



United States Patent and Trademark Office
Performance and Accountability Report
Fiscal Year 2009



transparency



global



performance

accountability

innovation



intellectual
property



Today's Challenges – Tomorrow's Solutions

FINANCIAL HIGHLIGHTS

(Dollars in Thousands)	% Change 2009 over 2008	September 30, 2009	September 30, 2008
Fund Balance with Treasury	(8.5%)	\$ 1,309,807	\$ 1,431,242
Property, Plant, and Equipment, Net	0.8%	205,802	204,184
Other Assets	30.1%	16,731	12,864
Total Assets	(7.0%)	<u>\$ 1,532,340</u>	<u>\$ 1,648,290</u>
Deferred Revenue	(5.7%)	\$ 800,256	\$ 848,505
Accounts Payable	(6.7%)	90,188	96,694
Accrued Payroll, Benefits, and Leave	7.8%	156,756	145,435
Other Liabilities	(12.6%)	109,346	125,052
Total Liabilities	(4.9%)	<u>\$ 1,156,546</u>	<u>\$ 1,215,686</u>
Net Position	(13.1%)	375,794	432,604
Total Liabilities & Net Position	(7.0%)	<u>\$ 1,532,340</u>	<u>\$ 1,648,290</u>
Total Program Cost	4.7%	\$ 1,981,940	\$ 1,892,590
Total Earned Revenue	3.5%	(1,927,130)	(1,862,174)
Net Cost of Operations	80.2%	<u>\$ 54,810</u>	<u>\$ 30,416</u>
Budgetary Resources Available for Spending	3.4%	\$ 1,981,204	\$ 1,916,609
Total Outlays/(Collections), Net	(694.6%)	<u>\$ 104,134</u>	<u>\$ (17,514)</u>
Federal Personnel	2.1%	9,716	9,518
Disbursements by Electronic Funds Transfer (EFT)	—	99%	99%
On-Time Payments to Vendors	(1.0%)	96%	97%

PERFORMANCE HIGHLIGHTS

Performance Measures	FY 2009 Target	FY 2009 Actual	Met/Not Met Score
Patent Average First Action Pendency (months)	27.5	25.8	Met
Patent Average Total Pendency (months)	37.9	34.6	Met
Patent In-Process Examination Compliance Rate	93.0%	93.2%	Met
Patent Allowance Compliance Rate	96.5%	96.9%	Met
Patent Applications Filed Electronically	80.0%	82.5% ¹	Met
Trademark Average First Action Pendency (months)	2.5 to 3.5	2.7	Met
Trademark Average Total Pendency (months)	13.0	11.2	Met
Trademark First Action Compliance Rate	95.5%	96.4%	Met
Trademark Final Compliance Rate	97.0%	97.6%	Met
Trademark Applications Processed Electronically	62.0%	62.0%	Met
Percentage of countries on the USTR 301 list, awaiting WTO accession, or targeted by OIPPE for improvements that have positively amended or improved their IP systems.	40.0%	54.0%	Met
Number of countries that implement at least 75% of action steps which improve IP protections in the joint cooperation, action or work plans.	4	5	Met

¹ This is preliminary data and is expected to be final by December 2009 and will be reported in the fiscal year (FY) 2010 PAR.

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WEB ADDRESS FOR THE USPTO PERFORMANCE AND ACCOUNTABILITY REPORT

<http://www.uspto.gov/about/stratplan/ar/index.jsp>

ABOUT THIS REPORT

The USPTO Performance and Accountability Report for FY 2009 provides a comprehensive summary of program and financial results and is structured to help the President, the Congress, and the American public assess our performance relative to our mission and accountability for our financial resources.

FISCAL YEAR 2009 SUSTAINING PERFORMANCE



President Barack Obama presented the 2008 National Medal of Technology and Innovation in the East Room of the White House. The medal is this nation's highest award for technological achievement. Here the President presents the medal to Dr. Forrest Bird, inventor of the portable respirator.

Message from the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO)

Fiscal Year (FY) 2009 was a year of great economic turbulence for the United States of America as well as for the United States Patent and Trademark Office (USPTO). It was also a year of extraordinary decisions and results. It is my honor and privilege to have been sworn in as the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office and to lead this Agency during a time of historic transformation.

As you know, the past year was a challenging one for the USPTO. The downturn in the economy showed us that the Agency is working with an outdated financial model. Due to decreased patent filings and maintenance fee payments, the Agency found itself in a financial crisis and was forced to freeze hiring, curtail mission critical programs, and cut back in key efforts relating to the Agency's mission.

With the help of the Department of Commerce, the Office of Management and Budget and Congress, an insurance policy was put in place that would have allowed us to borrow from Trademark funds. Due to aggressive cost-cutting across the Agency, we ended the year without having to take unwanted measures such as borrowing



money from the Trademarks' budget. However, with 2010 promising to be another financially challenging year, we are focusing on both short- and long-term solutions to put the agency back on solid financial footing. We will be working with the administration, Congress and stakeholders to identify and implement those solutions.

In 2009, the Agency began to lay the groundwork for new measures to address our biggest challenge--dramatically reducing the time it takes to process patent applications. Secretary of Commerce, Gary Locke, has directed the USPTO to reduce first action pendency to 10 months and overall pendency to 20 months. Shortening pendency time is imperative to improve predictability and clarity in the patent system.

Our technological infrastructure has been neglected, threatening the ability of the USPTO to drive future growth. We need to implement a robust information technology system capable of supporting all of the USPTO's operations on a continual basis, and capable of facilitating full electronic patent and trademark processing.

“Today, the competition is keener; the challenge is tougher; and that is why innovation is more important than ever.”

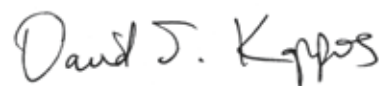
-President Barack Obama

Although many of the financial forces are, to a large extent, beyond our control, we must nevertheless accomplish our statutory mission to foster innovation and competitiveness. But despite the Agency’s financial challenges in FY 2009, the patent examining operations increased first action productivity by 10 percent while filings were slightly reduced. This combination resulted in a small reduction in the overall backlog. Had the funding been available to continue hiring and to allow overtime for patent examiners, that reduction in the backlog could have been much larger.

The Trademark organization had challenges of a different nature. Lower application filings meant managing workflow and inventory while keeping pendency at appropriate levels consistent with stakeholder expectations. For the fourth year in a row, the Trademark organization met all of its goals, focusing on pendency, quality and e-government efforts.

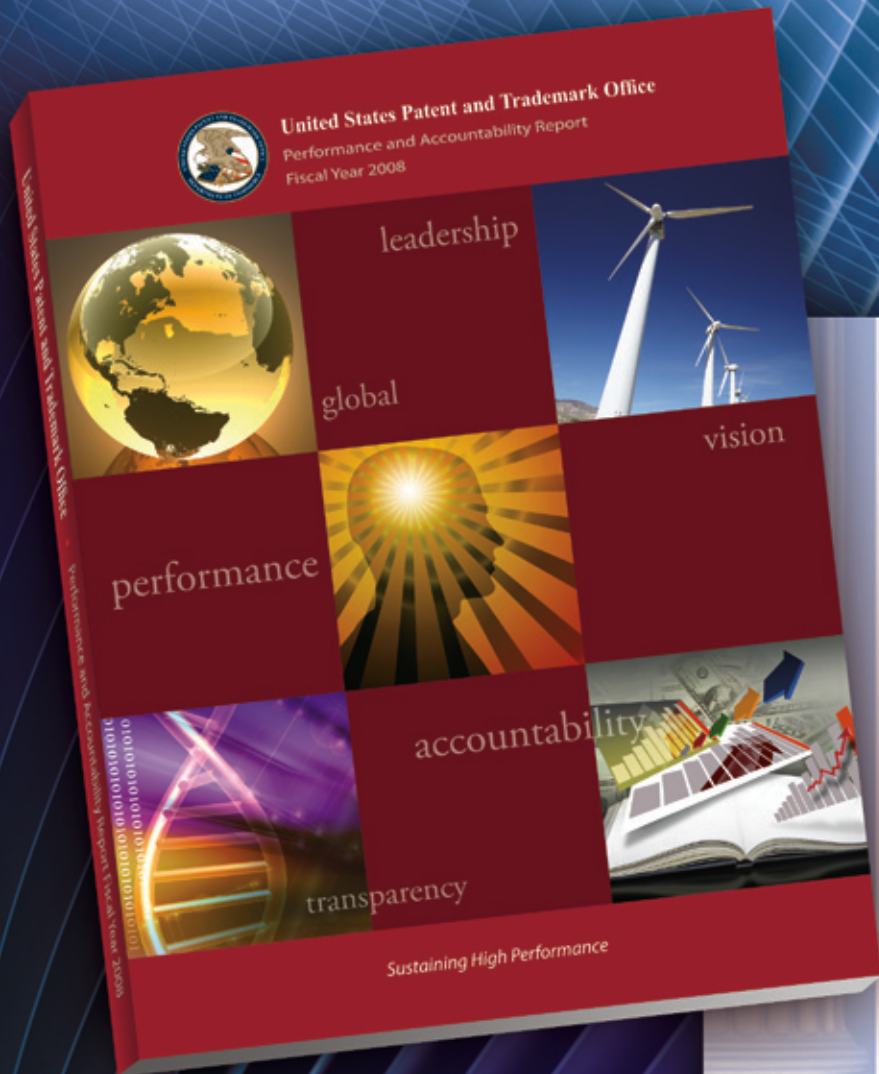
We are confident that the USPTO’s financial and performance data are complete, reliable, accurate, and consistent as we improve our ability to measure progress toward our performance goals. For the 17th consecutive year, we earned an unqualified audit opinion on our annual financial statements. For FY 2009 financial reporting, the independent auditors did not identify any material weaknesses or instances of non-compliance with laws and regulations.

The employees at the USPTO have the talent, creativity and innovative spirit to produce tangible results for the American people. I look forward to working with our employees and the stakeholders in the intellectual property community to ensure we have a USPTO and an IP system that drives innovation, creates jobs and guarantees America’s competitiveness.



David J. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
November 5, 2009

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In recognition of your outstanding efforts
preparing PTO's Performance and
Accountability Report for the fiscal
year ended **September 30, 2008.**

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by AGA to federal government agencies whose annual
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John Hummel

John H. Hummel, CCFM
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Reinhold P. Van Damme

Reinhold P. Van Damme, OBE, CMA
Executive Director, AGA

Management's Discussion and Analysis



performance



vision

innovation



creativity



accountability





Mission and Organization of the United States Patent and Trademark Office (USPTO)

Mission

The USPTO's mission is to foster innovation and competitiveness by:

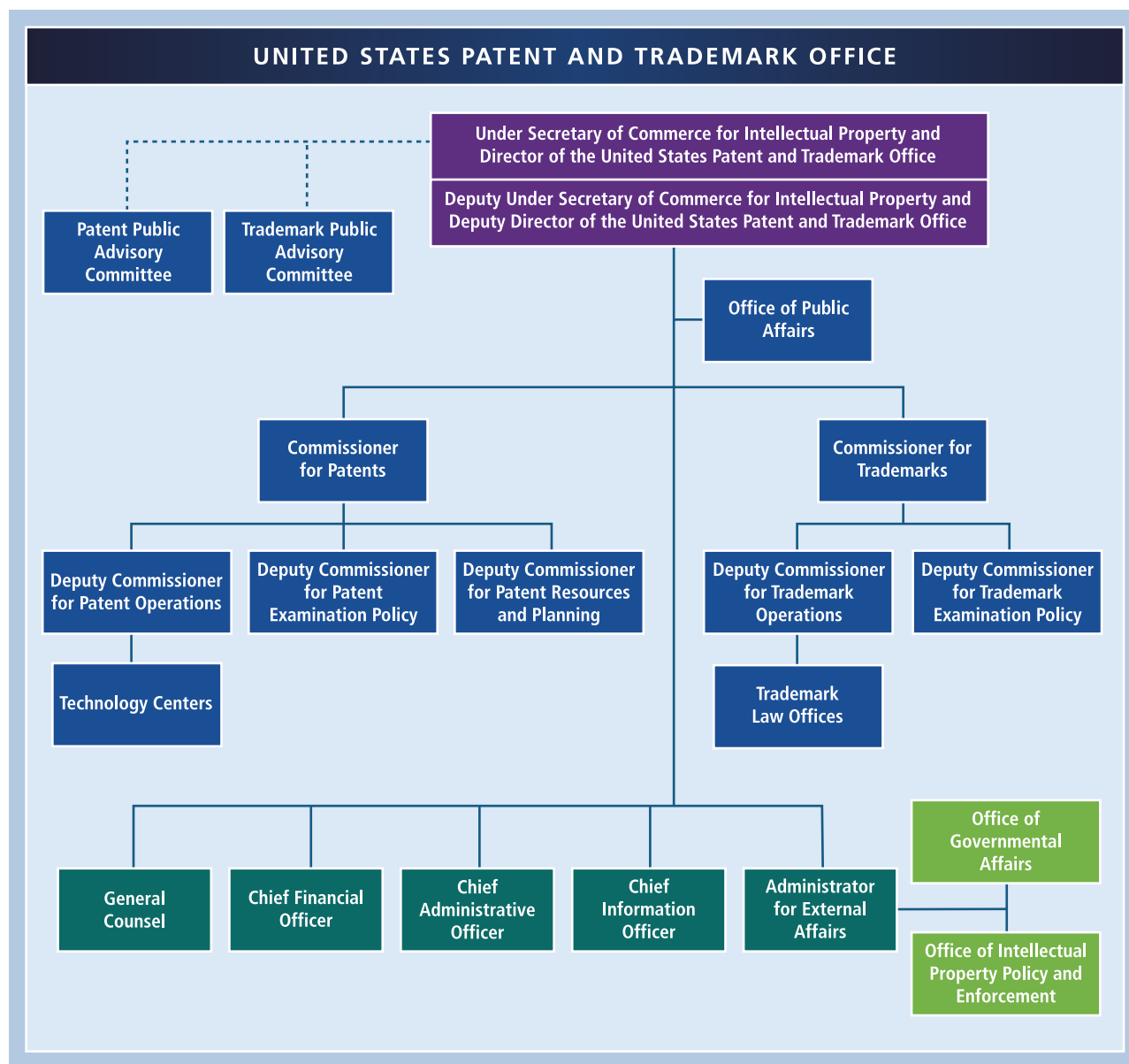
- Providing high quality and timely examination of patent and trademark applications
- Guiding domestic and international intellectual property policy
- Delivering intellectual property information and education worldwide

Intellectual property (IP) includes inventions or creations embodied in the form of a patent, trademark, trade secret, or copyright. Creativity and innovation are the wellspring of the nation's economic growth. As far back as the founding of the nation, the Constitution's framers recognized that to promote innovation the nation requires a robust intellectual property system. With the economy now struggling, the American spirit of innovation is as essential as ever to creating jobs and fueling our economic growth. Innovations in science and technology, in particular, are crucial not just to stimulate growth, but also to maintain global competitiveness over the long haul. The United States Patent and Trademark Office is pivotal to the success of our innovators. In fulfilling the mandate of Article 1, Section 8, of the Constitution, "to promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries," the USPTO is on the cutting edge of our nation's technological progress and achievement.

Our Organization

The USPTO is an agency of the United States within the Department of Commerce (DOC). The Agency is led by the Under Secretary of Commerce for Intellectual Property and Director of the USPTO who consults with the Patent Public Advisory Committee and the Trademark Public

Advisory Committee. The USPTO has two major business lines: Patents and Trademarks, as shown in the organization chart below. Headquartered in Alexandria, Virginia, the USPTO also has two storage facilities located in Virginia and Pennsylvania.





USPTO received the Most Innovative Campaign Technique award for the successful launch of the e-pledge system. 63% of all payroll donors used the new e-pledge process. The USPTO raised more than \$1,451,424 for charities, exceeding its goal of \$1,346,500. 87.5% of the USPTO employees contributed to the campaign. From left: Kenny Lee, Mariam Hooks, and Bonita Royall.

The USPTO has evolved into a unique government agency. In 1991 – under the Omnibus Budget Reconciliation Act (OBRA) of 1990 – the USPTO became fully supported by user fees to fund its operations. In 1999, the American Inventors Protection Act established the USPTO as an agency with performance-based attributes; for example, a clear mission statement, measurable services and a performance measurement system, and known sources of funding.

The Patent organization examines inventors' patent applications. Patent examiners compare the scope of claimed subject matter in an application to a large body of technological information to determine whether the claimed invention is new, useful, and non-obvious. Patent examiners also provide answers on applications appealed to the Board of Patent Appeals and Interferences (BPAI), prepare initial memoranda for interference proceedings to determine priority of invention, and prepare search reports and international preliminary examination reports for international applications filed under the Patent Cooperation Treaty (PCT). The patent process also includes performing an administrative review of newly filed applications, publishing pending applications, issuing patents to successful applicants, and disseminating issued patents to the public.

As the clearinghouse for U.S. patent rights, the USPTO is an important catalyst for U.S. economic growth. Through the prompt granting of patents, the USPTO promotes the economic vitality of American business, paving the way for investment, research, scientific development, and the commercialization of new inventions. The USPTO also promotes economic vitality by ensuring that only valid patent applications are approved for granting, thus providing certainty that enhances competition in the marketplace.

The Trademark organization registers marks (trademarks, service marks, certification marks, and collective membership marks) that meet the requirements of the *Trademark Act of 1946*, as amended, and provides notice to the public and businesses of the trademark rights claimed in the pending applications and existing registrations of others. The core process of the Trademark organization is the examination of applications for trademark registration. As part of that process, examining attorneys make determinations of registrability under the provisions of the Trademark Act, which includes searching the electronic databases for any pending or registered marks that are confusingly similar to the mark in a subject application, preparing letters informing applicants of the attorney's findings, approving applications to be published for opposition, and examining statements of use in applications filed under the Intent-to-Use provisions of the Trademark Act.



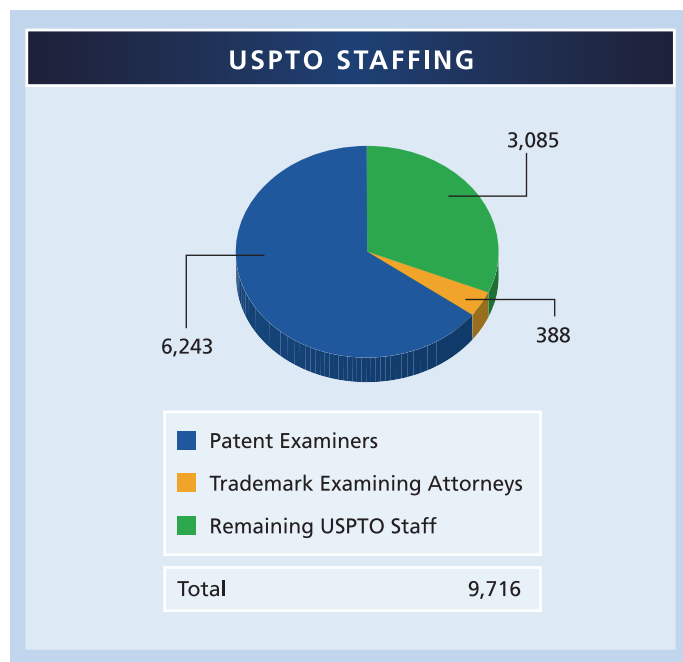
Technology Center (TC) 2400 Directors and Work Group Managers. TC2400 is the newest of eight technology centers and was created by combining the related technology areas of networking, multiplex communications, cable, and network security. Clockwise from bottom left: Lynn Field, Glenton Burgess, Jack Harvey, Timothy Callaban, Kristine Kincaid, and Valencia Martin-Wallace.

