(0)	0	0	0
Personnel Data					
Full-Time equivalent Employment:	9,430	10,246	10,704	11,137	433
Authorized Positions:	9,507	10,735	10,735	11,925	1,190

## Exhibit 32 – Appropriation Language & Legislative Proposals

### Salaries and Expenses

For necessary expenses of the United States Patent and Trademark Office (USPTO) provided for by law, including defense of suits instituted against the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, [\$2,321,724,000] \$2,706,313,000, to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 are received during fiscal year [2011] 2012, so as to result in a fiscal year [2011] 2012 appropriation from the general fund estimated at \$0: *Provided further*, That during fiscal year [2011] 2012, should the total amount of offsetting fee collections *and the surcharge provided herein* be less than [\$2,321,724,000] \$2,706,313,000, this amount shall be reduced accordingly: *Provided further*, That any amount received in excess of [\$2,321,724,000] \$2,706,313,000 in fiscal year [2011] 2012 [, in an amount up to \$100,000,000,] shall remain available until expended: *Provided further*, That from amounts provided herein, not to exceed \$1,000 shall be made available in fiscal year [2011] 2012 for official reception and representation expenses: *Provided further*, That in fiscal year [2011] 2012 from the amounts made available for "Salaries and Expenses" for the USPTO, the amounts necessary to pay: (1) the difference between the percentage of basic pay contributed by the USPTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) as *provided by the Office of Personnel Management (OPM) for USPTO's specific use*, of basic pay, of employees subject to subchapter III of chapter 83 of that title; and (2) the present value of the otherwise unfunded accruing costs, as determined by [the Office of Personnel Management] *OPM for USPTO's specific use*, of post-retirement life insurance and post-retirement health benefits coverage for all USPTO employees *who are enrolled in Federal Employees Health Benefits (FEHB) and Federal Employees Group Life Insurance (FGLI)*, shall be transferred to the Civil Service Retirement and Disability Fund, the [Employees Life Insurance] *FGLI* Fund, and the [Employees Health Benefits] *FEHB* Fund, as appropriate, and shall be available for the authorized purposes of those accounts: *Provided further*, *That any differences between the present value factors published in OPM's yearly 300 series benefit letters and the factors that OPM provides for USPTO's specific use shall be recognized as an imputed cost on USPTO's financial statements, where applicable:* *Provided further*, That sections 801, 802, and 803 of division B, Public Law 108-447 shall remain in effect during fiscal year [2011] 2012: *Provided further*, That the Director may, this year, reduce by regulation fees payable for documents in patent and trademark matters, in connection with the filing of documents filed electronically in a form prescribed by the Director: *Provided further*, That there shall be a surcharge of 15 percent, rounded by standard arithmetic rules, on fees charged or authorized by sections 41(a), (b), (d) (1) and 132(b) of title 35, United States Code, as administered under Public Law 108-447 and this Act: *Provided further*, That the surcharge established under the previous proviso shall be separate from, and in addition to, any other surcharge that may be required pursuant to any provision of title 35, United States Code: *Provided further*, That the surcharge established in the previous two provisions shall take effect on the date that is 10 days after the date of enactment of this Act, and shall remain in effect during fiscal year [2011] 2012: *Provided further*, *That hereafter the Director shall reduce fees for providing prioritized examination of utility and plant patent applications by 50 percent for small entities that qualify for reduced fees under 35 U.S.C. 41(h)(1), so long as the fees of the prioritized examination program*

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*are set to recover the estimated cost of the program: Provided further, That the receipts collected as a result of these surcharges shall be available within the amounts provided herein to the United States Patent and Trademark Office without fiscal year limitation, for all authorized activities and operations of the Office.*

**Explanation of Proposed Changes to Appropriation Language**

<b>Proposed Change</b>	<b>Explanation</b>
<p>For necessary expenses of the United States Patent and Trademark Office (USPTO) provided for by law, including defense of suits instituted against the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office [\$2,321,724,000] \$2, 706,313,000 to remain available until expended: <i>Provided, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 42 and 376 are received during fiscal year [2011] 2012 so as to result in a fiscal year [2011] appropriation from the general fund estimated at \$0: Provided further, That during fiscal year [2011] 2012, should the total amount of offsetting fee collections and the surcharge provided herein be less than [\$2,321,724,000] \$2, 706,313,000 this amount shall be reduced accordingly: Provided further, That any amount received in excess of [\$2,321,724,000] \$2, 706,313,000 in fiscal year [2011] 2012 [, in an amount up to \$100,000,000,] shall remain available until expended:]</i></p>	<p>Changes the amount available to the USPTO in FY 2012 to be equal to the total amount of fees collected during FY 2012. Also provides that any fee collections above the amount made available by this appropriation language would remain available until expended.</p>
<p><i>Provided further, That in fiscal year [2011] 2012, from the amounts made available for "Salaries and Expenses" for the USPTO, the amounts necessary to pay: (1) the difference between the percentage of basic pay contributed by the USPTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) as provided by the Office of Personnel Management (OPM) for USPTO's specific use, of basic pay, of employees subject to subchapter III of chapter 83 of that title; and (2) the present value of the otherwise unfunded accruing costs, as determined by [the Office of Personnel Management] OPM for USPTO's specific use, of post-retirement life insurance and post-retirement health benefits coverage for</i></p>	<p>Clarifies the process and timing of the transfer of funds to OPM.</p>

<p>all USPTO employees <i>who are enrolled in Federal Employees Health Benefits (FEHB) and Federal Employees Group Life Insurance (FGLI)</i>, shall be transferred to the Civil Service Retirement and Disability Fund, the [Employees Life Insurance] <i>FGLI</i> Fund, and the [Employees Health Benefits] <i>FEHB</i> Fund, as appropriate, and shall be available for the authorized purposes of those accounts:  <i>Provided further, That any differences between the present value factors published in OPM's yearly 300 series benefit letters and the factors that OPM provides for USPTO's specific use shall be recognized as an imputed cost on USPTO's financial statements, where applicable:</i></p>	
<p><i>Provided further, That sections 801, 802, and 803 of division B, Public Law 108-447 shall remain in effect during fiscal year [2011] 2012:</i></p>	<p>Extends the changes to patent and trademark fee amounts and practices to FY 2012.</p>
<p><i>Provided further, That there shall be a surcharge of 15 percent, rounded by standard arithmetic rules, on fees charged or authorized by sections 41(a), (b), (d) (1) and 132(b) of title 35, United States Code, as administered under Public Law 108-447 and this Act: Provided further, That the surcharge established under the previous proviso shall be separate from, and in addition to, any other surcharge that may be required pursuant to any provision of title 35, United States Code: Provided further, That the surcharge established in the previous two provisions shall take effect on the date that is 10 days after the date of enactment of this Act, and shall remain in effect during fiscal year [2011] 2012:</i></p>	<p>Extends the interim increase for patent fees. These funds would be used to continue implementation of the USPTO's <i>FY 2010-2015 Strategic Plan</i>.</p>
<p><i>Provided further, That hereafter the Director shall reduce fees for providing prioritized examination of utility and plant patent applications by 50 percent for small entities that qualify for reduced fees under 35 U.S.C. 41(h)(1) so long as the fees of the prioritized examination program are set to recover the estimated cost of the program:</i></p>	<p>Provides authority to reduce the fee amounts paid by small entities requesting prioritized examination under Three-Track Examination.</p>