In registering trademarks, the USPTO assists businesses in protecting their investments, promotes quality goods and services, and safeguards consumers against confusion and deception in the marketplace. With notice readily available at www.uspto.gov, a business can make an informed decision when it wishes to adopt a new mark or expand the goods or services marketed under an existing mark. Federal registration provides enhanced protection for the owner's investment in the mark and in the goods and services sold under the registered mark.

Domestically, the USPTO provides technical advice and information to executive branch agencies on IP matters and trade-related aspects of IP rights. Internationally, the USPTO works with foreign governments to establish regulatory and enforcement mechanisms that meet international obligations relating to the protection of IP.

Our People

At the end of FY 2009, the USPTO work force was composed of 9,716 federal employees (including 6,243 patent examiners, and 388 trademark examining attorneys).



Commerce Secretary Gary Locke congratulates Under Secretary Kappos after he is sworn in on August 13, with his wife, Leslie Kimball, holding the Bible.



In celebration of the 50th anniversary of the integrated circuit, the National Inventors Hall of Fame 2009 Class of Inductees were all recognized for advances related to or enabled by integrated circuit technology. From left: George Heilmeier (liquid crystal display), John Macdougall (ion implementation), Ken Machester (ion implementation), Dov Frohman-Bentchkowsky (EPROM), Larry Hornbeck (digital micromirror device), and Alfred Cho (molecular beam epitaxy).



Performance Goals and Results

USPTO Strategic Plan

In FY 2009, the USPTO continued to implement the **2007-2012 Strategic Plan** that was formally released in March of 2007. The **2007-2012 Strategic Plan**, along with an annual performance plan and report that are integrated with the annual budget request, meet the requirements of the Government Performance and Results Act (GPRA). These documents can be found at <http://www.uspto.gov/about/stratplan/index.jsp>.

In support of the DOC's strategic objective to “protect intellectual property and improve the patent and trademark systems,” the USPTO established three strategic goals and a management goal to guide its policies and operations. Together they accomplish the mission of fostering innovation and competitiveness. These goals and the related objectives, initiatives, and performance measures were established with a focus on four guiding principles:

- **QUALITY**—accurate and consistent results in examination
- **TIMELINESS**—processing applications without undue delay
- **COST-EFFECTIVENESS**—efficiency, accountability, and a focus on results
- **TRANSPARENCY**—impartiality, fairness, accessibility, availability, and a public-service mentality

The **2007-2012 Strategic Plan** is an ever-changing document with the USPTO continually reviewing, refining, and updating it to adjust to changing conditions, and to incorporate the best thinking of the IP community and beyond. However, changes have been limited to a refinement of the performance measures, as noted later in this report, and minor changes to initiatives have been made. The overall framework, including the mission, vision, strategic goals and objectives, has proven successful and continues to drive the Agency in exceeding its statutory obligations. The USPTO's budget and performance plan, submitted to the Congress each year, document key measurements and yearly milestones to justify the funding for the USPTO to achieve its strategic goals.

Information related to achieving the Agency's objectives for each of the goals is described in the following sections of this report. Detailed information about the performance measures for each of the three strategic goals, including data verification and validation, is included in the "Accompanying Information on USPTO Performance" section of this report.

2007-2012 USPTO Strategic Plan			
Mission			
<p>To foster innovation and competitiveness by:</p> <ul style="list-style-type: none"> ■ Providing high quality and timely examination of patent and trademark applications ■ Guiding domestic and international intellectual property policy ■ Delivering intellectual property information and education worldwide 			
Vision			
USPTO: Leading the World in Intellectual Property Protection and Policy			
Strategic Goal #1	Strategic Goal #2	Strategic Goal #3	Management Goal
Optimize Patent Quality and Timeliness	Optimize Trademark Quality and Timeliness	Improve Intellectual Property Protection and Enforcement Domestically and Abroad	Achieve Organizational Excellence
Objectives	Objectives	Objectives	Objectives
<ul style="list-style-type: none"> ■ Provide high quality examination of patent applications ■ Improve and integrate existing electronic systems to promote full electronic patent application processing; implement better/more secure systems ■ Improve the quality and timeliness of patent examination by exploring a range of approaches to examining applications 	<ul style="list-style-type: none"> ■ Achieve and maintain three-month first action pendency, and reduce average total pendency excluding suspended and <i>inter partes</i> cases ■ Improve quality of examination by ensuring consistency and quality of searching and examination, and provide internal on-line tools ■ Provide electronic file management and workflow ■ Develop interactive on-line electronic filing capabilities and upgrade e-tools 	<ul style="list-style-type: none"> ■ Support efforts and initiatives aimed at strengthening IP protection and curbing theft of IP ■ Continue efforts to develop unified standards for international IP practice ■ Provide policy guidance on domestic IP issues ■ Foster innovation and competitiveness by delivering IP information and education worldwide 	<ul style="list-style-type: none"> ■ Function as true business partners across the organization to achieve superior enterprise performance and provide strategic leadership ■ Ensure operational excellence in enterprise-wide management processes ■ Dramatically simplify on-line access to, and availability of, USPTO information and data

Performance Measures by Goal		
Goal #1 Measures	Goal #2 Measures	Goal #3 Measures
<ul style="list-style-type: none"> ■ Patent allowance compliance rate ■ Patent in-process examination compliance rate ■ Patent average first action pendency ■ Patent average total pendency ■ Patent applications filed electronically 	<ul style="list-style-type: none"> ■ Trademark final compliance rate ■ Trademark first action compliance rate ■ Trademark average first action pendency ■ Trademark average total pendency ■ Trademark applications processed electronically 	<ul style="list-style-type: none"> ■ Percentage of countries on the United States Trade Representative (USTR) 301 list, awaiting World Trade Organization (WTO) accession, or targeted by Office of Intellectual Property Policy and Enforcement (OIPPE) for improvements that have positively amended or improved their IP systems ■ Number of countries that implement at least 75% of action steps which improve IP protections in the joint cooperation, action or work plans

Strategic Goal 1: Optimize Patent Quality and Timeliness

High quality and timely examination of patent applications advances science and technology and creates the certainty innovators need in capital driven markets. The Patent organization is working closely with the public and its stakeholders to find the best ways to ensure that the U.S. patent system continues to promote innovation and U.S. competitiveness in the global economy. The following are the requirements for achieving this goal and our accomplishments in FY 2009.

PROVIDING HIGH QUALITY AND REDUCING BACKLOG

The Patent organization maintained a strong focus on quality and reduced the backlog of existing applications while exceeding all of its goals for the year.

Quality training is the key to quality patent examination, which is a critical part of the USPTO's strategic plan. The USPTO was proud to announce this year that its Patent Training Academy received a certificate of registration for the International

Organization for Standardization (ISO) ISO 9001:2008. The ISO 9001 standard is the most widely recognized and established quality management system framework in the world.

All new patent examiners (588 this year) receive their initial training at the Patent Training Academy, which forms the foundation for their careers as patent examiners. A solid foundation for newly hired patent examiners is critical to their success in later years. The Academy provides a robust training program for newly hired patent examiners. The curriculum not only includes intensive patent examining training in lecture and laboratory format, but also "soft-skill" courses. Upon graduation, patent examiners possess the necessary skills to quickly attain proficiency and technical competency. Receiving the ISO 9001 certification demonstrates the Patent organization's commitment to providing the best training services for new patent examiners and confirms that the Patent Training Academy has defined and documented standards to ensure that processes are in place to achieve consistent quality products and services.

The successful implementation of the Patent Training Academy has enabled the hiring and training of large numbers of new examiners over the last several years. The growth and increasing experience and productivity of our examination workforce, combined with a slowdown in filings this year, enabled the Patent organization to begin reducing the size of the application backlog and to address growing patent pendency, which ended the year at 25.8 months from filing to first action and 34.6 months until issue or abandonment. However, electronic filings exceeded this year's goal, reaching 82.5 percent of total filings. The Patent organization also achieved an allowance compliance rate of 96.9 percent and an in-process compliance rate of 93.2 percent. These compliance measures assist with improving quality of products and services by using in-depth reviews of work.

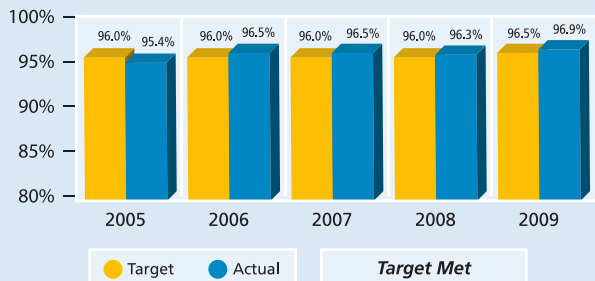
As in past years, the USPTO was heavily involved in shaping IP law and policy through precedential decisions issued by the Agency's Boards and through domestic litigation. The BPAI issued numerous precedential and informative decisions on both substantive and procedural issues concerning patentability, the



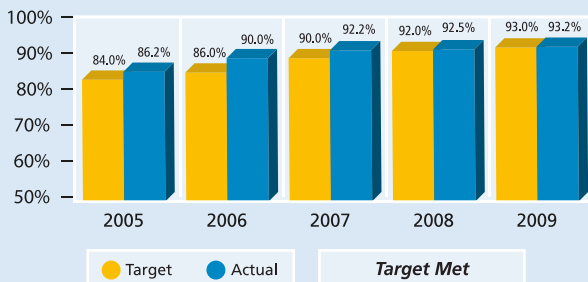
The Patent Training Academy received ISO 9001:2008 certification. From left: John Doll, former Acting Under Secretary, Jin Ng, Director of the Patent Training Academy, and Peggy Focarino, former Acting Commissioner for Patents.

Patent Quality Performance — The in-process compliance rate is the percentage of applications reviewed during prosecution and prior to allowance that were found to be free of errors. The allowance compliance rate is the percentage of reviewed applications allowed by examiners that did not have any errors.

Measure: Patent Allowance Compliance Rate



Measure: Patent In-Process Examination Compliance Rate



examination of patent applications, and the appeals process. The BPAI’s precedential opinions help create consistent authority to be followed in future BPAI decisions and in the Patent examining corps. Its informative decisions also have persuasive value and illustrate procedural and other norms for the benefit of the public, the Bar, and the IP community as a whole. This year’s decisions relate to current issues of concern to the IP community, including obviousness, indefiniteness, patentable subject matter under 35 U.S.C. § 101, secondary considerations, and the requirements of an antedating affidavit. These decisions help to promote definiteness in claiming practice, and help form the basis for determining patentable subject matter, as the Agency implements recent guidance from the U.S. Court of Appeals for the Federal Circuit and U.S. Supreme Court.



Former Acting Under Secretary John Doll and Elizabeth Dougherty speak with students and advisors at the For Inspiration and Recognition of Science and Technology (FIRST) Robotics Competition, which inspires students’ interest and participation in science, engineering, and technology.

WORK SHARING

The USPTO continues to work with the world’s major intellectual property offices to study, review and implement work-sharing efforts, such as the Patent Prosecution Highway (PPH). The PPH framework leverages fast-track patent examination procedures already available in the USPTO and other participating offices to allow applicants to obtain corresponding patents faster and more efficiently. It also permits each office to utilize the work previously done by the other office and reduce duplication. The results of the PPH programs have been promising, providing:

- An overall grant rate for the PPH applications of close to 90 percent;
- Average number of actions per invention for the PPH application approximately half that of other patent applications;
- Faster processing for PPH cases; and
- A decrease of approximately 20 percent in the number of claims to be examined in the USPTO as compared to the average of non-PPH cases.

Similarly, the Trilateral Strategic Working Group, which includes the European Patent Office (EPO) as well as the USPTO and Japan Patent Office (JPO), is implementing related initiatives. In one pilot, when applications are filed in more than one office, the “Office of First Filing” gives the application precedence in

prosecution so that the “Office of Second Filing” can advantageously utilize those work results on the corresponding application. A search-sharing pilot has also been initiated, which will leverage the searching expertise of each of the Trilateral Offices by eliminating certain timing issues while at the same time providing both applicants and the Offices with the benefits of the search results.

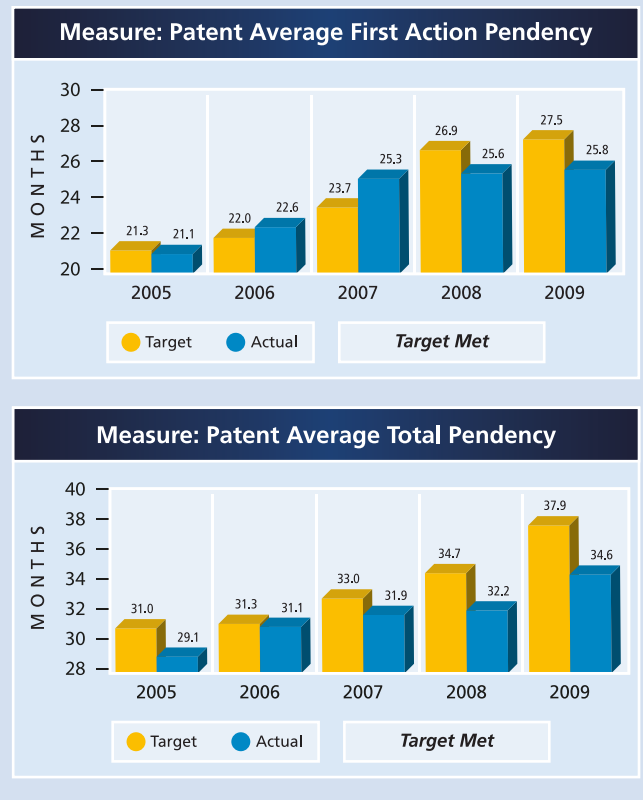
EXPLORING A RANGE OF OPTIONS TO ADDRESS TIMELINESS CHALLENGE

While continued hiring of patent examiners is key to managing increasing workloads, hiring alone is not the answer to the growth of filings and complexity in the patent system. In fact, the USPTO is exploring a range of innovative concepts to meet the challenges the Agency faces.

The First Action Interview program is a pilot initiative in which the applicant is entitled to a first action interview, upon request, prior to the first office action determination on the merits. An interview under this pilot program advances prosecution of the application because it enhances the interactions between the applicant and the examiner, provides the applicant the opportunity to resolve patentability issues one-on-one with the examiner at the beginning of the prosecution process, and facilitates possible early allowance. Interviews early in an application’s prosecution allow for better understanding of the claimed invention and a speedy resolution of any unresolved issues. This, coupled with reduced applicant response periods, should reduce total pendency for the applications examined under this initiative. Based upon comments and suggestions from the public, including both participants and non-participants, the Patent organization is expanding the First Action Interview pilot to a variety of art areas, and is modifying the program to enhance efficiency and provide more options to participants.

Further, the USPTO conducted a roundtable on February 12, 2009 to gauge patent community and/or the public sector support for the adoption of deferred examination. The Agency webcast the roundtable and invited written comments by any member of the public on the issues raised at the roundtable, or on any issue pertaining to deferred examination. The USPTO extended the comment period until August 31, 2009, so that members of the public could submit additional comments, including replies to the comments on deferred examination that the USPTO had already received and posted on the USPTO Web site.

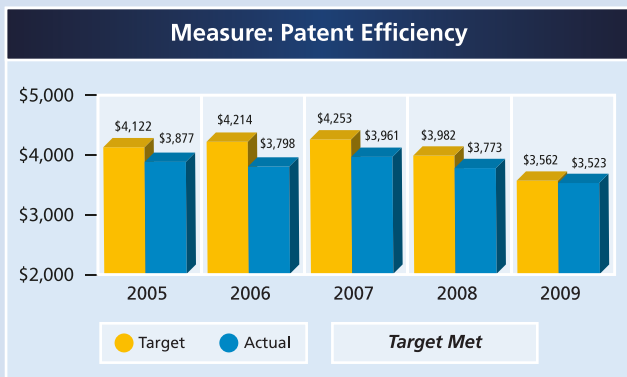
Patent Pendency Performance — The two primary measures of Patent organization processing are average first action pendency (the time from filing to first action) and average total pendency (the time from filing until the application is issued as a patent or abandoned by the applicant).



Another notable program under way is the Accelerated Examination program. New patent applications are normally taken up for examination in the order of their filing date. Under the Accelerated Examination program, the Agency has a procedure for requesting accelerated examination under which an application will be advanced out of turn for examination if the applicant files a petition, with the goal of completing examination within twelve months of the filing date of the application.

Certain requirements have been established for the pilot program. They include that: the application, petition, and required fees must be filed electronically; at the time of filing, the application must be complete and in condition for examination; and the number of claims be limited. Additionally, the applicant must conduct a pre-examination search, provide an accelerated examination support document, and be willing to participate in an

Patent Efficiency — The following metric measures the relative cost-effectiveness of the entire patent examination process over time, or the efficiency with which the organization applies its resources to production.



interview to discuss the prior art and any potential rejections or objections with the intention of clarifying and possibly resolving all issues with respect to patentability at that time.

The Accelerated Examination program benefits both the Agency and the applicant. In exchange for quick examination, examiners will receive more focused and detailed information about the invention and the closest prior art from applicants. The upfront disclosure by applicants will help examiners to more quickly make the correct decision on whether a claimed invention is patentable. The goal of the Accelerated Examination program is to enable the applicant to receive a quality patent in less time.

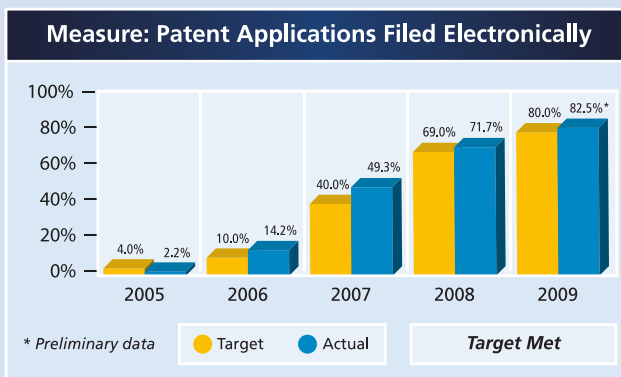
In June 2009, the Agency moved into the evaluation phase of the Peer Review Pilot program. Under the original program plan, the pilot was scheduled to end in June 2008, but in the interest of gathering data from a more diverse group of patent applications, the USPTO extended the deadline last year by 12 months and expanded the candidate pool to include applications in the Data Processing: Financial Business Practice, Management, or Cost/Price Determination technology. Under the pilot, the public reviewed on a volunteered basis published patent applications and submitted technical references and comments on the best prior art to consider during the examination. Once all of the pilot's volunteered applications are examined, the USPTO will publish a comprehensive report outlining the details, results, and next steps.



Milestone design patent 600,000 issued on September 15, 2009, for the design of a battery system that works in conjunction with a solar briefcase that recharges the system using sunlight. Under Secretary Kappos was joined by Senator Orrin Hatch (R-Utah) to present a commemorative patent copy to Robert Workman, CEO of Goal Zero.

The pilot was conducted in cooperation with the Peer-to-Patent Project, organized by the New York Law School's Institute for Information Law and Policy. It is currently showcased on the White House Web site as an example of how federal agencies are using transparent, participatory, and collaborative means to achieve their missions as part of the Administration's open government initiative.

E-Filing of Patent Applications — Electronic filings increased from 2.2 percent in FY 2005 to 82.5 percent in FY 2009.



Strategic Goal 2: Optimize Trademark Quality and Timeliness

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

For the fourth year in a row, the Trademark organization has met and exceeded all of its performance targets.

IMPROVING QUALITY

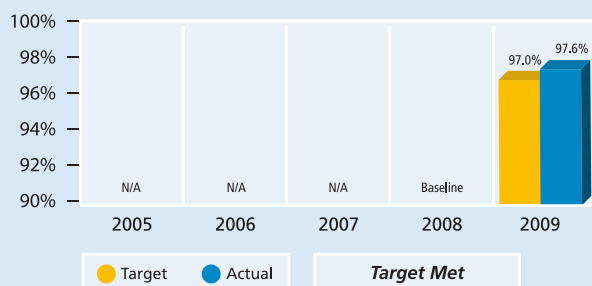
Examination quality continued to demonstrate high levels and sustained improvement. 96.4 percent of first actions and more than 97 percent of final decisions (approvals and rejections) met statutory and compliance rates for quality of decision making and writing, a continuation of the highest levels ever achieved. In the past year, the measure for final compliance was expanded

to evaluate examination quality at the stage applications are approved for publication and ultimately registration – increasing the number as well as the decisions that were subject to review – demonstrating the high degree of quality that applies to the majority of the determinations made by the Office. Advances have also been made to enable more complete and accurate filings. Specifically, the Trademark organization has made greater use of on-line tools and has improved the workflow process to better manage and track performance, improved training, and increased the use of electronic filing, which contributed to better quality of application data and consistency in processing. The Trademark organization's quality results are a reflection of the cumulative effects of seven years of emphasis on the same criteria for assessing examination quality.

In addition, the Trademark Trial and Appeal Board (TTAB) issued more than 50 precedential decisions on a wide variety of substantive and procedural issues that arise in the *ex parte* examination of applications for registration of marks. These decisions provide guidance not only to the Agency's trademark examining attorneys, but also to trademark owners and those

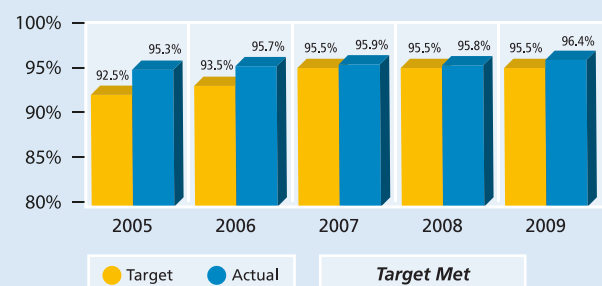
Trademark Quality Performance — In FY 2009, the measure for final compliance was changed and expanded to evaluate examination quality at the stage applications are approved for publication and ultimately registration – increasing the number as well as the decisions that were subject to review – demonstrating the high degree of quality that applies to the majority of the determinations made by the Trademark organization.

Measure: Trademark Final Compliance Rate



Final Action Compliance Rate is being replaced in FY 2009 by the Final Compliance Rate which is a more comprehensive measure of quality to include all actions that would result in an application being completed or disposed.

Measure: Trademark First Action Compliance Rate





Deputy Commissioner for Trademark Operations Deborah Cohn opens the 2009 National Trademark Expo. The United States Air Force Band's brass quintet along with 16 exhibitors and 25 costumed characters were on hand to welcome guests to the expo. This year's collection of costumed trademark characters was the largest in the history of the Expo.

attorneys that represent them before the Office. Further, following deployment of revised rules of procedure for the TTAB's *inter partes* cases, the TTAB has issued numerous precedential decisions highlighting and explaining the revised rules. These include subjects such as the amended service requirement, and the new obligations of parties in *inter partes* cases to conference, make disclosures, and consider stipulating to procedural efficiencies. TTAB decisions covering these points have been particularly helpful to trademark owners and the attorneys representing them before the Office during the transition to full deployment of these new rules of procedure.

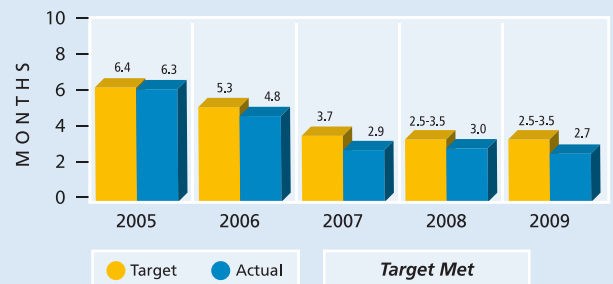
IMPROVING TIMELINESS AND EFFICIENCY

First action pendency — the length of time between the receipt of a trademark application and when the USPTO makes a preliminary decision — was consistently maintained under three months every month throughout the fiscal year. This is an unprecedented achievement, and the fourth year in a row that pendency has been maintained at three months or less. Average total pendency also showed significant sustained improvement with disposal or registration occurring within 11.2 months from filing.

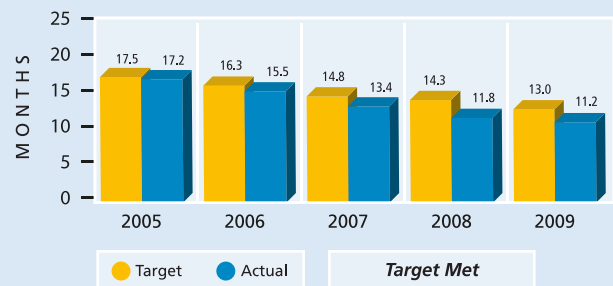
Pendency has improved as electronic processing and filing have become the primary means of conducting business within the Trademark organization. The production process has improved and has become more consistent on a monthly basis due to

Trademark Pendency Performance — The two primary measures of Trademark organization processing are average first action pendency (the time from filing to first action) and total average pendency (the time from filing until disposal).

Measure: Trademark Average First Action Pendency



Measure: Trademark Average Total Pendency

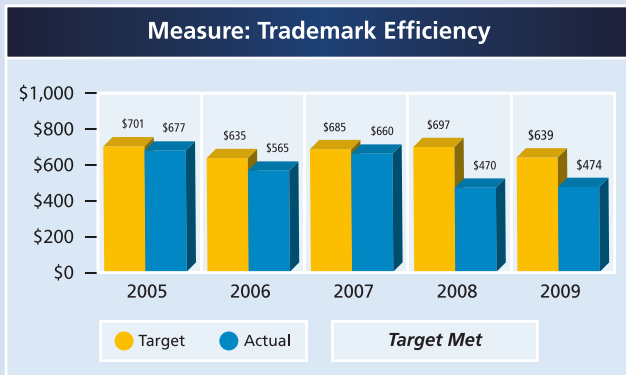


Average Total Pendency Including Suspended and Inter Partes Proceedings in FY 2009 is replaced by Average Total Pendency Excluding Suspended and Inter Partes Proceedings, which is a better indicator of the amount of time it takes to dispose of the trademark application.

improvements in the management of resources. Increased use of electronic forms, particularly Trademark Electronic Application System (TEAS) Plus filings, which represent 28.0 percent of new application filings, and 31.0 percent of first action approvals have improved the efficiency of examination, as well as contributed to an increase in number of applications approved for publication. Electronically filed TEAS Plus applications are disposed and registered on average within 9.2 months, whereas those filed on paper average 17.3 months, or 89.0 percent, longer.

The Trademark organization has continued to make process changes to streamline the examination and post examination process, reduce costs, and lower disposal pendency. Inventories of new applications have been carefully managed in order to ensure sufficient flow of work and consistent first action pendency given the decline in application filings. Production

Trademark Efficiency — This following metric measures the relative cost-effectiveness of the entire trademark examination process over time, or the efficiency with which the organization applies its resources to production.



incentive awards were curtailed due to lower filings, reducing operation costs. Processing times have continued to decrease between the time for approval for publication by the examining attorney, publication in the **Official Gazette**, and registration. Process changes for preparing registration certificates that were implemented in the last quarter of FY 2009 will further reduce processing costs and time frames. Incremental process improvements have had a direct and positive impact on improving efficiency and reducing and maintaining average total pendency to a historical low.

STRENGTHENING RELATIONSHIPS

The USPTO hosted the Trademark Expo that was attended by more than 7,000 over a two-day period. The event was designed to spotlight the vital role trademarks play in the national and global economy. Three seminars were conducted covering “Anti-counterfeiting;” “Trademarks 101,” that is, basic information about trademark law and Intellectual Property; and “What Every Small Business Must Know About Intellectual Property.” The Expo was supported by 14 businesses that helped sponsor this year’s successful event.

The Trademark organization continues to improve upon its successful telework program through the continued expansion of telework opportunities and by expanding the use of remote access and collaboration tools:

- 85 percent of eligible examining attorneys work from home nearly full time;



The 2009 National Trademark Exposition held at the USPTO campus May 8 and 9, highlighting the importance of trademarks in the global economy. The Expo features educational workshops, themed displays, costumed characters, and company booths. Expo team leaders (from left): Trademark examining attorneys Carol Epils, Giselle Agosto, Lana Pham, and Nancy Clarke.

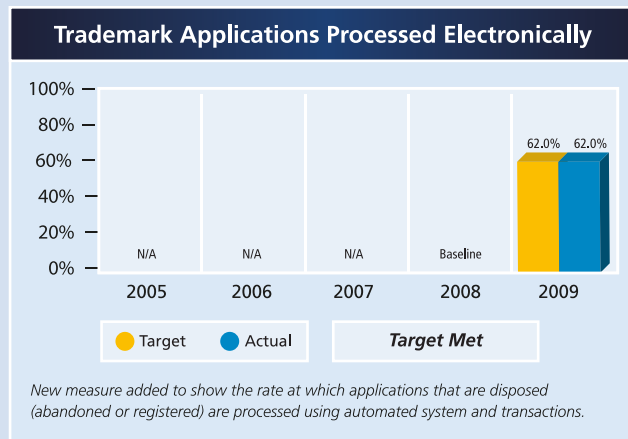
- 86 percent of all eligible Trademark employees are working from home at least one day per week; and
- 72 percent of all Trademark employees now telework at least a part of their work week.

In the past year, three new pilot programs were established to provide work-at-home opportunities for employees in the Examination Support Unit (ESU), the Intent-To-Use/Divisional Unit (ITU), and Pre Examination. As a result, programs exist throughout the organization to expand the number of employees and functions supported by telework.

The Trademark organization continued programs for a second year in support of the Trademark Human Capital Strategic Plan. The Trademark Plan, which was developed to further the objectives of the Office of Personnel Management Federal Human Capital Strategic Plan, has shown results. Seven teams have continued work on programs and training in support of the three “human capital” objectives of talent management, results-oriented performance culture, and leadership and knowledge management. Progress has been made on specific programs and actions that support the objectives that include:

- Hiring to retain a highly qualified diverse workforce;
- Improving training opportunities;
- Expanding and improving the Telework Program;

Trademark Applications Processed Electronically — This measure reports the percentage of trademark applications that were filed, processed, and disposed relying completely on electronic systems and communications. This measure replaced the electronic filing target which has been achieved.



- Ensuring performance appraisal plans have measurable performance standards that align with the Agency goals;
- Maximizing awareness and use of incentive awards and recognition programs; and
- Improving internal and external communications.

PROVIDING E-MANAGEMENT AND E-TOOLS

A new performance measure was created to address the major USPTO strategic challenge to complete full electronic workflow and file management for receiving and processing trademark applications and related documents. This new measure, “Applications Processed Electronically,” reports the percentage of trademark applications that were filed, processed, and disposed of relying completely on electronic systems and communications. The target was set at 62.0 percent for electronically processing applications that were disposed. The result by the end of the first year was 62.0 percent. This measure demonstrates the extent the Trademark organization has electronic systems in place and its ability to encourage applicants to conduct correspondence electronically. This measure replaced the electronic application filing performance measure which has been achieved with 97.8 percent of Trademark applications filed electronically.

The Trademark organization continues to make progress in its long-term goal to replace manual, paper-based processes with a fully electronic operation. Progress has continued with the implementation in Post Registration of the electronic docketing system known as the First Action System for Trademarks (FAST). Additional features were added to support evaluation of examining attorney actions and use of standard form paragraphs for preparing office actions. The implementation of FAST for processing post registration requirements extends electronic docketing and file management tools, which include the routing and assignment of new work, and monitoring of cases in process beyond the core examination operation. This system significantly improves the processing and management of applications as well as providing access to on-line production reports to monitor the status of individual performance.

To further improve the functionality of electronic filing, the USPTO has redesigned the TEAS page in an effort to present clearer categories for different filings and better explanations, and releasing additional forms and enhancements for existing TEAS forms. A new concept was introduced for filing of any trademark document for which a TEAS form is not currently available. The new “global” form provides options to identify the type of document being filed by selecting from a drop-down list and then uploading a document in either the JPG or PDF format containing the matter being filed. This approach provides the same following benefits of a TEAS filing:

- Electronic confirmation of receipt at the USPTO;
- Entry of the appropriate prosecution history label in the Trademark Reporting and Monitoring (TRAM) database (viewable externally in the Trademark Application and Registration Retrieval (TARR) system);
- Upload for viewing in the Trademark Document Retrieval (TDR) system; and
- Automatic routing to the proper work unit.

Use of the “global” form will not result in an automated upload of data into the USPTO databases, which is one of the primary benefits of true electronic filing. The USPTO views the “global” form approach as an interim step until specific TEAS forms are developed.

Strategic Goal 3: Improve Intellectual Property Protection and Enforcement Domestically and Abroad

The USPTO plays a leadership role in promoting effective domestic and international protection and enforcement of intellectual property rights (IPR) by advocating U.S. Government IPR policy, working to develop unified standards for international IPR, providing policy guidance on domestic IPR issues, and fostering innovation. The USPTO advises the President and Federal agencies on national and international IPR policy matters and trade-related aspects of IPR, and conducts technical assistance and capacity-building programs for foreign governments seeking to develop or improve their IPR regulatory and enforcement mechanisms.

PROTECTING IP AND CURBING IP THEFT

During FY 2009, the USPTO continued to improve the enforcement of IP rights in the United States and around the world. The USPTO supported the Office of the U.S. Trade Representative (USTR), Department of State, and other U.S. Government agencies in international negotiations and consultations throughout the year. Attorneys from the USPTO assisted with the drafting, reviewing, and implementation of IP obligations in bilateral and multilateral treaties and trade agreements, such as Oman's implementation of its Free Trade Agreement (FTA) commitments, and ongoing review of Malaysia's IP regime. In addition, the USPTO also continued to participate in the ongoing negotiations to establish an Anti-Counterfeiting Trade Agreement,



a state-of-the-art agreement to combat counterfeiting and piracy, which is intended to assist in the efforts of governments around the world to more effectively combat the proliferation of counterfeit and pirated goods.

The USPTO's IP experts and their teams posted at American embassies in key locations around the world continued to develop long-term and direct working relationships with foreign government agencies and the private sector. They also delivered targeted capacity-building programs for foreign officials and continuously pressed for stronger legal frameworks for IPR protection, improved IPR enforcement, greater certainty for U.S. innovators and creators, and enhanced public awareness and support for IPR.

As part of the Administration's Strategy Targeting Organized Piracy (STOP!) initiative, the USPTO advanced work with other U.S. Government agencies to fight piracy and counterfeiting. As part of STOP!, the USPTO continued managing a hotline that helps small and medium-sized businesses leverage U.S. Government resources to protect their IP. The USPTO responded to 723 STOP! hotline calls in FY 2009.

WORKING TO UNIFY INTERNATIONAL IP PRACTICE

Multilateral efforts

The USPTO continued meeting with the world's five largest patent offices, including the EPO, the JPO, the Korean Intellectual Property Office (KIPO), and the State Intellectual Property Office (SIPO) of the People's Republic of China and within the Trilateral cooperation framework of USPTO, EPO, and JPO to advance progress on cooperative work sharing initiatives and to develop foundation tools to support work sharing. A series of meetings throughout the year resulted in an agreed implementation strategy for moving forward on developing the foundation support tools, as well as, increased emphasis on work sharing activities.

The USPTO increased the number of work sharing partnerships with other intellectual property offices. The USPTO and the Korean Intellectual Property Offices implemented the PPH on a full-time basis leveraging fast-track patent examination procedures available in both Offices to allow applicants in both countries to obtain corresponding patents faster and more efficiently. The USPTO also implemented pilots with the IP Offices in Denmark, Germany, Singapore, and Finland bringing the USPTO's total number of PPH work sharing programs to 10. The USPTO and the JPO worked collaboratively to bring together the

IP Offices participating in the programs to work toward streamlining procedures. Two Heads of Offices meetings and one technical level meeting were conducted to advance progress in this area. The PPH framework is an important step toward the goal of maximizing reutilization of work done by other offices.

The USPTO, as a member of the World Intellectual Property Organization (WIPO), deposited its instrument of ratification of the Singapore Trademark Law Treaty with the WIPO. The Singapore Treaty updates and improves the WIPO Trademark Law Treaty (TLT) of 1994 that harmonizes formalities and simplifies procedures for registering and renewing trademarks. The Treaty modernizes some aspects of the earlier TLT and allows national Trademark offices to move to an entirely electronic system for trademark application and processing while, at the same time, preserving the rights of developing countries to maintain paper systems.

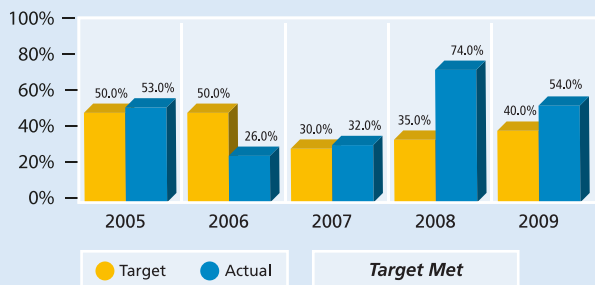
The USPTO engaged in fruitful multilateral cooperation with its Trademark Trilateral partners, namely, the JPO and the European Union's Office for Harmonization in the Internal Market (OHIM). The Trademark Trilateral continues to negotiate an ever expanding list that identifies goods and services that can be used by trademark applicants filing trademark applications in any of the three offices. Additionally, the Trademark Trilateral partners entered into an agreement with the Canada Intellectual Property Office, allowing the latter to participate in the identification project. Finally, the partners continue to exchange information about best practices in trademark operations.

Bilateral Efforts

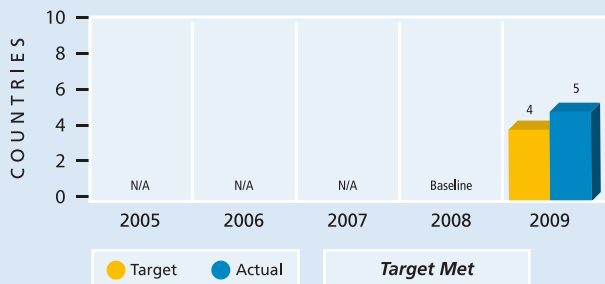
The USPTO established cooperative agreements with other IP offices and organizations for increased technical cooperation. Agreements were signed with the State Administration for Industry and Commerce and the National Copyright Administration of China to establish bilateral frameworks to improve effectiveness of IP systems through the exchange of information, best practices, and participating in trademark and copyright technical capacity building activities. An agreement was signed with SIPO for reviewing the possibility of establishing patent-related work sharing initiatives and to develop foundation support tools to facilitate work sharing. The USPTO and the United Nations Economic Commission for Europe (UNECE) signed an agreement to conduct joint capacity building programs and activities for government officials and rights owners in UNECE member states on protecting commercialization and for enforcement of intellectual property rights.