## Legislative Authorities

The programs of the USPTO are conducted under the following main legislative authorities:

- 15 U.S.C. 1051-1141n contain provisions of the Trademark Act that govern the administration of the USPTO's trademark registration system, provide for administrative proceedings before the USPTO, and set forth procedures relating to international registration of trademarks pursuant to the Madrid Protocol;
- 15 U.S.C. 1511 states that the USPTO is under the jurisdiction and subject to the control of the Department of Commerce;
- 35 U.S.C. 1-13, 21-26, 32-33, 100-105, 111-122, 131-135, 141-146, 151-157, 161-164, 171-173, 251-256, 261, 262, 267, 301-307, and 311-318 contain basic authorities for administration of patent laws, derived from the Act of July 19, 1952, and subsequent enactments;
- 35 U.S.C. 41 provides for collection of specific fees for identified services and establishment of fees at an estimated average cost for processing, services or materials not specified;
- 35 U.S.C. 41(i)(2) provides for deployment of automated search systems of the Office to the public;
- 35 U.S.C. 42(d) provides that the Director may refund any fee paid by mistake or in excess of that required;
- 35 U.S.C. 181-188 provides authorities for actions relating to secrecy of certain inventions and filing of applications in foreign countries;
- 35 U.S.C. 361-368, 371-375 contain authorities related to Patent Cooperation Treaty applications, national stage entry and related procedures;
- 35 U.S.C. 376 authorizes the USPTO to charge fees for activities related to the Patent Cooperation Treaty, and the Director may set fee amounts, except for the international and handling fees.

# APPENDICES

## Appendix 1: FY 2010 Fee Report

<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	President's Budget <u>Plan Collections</u>	<u>Actual Collections</u>
Patent Fee Summary:				
	Patent Application Filing Fees		\$459,092,798	\$464,076,510
	Patent Issue Fees		240,644,715	304,745,481
	Pre-Grant Publication Fees		48,894,010	59,656,350
	Patent Maintenance Fees		585,829,530	673,425,692
	Patent Extension Fees		130,848,170	123,262,021
	Patent Appeal Fees		27,164,970	27,195,905
	Patent Revival Fees		15,317,440	14,292,980
	Patent Cooperation Treaty (PCT) Fees		131,446,456	119,614,647
	Other Patent Processing Fees		38,895,450	29,709,585
	Patent Attorney/Agent Enrollment Fees		5,527,820	1,178,313
	Patent Service Fees		33,172,280	33,221,181
	Corporate Fees		82,925	108,640
	<b>Total Patent Fees</b>		<b>\$1,716,916,564</b>	<b>\$1,850,487,306</b>
Trademark Fee Summary:				
	Trademark Processing Fees		\$196,904,934	\$201,372,232
	Trademark Madrid Protocol Fees		11,377,550	11,406,528
	Trademark Service Fees		5,150,755	5,850,859
	Corporate Fees		11,315	12,847
	<b>Total Trademark Fees</b>		<b>\$213,444,554</b>	<b>\$218,642,466</b>
<b>Total United States Patent and Trademark Office Fees</b>			<b>\$1,930,361,118</b>	<b>\$2,069,129,772</b>
Patent Filing Fees (Large Entity):				
\$1,001	Utility Application Filing	\$850	\$0	\$7,188
1,002	Design Application Filing	380	0	20
1,005	Provisional Application Filing	220	13,018,720	11,182,830
1,006	CPA - Utility Filing	810	0	0
1,007	CPA - Design Filing	380	4,560	0
1,011	Filing of Utility Patent Application	330	56,884,740	60,013,610
1,012	Filing of Design Patent Application	220	3,192,640	2,891,948
1,013	Filing of Plant Patent Application	220	158,180	127,820
1,014	Filing of Reissue Patent Application	330	196,350	171,550
1,017	CPA - Design Filing	220	98,780	116,170
1,019	CPA - Reissue Filing	330	0	330
1,051	Surcharge - Late Filing, Search or Examination Fee, Oath or Declaration	130	7,498,270	6,997,900
1,052	Surcharge - Late Provisional Filing Fee or Cover Sheet	50	182,550	117,500
1,081	Utility Application Size	270	3,224,020	2,786,290
1,082	Design Application Size	270	17,921	14,310
1,083	Plant Application Size	270	0	0
1,084	Reissue Application Size	270	3,924	4,050
1,085	Provisional Application Size	270	1,166,244	1,186,920