International Policy Efforts — Measures the results of OIPPE engagement to moving toward improving IP systems worldwide. They focus on FTA negotiations and implementation, WTO accessions, 301 reviews, trade policy reviews, technical assistance, expansion of foreign postings, work details of USPTO employees to other U.S. Government agencies, as well as development of specific plans for strategic cooperation; for example, the work plans with China, Egypt, India, Brazil, and Association of Southeast Asian Nations (ASEAN).

Percentage of countries on the USTR 301 list, awaiting WTO accession, or targeted by OIPPE for improvements that have positively amended or improved their IP systems*



Number of countries that implement at least 75% of action steps which improve IP protections in the joint cooperation, action or work plans*



* New outcome-oriented performance measures that replaced previously reported measures.

Additionally, the USPTO and the JPO signed an agreement to enhance the existing priority document exchange service between the two Offices. The USPTO and the KIPO continued actions to promote work sharing among the two Offices in accordance with their signed cooperative agreement.



Representative Jim Moran (D-VA) spoke to the graduating class of the Patent Examiner Training Academy on January 26.

GIVING DOMESTIC IP POLICY GUIDANCE

Proposed patent reform legislation continued to be an important subject of consideration in the first session of the 111th Congress. As in previous Congresses, the proposed legislation is intended to improve patent quality, reduce patent litigation costs, and further the international harmonization of patent laws. The USPTO monitored, analyzed and provided technical assistance within the Administration and to Congress on patent reform legislation and various other patent, trademark, and intellectual property-related legislation during the year. These included bills to: expand telework opportunities within the Federal government and specifically within the USPTO; establish a 10-year pilot program in select district courts to enhance judges' expertise in patent cases; require broadcast radio stations to pay royalties to musicians for use of their works; and promote the availability of biosimilar drugs.

Consistent with the USPTO's efforts to educate decision makers and create outreach opportunities on IP matters, the Office of Governmental Affairs (OGA) organized and participated in a congressional staff delegation to Geneva, Switzerland, in February 2009. Participants included House and Senate Judiciary Committee staff who met with IPR attachés and WIPO officials to discuss and learn about IPR, anti-counterfeiting, and anti-piracy initiatives from a European perspective. In addition, the OGA coordinated visits to congressional offices by USPTO IP attachés, stationed in critical areas throughout the world, to discuss the nature, importance, and success of the IP attaché program.

Members of Congress continue to express a strong interest in USPTO operations and employees. The OGA launched a successful new outreach program that brings members of Congress to speak at the Patent Academy graduations. Representatives Jim Moran (D-Virginia) and Darrell Issa (R-California) spoke at the Academy graduations in January and March 2009, respectively. Other speaking engagements included local Representative Jim Moran as the keynote speaker at the opening ceremonies of the USPTO Trademark Expo in May 2009. Representative Joseph Cao (R-Louisiana) and Maryland State Delegate Susan Lee spoke at the Annual Asian Pacific Heritage Celebration held at the USPTO in May 2009.

Briefings were also conducted for the Chairman and Ranking Member of the House Judiciary Committee on progress relating to a USPTO-commissioned study, launched in October 2008, to review the assumptions the Agency uses to establish production goals for patent examiners. USPTO officials also provided briefings for Congressional staff on the Strategic Plan, captioned the "Information Technology Roadmap," for the improvement of the Agency's information systems.

The USPTO continues to heavily shape IP law and policy through domestic litigation and the decisions of its boards: the TTAB and the BPAI. The Agency's litigation responsibilities fall primarily on the USPTO's Office of General Counsel (OGC), which defends the decisions of the Agency's administrative boards as well as the Agency's rule making and policies in court. The OGC also advises the Solicitor General of the United States on IP matters before the U.S. Supreme Court. Further, the BPAI and TTAB issued in excess of 60 decisions on a wide variety of topics, affecting both Agency practice and substantive law of patent applications and trademark registration.

On the IP policy front, OGC has urged the U.S. Court of Appeals for the Federal Circuit to clarify the standards for patent-eligibility under 35 U.S.C. § 101 in a series of important cases over the past several years. One recent case, *In re Bilski*, considered the metes and bounds of patent-eligibility for process inventions – the number and type of which has greatly expanded with the success of the Internet. Given the magnitude of the question raised in *Bilski*, the Federal Circuit decided to hear the case *en banc*. The court's decision specifically adopts the test for a patent-eligible "process" recommended by the USPTO: that a patent-eligible process must either be implemented by a machine or transform subject matter into a different state or thing. The U.S. Supreme



The USPTO received the 2009 Tele-Vision Award from the Telework Exchange, a public-private partnership focused on eliminating gridlock. USPTO's Office of General Law Telework Program was recognized in the "Best Use of Innovation and Technology to Support Telework" category. Accepting the award were Tracy Burns, Jennifer McDowell, Michael Lewis, James Toupin, William Covey, Rachel Irish, and Roderick McCracken.

Court has granted *certiorari* (review of a decision of a lower court) in this case – making it the first time in over 30 years that the Supreme Court has considered the issue of patent-eligibility. The USPTO will be assisting the Solicitor General in defending the Federal Circuit's decision. The Supreme Court is expected to issue a decision sometime in 2010. The USPTO is currently in the process of drafting guidelines to implement the *Bilski* decision and to address any issues left open by the court.

Another landmark IP policy case was *In re Kubin*. The *Kubin* case considered whether knowledge of the structure of a protein along with general methods of cloning and sequencing DNA render obvious – and thus unpatentable – claims to a DNA-encoding the protein. The Federal Circuit acknowledged that the Supreme Court further developed the "obvious to try" standard for obviousness in *KSR v. Teleflex* that it previously rejected in *In re Deuel*. Applying that standard, the Court affirmed the USPTO's rejection. Thus, *Kubin* represents an expansion of the Federal Circuit's obviousness precedent post-*KSR*.

On the Agency rule-making front, OGC defended the USPTO's new regulations regarding patent claims, requests for continued examination, and continuation applications in *Tafas v. Dudas*. The Federal Circuit panel that originally heard the case concluded



Under Secretary Kappos meets for the first time with officials from the Government of India to discuss work under a Memorandum of Understanding on Bilateral Cooperation on IPR between USPTO and India's Department of Industrial Policy and Promotion. From left: Under Secretary Kappos; Ambassador of India to the United States, H.E. Ms. Meera Shankar; and Ajay Shankar, Secretary, Department of Industrial Policy and Promotion.

that the USPTO's rules are within the Agency's rule making authority. The panel also concluded that the rules regarding requests for continued examination, claims, and examination support documents are consistent with the Patent Act, but that the rule regarding continuation applications conflicts with the Patent Act. Nonetheless, the Federal Circuit recently vacated the panel's decision and decided to hear the case *en banc*. A decision by the *en banc* court is expected in 2010.

The Agency, through its OGC, has an interest in law schools helping to support young lawyers in gaining experience in USPTO practice. Therefore, OGC launched a two-year pilot program in the fall of 2008, during which time six law school clinical programs with an Intellectual Property (IP) specialization, selected through a competitive process, are participating in the pilot. Each IP Law School Clinical program is required to meet and maintain certain requirements for USPTO certification in order for student practitioners to practice before the Office. For example, each school must have a Law School Clinic Faculty Supervisor who is authorized to practice before the Office and agrees to supervise the clinic students in their filing and prosecution of applications before the Agency.

The Law School Clinical Certification Pilot Program (Law School Pilot) launched its inaugural semester in the fall of 2008. Over the fall 2008 and spring 2009 semesters, the Law School Pilot had between 45 and 50 students practicing in the program from the

six schools selected to participate in the pilot. Two schools held a summer 2009 clinic with a total of 12 students practicing over the shortened summer session. On behalf of the law school clinic's clients, the students filed a total of 37 trademark applications and 10 patent applications. The Law School Pilot program is scheduled to continue through the spring of 2010.

DELIVERING IP EDUCATION WORLDWIDE

The USPTO Global Intellectual Property Academy (GIPA) was established in 2006 and offers capacity building programs in the United States and around the world on IPR protection, enforcement, and capitalization. Capacity building programs are offered to patent, trademark, and copyright officials, judges, prosecutors, police, customs officials, foreign policy makers, examiners, and rights owners. In delivering capacity building programs, GIPA works closely with other U.S. Government agencies, trading partners, international organizations, and rights holders. Through GIPA programs, foreign officials learn about international IP obligations and norms, and are exposed to a U.S. model of protecting and enforcing IPR and discussion of IP issues in a collaborative learning environment.

In 2009, the GIPA provided training to more than 2,226 officials from 128 countries on a variety of topics, including IP protection and enforcement, and technology transfer.

The GIPA also initiated a new pilot program exposing patent officials from other countries to the USPTO Patent Training Academy's patent examiner training program. The six-month long International Examiners in Residence (IEIR) Program included most of the Patent Training Academy's new examiner training curriculum. In addition, the IEIR covered other IP topics, such as copyright, trademark, and enforcement issues. In order to provide a full perspective of the U.S. IP system, the IEIR also included visits to the BPAI, the Federal District Court of the Eastern District of Virginia, the Court of Appeals for the Federal Circuit, and the Supreme Court to witness oral hearings at each of these judicial proceedings. Eight patent examiners in various technologies from the patent offices in China, Germany, Korea, and Saudi Arabia participated in the pilot program.

GIPA also conducted a two-week long advanced trademark examination program for 16 examiners from the IP Offices in Brazil and India. The program provided the senior examiners with an in-depth analysis of the U.S. approach to the examination of trademark applications. One participant remarked,

"I was impressed with the USPTO staff...They were always very attentive, friendly and willing to help. The teachers, all super-prepared, were able to transmit the entire contents of the program in a dynamic way, alternating lectures, roundtable and simulations of situations that occur daily at the PTO...The content of the course provided are already of great value here [Brazil]."

In the area of enforcement, the GIPA organized and hosted two joint Asian-Pacific Economic Cooperation (APEC) - Association of South East Asian Nations (ASEAN) - Pacific Island Forum (PIF) capacity building events, namely, the Colloquium for Public Prosecutors and the Judiciary on IPR Enforcement in Kuala Lumpur, Malaysia, and the Workshop on the Border Enforcement of Intellectual Property Rights in Honolulu, Hawaii. GIPA also conducted a successful two-week study tour program on IPR enforcement and the U.S. legal system for 23 foreign government judges and prosecutors. These are just a few examples of the wide range of GIPA programs the USPTO delivered both in the United States and overseas during the past year.

In FY 2009, the USPTO developed and produced GIPA's new Distance Learning Modules, a new method for delivering IP education, which provide presentations addressing the basics of trademarks, geographical indications, patents, copyright, enforcement, and trade issues, as well as information on international standards and the U.S. experience. The modules will be available on-line to anyone who wishes to access them, and include a video presentation and an accompanying PowerPoint presentation on each topic. The Distance Learning Modules will also be accessible in a number of foreign languages, including Arabic, French, and Spanish.

While every IP-based business is vulnerable to counterfeiting and piracy, small businesses can be at a particular disadvantage because they lack the resources and expertise available to larger corporations. Small businesses also often lack the familiarity with the process of protecting IP. This year, the USPTO offered free programs and materials to help subject matter experts (SMEs) improve their understanding of IPR, increase the value of IP in their businesses, and to protect against counterfeiting and piracy. For example, in conjunction with the Trademark Expo at the USPTO's headquarters in Alexandria, Virginia, the USPTO offered SMEs very well-received seminars on *"What Every Small Business Must Know About Intellectual Property (The Top 13 Mistakes that YOU May Be Making)."* The USPTO also provided experts to staff trade shows, such as the International Music



Officials from the Russian Federal Service for Intellectual Property, Patents, and Trademarks (Rospatent) visited the USPTO on September 30, to gather information about designing and developing a telework program for their examiners.

Products Association (NAMM) tradeshow where they discussed patent, trade secret, trademark, and copyright protection and enforcement, and provided information about U.S. Government and other resources to help U.S. right holders protect their IP.

The USPTO continued its relationships with Federal agencies that share the goal of bringing awareness of IPR to SMEs. Under a 2008 memorandum of understanding between the USPTO and the Minority Business Development Agency (MBDA), the USPTO delivered IP-related presentations for regional directors of business centers and operated an IP information booth at an MBDA trade event. The USPTO has also worked with the Department of the Interior's Indian Arts and Crafts Board (IACB) since 2005 to help improve understanding of and appreciation for IP among Native American artists and craftspeople. In addition to providing numerous presentations for these groups, the USPTO is also working with IACB to revise its informational brochure on IP.

Management Goal: Achieve Organizational Excellence

Fulfilling the USPTO's mission and goals requires strong leadership and collaborative management. While the three strategic goals focus on the core mission, the management goal focuses on the organizational excellence that is a prerequisite for achieving those goals. Collectively, the USPTO leadership is responsible for core management activities in these critical areas.

WORKING AS PARTNERS FOR SUPERIOR PERFORMANCE

During FY 2009, USPTO business units worked as true partners across the organization to achieve superior performance and provide strategic leadership, as follows:

HUMAN CAPITAL — Human Capital Implementation Plans were developed by business units to carry out the Agency's Human Capital Strategic Plan by developing initiatives, programs, and training in support of the three "human capital" objectives of talent management, results-oriented performance culture, and leadership and knowledge management. The 2008 Federal Human Capital Survey (FHCS) results were shared with each business unit. Although the overall survey results were very favorable and show an improvement over the 2006 survey, there are areas that need attention. The Office of Human Resources (OHR) continues to coordinate with business units on the implementation of their Human Capital plans and share best practices, lessons learned, and challenges for the future. The Business Units are in the process of developing human capital action plans to address the top ten challenges from the 2008 FHCS results.

PROCESS IMPROVEMENT — To continue to strive for organizational excellence, the Office of the Chief Administrative Officer (OCAO) implemented a Lean Six Sigma Process Improvement Program. This program has resulted in significant improvements to the Facilities Help Desk process and the Equal Employment Opportunity (EEO) Dispute process. Presently, the program is focused on improving processes related to the Human Resources



USPTO's Chief Administrative Officer Stephen Smith conducted a two-day, on-campus retreat with key leaders from the offices of Human Resources, Corporate Services, and Civil Rights to develop a forward looking framework for improving the quality of services to USPTO employees.

Customer Service process and the Conference Services process. Additional efforts are anticipated to continue into the future. Improved processes within OCAO yield improved morale and greater efficiencies for the Agency. They also help USPTO employees to maintain their focus on the Agency's mission.

EXPANSION OF TELEWORK — The USPTO is still considered a leader in Federal telework programs and several outside organizations continue to rate our program as the best. This year the USPTO expanded its telework population to 5,068, translating to 81.3 percent of eligible positions that are teleworking.

DIVERSITY — Skillful EEO management is critical to organizational excellence. The Office of Civil Rights (OCR) works closely with the OHR to develop a comprehensive diversity recruitment strategy. This year, the OCR created a cross-trained team as an entry point to customer services. This team is charged with rapid resolution of both EEO complaints and disability accommodation requests. The OCR continued to promote the Agency's efforts to increase the diversity of the workforce. Notably, the USPTO has one of this highest Asian-American representation rates in

Government. Over 20 percent of the Agency's total workforce is Asian. In addition, the OCR led Black History; Hispanic Heritage; and Lesbian, Gay, Bisexual, and Transgender observations. The OCR remains proactive in preventing discrimination and harassment by providing training to all new hires and many of the Agency's new managers.

SAFE WORKPLACE ENVIRONMENT — The USPTO continually aims to create a workplace environment that is modern, safe, secure, attractive, and energy efficient. In FY 2009, the Agency's emergency preparedness program was enhanced by the rollout of several new and proactive initiatives including our *Continuity of Operations Plan* (COOP) computer-based training. The USPTO's COOP plan was expanded to include a Pandemic Annex; lockdown and shelter-in-place drills which were successfully conducted in all buildings; and an Emergency Preparedness/Occupant Emergency Plan webcast that was broadcast to all employees. To further support emergency preparedness, COOP-related tabletop exercises were held with Business Unit COOP managers, Emergency Response Group personnel, and Reconstitution Team members.

In response to an expiring lease at the South Tower Building in Crystal City, Virginia, the USPTO also completed the design and interior construction of the Randolph Square Building in nearby Arlington, Virginia, accepting 160,000 square feet of new office space exclusively for USPTO personnel. The nine-story building features distinctive architecture and interior design, including a two-story entry lobby, with historical patent representations inscribed on the walls of each floor to signify the space as being uniquely for the USPTO.

In response to the national call to conserve energy resources, the USPTO embarked on a number of new green initiatives, including the launching of an internal Web site dedicated to helping employees achieve more sustainable lifestyles at both work and home, as well as the Agency's first-ever "Green Fair" featuring a broad range of exhibitors from both local and Federal organizations attended by more than 1,000 employees.

ENSURING EXCELLENCE IN MANAGEMENT PROCESSES

HUMAN RESOURCES MANAGEMENT — The transformation of the OHR continues to be an area of focus to enhance organizational excellence. In particular, the OHR's customer service was enhanced by significantly improving our new employee orientation program and participation in our employee exit survey process. Improving

the orientation process was critical since it often contributes to an employee's first impression of the Agency. By improving the exit process, the OHR is now able to target and evaluate the most common reasons why employees leave the USPTO, and in turn, look at ways to reduce attrition. OHR held many successful OHR on Wheels events where they take OHR services out to our customers. Positive feedback has been received about each of these areas of improvement. Additionally, our careers Web site (www.usptocareers.gov) was recognized by the Web Marketing Association for Outstanding Achievement in Web site Development. This Web site was designed to provide a realistic job preview that clearly and simply describes the type of work and the challenges of the job. It also markets the USPTO as an employer of choice.

FEE MANAGEMENT — The current fee structure establishes relatively low filing fees to encourage entry into the patent process, with the cost of examination heavily subsidized by patent issuance and maintenance fees. These substantially higher fees are paid later in the process by those who are successful in obtaining patent rights and who wish to maintain those rights for the full patent term. The public policy behind this approach has been the view that by keeping financial barriers to entry low, inventors of all economic means can share their innovations with the public by filing patent applications.

The USPTO is conducting a study and analysis of the fees charged for providing products and services under the current fee schedule. This review will provide recommendations for altering the fee schedule to encourage innovation, while enabling the USPTO to provide high quality and timely examination of patent and trademark applications. Certain fees are established to recover, on average, the full costs of providing products and services, whereas the major patent processing fees have been established in statute. A review of full costs related to PCT International transmittals and searches resulted in adjustments to those fees during the fiscal year.

The USPTO is continuing an effort to modernize the Revenue Accounting and Management (RAM) system, a mission-critical fee collection system that provides automated support and controls for processing fee payments, debits and credits to customer deposit accounts, and refunds. RAM interfaces with more than 20 automated information systems to provide fee information (e.g., fee history, payment detail, etc.) and to allow customers to pay various fees over the Internet via credit card, Electronic Funds Transfer (EFT), or via a USPTO-established deposit account.



Leadership development opportunities are offered at all levels of the agency.

The USPTO has performed a business process reengineering on the fee collection process and has determined where recommendations will fit into the RAM Modernization program. A five-year program to modernize RAM has been created using a combination of commercial off-the-shelf, Government off-the-shelf, and custom web services technology. Modernization will optimize these processes to obtain greater efficiencies and improved customer service and ensure compliance.