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1,111	Search of Utility Patent Application	540	92,591,640	97,126,900
1,112	Search of Design Patent Application	110	1,596,320	1,349,000
1,113	Search of Plant Patent Application	330	237,270	192,390
1,114	Search of Reissue Patent Application	540	321,300	279,690
1,201	Independent Claims in Excess of Three	220	25,368,640	22,834,002
1,202	Total Claims in Excess of Twenty	52	31,856,864	31,635,398
1,203	Multiple Dependent Claims	390	1,408,290	1,374,930
1,204	Reissue Independent Claims in Excess of Three	220	288,860	236,334
1,205	Reissue Total Claims in Excess of Twenty	52	454,116	291,244
1,311	Examination of Utility Patent Application	220	37,902,040	39,987,460
1,312	Examination of Design Patent Application	140	2,031,680	1,892,420
1,313	Examination of Plant Patent Application	170	122,230	98,770
1,314	Examination of Reissue Patent Application	650	386,750	337,950
1,801	Request for Continued Examination	810	99,435,600	102,091,650
1,809	Filing a Submission after Final Rejection	810	0	98,820
1,810	Each Additional Invention to be Examined	810	0	8,910
1,821	Reexamination Independent Claims in Excess of Three	220	166,320	180,920
1,822	Reexamination Total Claims in Excess of Twenty	52	373,412	331,944
	<b>Total Patent Filing Fees (Large Entity)</b>		<b>\$380,188,231</b>	<b>\$385,967,168</b>
	Patent Filing Fees (Small Entity):			
\$2,001	Utility Application Filing	\$425	\$0	(\$710)
2,002	Design Application Filing	190	0	(165)
2,005	Provisional Application Filing	110	11,324,500	9,610,785
2,007	CPA-Design Filing	190	2,090	0
2,011	Filing of Utility Patent Application	165	2,437,875	2,148,465
2,012	Filing of Design Patent Application	110	1,473,450	1,509,277
2,013	Filing of Plant Patent Application	110	62,150	47,630
2,014	Filing of Reissue Patent Application	165	32,670	22,265
2,017	CPA-Design Filing	110	45,540	20,790
	Surcharge - Late Filing, Search or Examination Fee,			
2,051	Oath or Declaration	65	1,919,775	1,902,160
2,052	Surcharge - Late Provisional Filing Fee or Cover Sheet	25	163,075	101,825
2,081	Utility Application Size	135	413,370	530,070
2,082	Design Application Size	135	1,521	1,215
2,083	Plant Application Size	135	0	0
2,084	Reissue Application Size	135	0	540
2,085	Provisional Application Size	135	554,867	454,720
2,111	Search of Utility Patent Application	270	19,782,090	21,004,225
2,112	Search of Design Patent Application	55	736,725	684,500
2,113	Search of Plant Patent Application	165	93,225	71,280
2,114	Search of Reissue Patent Application	270	53,460	36,165
2,201	Independent Claims in Excess of Three	110	4,591,620	4,515,630
2,202	Total Claims in Excess of Twenty	26	8,341,190	8,530,607
2,203	Multiple Dependent Claims	195	296,595	297,620
2,204	Reissue Independent Claims in Excess of Three	110	32,340	32,145
2,205	Reissue Total Claims in Excess of Twenty	26	53,404	40,687
2,311	Examination of Utility Patent Application	110	8,075,430	8,597,835
2,312	Examination of Design Patent Application	70	937,650	959,850
2,313	Examination of Plant Patent Application	85	48,025	36,805

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2,314	Examination of Reissue Patent Application	325	64,350	43,535
2,801	Request for Continued Examination	405	12,429,450	11,432,320
2,809	Filing a Submission after Final Rejection	405	0	16,200
2,810	Each Additional Invention to be Examined	405	0	405
2,821	Reexamination Independent Claims in Excess of Three	110	37,950	27,520
2,822	Reexamination Total Claims in Excess of Twenty	26	53,898	49,612
4,011	Electronic Filing of Utility Patent Application	82	4,846,282	5,383,534
	<b>Total Patent Filing Fees (Small Entity)</b>		<b>\$78,904,567</b>	<b>\$78,109,342</b>
	<b>Total Patent Application Filing Fees</b>		<b>\$459,092,798</b>	<b>\$464,076,510</b>
	Patent Issue Fees (Large Entity):			
\$1,501	Utility Issue	\$1,510	\$196,392,110	\$256,039,610
1,502	Design Issue	860	11,825,000	10,664,465
1,503	Plant Issue	1,190	1,059,100	677,230
1,511	Reissue Issue	1,510	825,970	742,990
\$1,506	Suspense Account for Partial Issue Payments		163,105	2,881
	<b>Total Patent Issue Fees (Large Entity)</b>		<b>\$210,265,285</b>	<b>\$268,127,176</b>
	Patent Issue Fees (Small Entity):			
\$2,501	Utility Issue	\$755	\$25,341,575	\$31,725,810
2,502	Design Issue	430	4,688,290	4,520,590
2,503	Plant Issue	595	269,535	220,150
2,511	Reissue Issue	755	80,030	151,755
	<b>Total Patent Issue Fees (Small Entity)</b>		<b>\$30,379,430</b>	<b>\$36,618,305</b>
	<b>Total Patent Issue Fees</b>		<b>\$240,644,715</b>	<b>\$304,745,481</b>
	Pre-Grant Publication Fees:			
\$1,504	Publication Fee for Early, Voluntary or Normal Publication	\$300	\$47,772,000	\$59,258,700
1,505	Publication Fee for Republication	300	13,500	44,700
1,803	Request for Voluntary Publication or Republication	130	73,450	32,500
1,808	Processing Fee, Except in Provisional Applications	130	1,035,060	320,450
	<b>Total Pre-Grant Publication Fees</b>		<b>\$48,894,010</b>	<b>\$59,656,350</b>
	Patent Maintenance Fees (Large Entity):			
\$1,551	First Stage Maintenance	\$980	\$94,950,240	\$117,460,930
1,552	Second Stage Maintenance	2,480	227,877,280	238,996,830
1,553	Third Stage Maintenance	4,110	203,165,520	247,012,740
1,554	First Stage Surcharge In Grace Period	130	860,340	415,480
1,555	Second Stage Surcharge In Grace Period	130	932,490	391,820
1,556	Third Stage Surcharge In Grace Period	130	940,420	222,690
1,557	Maintenance Surcharge After Expiration - Unavoidable Late Payment	700	17,500	19,600
1,558	Maintenance Surcharge After Expiration - Unintentional Late Payment	1,640	3,263,600	2,737,160
\$1,559	Unassigned Maintenance Fee Payments		1,000,000	1,563,267
	<b>Total Patent Maintenance Fees (Large Entity)</b>		<b>\$533,007,390</b>	<b>\$608,820,517</b>
	Patent Maintenance Fees (Small Entity):			
\$2,551	First Stage Maintenance	\$490	\$10,898,090	\$14,140,870
2,552	Second Stage Maintenance	1,240	22,930,080	26,014,360

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2,553	Third Stage Maintenance	2,055	17,488,050	23,805,275
2,554	First Stage Surcharge in Grace Period	65	484,705	284,570
2,555	Second Stage Surcharge in Grace Period	65	500,240	228,280
2,556	Third Stage Surcharge in Grace Period	65	520,975	131,820
	<b>Total Patent Maintenance Fees (Small Entity)</b>		<b>\$52,822,140</b>	<b>\$64,605,175</b>
	<b>Total Patent Maintenance Fees</b>		<b>\$585,829,530</b>	<b>\$673,425,692</b>
	Patent Extension Fees (Large Entity):			
\$1,251	Extension for Response within First Month	\$130	\$12,029,550	\$12,811,540
1,252	Extension for Response within Second Month	490	22,966,790	21,393,079
1,253	Extension for Response within Third Month	1,110	52,854,870	47,504,313
1,254	Extension for Response within Fourth Month	1,730	5,933,900	4,655,112
1,255	Extension for Response within Fifth Month	2,350	9,484,600	7,927,915
	<b>Total Patent Extension Fees (Large Entity)</b>		<b>\$103,269,710</b>	<b>\$94,291,959</b>
	Patent Extension Fees (Small Entity):			
\$2,251	Extension for Response within First Month	\$65	\$2,026,310	\$2,262,665
2,252	Extension for Response within Second Month	245	4,569,005	4,711,020
2,253	Extension for Response within Third Month	555	14,996,655	16,267,736
2,254	Extension for Response within Fourth Month	865	2,383,940	1,982,436
2,255	Extension for Response within Fifth Month	1,175	3,602,550	3,746,205
	<b>Total Patent Extension Fees (Small Entity)</b>		<b>\$27,578,460</b>	<b>\$28,970,062</b>
	<b>Total Patent Extension Fees</b>		<b>\$130,848,170</b>	<b>\$123,262,021</b>
	Patent Appeal Fees (Large Entity):			
\$1,401	Notice of Appeal to Board of Appeals	\$540	\$14,656,680	\$14,852,260
1,402	Filing a Brief in Support of an Appeal	540	8,380,800	8,545,440
1,403	Filing a Brief in Support of an Appeal	1,080	1,237,680	970,650
	<b>Total Patent Appeal Fees (Large Entity)</b>		<b>\$24,275,160</b>	<b>\$24,368,350</b>
	Patent Appeal Fees (Small Entity):			
\$2,401	Notice of Appeal to Board of Appeals	\$270	\$1,889,190	\$1,844,690
2,402	Filing a Brief in Support of an Appeal	270	842,940	830,300
2,403	Request for an Oral Hearing	540	157,680	151,765
	<b>Total Patent Appeal Fees (Small Entity)</b>		<b>\$2,889,810</b>	<b>\$2,826,755</b>
1,405	Petitions to the Chief Administrative Patent Judge	400	\$0	\$800
	<b>Total Patent Appeal Fees</b>		<b>\$27,164,970</b>	<b>\$27,195,905</b>
	Patent Revival Fees (Large Entity):			
\$1,452	Petition to Revive Unavoidably Abandoned Application	\$540	\$84,780	\$47,520
1,453	Petition to Revive Unintentionally Abandoned Application	1,620	6,993,540	5,997,670
1,814	Statutory Disclaimer	140	4,675,580	4,524,085
	<b>Total Patent Revival Fees (Large Entity)</b>		<b>\$11,753,900</b>	<b>\$10,569,275</b>
	Patent Revival Fees (Small Entity):			
\$2,452	Petition to Revive Unavoidably Abandoned Application	\$270	\$64,800	\$50,490
2,453	Petition to Revive Unintentionally Abandoned Application	810	2,863,350	3,076,605
2,814	Statutory Disclaimer	70	635,390	596,610
	<b>Total Patent Revival Fees (Small Entity)</b>		<b>\$3,563,540</b>	<b>\$3,723,705</b>
	<b>Total Patent Revival Fees</b>		<b>\$15,317,440</b>	<b>\$14,292,980</b>

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PCT Application Fees (Large Entity):				
\$1,610	ISA is USPTO		\$0	\$740
\$1,613	Filing with EPO or JPO Search Report		0	(1,840)
1,614	Independent Claims in Excess of Three	220	5,475,800	4,627,270
1,615	Total Claims in Excess of Twenty	52	9,085,492	7,337,234
1,616	Multiple Dependent Claims	390	1,504,620	1,297,650
Search or Examination Fee, Oath or Declaration after 30				
1,617	Months from Priority Date	130	2,964,130	3,080,220
1,618	English Translation After 30 Months from Priority Date	130	310,830	266,110
1,631	Filing of PCT National Stage Application	330	16,105,650	15,559,590
1,632	PCT National Stage Search - All Other Situations	540	23,220	(618,910)
1,633	PCT National Stage Examination - All Other Situations	220	10,585,960	10,437,910
1,641	PCT National Stage Search - US was the ISA	100	210,300	207,700
PCT National Stage Search - Search Report Prepared				
1,642	and Provided to USPTO	430	19,739,150	19,944,650
1,681	PCT National Stage Application Size	270	1,281,420	1,079,780
<b>Total PCT Application Fees (Large Entity)</b>			<b>\$67,286,572</b>	<b>\$63,218,104</b>
PCT Application Fees (Small Entity):				
2,609	IPEA is USPTO		\$0	(\$730)
2,610	ISA is USPTO		0	385
2,613	Filing with EPO or JPO Search Report		0	460
2,614	Independent Claims in Excess of Three	110	1,122,880	1,107,160
2,615	Total Claims in Excess of Twenty	26	2,387,554	2,146,892
2,616	Multiple Dependent Claims	195	247,845	237,455
Search of Examination Fee, Oath or Declaration after 30				
2,617	Months from Priority Date	65	564,460	651,495
2,631	Filing of PCT National Stage Application	165	2,416,590	2,490,880
2,632	PCT National Stage Search - All Other Situations	270	89,100	(110,905)
2,633	PCT National Stage Examination - All Other Situations	110	1,566,290	1,670,295
2,641	PCT National Stage Search - US was the ISA	50	142,800	132,300
PCT National Stage Search - Search Report Prepared				
2,642	and Provided to USPTO	215	2,381,125	2,776,340
2,681	National Stage Application Size	135	186,435	192,305
<b>Total PCT Application Fees (Small Entity)</b>			<b>\$11,105,079</b>	<b>\$11,294,332</b>
<b>Total PCT Application Filing Fees</b>			<b>\$78,391,651</b>	<b>\$74,512,436</b>
PCT Processing Fees:				
\$1,601	PCT Transmittal Fee	\$240	\$11,925,840	\$10,795,080
PCT Search Fee - Regardless of whether there is a				
1,602	corresponding application	2,080	38,138,880	31,962,980
1,604	Supplemental Search per Additional Invention	2,080	1,085,760	1,030,360
1,605	PCT - Preliminary Examination (USPTO is ISA)	600	1,615,200	861,600
1,606	PCT - Preliminary Examination (USPTO is not ISA)	750	273,000	345,750
1,607	Supplemental Examination per Additional Invention	600	27,600	5,400
\$1,619	PCT - Late Payment		(11,475)	101,041
<b>Total PCT Processing Fees</b>			<b>\$53,054,805</b>	<b>\$45,102,211</b>
<b>Total PCT Application and Processing Fees</b>			<b>\$131,446,456</b>	<b>\$119,614,647</b>