AUTOMATED INFORMATION SYSTEMS MANAGEMENT — The Office of Inspector General (OIG) indicated that the USPTO's process for certifying contractor and government systems produced sufficient information to enable the authorizing officials to make credible risk-based accreditation decisions. As a result, the USPTO believes that the improvements in IT Security realized this year provide the evidence which led to the resolution of the material weakness. The Office of the Chief Information Officer (OCIO) continues to work diligently with the OIG and the DOC to improve the USPTO's overall IT security program and the quality of the certification and accreditation (C&A) packages.

The OCIO continues to work on improving the visibility of IT costs by instituting a standardized budget execution tool with assistance from the Office of the Chief Financial Officer (OCFO). This has allowed the OCIO to work with all of the USPTO Business Units to create an improved long-term IT investment strategy, which is discussed further in the **USPTO Strategic Information Technology Plan** (SITP) (www.uspto.gov/web/offices/cio/sitp/index.html).

In fulfilling responsibilities under *44 U.S.C. § 3504(b)*, the USPTO uses a Capital Planning and Investment Control (CPIC) process to prioritize investments and determine funding levels for subsequent fiscal years. Projects are carefully managed throughout their life cycle, and progress reviews are conducted at key milestone dates to compare the project's status to planned benefit, cost, and schedule, along with technical efficiency and effectiveness measures. All major IT system investments are reported in the Office of Management and Budget's (OMB) Circular A-11, Exhibit 53 submission and the USPTO's IT Investment Portfolio for FY 2009.

ENHANCING ON-LINE ACCESS TO INFORMATION

In keeping with the Administration's commitments for Transparency, Participation, and Collaboration, the USPTO provided the 2009 Patent Application and Grant datasets to the Data.gov Web site. The purpose of Data.gov is to increase awareness and access to machine-readable information produced by the U.S. Federal Executive Branch. Through Data.gov, the public can easily find, download, and use these datasets.

The USPTO continued to make improvements in our IT enterprise architecture, internal processes, and organizational alignment to improve our ability to be more responsive and better manage and deliver quality products at enhanced service levels. In particular, these initiatives directly support efforts to:

- Improve overall efficiency;
- Improve availability of and streamline access to USPTO information, data, and services;
- Serve an increasingly geographically dispersed workforce;
- Implement faster, more secure information exchange; and
- Continue expansion and improvement of e-filing, e-processing, and other e-Government efforts.

Management Challenges and What's Ahead

The USPTO will continue to lead the world in IP policy by optimizing patent and trademark quality and timeliness, and improving IP protection and enforcement domestically and abroad by addressing the following challenges:

MAKE EFFICIENCY GAINS FOR THE FUTURE, WHILE KEEPING QUALITY HIGH

The Patent and Trademark organizations will build on their accomplishments and work toward meeting the objectives of the *2007-2012 Strategic Plan* while working with customers to ensure that the objectives remain aligned with their needs.

The Patent organization's biggest challenge is to address the growth of pendency and the backlog of patent applications waiting to be examined while maintaining high patent quality. The Patent organization must address the dual challenges of heavy workloads and a shift of applications from traditional arts to more complex technologies. Consequently, the Patent organization will continue to hire, train, and retain additional examiners, and explore and implement process improvements. These actions will help to make the Agency even more responsive to the ever-increasing demand for patents.

The Trademark organization must strike a proper balance between forecasting levels of new filings, existing inventories, and managing an appropriately sized staff to ensure sufficient resources are available to maintain pendency goals on a consistent basis. The Trademark business' biggest challenge is to maintain the gains it has made in quality and pendency given the uncertainty of trademark filings, future revenues, and controlling costs. Efficiency gains have been realized through process improvement and cost reduction along with greater use of information technology. First-action pendency has reached the long-term target range of 2.5 to 3.5 months. Maintaining first-action pendency on a consistent monthly basis, given monthly fluctuations in filings, the unpredictability of projecting new filings given the continued uncertainty of the economy and the need to secure congressional approval for funding to support a high quality operation presents any number of challenges that must be carefully managed.



The Trademark organization will continue to assess the efficiency of its operations going forward, and incorporate process improvement in the incremental redesign of the electronic workflow and file management system. Completing the electronic workflow and file management system throughout the entire process will provide better automated tools and consistency for managing workloads and yield better services to its customers. The USPTO will also continue to use e-government as the primary means of doing business with applicants and registrants, and as a means of processing work within the Trademark organization. Continued high quality actions and consistent low first-action pendency will ensure low disposal pendency which translates to certainty for business owners in making investments in new products and services.

ECONOMIC AND FINANCIAL UNCERTAINTY

The financial crisis that began last year in the U.S. has created challenges for the USPTO as the world economy has fallen into a recession. The USPTO derives its budgetary resources from user fees and the recent economic downturn impacted patent and trademark operations and revealed vulnerability in the method for financing the Agency. The downturn in patent allowance, maintenance, and application fees stems directly from the financial constraints that even the nation's most innovative companies face.

Patent and Trademark application filings, which historically increase year after year, declined between FY 2008 and 2009. Filing forecasts were lowered in expectation that the downturn in the economy would impact filings and revenues – specifically as they relate to the gross domestic product (GDP) and financial indicators such as venture capital. Continued uncertainty exists for the next two to three years in planning and managing staffing and budget requests that are supported by fee revenues, especially if current fee rates remain unchanged.

The USPTO sought legislation to enable it to temporarily use Trademark unobligated balances through June 2010 to forestall the need for a furlough, if needed. The USPTO is also exploring the use of new financing tools, such as fee setting authority, borrowing authority, operating reserves, and investment authority that would permit adjustment for volatility in the economy and/or demand for products and services without putting the Office in an operational crisis. Such tools would also permit the USPTO to undertake long-term strategies for improvement in a financially reasonable way.



Danette Campbell, Senior Advisor, Telework, Linda Dobbs, OHR, and Janice Chiverton, OHR, collaborate during senior leadership training.

CONTINUE TO MOVE TO AN ELECTRONIC WORKPLACE

The Patent and Trademark organizations are moving rapidly to eliminate paper documents from their processes. Electronic communications are improving, thereby encouraging more applicants to do business electronically through the use of Web-based systems. Both Patent and Trademark organizations have made significant progress in support of the long-term goal to create an e-government operation. The Trademark organization relies exclusively on data submitted or captured electronically to support examination, publish documents, issue registrations, and to a large extent communicate with applicants. Because of the high degree of reliance on electronic operations, the Trademark organization is dependent on the management and support of internal information technology systems and services to manage its operations and provide services to the public.

The Trademark organization, along with the support of the OCIO, still has the challenge of completing an electronic docket and file management system for the pre-exam and petitions operations that support core examination and to link all operations and processing with one system. A fully electronic workflow will allow the Trademark organization to better manage the fluctuations in filings and be more efficient, as well as timely, in processing and responding.

This increased reliance on electronic systems presents other challenges to the USPTO in the event of an unplanned outage or disruption in processing. To address this need, the USPTO has embarked on an aggressive, phased business continuity/disaster



USPTO held a public roundtable discussion on February 12, on the topic of deferred examination. John Whealan, associate Dean for Intellectual Property Law Studies, The George Washington University Law School, moderated the roundtable.

recovery program. The current phase involves establishing a remote data bunker, which stores backups of mission critical data.

In addition, IT infrastructure and attendant hardware and software systems had been neglected for a number of years, both from a resource perspective and from the lack of a holistic strategy. In response, the USPTO initiated the OCIO IT Modernization Road Map plan in FY 2008 to address the IT infrastructure needs of the USPTO. The Road Map initiatives focused on both the “remediation” of existing issues, but also forward-looking strategies for taking the Office into the next decade.

The Road Map focuses on four goals in an effort to revitalize the USPTO’s technology environment:

- Stabilize the existing infrastructure environment and strengthen the core competencies of the IT workforce;
- Consolidate the existing infrastructure and application systems to avoid unnecessary duplication and excessive cost;
- Optimize the IT infrastructure to improve performance, facilitate governance, and ensure compliance; and
- Maintain and enhance the services delivered to customers.

In FY 2010, the OCIO will take a more holistic approach to out-year planning by integrating the Road Map into the Agency’s SITP. This plan will present the course of action the Agency

intends to take over the next five years for IT. The primary purpose is to establish a strategic framework for guiding the course of IT initiatives through the Agency’s strategic planning and decision making process. While the Road Map was primarily infrastructure focused, the SITP will incorporate the business area strategies for taking advantage of IT.

STRENGTHEN GLOBAL INTELLECTUAL PROPERTY RIGHTS SYSTEMS

An effective IPR system is important to trade because it provides confidence to businesses that rights will be respected and that profits will be returned to IPR holders. The tremendous ingenuity of American inventors, coupled with a strong IP system, encourages and rewards innovation and helps propel the economic and technological growth of our nation.

The challenges to maintaining an effective IPR system include deepening the dialogue on global IP policy, facilitating technical cooperation with foreign countries, surveying and exchanging information on the current status of IPR protection and administrative systems, and arriving at agreement on standards of enhanced IP enforcement. These standards of enhanced IP enforcement include increased criminal and civil protection, as well as tighter controls on circumventing technological protection. Reaching bilateral and multilateral agreements will require all sides to openly communicate and strive toward a more global convergence of patent and trademark standards.

The USPTO will continue strong advocacy policies that ensure that IP rights, such as patents, trademarks, and copyrights, are recognized as essential tools for economic growth in both developed and developing economies. This is particularly important in light of the misperception that strong IP protection hinders development. The USPTO will continue to work with international partners to promote a strong and effective IP regime that provides adequate and effective incentives for innovation and creativity worldwide, including within organizations such as the WIPO, the WTO, and the United Nations Human Rights Commission.

The USPTO must continue to advocate pro-IP principles as endorsed by the “Group of Eight” (G8) countries — Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, and the United States — to assist all countries in adopting and effectively enforcing adequate levels of IP protection for the benefit of all citizens. This will be accomplished by advising other

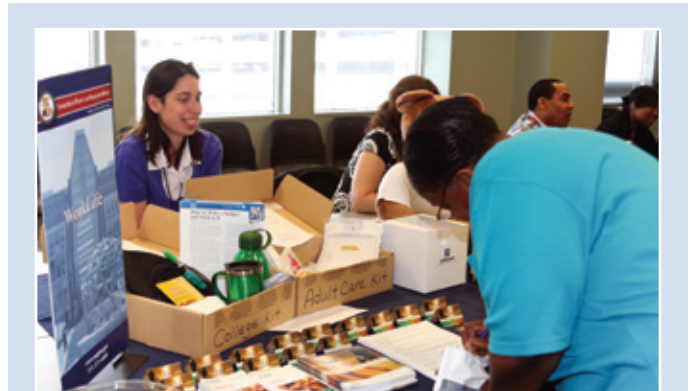
Federal agencies on domestic and international IP policy, and by continually expanding our IP training and technical assistance internationally.

The USPTO will continue to search for solutions to its workload, examination quality, and e-government challenges by taking the lead on cooperative initiatives with other IP offices throughout the world. This will result in progress in the areas of work-sharing, examination practice uniformity, and electronic access and compatibility. Finally, the Agency will continue to address policy and legal matters relating to all legislative proposals relating to IP and the USPTO, especially in the context of the continuing debate over proposed changes to the patent laws of the United States.

ENSURING PROPER FEE RATES

Under current authority, any change to statutory fees requires legislation.¹ This limits the USPTO's ability to adjust its fees in response to changes in market demand for patent and trademark services, in processing costs or in other factors. To assure adequate funding levels for the long term, the USPTO needs authority to set and adjust fees administratively, so that it can properly establish and align fees in a timely, fair and consistent manner to recover the actual costs of USPTO operations and without going through the inherently long delays in the legislative process.

Any fee adjustments could be subject to oversight, review and comment by the USPTO's Public Advisory Committees, its stakeholders and Congress. This would provide assurances that the USPTO has all the necessary oversight, checks, and balances.



OHR on Wheels...Bringing Human Resources to You. A cross-functional team of OHR specialists answer or research employee questions on employee benefits or other human resources related topics.

ATTRACT AND RETAIN THE RIGHT SKILLS AND TALENT

Work at the USPTO is highly technical in nature and requires a well-educated, well-credentialed, and diverse workforce. Consequently, the Agency is faced with employment, management, training, and leadership challenges. Customer demands continue to increase while recruiting challenges escalate in a highly competitive environment, particularly for patent examiners, IT specialists, human resource specialists, and acquisition professionals.

The USPTO is focusing on ways to manage the new generation of employees in an increasing virtual workplace. While the Agency has strong performance management processes in place, there are still management challenges. Patent funding shortfalls have adversely impacted hiring patent examiners and organizational support for the patent process, the ability to retain employees, provision of adequate resources and tools for employees to do their jobs, and succession planning.

¹ The following patent fees are set by statute ("statutory patent fee"): the filing fee, the application size fee, the excess claims fee, the examination fee, the issue fee, the disclaimer fee, the appeal fees, the application revival fee, the extension of time fees, the maintenance fees, and the assignment recordation fee. The remaining patent fees are set by regulation ("regulatory patent fees"), and these fees include the request for continued examination fee, the eighteen-month publication fee, the reexamination filing fees, and many petition fees. Trademark application filing fees are set by legislation in the 2005 Appropriations Act.

Accompanying Information on USPTO Performance

Performance Audits and Evaluations

The Office of the Inspector General (OIG) issued two audit reports during FY 2009, both of which were for an agency that the USPTO is the funding source for. The first audit report, ***International Intellectual Property Institute (IIPI), DC, Audit Report No. ATL-9999-9-3418, Audit of MOU No. 2006-069-039***, focused on IIPI's audit report for the period ended December 31, 2007, to review their compliance to OMB Circular A-133 reporting requirements. The OIG noted questioned costs of \$28,842 on expenditures billed to the USPTO for which the related expenditures were not recorded in the IIPI general ledger. The management at IIPI is currently focusing on improving documentation for general ledger account reconciliations. The USPTO has prepared a corrective action plan to document that the Agency's accounts payable procedures prevent erroneous payments, which upon subsequent review of the questioned costs showed that the Agency properly recorded IIPI payments.

The second audit report, ***International Intellectual Property Institute (IIPI), DC, Audit Report No. ATL-9999-8-3178 and Audit Report No. ATL-9999-8-3179, Audit of MOU No. 2004-141-007***, focused on the organization's audit report for the period ended December 31, 2004 and 2005, to review their compliance to OMB Circular A-133 reporting requirements. Due to the late submission of the audit reports by the IIPI, the OIG will not monitor the report findings. If the IIPI has not corrected the findings prior to the next audit, the OIG may monitor a resolution at that time.

PERFORMANCE DATA VERIFICATION AND VALIDATION

In accordance with GPRA requirements, the USPTO is committed to making certain the performance information it reports is complete, accurate, and consistent. The USPTO developed a strategy to validate and verify the quality, reliability, and credibility of USPTO performance results and has taken the following actions:



ACCOUNTABILITY — Responsibility for providing performance data lies with managers of USPTO programs who are held accountable for making certain that procedures are in place to ensure the accuracy of data and the performance measurement sources are complete and reliable.

QUALITY CONTROL — Automated systems and databases that collect, track, and store performance indicators are monitored and maintained by USPTO program managers, with systems support provided by the OCIO. Each system, such as Patent Application Location and Monitoring (PALM) or TRAM, incorporates internal program edits to control the accuracy of supporting data. The edits, typically, evaluate data for reasonableness, consistency, and accuracy. Crosschecks between other internal automated systems also provide assurances of data reasonableness and consistency. In addition to internal monitoring of each system, experts outside of the business units routinely monitor the data-collection methodology. The OCFO is responsible for monitoring the Agency's performance, providing direction and support on data collection methodology and analysis, ensuring that data quality checks are in place, and reporting performance management data.

DATA ACCURACY — The USPTO conducts verification and validation of performance measures periodically to ensure quality, reliability, and credibility. At the beginning of each fiscal year, and at various points throughout the reporting or measurement period, sampling techniques and sample counts are reviewed and adjusted to ensure data are statistically reliable for making inferences about the population as a whole. Data analyses are also conducted to assist the business units in interpreting program data, such as the identification of statistically significant trends and underlying factors that may be impacting a specific performance indicator. For examination quality measures, the review programs themselves are assessed in terms of reviewer variability, data entry errors, and various potential biases.

Following is specific information, including data verification and validation, for each performance measure:

PERFORMANCE GOAL 1: OPTIMIZE PATENT QUALITY AND TIMELINESS

PATENT QUALITY

Quality improvement continues to drive many of the Patent organization's new initiatives. The Patent organization continues to improve the quality of its products and services using in-depth reviews of work in progress and enhanced end-process reviews to provide feedback to examiners on areas for improvement, targeted training, and safeguards to ensure competencies. The in-process compliance rate is the percentage of applications reviewed during prosecution and prior to allowance that were found to be free of errors. The allowance compliance rate is the percentage of reviewed applications allowed by examiners that did not have any errors.

Measure: Patent Allowance Compliance Rate		
FISCAL YEAR	TARGET	ACTUAL
2005	96.0%	95.4%
2006	96.0%	96.5%
2007	96.0%	96.5%
2008	96.0%	96.3%
2009	96.5%	96.9%
<i>Target Met.</i>		

Measure: Patent In-Process Examination Compliance Rate		
FISCAL YEAR	TARGET	ACTUAL
2005	84.0%	86.2%
2006	86.0%	90.0%
2007	90.0%	92.2%
2008	92.0%	92.5%
2009	93.0%	93.2%
<i>Target Met.</i>		

PATENT PENDENCY

The two primary measures of Patent organization processing time are: (1) average first action pendency, which measures the average time in months from filing until an examiner's initial determination is made of the patentability of an invention; and (2) average total pendency, which measures the average time in months from filing until the application is issued as a patent or abandoned by the applicant. The Patent organization met their pendency targets due to a significantly increased retention rate

and to efficiencies gained within the examination corps, which are reflected in the percent of examination time increasing by over two percent from last year.

Measure: Patent Average First Action Pendency		
FISCAL YEAR	TARGET	ACTUAL
2005	21.3	21.1
2006	22.0	22.6
2007	23.7	25.3
2008	26.9	25.6
2009	27.5	25.8
<i>Target Met.</i>		

Measure: Patent Average Total Pendency		
FISCAL YEAR	TARGET	ACTUAL
2005	31.0	29.1
2006	31.3	31.1
2007	33.0	31.9
2008	34.7	32.2
2009	37.9	34.6
<i>Target Met.</i>		

PATENT E-FILING AND E-MANAGEMENT

The USPTO also created a fully electronic patent application management process whereby all patent examiners, technical support staff, and adjunct users can access an electronic image of all patent applications. Patent automation includes more than a dozen specialized applications used in patent examination, multiple search systems, databases, and commonly used office applications.

Measure: Patent Applications Filed Electronically		
FISCAL YEAR	TARGET	ACTUAL
2005	4.0%	2.2%
2006	10.0%	14.2%
2007	40.0%	49.3%
2008	69.0%	71.7%
2009	80.0%	82.5%*
<i>Target Met.</i>		
* Preliminary data		

Patent Efficiency

Measures the relative cost-effectiveness of the entire patent examination process over time, or the efficiency with which the organization applies its resources to production.