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	Other Patent Processing Fees:			
\$1,053	Non-English Specification	\$130	\$260,260	\$291,590
1,451	Petition to Institute a Public Use Proceeding	1,510	10,570	7,550
1,454	Acceptance of an Unintentionally Delayed Claim for Priority	1,410	1,807,620	1,270,370
1,455	Filing an Application for Patent Term Adjustment	200	31,000	544,600
1,456	Request for Reinstatement of Term Reduced	400	24,400	4,800
1,457	Extension of Patent Term	1,120	51,520	45,920
1,458	Initial Application for Interim Extension	420	7,560	1,680
1,459	Subsequent Application for Interim Extension	220	220	1,100
1,462	Petitions to the Director (Group I)	400	1,323,600	1,004,800
1,463	Petitions to the Director (Group II)	200	1,352,600	921,800
1,464	Petitions to the Director (Group III)	130	1,836,770	1,207,830
1,802	Expedited Examination of Design Application	900	237,600	198,900
1,804	Request for Publication of SIR - Prior to Examiner Action	920	36,800	3,516
1,805	Request for Publication of SIR - After Examiner Action	1,840	3,680	13,930
1,806	Submission of Information Disclosure Statement	180	27,470,340	18,086,400
1,807	Processing Fee for Provisional Applications	50	98,900	99,650
1,811	Certificate of Correction	100	930,600	886,300
1,812	Request for Ex Parte Reexamination	2,520	2,154,600	1,640,520
1,813	Request for Inter Partes Reexamination	8,800	2,041,600	2,112,000
8,016	Status of Maintenance Fee Payment (Uncertified Statement)	10	80	70
8,022	Publication in Official Gazette	25	2,850	2,600
8,025	Retaining Abandoned Application	130	130	0
8,026	Handling Fee for Incomplete or Improper Application	130	202,150	60,710
\$1,815	Suspense Account for Other Patent Processing Fees		10,000	46,480
\$1,999	Patent Unassigned Fees		(1,000,000)	1,256,469
	<b>Total Other Patent Processing Fees</b>		<b>\$38,895,450</b>	<b>\$29,709,585</b>
	Patent Attorney Enrollment Fees:			
\$9,001	Application Fee for Examination	\$40	\$207,400	\$148,400
9,003	Attorney Fee - Registration to Practice or Grant of Limited Recognition	100	0	200,600
9,004	Attorney Fee - Reinstatement to Practice	40	0	900
9,005	Attorney Fee - Certificate of Good Standing as an Attorney or Agent	10	2,720	3,540
9,006	Attorney Fee - Certificate of Standing as an Attorney or Agent, Suitable for Framing	20	840	420
9,010	For Test Administration by Commercial Entity	200	1,006,000	698,000
9,011	For Test Administration by USPTO	450	1,800	2,250
9,012	Review of Decision by the OED Director under 11.2(c)	130	650	1,950
9,013	Review of Decision of the OED Director under 11.2(d)	130	650	0
9,014	Application Fee for Person Disciplined, Convicted of a Felony or Certain Misdemeanors under 11.7(h)	1,600	6,400	57,600
9,015	Annual Fee for Registered Attorney or Agent, Active Status	118	4,248,000	0
9,016	Annual Fee for Individual Granted Limited Recognition	25	25,000	0
9,017	Annual Fee for Registered Attorney or Agent, Voluntary Inactive Status	50	7,500	0

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9,018	Requesting Restoration to Active Status from Voluntary Inactive Status	93	930	0
9,019	Balance of Annual Fee Due Upon Restoration to Active Status	118	1,180	0
9,020	Delinquency	50	8,750	0
9,021	Reinstatement	100	10,000	0
\$9,024	Unspecified other services, excluding labor		0	2,753
9,025	Attorney Fee - Registration to Practice or Grant of Limited Recognition	100	0	61,900
	<b>Total Patent Attorney Enrollment Fees</b>		<b>\$5,527,820</b>	<b>\$1,178,313</b>
	Patent Service Fees:			
\$8,001	Printed Copy of Patent without Color	\$3	\$556,383	\$665,166
8,003	Printed Copy of Plant Patent in Color	15	31,920	6,375
8,004	Color Copy of Patent (Other than Plant) or SIR with Color Drawing	25	25	25
8,005	Patent Application Publication	3	18,132	18,429
8,007	Copy of Patent Application as Filed, if Provided on Paper	20	2,465,740	1,961,720
8,008	Copy of Patent Related File Wrapper and Paper Contents of 400 or Fewer Pages, if Provided on Paper	200	616,800	452,400
8,009	Additional Fee for Each Additional 100 Pages or Portion of Patent Related File Wrapper and Contents	40	124,000	162,480
8,010	Certification of Patent-Related File Wrapper and Paper Contents	25	40,900	41,275
8,011	Copy of Patent Related File Wrapper and Contents if Provided Electronically other than on a Physical Electronic Medium as Specified	55	138,380	150,975
8,012	Additional Fee for Each Continuing Physical Electronic Medium in Single Order	15	15	855
8,013	Copy of Office Records, Except Copies of Applications as Filed	25	278,750	233,550
8,014	Assignment Records, Abstract of Title and Certification, per Patent	25	1,079,350	832,275
8,017	Copy of Non-US Document	25	75	325
8,019	Local Delivery Box Rental, Annually	50	1,300	2,400
8,020	International Type Search Report	40	200	80
8,021	Recording Each Patent Assignment, Agreement or Other Paper	40	23,823,480	25,273,800
8,023	Labor Charge for Services	40	345,600	215,760
8,024	Unspecified Other Services, Excluding Labor		60,138	54,791
8,031	Computer Records, At Cost		1,587,382	1,374,924
8,901	REPS		527,607	304,133
8,902	Self Service Copy Charge, per Page		1,474,003	1,454,304
8,903	Unspecified Other Services		0	12,792
8,904	Annual Library Subscription	50	2,100	2,348
	<b>Total Patent Service Fees</b>		<b>\$33,172,280</b>	<b>\$33,221,181</b>
	Corporate Fees:			
\$9,101	Processing Each Payment Refused or Charged Back	\$50	\$6,950	\$10,194
9,201	Establish or Reinstate Deposit Account	10	1,400	2,397

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9,202	Service Charge for Below Minimum Balance on Deposit Accounts	25	74,575	95,529
\$9,209	Partial service charge for closing a deposit account		0	520
	<b>Total Corporate Fees</b>		<b>\$82,925</b>	<b>\$108,640</b>
	<b>Total Patent Fees</b>		<b>\$1,716,916,564</b>	<b>\$1,850,487,306</b>
	Trademark Processing Fees:			
\$6,001	Application for Registration (Paper Correspondence)	\$375	\$4,158,000	\$2,474,675
7,001	Application for Registration (Electronic Correspondence)	100	75,027,550	74,976,505
6,002	Amendment to Allege Use (Paper Correspondence)	100	126,200	55,200
7,002	Amendment to Allege Use (Electronic Correspondence)	150	715,000	707,700
6,003	Statement of Use (Paper Correspondence)	100	879,800	387,600
7,003	Statement of Use (Electronic Correspondence)	100	6,452,200	8,054,000
6,004	Extension of Time for Filing a Statement of Use (Paper Correspondence)	50	1,653,900	632,850
7,004	Extension of Time for Filing a Statement of Use (Electronic Correspondence)	400	25,911,600	30,146,550
6,005	Petitions to the Director (Paper Correspondence)	100	369,700	98,900
7,005	Petitions to the Director (Electronic Correspondence)	100	1,941,100	1,880,800
6,006	Division of Applications (Paper Correspondence)	100	219,900	24,300
7,006	Division of Applications (Electronic Correspondence)	100	0	259,100
7,007	TEAS Plus	100	26,426,400	30,618,225
6,008	Additional Fee for Failure to Satisfy TEAS Plus Requirements	200	0	14,150
7,008	Additional Fee for Failure to Satisfy TEAS Plus Requirements	100	111,750	110,200
6,201	Application for Renewal (Paper Correspondence)	100	3,016,400	1,488,900
7,201	Application for Renewal (Electronic Correspondence)	100	18,528,800	19,525,200
6,203	Additional Fee for Renewal Application in Grace Period (Paper Correspondence)	100	116,500	33,500
7,203	Additional Fee for Renewal Application in Grace Period (Electronic Correspondence)	100	530,600	543,600
6,204	Correcting Deficiency in Renewal Application	300	1,000	100
7,204	Correcting Deficiency in Renewal Application	300	0	100
6,205	Filing Affidavit Under Section 8 (Paper Correspondence)	300	1,640,100	836,800
7,205	Filing Affidavit Under Section 8 (Electronic Correspondence)	100	10,976,100	11,468,700
6,206	Filing Section 8 Affidavit during Grace Period (Paper Correspondence)	20	274,700	97,600
7,206	Filing Section 8 Affidavit during Grace Period (Electronic Correspondence)	20	1,251,600	1,376,600
6,207	Correcting a Deficiency in a Section 8 Affidavit	20	90,000	51,400
7,207	Correcting a Deficiency in a Section 8 Affidavit	20	0	21,600
6,208	Filing Affidavit Under Section 15 (Paper Correspondence)	20	1,463,800	717,200
7,208	Filing Affidavit Under Section 15 (Electronic Correspondence)	20	10,734,600	11,267,200
6,210	Publication of Mark Under Section 12c	325	0	0
6,211	Issuing New Certificate of Registration	100	16,100	2,400
6,212	Certificate of Correction, Registrant's Error	100	142,800	14,600

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7,212	Certificate of Correction, Registrant's Error	150	0	291,200
6,213	Filing Disclaimer to Registration	100	0	0
6,214	Filing Amendment to Registration	275	173,400	27,000
7,214	Filing amendment to registration	100	0	3,500
6,401	Petition to Cancel (Paper Correspondence)	50	69,834	34,200
7,401	Petition to Cancel (Electronic Correspondence)	400	628,500	647,700
6,402	Notice of Opposition (Paper Correspondence)	100	190,800	79,500
7,402	Notice of Opposition (Electronic Correspondence)	100	2,536,500	1,992,300
6,403	Ex Parte Appeal (Paper Correspondence)	100	116,500	40,000
7,403	Ex Parte Appeal (Electronic Correspondence)	200	413,200	368,300
6,991	Recordal Application Fee	100	0	720
6,992	Renewal Application Fee	100	0	340
6,993	Late Fee for Renewal Application	300	0	20
6,994	Application fee for reactivation of insignia, per request	300	0	120
6,999	Trademark Unassigned Fees		0	1,077
	<b>Total Trademark Processing Fees</b>		<b>\$196,904,934</b>	<b>\$201,372,232</b>
	Trademark Madrid Protocol Fees:			
\$6,901	Certifying an International Application - Single Application (Paper Correspondence)	\$100	\$6,600	\$2,400
6,902	Certifying an International Application - More than One Application (Paper Correspondence)	150	1,650	600
6,903	Transmitting a Request to Record an Assignment or Restriction (Paper Correspondence)	100	0	0
6,904	Filing a Notice of Replacement (Paper Correspondence)	100	400	0
6,905	Filing an Affidavit Under 71 of the Act (Paper Correspondence)	100	0	0
6,906	Surcharge for Filing an Affidavit Under 71 During Grace Period (Paper Correspondence)	100	0	0
6,907	Transmitting a Subsequent Designation (Paper Correspondence)	100	800	100
7,901	Certifying an International Application - Single Application (Electronic Correspondence)	100	652,300	504,300
7,902	Certifying an International Application - More than One Application (Electronic Correspondence)	150	161,550	132,300
7,903	Transmitting a Request to Record an Assignment or Restriction (Electronic Correspondence)	100	0	0
7,904	Filing a Notice of Replacement (Electronic Correspondence)	100	0	800
7,905	Filing an Affidavit Under 71 of the Act (Electronic Correspondence)	100	0	2,100
7,906	Surcharge for Filing an Affidavit Under 71 During Grace Period (Electronic Correspondence)	100	0	0
7,907	Transmitting a Subsequent Designation (Electronic Correspondence)	100	82,600	56,000
7,931	Application Fee Filed at WIPO	325	9,470,825	9,524,775
7,932	Renewal Fee Filed at WIPO	400	164,000	303,200
7,933	Subsequent Designation Fee Filed at WIPO	325	786,825	786,825
\$9,990	International Bureau Unassigned Fees		50,000	93,128
	<b>Total Trademark Madrid Protocol Fees</b>		<b>\$11,377,550</b>	<b>\$11,406,528</b>