Measure: Patent Efficiency		
FISCAL YEAR	TARGET	ACTUAL
2005	\$4,122	\$3,877
2006	\$4,214	\$3,798
2007	\$4,253	\$3,961
2008	\$3,982	\$3,773
2009	\$3,562	\$3,523
<i>Target Met.</i>		

PERFORMANCE GOAL 2: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS

Trademark Quality

The Trademark organization measures for assessing examination quality include an evaluation for all issues that could be considered deficient in making a first and final action substantive decision. Evaluations are conducted on a random sample of applications to review the quality of decision making of the examiner's first office action and final action – an approval for registration or a final refusal.

The “in-process review” standard for assessing excellent and deficient work creates a comprehensive, meaningful, and rigorous review of what constitutes quality.

The results of an examiner's first action and final office action are reviewed for the quality of the substantive basis for decision making, search strategy, evidence, and writing. The measures consider elements for review and evaluation with training targeted to topics that warrant improvement. Examiners are given feedback about excellent, as well as deficient work to further improve quality.

In FY 2009, the measure for final compliance was expanded to evaluate examination quality at the stage applications are approved for publication and ultimately registration – increasing the number, as well as the decisions, that were subject to

review – demonstrating the high degree of quality that applies to the majority of the determinations made by the Trademark organization.

Measure: Trademark Final Compliance Rate		
FISCAL YEAR	TARGET	ACTUAL
2008	Baseline	
2009	97.0%	97.6%
Target Met.		
Final Action Compliance Rate is being replaced in FY 2009 by the Final Compliance Rate, which is a more comprehensive measure of quality to include all actions that would result in an application being completed or disposed.		

Measure: Trademark First Action Compliance Rate		
FISCAL YEAR	TARGET	ACTUAL
2005	92.5%	95.3%
2006	93.5%	95.7%
2007	95.5%	95.9%
2008	95.5%	95.8%
2009	95.5%	96.4%
Target Met.		

TRADEMARK PENDENCY

Trademark first action pendency measures the average number of months from the date of application filing to the first office action.

Trademark average total pendency measures the average number of days from date of filing to notice of abandonment (unless a notice of allowance has been issued), notice of allowance, or registration for applications based on use in that month *excluding* and *including* cases that were previously suspended or were involved in *inter partes* proceedings at the TTAB. Average total pendency, including suspended and *inter partes* cases, was 13.5 months. Excluding applications that were suspended or delayed for *inter partes* proceedings; average total pendency was 11.2 months.

Measure: Trademark Average First Action Pendency		
FISCAL YEAR	TARGET	ACTUAL
2005	6.4	6.3
2006	5.3	4.8
2007	3.7	2.9
2008	2.5 to 3.5	3.0
2009	2.5 to 3.5	2.7
Target Met.		

Measure: Trademark Average Total Pendency		
FISCAL YEAR	TARGET	ACTUAL
2005	17.5	17.2
2006	16.3	15.5
2007	14.8	13.4
2008	14.3	11.8
2009	13.0	11.2
Target Met.		
Average Total Pendency Including Suspended and <i>Inter Partes</i> Proceedings in FY 2009 is replaced by Average Total Pendency Excluding Suspended and <i>Inter Partes</i> Proceedings, which is a better indicator of the amount of time it takes to dispose of the trademark application.		

TRADEMARK E-MANAGEMENT

The number of electronic trademark applications has progressed steadily over the years as a result of promotional events, increased number and type of applications, electronic filing, improved functionality and enhancements, and financial incentives; for example, lower fees.

The Trademark organization has created an electronic trademark application record management process by capturing 100 percent of the application inventory and 100 percent of active or registered marks as an electronic file that includes text and image of the initial application and subsequent applicant and office correspondence. Examining attorneys use the electronic record to process and examine applications, manage their dockets of pending work, and take action on applications. The availability of the full file contents of all active registered marks provide a complete record for the public.

A new measure was introduced in FY 2009 to address the major USPTO strategic challenge to complete full electronic workflow and file management for receiving and processing trademark applications and related documents. The measure “Applications

Processed Electronically” has been developed to identify the degree to which the Trademark organization is able to receive process, examine, and dispose of an application in a completely electronic environment. This measure reports the percentage of trademark applications that were filed, processed, and disposed relying completely on electronic systems and communications. This measure replaced the electronic filing performance measure, which target has been achieved.

Measure: Trademark Applications Processed Electronically		
FISCAL YEAR	TARGET	ACTUAL
2008	Baseline	
2009	62.0%	62.0%
Target Met.		
New measure added to show the rate at which applications that are disposed (abandoned or registered) are processed using automated system and transactions.		

Trademark Efficiency

Measures the relative cost-effectiveness of the entire trademark examination process over time, or the efficiency with which the organization applies its resources to production.

Measure: Trademark Efficiency		
FISCAL YEAR	TARGET	ACTUAL
2005	\$701	\$677
2006	\$635	\$565
2007	\$685	\$660
2008	\$697	\$470
2009	\$639	\$474
Target Met.		

PERFORMANCE GOAL 3: IMPROVE INTELLECTUAL PROPERTY PROTECTION AND ENFORCEMENT DOMESTICALLY AND ABROAD

The following measures demonstrate progress in protecting and enforcing IP. They focus on FTA negotiations and implementation, WTO accessions, 301 reviews, trade policy reviews, technical assistance, expansion of foreign postings, work details of USPTO employees to other U.S. Government agencies, as well as development of specific plans for strategic cooperation; for example, the work plans with China, Egypt, India, Brazil, and ASEAN.

Measure: Percentage of countries on the USTR 301 list, awaiting WTO accession, or targeted by OIPPE for improvements that have positively amended or improved their IP systems		
FISCAL YEAR	TARGET	ACTUAL
2005	50.0%	53.0%
2006	50.0%	26.0%
2007	30.0%	32.0%
2008	35.0%	74.0%
2009	40.0%	54.0%
Target Met.		
New outcome-oriented performance measures that replaced previously reported measures.		

Measure: Number of countries that implement at least 75% of action steps which improve IP protections in the joint cooperation, action or work plans		
FISCAL YEAR	TARGET	ACTUAL
2008	Baseline	
2009	4	5
Target Met.		
New outcome-oriented performance measures that replaced previously reported measures.		

COMMISSIONER’S PERFORMANCE FOR FY 2009

The American Inventors Protection Act (AIPA), Title VI, Subtitle G, the Patent and Trademark Office Efficiency Act, requires that an annual performance agreement be established between the Commissioner for Patents and the Secretary of Commerce, and the Commissioner for Trademarks and the Secretary of Commerce. The Commissioners for Patents and Trademarks, respectively, have FY 2009 performance agreements with the Secretary of Commerce, which outline the measurable organizational goals and objectives for which they are responsible. They may be awarded a bonus, based upon an evaluation of their performance as defined in the agreement, of up to 50 percent of their base salary. The results achieved in FY 2009 are documented in this report. FY 2009 bonus information is currently not available. For FY 2008, the Commissioner for Patents was awarded a bonus of 21.8 percent of base salary and the Commissioner for Trademarks a bonus of 14.5 percent of base salary.



Management Assurances and Compliance with Laws and Regulations

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

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

Management Assurances

FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT

The FMFIA requires Federal agencies to provide an annual statement of assurance regarding management controls and financial systems. The USPTO management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the FMFIA. The objectives of internal control, as defined by the Government Accountability Office (GAO), are to ensure:

- Effectiveness and efficiency of operations;
- Reliability of financial reporting; and
- Compliance with laws and regulations.

The statement of assurance is provided at right. This statement was based on the review and consideration of a wide variety of evaluations, control assessments, internal analyses, reconciliations, reports, and other information, including the DOC OIG audits, and the independent public accountants' opinion on the USPTO's financial statements and their reports on internal control and compliance with laws and regulations. In addition, USPTO is not identified on the GAO's High Risk List related to controls governing various areas.

FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT

The FFMIA requires Federal agencies to report on agency substantial compliance with Federal financial management system requirements, Federal accounting standards, and the U.S. Standard General Ledger at the transaction level. The USPTO complied substantially with the FFMIA for FY 2009.

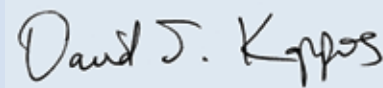
Other Compliance with Laws and Regulations

FEDERAL INFORMATION SECURITY MANAGEMENT ACT

The USPTO continues to stay vigilant in reviewing administrative controls over information systems and is always seeking methods of improving our security program. During FY 2009, the USPTO removed the IT security material weakness that was reported in previous years. The material weakness was related to the USPTO IT security program and reflected the need to improve the internal controls and program processes and procedures for C&A of the USPTO and contractor systems. During FY 2009, the OIG indicated that the USPTO's process for certifying contractor and government systems produced sufficient information to enable the authorizing officials to make credible risk-based accreditation decisions.

On the basis of the USPTO's comprehensive internal control program during FY 2009, the USPTO can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations as of September 30, 2009, was operating effectively. Accordingly, I am pleased to certify with reasonable assurance that our agency's systems of internal control, taken as a whole, comply with Section 2 of the Federal Managers' Financial Integrity Act of 1982. Our agency also is in substantial compliance with applicable federal accounting standards and the U.S. Standard General Ledger at the transaction level and with federal financial system requirements. Accordingly, our agency fully complies with Section 4 of the Federal Managers' Financial Integrity Act of 1982, with no material non-conformances.

In addition, the USPTO conducted its assessment of the effectiveness of our agency's internal control over financial reporting, which includes safeguarding of assets and compliance with applicable laws and regulations, in accordance with OMB Circular A-123, Management's Responsibility for Internal Control. Based on the results of this evaluation, the USPTO provides reasonable assurance that its internal control over financial reporting as of June 30, 2009 was operating effectively and no material weaknesses were found in the design or operation of the internal control over financial reporting. In addition, no material weaknesses related to internal control over financial reporting were identified between July 1, 2009 and September 30, 2009.



David J. Kappos

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
November 5, 2009

INSPECTOR GENERAL ACT AMENDMENTS

The Inspector General Act, as amended, requires semi-annual reporting on IG audits and related activities, as well as any requisite agency follow-up. The report is required to provide information on the overall progress on audit follow-up and internal management controls, statistics on audit reports with disallowed costs, and statistics on audit reports with funds put to better use. The USPTO did not have audit reports with disallowed costs or funds put to better use.

The USPTO's follow-up actions on audit findings and recommendations are essential to improving the effectiveness and efficiency of our programs and operations. As of September 30, 2009,

management had resolved the two recommendations outstanding from a report issued in FY 2008 (USPTO-CAR-18701: "USPTO Has Reasonable Controls Over Personal Property, but Additional Improvements Are Needed"). A summary of audit findings and recommendations follows.

Two new audit reports were issued during FY 2009 (ATL-9999-9-3418: "International Intellectual Property Institute (IIPI), DC, Audit of MOU No. 2006-069-039" and ATL-9999-8-3178/ATL-9999-8-3179: "IIPI, DC, Audit of MOU 2004-141-007"). For details on each audit, refer to page 35. No recommendations were outstanding as of September 30, 2009.

Status of IG Act Amendment Audit Recommendations as of September 30, 2009				
Report for Fiscal Year	Status	Recommendation	Action Plan	Completion Date
FY 2008	Closed	Conduct inventories consistent with the requirements contained in the Department Personal Property Management Manual dated October 2007.	The USPTO implemented and communicated USPTO's Standard Operating Procedures (SOP) for the annual physical verification of USPTO's home use assets, including laptops.	October 2008
FY 2008	Closed	Require Property Accountability Officers (PAOs) to inventory the holdings of the Property Custodians (PC) who report them.	PAOs received a notice indicating that, as part of their quarterly certification efforts, they must also verify the accuracy of the property assigned to PCs under their oversight.	October 2008

Financial Performance Measure	FY 2009 Target	FY 2009 Performance
Percentage of Timely Vendor Payments (MTS)	98%	96%
Percentage of Payroll by Electronic Transfer (OMB)	90%	99%
Percentage of Treasury Agency Locations Fully Reconciled (OMB)	95%	100%
Timely Reports to Central Agencies (OMB)	95%	100%
Audit Opinion on FY 2009 Financial Statements (OMB)	Unqualified	Unqualified
Material Weaknesses Reported by OIG (OMB)	None	None
Timely Posting of Inter-Agency Charges (USPTO)	30 days	15 days
Average Processing Time for Travel Payments (USPTO)	8 days	4 days

OMB FINANCIAL MANAGEMENT INDICATORS

The OMB prescribes the use of quantitative indicators to monitor improvements in financial management. The USPTO tracks other financial performance measures as well. The table above shows the USPTO's performance during FY 2009 against performance targets established internally and by OMB and the government-wide Metric Tracking System (MTS).

PROMPT PAYMENT ACT

The Prompt Payment Act requires Federal agencies to report on their efforts to make timely payments to vendors, including interest penalties for late payments. In FY 2009, the USPTO did not pay interest penalties on 99.5 percent of the 7,532 vendor invoices processed, representing payments of approximately \$534.0 million. Of the 42 invoices that were not processed in a timely manner, the USPTO was required to pay interest penalties on 39 invoices, and was not required to pay interest penalties on three invoices, where the interest was calculated at less than \$1. The USPTO paid only \$8 in interest penalties for every million dollars disbursed in FY 2009. Virtually all recurring payments were processed by EFT in accordance with the EFT provisions of the Debt Collection Improvement Act of 1996.

CIVIL MONETARY PENALTY ACT

There were no Civil Monetary Penalties assessed by the USPTO during FY 2009.

DEBT COLLECTION IMPROVEMENT ACT

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

BIENNIAL REVIEW OF FEES

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

In October 2008, the USPTO implemented an increase to patent processing fees, commensurate with the last 12 months' increase in the Consumer Price Index. A study and analysis of all USPTO fees is underway, comparing the average unit costs for all products and services to the fees currently charged. This study is ongoing and is expected to continue through FY 2010.



Financial Discussion and Analysis

Financial Highlights

The following presents the USPTO's FY 2009 financial highlights for budgetary resources and requirements, along with results of operations. Details behind these highlights are included in the discussion of the USPTO's financial statements beginning on page 46.

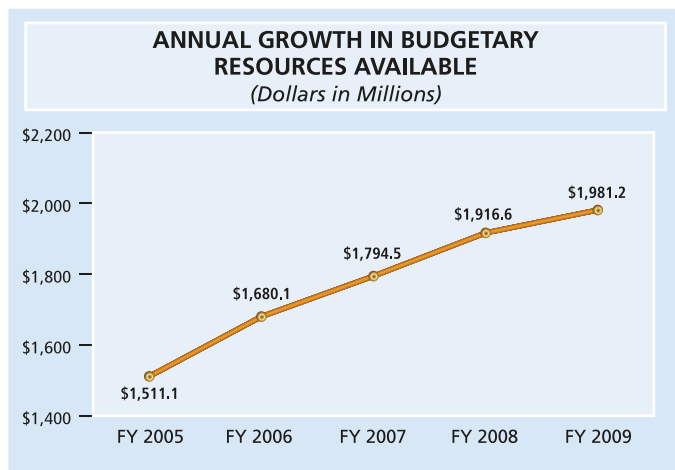
BUDGETARY RESOURCES AND REQUIREMENTS

The USPTO was provided appropriation authority to spend all anticipated fee collections in FY 2009 for an amount up to \$2,010.1 million. However, as the fiscal year progressed, fee collections were not being received as they had been anticipated, resulting in actual fee collections of \$1,874.2 million, which was our final appropriation level. When spending authority is less than fee collections, the additional fee collections are temporarily unavailable. During FY 2007, the USPTO collected an additional \$12.2 million in fees that were temporarily unavailable for spending.

The following table presents the source of funds made available to the USPTO, and the use of such funds.

Source and Status of Funds (Dollars in Millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Source of Funds:					
Unobligated Beginning Balance	\$ 2.3	\$ 5.7	\$ 5.7	\$ 28.0	\$ 72.1
Recovery of Prior Year Obligations	7.6	9.1	9.9	12.0	30.7
Spending Authority from Offsetting Collections	1,504.2	1,665.4	1,791.1	1,885.6	1,880.4
Non-Expenditure Transfer	–	(0.1)	–	(1.0)	(2.0)
Net Increase in Unavailable Fees	–	–	(12.2)	–	–
Total Source of Funds	\$ 1,514.1	\$ 1,680.1	\$ 1,794.5	\$ 1,924.6	\$ 1,981.2
Status of Funds:					
Obligations Incurred	\$ 1,508.4	\$ 1,674.4	\$ 1,766.5	\$ 1,852.5	\$ 1,862.5
Unobligated Balance, Available	2.7	5.7	28.0	64.1	118.7
Unobligated Balance, Unavailable	3.0	–	–	8.0	–
Total Status of Funds	\$ 1,514.1	\$ 1,680.1	\$ 1,794.5	\$ 1,924.6	\$ 1,981.2

During FY 2009, total budgetary resources available for spending was 3.4 percent over the amount available in the preceding year. While the total amount available for spending increased during FY 2009, \$70.6 million of the remaining unobligated balance at the end of the fiscal year is derived from Trademark fee collections. The increase in budgetary resources available for use over the past four years is depicted by the graph below.



In FY 2009, the USPTO was provided with use of all of its fee collections. In the past, access to all fee collections had enabled the USPTO to substantially increase the number of patent examiners to assist in addressing the growing complexity of patent applications and increasing workloads and to allocate additional resources towards protecting intellectual property in the United States and abroad. However, the current economic condition complicated managing Agency operations, as evidenced

by a decreased demand for our services and a decrease in fee income, over \$200 million less than originally planned.

The USPTO's response to the decline in fee revenues was to implement almost \$200 million in budget reductions and cost-savings measures: stopping all overtime, including patent production and fee-generating work; curtailing most non-bargaining unit performance awards; significantly reducing mission-related travel; suspending patent examiner hiring, except for offers made as of February 2009; suspending all hiring but for the most critical positions in other areas; suspending training except where mandatory to sustain critical job qualifications; reducing or eliminating all non-essential, non-trademark, IT business system improvement projects; reducing the funds applied to critical IT infrastructure projects; and reducing the level of services provided by non-IT contracts. The USPTO's efforts have positioned the Agency to operate within the reduced fee collection levels into FY 2010.

We are certain that the USPTO can not sustain operations in this manner over an extended period of time without a significant operational impact on the patent and trademark systems and putting into question the USPTO's ability to address its mission at any acceptable level. For example, not replacing patent examiners as they leave the USPTO and eliminating overtime directly impacts our ability to reduce the backlog of existing patent applications. While this measure saves money in the short term, it also reduces revenue earned in the current year and has revenue impact for the future. In addition, delays in upgrades to our IT infrastructure will degrade the USPTO's ability to sustain core functions. The USPTO expects significant challenges in

FY 2010 and beyond without an interim or longer term strategy for stable and reliable funding.

RESULTS OF OPERATIONS

The USPTO generated a net cost of \$54.8 million for the year ended September 30, 2009, an increase of \$24.4 million over FY 2008 net cost of \$30.4 million. This variation is the result of a few factors, explained in more detail in the Statement of Net Cost discussion.

Due to the increase in pendency, the amount of time an application is waiting before a patent is issued or trademark is registered, the USPTO had been recognizing a steadily increasing deferred revenue liability through FY 2008 for fees received prior to the revenue being earned. From FY 2005 through FY 2008, unearned patent fees increased 27.1 percent. In FY 2009, unearned patent fees decreased 4.6 percent, a result of the economy – as less new patent application filings were received, the USPTO was able to make progress in working off the existing inventory. From FY 2005 through FY 2009, unearned trademark fees decreased 33.3 percent, a result of the increased staffing to address the inventory backlog.