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Trademark Service Fees:				
\$8,501	Printed Copy of Registered Mark	\$3	\$84	\$318
8,503	Certified Copy of Registered Mark, with Title and/or Status	15	145,890	139,620
8,504	Certified Copy of Registered Mark, with Title and/or Status (Expedited)	30	151,230	101,610
8,507	Certified Copy of Trademark Application as Filed	15	438,780	317,370
8,508	Copy of Trademark File Wrapper and Contents (Certified or Uncertified)	50	39,050	46,150
8,513	Copy of Trademark Document (Certified or Uncertified)	25	42,850	12,925
8,514	Assignment Records, Abstracts of Title and Certification per Registration	25	39,250	40,350
8,521	Recording Trademark Assignment, Agreement or Other Paper For Second and Subsequent Marks in the Same	40	1,240,120	1,221,240
8,522	Document	25	2,911,175	3,895,950
8,523	Labor Charge for Services	40	57,200	38,200
8,524	Unspecified Other Trademark Services, Excluding Labor		4,046	1,480
8,531	Trademark Computer Records		7,744	6,745
8,901	REPS		18,830	4,670
8,902	Self Service Copy Charge, per Page		52,606	22,528
8,904	Annual Library Subscription	50	1,900	1,702
<b>Total Trademark Service Fees</b>			<b>\$5,150,755</b>	<b>\$5,850,859</b>
Corporate Fees:				
\$9,101	Processing Each Payment Refused or Charged Back	\$50	\$950	\$1,206
9,201	Establish or Reinstate Deposit Account	10	190	283
9,202	Service Charge for Below Minimum Balance on Deposit Accounts	25	10,175	11,296
\$9,209	Partial service charge for closing a deposit account		0	62
<b>Total Corporate Fees</b>			<b>\$11,315</b>	<b>\$12,847</b>
<b>Total Trademark Fees</b>			<b>\$213,444,554</b>	<b>\$218,642,466</b>
<b>Total United States Patent and Trademark Office Fees</b>			<b>\$1,930,361,118</b>	<b>\$2,069,129,772</b>

## Appendix 2: USPTO Fee Collections- FY 2010 Estimated and Actual Fees and Assumptions

(Dollars in Millions)	FY 2009		FY 2010			
	Actual	President's Budget	Congressional Update	Revised Low Estimate	Revised High Estimate	Actual
Date of Projection	October 2009	March 2009	December 2009	March 2010	March 2010	October 2010
<b>Total USPTO Fee Collections</b>	<b>\$1,875</b>	<b>\$1,930</b>	<b>\$1,887</b>	<b>\$2,033</b>	<b>\$2,119</b>	<b>\$2,069</b>
Total Patent Fee Collections	\$1,656	\$1,717	\$1,669	\$1,813	\$1,894	\$1,851
Total Trademark Fee Collections	\$218	\$214	\$218	\$220	\$225	\$219
Major Patent Fee Collections:						
Filing (with Excess Claims)	\$463	\$459	\$463	\$455	\$465	\$464
Issue and Publication	\$292	\$290	\$285	\$347	\$366	\$364
Maintenance	\$547	\$586	\$573	\$661	\$699	\$673
PCT	\$118	\$131	\$118	\$118	\$123	\$120
Extensions of Time	\$131	\$131	\$124	\$126	\$134	\$123
Other	\$105	\$120	\$105	\$107	\$107	\$106
<b>Assumptions Used to Develop Fee Collection Estimates</b>						
Filing Growth Rates:	Patent filings growth rate was 2%; RCE filings were 30% of patent filings. Trademark filings growth rate was -12%.	Patent filings estimated to have no growth; RCE filings estimated at 33% of patent filings. Trademark filings growth rate estimated at -3%.	Patent filings estimated to have no growth; RCE filings estimated at 31% of patent filings. Trademark filings growth rate estimated at 1%. Estimates of filings were slightly stronger in the Congressional Update because of strong RCE collections in the spring/summer 2009.	Filings growth rate estimated to be 2%; RCE filings estimated at 33% of patent filings. Trademark filings growth estimated at 3%. These filing rates were based on low estimates of continued economic growth seen in the fall/winter of FY 2010.	Filings growth rate estimated to be 5%; RCE filings estimated at 28% of patent filings. Trademark filings growth estimated at 7%. These filing rates were based on high estimates of continued economic growth seen in the fall/winter of FY 2010.	Patent filings growth rate was 5%; RCE filings were 32% of patent filings. Trademark filings growth rate was 5%.
Filing Growth Rates Trends:	Patent filings decreased 2% in FY 2009 with the depressed economy with 30% of the total continued examinations (RCEs). In the President's Budget estimate it was assumed there would be no overall growth in patent filings, and that RCEs would comprise 33% of filings. Although the patent filing growth rate remained at 0% in the Congressional Update, the RCE rate decreased to 31% of total filings based on patent examination production efficiencies. Actual collections were very close to the estimate although patent filings grew 4%. Patent filings are expected to continue this trend in FY 2011 and FY 2012. Trademark filings were estimated to decrease 3% in the President's Budget based on the depressed economy. This was revised to a 1% decline in the Congressional Update. The actual growth rate was 5% with the quick return of trademark activity which is expected to continue in FY 2011 and FY 2012.					
Patent Issue:	163,345 issues.	176,900 planned issues.	164,411 planned issues. Estimates of issues dropped in the Congressional Update estimate based on depressed collections and activity in the spring/summer 2009.	Issues of 196,650 planned. Estimates of issues increased in the low estimate based on continued increased patent grants in the fall/winter of FY 2010.	Issues of 206,014 planned. Estimates of issues was based on high estimates of continued increased patent grants seen in the fall/winter of FY 2010.	Issues of 205,584 planned. The continued strong collections help to develop the estimates for FY 2011.
Patent Issue Trends:	Issues is a process and resource driven workload. Initial estimates of issues (President's Budget) were based on expected patent examiner resources (staff, overtime, support) that were not realized with the financial constraints of FY 2009. Therefore issue estimates were decreased for the Congressional Update estimate. Patent examination production efficiencies were introduced in early FY 2010 along with the expectation of increased issues resulting in the Revised Estimates. Issues are expected to continue increasing in FY 2011 and FY 2012.					
Patent Maintenance (Post Renewal):	Renewal rates: 80% first stage, 76% second stage and 69% third stage.	Renewal rates: 80% first stage, 73% second stage and 58% third stage.	Renewal rates: 74% first stage, 67% second stage and 63% third stage. Estimates of renewals dropped in the Congressional Update estimate based on depressed collections and activity in the spring/summer 2009.	Renewal rates: 89% first stage, 77% second stage and 72% third stage. Estimates increased in the low estimate of continued increased demand for renewals in the fall/winter of FY 2010.	Renewal rates: 98% first stage, 81% second stage and 77% third stage. Renewal rates are based on a high estimate of continued increased demand for renewals in the fall/winter of FY 2010.	Renewal rates: 99% first stage, 77% second stage and 72% third stage. Actual renewal rates in FY 2010 were very strong and these rates have led to continued strong estimates for FY 2011.
Patent Maintenance (Post Renewal) Trends:	Maintenance fee collections were significantly below plan in FY 2009, with the depressed economy. This trend was initially expected to continue to a slight decline in FY 2010, in the President's Budget and Congressional Update estimates. Collections began strong increases in early FY 2010 resulting in updated renewal rates for the Revised Estimates. The revised estimate was very close to actuals. Renewal rates are expected to remain steady in FY 2011 and FY 2012.					
Fee Adjustments:	5% increase to patent statutory fees was implemented at the beginning of the fiscal year.	No Fee Adjustments.	No Fee Adjustments.	No Fee Adjustments.	No Fee Adjustments.	No Fee Adjustments.



## Appendix 3: USPTO Fee Collections and Estimates

(Dollars in Millions)	FY 2010		FY 2011		FY 2012		
	Actual	Revised Low Estimate	Revised Working Estimate	Revised High Estimate	President's Budget Low Estimate	President's Budget Working Estimate	President's Budget High Estimate
Date of Projection	October 2010	February 2011	February 2011	February 2011	February 2011	February 2011	February 2011
<b>Total USPTO Fee Collections</b>	<b>\$2,069</b>	<b>\$2,270</b>	<b>\$2,346</b>	<b>\$2,436</b>	<b>\$2,580</b>	<b>\$2,706</b>	<b>\$2,842</b>
Total Patent Fee Collections	\$1,851	\$2,058	\$2,124	\$2,211	\$2,356	\$2,466	\$2,595
Total Trademark Fee Collections	\$219	\$212	\$222	\$225	\$224	\$240	\$247
Major Patent Fee Collections:							
Filing (with Excess Claims)	\$464	\$523	\$547	\$572	\$677	\$741	\$800
Issue and Publication	\$364	\$406	\$413	\$420	\$465	\$473	\$480
Maintenance	\$673	\$743	\$762	\$801	\$793	\$814	\$857
PCT	\$120	\$128	\$129	\$130	\$139	\$141	\$142
Extensions of Time	\$123	\$148	\$161	\$175	\$164	\$179	\$193
Other	\$106	\$110	\$112	\$114	\$117	\$120	\$122
<b>Assumptions Used to Develop Fee Collection Estimates</b>							
Filing Growth Rates:	Patent filings growth rate was 5%; RCE filings were 32% of patent filings. Trademark filings growth rate was 5%.	Filings growth rate estimated to be 3%; RCE filings estimated at 33% of patent filings. Trademark filings growth estimated at -4%. These filing rates are based on conservative estimates of continued economic growth.	Filings growth rate estimated to be 5%; RCE filings estimated at 30% of patent filings. Trademark filings growth estimated at 4%. These filing rates are based on moderate estimates of continued economic growth.	Filings growth rate estimated to be 7%; RCE filings estimated at 28% of patent filings. Trademark filings growth estimated at 7%. These filing rates are based on high estimates of continued economic growth.	Filings growth rate estimated to be 2%; RCE filings estimated at 21% of patent filings under increased RCE fee rate and new alternative to RCE rules. Trademark filings growth estimated at -1%. These filing rates are based on conservative estimates of continued economic growth.	Filings growth rate estimated to be 4%; RCE filings estimated at 20% of patent filings under increased RCE fee rate and new alternative to RCE rules. Trademark filings growth estimated at 4%. These filing rates are based on moderate estimates of continued economic growth.	Filings growth rate estimated to be 6%; RCE filings estimated at 19% of patent filings. Trademark filings growth estimated at 7%. These filing rates are based on high estimates of continued economic growth.
Patent Issue:	Issues of 205,584.	Issues of 218,396 based on conservative estimates of increased patent examination production efficiencies.	Issues of 222,853 based on moderate estimates of increased patent examination production efficiencies.	Issues of 227,310 based on high estimates of increased patent examination production efficiencies.	Issues of 235,885 based on conservative estimates of increased patent examination production efficiencies.	Issues of 240,699 based on moderate estimates of increased patent examination production efficiencies.	Issues of 245,513 based on high estimates of increased patent examination production efficiencies.
Patent Maintenance (Post Renewal):	Renewal rates: 99% first stage, 77% second stage and 72% third stage	Renewal rates: 91% first stage, 75% second stage and 69% third stage. These estimated renewal rates are based on conservative estimates of continued economic growth and patent demand.	Renewal rates: 93% first stage, 77% second stage and 70% third stage. These estimated renewal rates are based on moderate estimates of continued economic growth and patent demand.	Renewal rates: 94% first stage, 80% second stage and 76% third stage. These estimated renewal rates are based on high estimates of continued economic growth and patent demand.	Renewal rates: 91% first stage, 75% second stage and 69% third stage. These estimated renewal rates are based on conservative estimates of continued economic growth and patent demand.	Renewal rates: 93% first stage, 77% second stage and 70% third stage. These estimated renewal rates are based on moderate estimates of continued economic growth and patent demand.	Renewal rates: 94% first stage, 80% second stage and 77% third stage. These estimated renewal rates are based on high estimates of continued economic growth and patent demand.
Enhanced Examination Timing Assumptions:	N/A	Track 1: 5,000 filings.	Track 1: 6,500 filings.	Track 1: 8,000 filings.	Track 1: 10,000 filings; Track 3: 20,000 filings.	Track 1: 20,000 filings; Track 3: 20,000 filings.	Track 1: 20,000 filings; Track 3: 5,000 filings.
Fee Adjustments:	No Fee Adjustments	CPI of 0.0%, with 15% increase to patent statutory and RCE fees starting mid-March.	CPI of 0.0%, with 15% increase to patent statutory and RCE fees starting mid-March.	CPI of 0.0%, with 15% increase to patent statutory and RCE fees starting mid-March.	CPI of 1.4%, and continuation of 15% increase to patent statutory fees.	CPI of 1.4%, and continuation of 15% increase to patent statutory fees.	CPI of 1.4%, and continuation of 15% increase to patent statutory fees.

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