Financial Discussion and Analysis

FINANCIAL STATEMENTS

The USPTO received an unqualified (clean) audit opinion from the independent public accounting firm of KPMG LLP on its FY 2009 financial statements, provided on pages 61 to 87. This is the 17th consecutive year that the USPTO received a clean opinion. Our unqualified audit opinion provides independent assurance to the public that the information presented in the USPTO financial statements is fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America. In addition, KPMG LLP reported no material weaknesses in the USPTO's internal control,

and no instances of non-compliance with laws and regulations affecting the financial statements.

The USPTO financial management process ensures that management decision-making information is dependable, internal controls over financial reporting are effective, and that compliance with laws and regulations is maintained. The preparation of these financial statements is a component of the USPTO's objective to continually improve the accuracy and usefulness of its financial management tools.

The following sections provide a discussion and analysis of the financial statements and related information.

STATEMENT OF BUDGETARY RESOURCES

The following table displays the USPTO's total budgetary resources available for spending over the past five years, with the related percentage change.

As presented below, total budgetary resources available for spending increased with a 3.4 percent change and a 31.1 percent increase over the past five fiscal years. Through FY 2008, the increase in available budgetary resources was used to fund the increased cost of additional human capital to address the growing average complexity of patent applications and the decrease in patent and trademark filings. In FY 2009, the increase in available budgetary resources was \$200 million less than planned. As a result, budget reductions and cost-savings measures were implemented, to include: stopping all overtime, including patent production and fee-generating work; curtailing non-bargaining unit performance awards; significantly reducing mission-related travel; suspending patent examiner hiring, except for offers made as of February 2009; suspending all hiring but for the most critical positions in other areas; suspending training except where mandatory to sustain critical job qualifications; reducing or eliminating all non-essential, non-trademark, IT business system improvement projects; reducing the funds applied to

Resources	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Budgetary Resources Available for Spending <i>(Dollars in Millions)</i>	\$1,511.1	\$1,680.1	\$1,794.5	\$1,916.6	\$1,981.2
<i>Percentage Change</i>	22.3%	11.2%	6.8%	6.8%	3.4%
Patent Examiners	4,177	4,779	5,477	6,099	6,243
<i>Percentage Change</i>	13.5%	14.4%	14.6%	11.4%	2.4%
Trademark Examining Attorneys	357	413	404	391	388
<i>Percentage Change</i>	24.8%	15.7%	(2.2)%	(3.2)%	(0.8)%

Filings	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Patent Filings	409,532	445,613	468,330	496,886	485,500 ¹
<i>Percentage Change in Patent Filings</i>	<i>8.1%</i>	<i>8.8%</i>	<i>5.1%</i>	<i>6.1%</i>	<i>(2.3)%</i>
Trademark Filings	323,501	354,775	394,368	401,392	352,051
<i>Percentage Change in Trademark Filings</i>	<i>8.4%</i>	<i>9.7%</i>	<i>11.2%</i>	<i>1.8%</i>	<i>(12.3)%</i>

¹ Preliminary data

critical IT infrastructure projects; and reducing the level of services provided by non-IT contracts.

The USPTO was initially appropriated and apportioned up to \$2,010.1 million of fee collections. As the fiscal year progressed, fee collections were not being received as they had been anticipated, resulting in fee collections of \$1,874.2 million. The USPTO did not meet the planned fee collections primarily due to a decrease in the number of patent and trademark applications (see above table), a decrease in the expected number of claims being filed per patent application, as well as patent maintenance fees coming in less than planned. However, due to the decrease in incoming patent applications, this has allowed the Agency to continue to focus resources on reducing the patent backlog, resulting in increased issue fees.

USPTO operations rely significantly on patent maintenance fees, which are the largest source of budgetary resources by fee type. During FY 2009, maintenance fees collected decreased \$15.1 million, or 2.7 percent, from FY 2008. As they are recognized immediately as earned revenue and budgetary resources, any fluctuations in the rates of renewal have a significant impact on the total resources available to the USPTO. To some extent, renewals recoup costs incurred during the initial patent process. As shown on page 49, the renewal rates for all three stages of maintenance fees decreased during FY 2009. The renewal rates are expected to rebound as the economy rebounds.

Legislation was passed in July 2009 that allows the USPTO to use surplus funds from Trademark revenues to cover any shortfalls that may occur as the result of the decrease in Patent fee collections [H.R. 3114]. The authority to use these funds lasts until June 2010. Should such use of Trademark funds be necessary, the amount must be paid back to the Trademark organization no later than September 30, 2014. As of September 30, 2009, Trademark funds were not used for Patent operations.

As defined earlier, temporarily unavailable fee collections occur when the USPTO is not appropriated the authority to spend all fees collected during a given year. During FY 2009, the USPTO did not collect any fee collections that were designated as temporarily unavailable. As a result, the \$528.7 million in temporarily unavailable fee collections at the end of FY 2007 remained the same through FY 2009.

The table below chart illustrates amounts that Congress has appropriated to the USPTO over the past five fiscal years, as well as the cumulative unavailable fee collections.

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

Temporary Unavailable Fee Collections (Dollars in Millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Fiscal year fee collections	\$ 1,497.2	\$ 1,657.6	\$ 1,783.2	\$ 1,879.3	\$ 1,874.2
Fiscal year collections appropriated	(1,497.2)	(1,657.6)	(1,771.0)	(1,879.3)	(1,874.2)
Fiscal year unavailable collections	\$ –	\$ –	\$ 12.2	\$ –	\$ –
Prior year collections unavailable	516.5	516.5	516.5	528.7	528.7
Cumulative temporarily unavailable fee collections	\$ 516.5	\$ 516.5	\$ 528.7	\$ 528.7	\$ 528.7

Net (Cost)/Income (Dollars in Millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Earned Revenue	\$ 1,372.8	\$ 1,594.4	\$ 1,735.7	\$ 1,862.2	\$ 1,927.1
Program Cost	(1,424.0)	(1,514.2)	(1,769.6)	(1,892.6)	(1,981.9)
Net (Cost)/Income	\$ (51.2)	\$ 80.2	\$ (33.9)	\$ (30.4)	\$ (54.8)

STATEMENT OF NET COST

The Statement of Net Cost presents the USPTO's results of operations by the following responsibility segments – Patent, Trademark, and Intellectual Property Protection and Enforcement Domestically and Abroad. The above table presents the total USPTO's results of operations for the past five fiscal years. In FY 2005, the USPTO's operations resulted in a net cost. In FY 2006, the USPTO generated a net income due to the increased maintenance fees received and revenue recognition of previously deferred revenue collected subsequent to the fee increase on December 8, 2004. During FY 2007, FY 2008, and FY 2009 the USPTO's operations resulted in a net cost of \$33.9 million, \$30.4 million, and \$54.8 million, respectively.

The Statement of Net Cost compares fees earned to costs incurred during a specific period of time. It is not necessarily an indicator of net income or net cost over the life of a patent or trademark. Net income or net cost for the fiscal year is dependent upon work that has been completed over the various phases of the production life cycle. The net income calculation is based on fees earned during the fiscal year being reported, regardless of when those fees were collected. Maintenance fees also play a large part in whether a total net income or net cost is recognized. Maintenance fees collected in FY 2009 are a reflection of patent issue levels 3.5, 7.5, and 11.5 years ago, rather than a reflection of patents issued in FY 2009. Therefore, maintenance fees can have a significant impact on matching costs and revenue.

During FY 2009, with the number of patent filings decreasing by 2.3 percent over the prior year, the backlog for patent applica-

tions likewise decreased, decreasing deferred revenue and increasing earned revenue. This was evidenced by the Patent organization disposing of 22.9 percent more applications than were disposed of during FY 2008.

During FY 2009, with the number of trademark applications decreasing by 12.3 percent over the prior year, the Trademark organization was able to continue to address the existing inventory and reduce pendency by 0.3 months from FY 2008. The Trademark organization was able to do this while recognizing a slight decrease in revenue earned.

EARNED REVENUE

The USPTO's earned revenue is derived from the fees collected for patent and trademark products and services. Fee collections are recognized as earned revenue when the activities to complete the work associated with the fee are completed. The table below presents the earned revenue for the past five years.

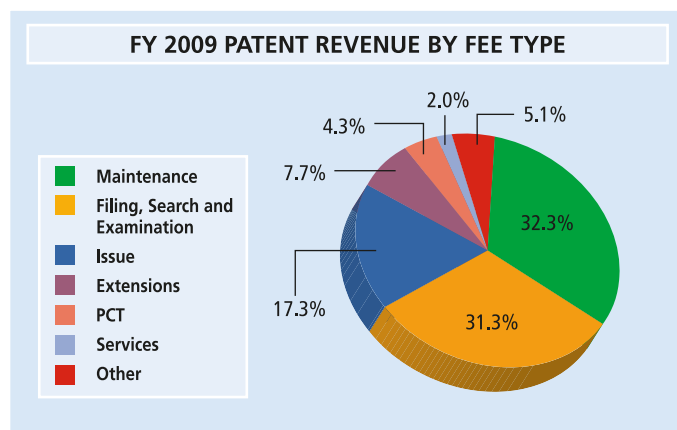
Earned revenue totaled \$1,927.1 million for FY 2009, an increase of \$64.9 million, or 3.5 percent, over FY 2008 earned revenue of \$1,862.2 million. Of revenue earned during FY 2009, \$454.3 million related to fee collections that were deferred for revenue recognition in prior fiscal years, \$546.7 million related to maintenance fees collected during FY 2009, which were considered earned immediately, \$920.7 million related to work performed for fees collected during FY 2009, and \$5.4 million were not fee-related.

Earned Revenue (Dollars in Millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Patent	\$ 1,197.8	\$ 1,384.2	\$ 1,507.0	\$ 1,625.0	\$ 1,697.4
<i>Percentage Change in Patent Earned Revenue</i>	<i>9.6%</i>	<i>15.6%</i>	<i>8.9%</i>	<i>7.8%</i>	<i>4.5%</i>
Trademark	175.0	210.2	228.7	237.2	229.7
<i>Percentage Change in Trademark Earned Revenue</i>	<i>19.5%</i>	<i>20.1%</i>	<i>8.8%</i>	<i>3.7%</i>	<i>(3.2)%</i>
Total Earned Revenue	\$ 1,372.8	\$ 1,594.4	\$ 1,735.7	\$ 1,862.2	\$ 1,927.1
<i>Percentage Change in Earned Revenue</i>	<i>10.8%</i>	<i>16.1%</i>	<i>8.9%</i>	<i>7.3%</i>	<i>3.5%</i>

For fees collected and earned during FY 2009, there was an increase of \$49.6 million over these same fees earned during FY 2008. This increase can primarily be attributed to \$2.4 million in fees considered earned immediately, \$5.7 million in earned patent filing fees, \$34.4 million in earned patent issue fees, \$13.3 million in PCT international fees, offset by a decrease of \$6.3 million in patent appeal fees.

Patent

Traditionally, the major components of earned revenue derived from patent operations are maintenance fees, initial application fees for filing, search, and examination, and issue fees. These fees account for over 80 percent of total patent income. The following chart depicts the relationship among the most significant patent fee types.



Patent maintenance fees are the largest source of earned revenue by fee type. During FY 2009, maintenance fees collected decreased \$15.1 million, or 2.7 percent, from FY 2008. As they are recognized immediately as earned revenue, any fluctuations in the rates of renewal have a significant impact on the total earned revenue of the USPTO. To some extent, renewals recoup costs incurred during the initial patent process. As shown below, the renewal rates for all three stages of maintenance fees decreased this year. The renewal rates are expected to rebound as the economy rebounds.

Patent Renewal Rates*	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
First Stage	83.1%	93.1%	90.1%	83.1%	80.3%
Second Stage	65.4%	69.2%	71.4%	73.7%	63.5%
Third Stage	45.0%	44.4%	48.5%	49.2%	45.4%

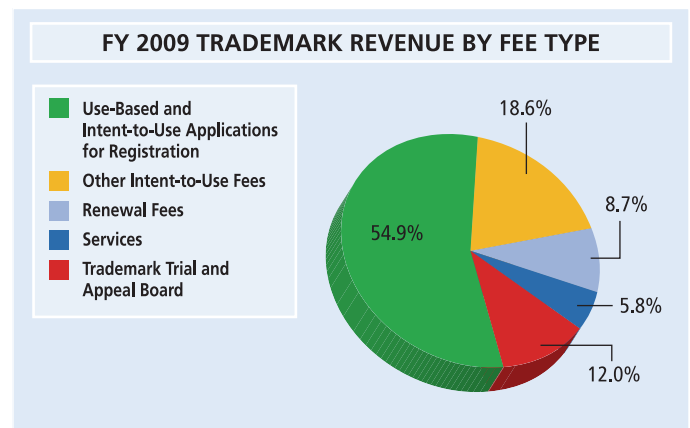
*Note: the First Stage refers to the end of the 3rd year after the initial patent is issued; the Second Stage refers to the end of the 7th year after the initial patent is issued; and the Third Stage refers to the end of the 11th year after the initial patent is issued. For example, in FY 2009, 80.3 percent of the patents issued three years ago were renewed, 63.5 percent of the patents issued seven years ago were renewed, and 45.4 percent of the patents issued 11 years ago were renewed.

Application fee revenue earned upon filing decreased from \$99.8 million in FY 2008 to \$95.2 million in FY 2009, with the number of applications decreasing from 496,886 to 485,500 over the same period, decreases of 4.6 percent and 2.3 percent, respectively. The FY 2010 President's Budget projects a gradual increase in patent applications filed beginning in FY 2011 and extending through FY 2014, which will contribute to a renewed growth in earned fee revenue.

Earned issue fee revenue increased from \$262.3 million in FY 2008 to \$292.7 million in FY 2009, with the number of patents issued increasing from 182,556 to 190,121 over the same period, an increase of 11.6 percent and 4.1 percent, respectively. The FY 2010 President's Budget projects that patents issued will increase an average of 5.8 percent each fiscal year through FY 2014.

Trademark

Trademark fees are comprised of application filing, renewal services, and Trademark Trial and Appeal Board fees. Additional fees are charged for intent-to-use filed applications, as additional requirements must be met for registration. The following chart depicts the relationship among the most significant trademark fee types.



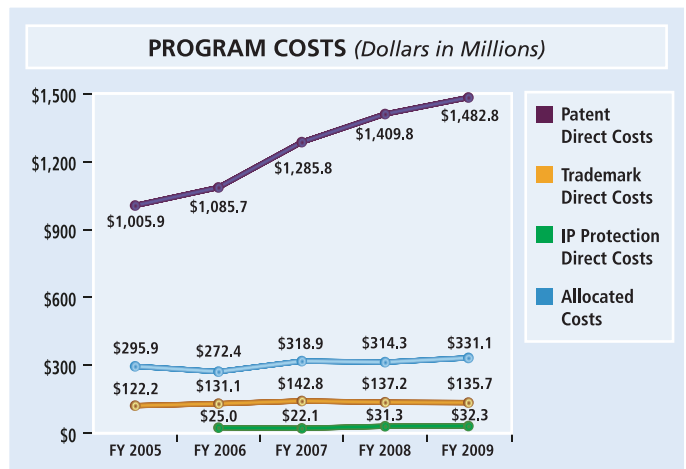
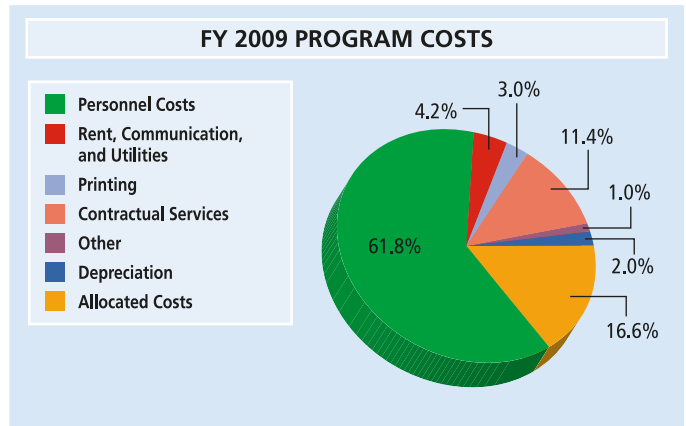
Earned revenue for trademark applications decreased from \$131.3 million in FY 2008 to \$126.0 million in FY 2009, with the number of trademarks registered decreasing from 274,250 to 241,637 over the same period, a decrease of 4.0 percent and 11.9 percent, respectively. The FY 2010 President's Budget projects that trademark applications filed will increase, which will contribute to growth in earned fee revenue.

Trademark registration can be a recurring source of revenue. To some extent, renewal fees recoup costs incurred during the initial examination process. As shown below, the renewal rates for trademarks have remained fairly stable over the last five years, indicating continued earned revenue from this source. Further, in the FY 2010 President's Budget, earned revenue from trademark renewals is expected to continue in the future.

PROGRAM COSTS

Program costs totaled \$1,981.9 million for the year ended September 30, 2009, an increase of \$89.3 million, or 4.7 percent, over FY 2008 program costs of \$1,892.6 million. The USPTO's most significant program cost is personnel services and benefits, which traditionally comprise over half of USPTO's total program costs. Any significant change or fluctuation in staffing or pay rate directly impacts the change in total program costs from year-to-year. Total personnel services and benefits costs for the year ended September 30, 2009, were \$1,321.6 million, an increase of \$122.9 million, or 10.3 percent, over FY 2008 personnel services and benefits costs of \$1,198.7 million. This change, 137.6 percent of the total increase in program costs, was a result of a 4.8 percent increase in the Federal pay scale, combined with a net increase of 198 personnel, from 9,518 at the end of FY 2008 to 9,716 at the end of FY 2009.

The USPTO directs maximum resources to the priority functions of patent and trademark examination, as well as IP protection and enforcement domestically and abroad. For FY 2009, costs directly attributable to the Patent, Trademark, and IP protection business areas represent 83.4 percent of total USPTO costs. The remaining costs, representing support costs, are allocated to the business areas using ABC accounting.



Patent

Total costs for the Patent business unit increased \$491.5 million, 39.2 percent, from FY 2005 through FY 2009. The table on the following page presents the major components of Patent costs for the past five years.

The Patent organization's most significant program costs relate to personnel services, and account for 92.0 percent of the increase in total cost of Patent operations during the past four years. Patent personnel costs for the year ended September 30, 2009, were \$1,098.9 million, an increase of \$105.3 million, or 10.6

Trademark Renewal Rates	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009 ¹
Renewals	28.6%	28.8%	28.6%	27.0%	27.4%

Note: the renewals occur every 10th year for trademarks registered after November 15, 1989. For trademarks issued or renewed before November 15, 1989, renewal will occur after the 20th year and the renewal will be for a ten-year period. For example, in FY 2009, 27.4 percent of the trademarks granted ten and 20 years ago were renewed.

¹ Preliminary data

Patent Costs (Dollars in Millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personnel Costs	\$ 646.5	\$ 714.4	\$ 867.1	\$ 993.6	\$ 1,098.9
Contractual Services	156.1	181.5	223.6	226.2	203.0
Printing and Reproduction	68.9	71.9	70.0	59.4	58.2
Rent, Communications, and Utilities	82.6	69.3	71.1	72.6	73.4
Depreciation, Amortization, or Loss on Asset Disposition	26.1	24.8	32.3	35.8	34.4
Other	25.7	23.8	21.7	22.2	14.9
Direct Costs	1,005.9	1,085.7	1,285.8	1,409.8	1,482.8
Allocated Costs	247.2	226.6	247.2	245.9	261.8
Total Patent Costs	\$ 1,253.1	\$ 1,312.3	\$ 1,533.0	\$ 1,655.7	\$ 1,744.6
<i>Percentage Change in Patent Costs</i>	<i>9.4%</i>	<i>4.7%</i>	<i>16.8%</i>	<i>8.0%</i>	<i>5.4%</i>

percent, over FY 2008 personnel costs of \$993.6 million. Rent, communications, and utilities, printing and reproduction, and contractual service costs represent 19.2 percent of the Patent program costs for FY 2009. From FY 2005 through FY 2008, contractual costs increased in line with the overall increase in Patent costs due to increases in the number of patents issued and increased spending on indexing and scanning documents for the electronic file wrapper, offset by minor decreases to printing and reproduction. During FY 2009, contractual costs decreased in line with the budget cuts implemented agency-wide. In addition, rental costs decreased 11.1 percent over the past four years, with a decrease in costs of \$9.2 million as the move to Alexandria has been completed.

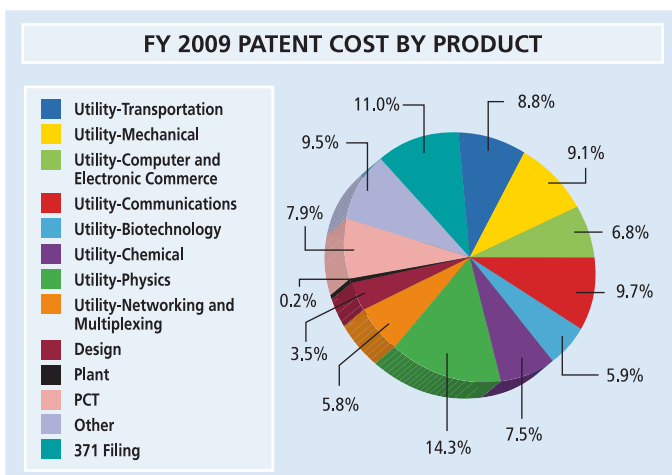
Patent costs were spread over four main patent products: utility patents, design patents, plant patents, and PCT patents. Utility patents were further broken down into the technology of the utility patent. The cost percentages presented below are based

on direct and indirect costs allocated to patent operations and are a function of the volume of applications processed in each product area.

Trademark

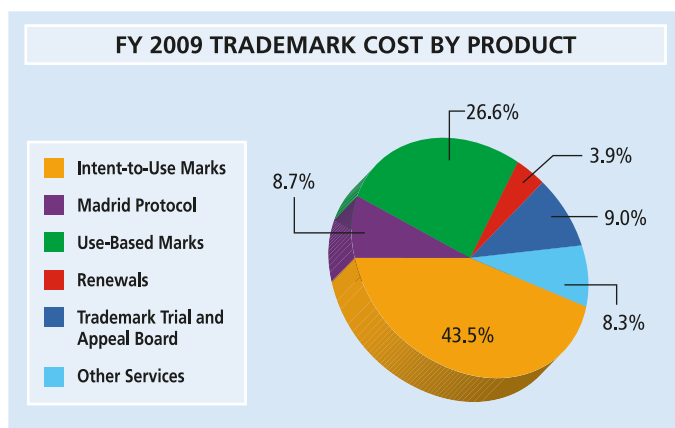
Total costs for the Trademark business unit increased \$22.3 million, 13.0 percent, from FY 2005 through FY 2009. The table on the following page shows the major components of Trademark costs for that period.

The Trademark organization's most significant program costs relate to personnel services, and account for 125.1 percent of the increase in total cost of Trademark operations during the past four years. This increase of \$27.9 million was offset by other cost increases and decreases. Contractual services have decreased \$9.9 million over the past four years, which represents a decrease of 44.4 percent of the total Trademark cost change over the past four years, as a result of being able to rely more on automated tools, rather than contractors.



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

Trademark Costs (Dollars in Millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personnel Costs	\$ 80.0	\$ 88.8	\$ 99.8	\$ 101.7	\$ 107.9
Contractual Services	23.2	25.1	24.4	19.4	13.3
Printing and Reproduction	0.8	0.3	0.8	0.4	0.4
Rent, Communications, and Utilities	8.4	7.8	7.8	7.3	7.6
Depreciation, Amortization, or Loss on Asset Disposition	6.1	6.0	7.3	5.4	4.2
Other	3.7	3.1	2.7	3.0	2.3
Direct Costs	122.2	131.1	142.8	137.2	135.7
Allocated Costs	48.7	37.7	61.7	55.4	57.5
Total Trademark Costs	\$ 170.9	\$ 168.8	\$ 204.5	\$ 192.6	\$ 193.2
<i>Percentage Change in Total Trademark Costs</i>	<i>19.2%</i>	<i>(1.2)%</i>	<i>21.1%</i>	<i>(5.8)%</i>	<i>0.3%</i>



Intellectual Property Protection and Enforcement

The release of the *2007-2012 Strategic Plan* resulted in a new responsibility segment for FY 2007. Presentation of FY 2006 costs were reclassified for this responsibility segment. Total costs for IP Protection increased \$11.0 million, or 33.2 percent, from FY 2006 through FY 2009. The table below shows the major components of IP Protection costs for that period.

The most significant program costs for IP Protection relate to personnel services, and account for 40.8 percent of the total cost for IP Protection operations during the past year. The next largest cost associated with the protection and enforcement of intellectual property domestically and abroad is contractual services. These costs were incurred in line with the activities discussed on pages 22 to 27.

Intellectual Property Protection Costs (Dollars in Millions)	FY 2005¹	FY 2006	FY 2007	FY 2008	FY 2009
Personnel Costs	–	\$ 13.6	\$ 13.1	\$ 17.9	\$ 18.0
Contractual Services	–	6.3	1.9	6.6	8.8
Rent, Communications, and Utilities	–	2.1	2.2	2.6	2.6
Travel	–	1.6	3.5	2.8	1.8
Depreciation, Amortization, or Loss on Asset Disposition	–	0.5	0.4	0.5	0.5
Other	–	0.9	1.0	0.9	0.6
Direct Costs	–	25.0	22.1	31.3	32.3
Allocated Costs	–	8.1	10.0	13.0	11.8
Total IP Protection Costs	–	\$ 33.1	\$ 32.1	\$ 44.3	\$ 44.1
<i>Percentage Change in Total IP Protection Costs</i>	<i>–</i>	<i>–%</i>	<i>(3.0)%</i>	<i>38.0%</i>	<i>(0.5)%</i>

¹ Costs prior to FY 2006 are not available.

Composition of USPTO Assets (Dollars in Millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Cash	\$ 8.8	\$ 6.8	\$ 7.0	\$ 4.4	\$ 3.2
Fund Balance with Treasury	1,240.8	1,401.8	1,402.7	1,431.2	1,309.8
Property, Plant, and Equipment, Net	148.4	164.5	204.6	204.2	205.8
Accounts Receivable and Prepayments	11.1	7.2	11.2	8.5	13.5
Total Assets	\$ 1,409.1	\$ 1,580.3	\$ 1,625.5	\$ 1,648.3	\$ 1,532.3
<i>Percentage Change in Total Assets</i>	<i>8.6%</i>	<i>12.1%</i>	<i>2.9%</i>	<i>1.4%</i>	<i>(7.0)%</i>

BALANCE SHEET AND STATEMENT OF CHANGES IN NET POSITION

At the end of FY 2009, the USPTO's consolidated Balance Sheet presents total assets of \$1,532.3 million, total liabilities of \$1,156.5 million, and a net position of \$375.8 million.

Total assets increased 8.7 percent over the last four years, resulting largely from the increase in Fund Balance with Treasury and Property, Plant, and Equipment. The decrease in total assets during FY 2009 is a result of the decrease in Fund Balance with Treasury, resulting from the decrease in fee income. The table above shows the changes in assets during this period.

Fund Balance with Treasury is the single largest asset on the Balance Sheet and represents 85.5 percent of total assets at the end of FY 2009. This asset is comprised of unpaid obligated funds of \$331.8 million, temporarily unavailable fees of \$528.7 million, unavailable special receipt funds under OBRA of \$233.5 million, other funds held on deposit for customers of \$97.1 million, and unobligated funds of \$118.7 million.

The unavailable special receipt funds and the temporarily unavailable funds require Congressional appropriation before they will be available for USPTO's use. These funds, together with amounts obligated and held on deposit, represent 90.9 percent of the Fund Balance with Treasury.

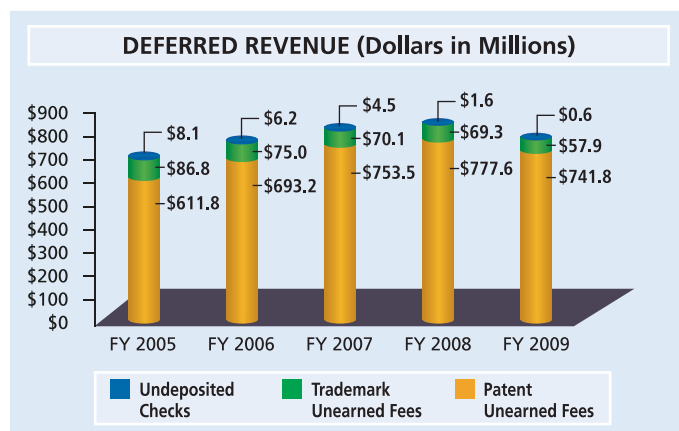
The other major asset is property, plant, and equipment. The net balance of this asset has increased by \$57.4 million during the past four years, with the acquisition values of property, plant, and equipment increasing by \$240.9 million. Investments in IT software and software in development increased \$111.2 million, in conjunction with enhancing the existing e-government capabilities in areas such as e-filing, application information retrieval, data and image capture, and web-based search systems.

Total liabilities decreased from \$1,215.7 million at the end of FY 2008 to \$1,156.5 million at the end of FY 2009, representing a decrease of \$59.2 million, or 4.9 percent. The table below shows the annual change in liabilities for each of the past five years.

The USPTO's deferred revenue is the largest liability on the Balance Sheet. The liability for deferred revenue is calculated by analyzing the process for completing each service provided. The percent incomplete based on the inventory of pending work is applied to fee collections to estimate the amount for deferred revenue liability.

From FY 2005 through FY 2008, the deferred revenue liability increased \$141.8 million, or 20.1 percent. At the end of FY 2009, deferred revenue liability was \$800.3 million, representing a one year decrease of \$48.2 million, or 5.7 percent. The deferred revenue liability includes unearned patent and trademark fees, as

Composition of USPTO Liabilities (Dollars in Millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Deferred Revenue	\$ 706.7	\$ 774.4	\$ 828.1	\$ 848.5	\$ 800.3
Accounts Payable	101.8	104.4	96.6	96.7	90.2
Accrued Payroll, Leave, and Benefits	90.7	101.4	120.3	145.4	156.8
Customer Deposit Accounts	74.1	83.8	91.9	101.5	98.1
Other Liabilities	18.0	18.3	24.6	23.6	11.1
Total Liabilities	\$ 991.3	\$ 1,082.3	\$ 1,161.5	\$ 1,215.7	\$ 1,156.5
<i>Percentage Change in Total Liabilities</i>	<i>19.7%</i>	<i>9.2%</i>	<i>7.3%</i>	<i>4.7%</i>	<i>(4.9)%</i>



well as undeposited checks. The unearned patent fees represented 92.7 percent of this liability. The above graph depicts the composition of the deferred revenue liability, in addition to the change in this liability over the past four years.

Deferred revenue at the USPTO is largely impacted by the change in patent and trademark filings, changes in the first action pendency rates, and changes in fee rates. In a year where increased fees associated with the unearned patent and trademark application filings are not a factor, such as with FY 2007, the percentage change in deferred revenue is consistent with the percentage change in the first action pendency months. In a year

where increased fees associated with the unearned patent and trademark application filings are a factor, such as with FY 2005, FY 2006, FY 2008, and again in FY 2009, the percentage change in first action pendency months was less than the percentage change in deferred revenue.

The below table depicts the annual changes in the filings and pendencies during each of the past five years.

Deferred revenue associated with the patent process is expected to further decrease. In the FY 2010 President's Budget, the number of patent applications filed from FY 2010 through FY 2014 is expected to gradually increase, with first action pendency decreasing to 21.3 months by FY 2014 and total pendency at 33.8 months by FY 2014. The pendency decreases will result in patent deferred revenue decreases.

The deferred revenue associated with the trademark process continued to decrease in FY 2009. Trademark unearned fees decreased by \$11.4 million, or 16.5 percent, from FY 2008, with a total 33.3 percent decrease over the past four years. This was consistent with trademark first action pendency decreasing to 2.7 months and total trademark pendency decreasing to 13.5 months, combined with the decrease in trademark applications. Estimates included in the FY 2010 President's Budget project the pendencies to remain constant in the upcoming years.

Filings and Pendencies	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Patent Filings	409,532	445,613	468,330	496,886	485,500 ¹
<i>Percentage Change in Patent Filings</i>	8.1%	8.8%	5.1%	6.1%	(2.3)%
Patent First Action Pendency (months)	21.1	22.6	25.3	25.6	25.8
<i>Percentage Change in Patent First Action Pendency</i>	4.5%	7.1%	11.9%	1.2%	0.8%
Total Patent Pendency (months)	29.1	31.1	31.9	32.2	34.6
<i>Percentage Change in Total Patent Pendency</i>	5.4%	6.9%	2.6%	0.9%	7.5%
Trademark Filings	323,501	354,775	394,368	401,392	352,051
<i>Percentage Change in Trademark Filings</i>	8.4%	9.7%	11.2%	1.8%	(12.3)%
Trademark First Action Pendency (months)	6.3	4.8	2.9	3.0	2.7
<i>Percentage Change in Trademark First Action Pendency</i>	(4.5)%	(23.8)%	(39.6)%	3.4%	(10.0)%
Total Trademark Pendency (months)	19.6	18.0	15.1	13.9	13.5
<i>Percentage Change in Total Trademark Pendency</i>	0.5%	(8.2)%	(16.1)%	(7.9)%	(2.9)%

¹ Preliminary data

USPTO Net Position (Dollars in Millions)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Net Position	\$ 417.8	\$ 498.0	\$ 464.0	\$ 432.6	\$ 375.8
Percentage Change in Net Position	(10.9)%	19.2%	(6.8)%	(6.8)%	(13.1)%

The Statement of Changes in Net Position presents the changes in the financial position of the USPTO due to results of operations and unexpended appropriations. The movement in net position is the result of the net income or net cost for the year. The annual change in the net position for each of the past five years is presented in the above table.

The decrease in net position from \$432.6 million at the end of FY 2008 to \$375.8 million at the end of FY 2009, or 13.1 percent, is attributable largely to the results of operations.

LIMITATION ON FINANCIAL STATEMENTS

The USPTO has prepared its FY 2009 financial statements in accordance with the requirements of OMB Circular A-136, *Financial Reporting Requirements*, as amended, and guidance provided by the Department of Commerce. OMB Circular A-136 incorporates the concepts and standards contained in the Statements of Federal Financial Accounting Concepts (SFFAC) and the Statements of Federal Financial Accounting Standards (SFFAS) recommended by the Federal Accounting Standards Advisory Board (FASAB) and approved by the Secretary of the Treasury, the Director of the OMB, and the Comptroller General.

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

The financial data in this report and the financial statements that follow have been prepared from the accounting records of the USPTO in conformity with GAAP. The USPTO's financial statements consist of the Balance Sheet, the Statement of Net Cost, the Statement of Changes in Net Position, the Statement of Budgetary Resources, and the Statement of Cash Flows. The financial statements were prepared pursuant to the requirements of 31 (United States Code) U.S.C. 3515(b). The following limitations apply to the preparation of the financial statements:

- While the statements are prepared from books and records in accordance with the formats prescribed by the OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records.
- The statements should be read with the realization that the USPTO is a component of the U.S. Government, a sovereign entity. One implication is that unfunded liabilities cannot be liquidated without legislation that provides resources to do so.

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

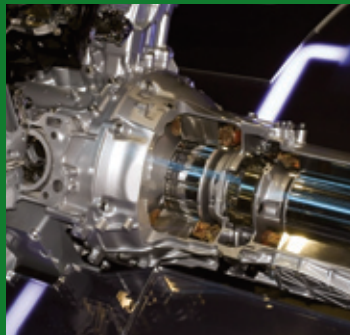
MANAGEMENT RESPONSIBILITIES

USPTO management is responsible for the fair presentation of information contained in the principal financial statements, in conformity with GAAP, the requirements of OMB Circular A-136, and guidance provided by the Department of Commerce. Management is also responsible for the fair presentation of the USPTO's performance measures in accordance with OMB requirements. The quality of the USPTO's internal control rests with management, as does the responsibility for identifying and complying with pertinent laws and regulations.



The National Inventors Hall of Fame returns to its roots at the USPTO in March. The Hall of Fame was founded in 1973 by the USPTO and the National Council of Intellectual Property Law Association to honor and encourage the men and women responsible for the great technological advances that make human, social, and economic progress possible. Originally housed at the USPTO, the Hall outgrew its location and moved to Akron, Ohio, where it opened to the public in 1995, and where it developed additional programs. The organization's headquarters remain in Ohio.

Financial Section



accuracy



data

transparency



vision



leadership



Message from the Acting Chief Financial Officer

The latter half of FY 2009 proved to be a challenging period of time for the USPTO. Being an Agency funded entirely by user fees, the recent economic downturn brought about a decline in fee collections, revealed vulnerability in the method for financing the USPTO, and hampered operations of the U.S. patent system. The impact of the downturn became evident when our customers started paying for fewer new patent applications and patents maintained.



In response, the USPTO promptly implemented almost \$200 million in budget reductions and cost-savings measures: stopping all overtime, including that producing patents and fees; suspending new hiring, but for a few critical positions; reducing or eliminating all non-essential, information technology (IT) business system improvement projects; reducing the funds applied to critical IT infrastructure projects; reducing the level of operating services obtained through contracts; curtailing performance awards; significantly reducing mission-related travel; and suspending training except where mandatory to sustain critical job qualifications. These efforts positioned the USPTO to operate within the reduced fee collection levels through the end of FY 2009, and into FY 2010.

Throughout these difficult times, the OCFO continued to play a significant role in supporting the strategic direction of the USPTO by working as a trusted partner to the organization and providing sound advice to enable informed program and financial decision-making. As we look to the future, the OCFO

will continue to expand its role by: working toward a long term solution for stabilizing the financing of the USPTO; intimately understanding the operations of our programs; guiding cost reduction efforts; identifying key business performance measures; adopting leading-edge information systems that support the USPTO strategic priorities; assuring compliance through adequate internal controls; and enhancing the financial and business skills of our employees.

Despite our financial challenges, and for the 17th consecutive year, we have received an unqualified opinion on our financial statements. Along with the unqualified opinion, the auditors reported no material weaknesses in the design and operation of the USPTO's system of internal control over financial reporting. In addition, the auditors reported that our financial system complies with Federal financial systems requirements. For the seventh consecutive year, the Association of Government Accountants awarded the USPTO the Certificate of Excellence in Accountability Reporting for our *FY 2008 Performance and Accountability Report*, clearly demonstrating our excellence in integrating performance and accountability reporting.

With a drive for continuous improvement, we continue to review financial management and related processes to identify areas for advancement in efficiency, financial and performance data integration, and internal controls to ensure unmatched reliability in financial activities. As a case in point, this year we sought out an independent validation of our cost accounting methodology and program. The

assessment found that the USPTO has built a robust activity-based cost modeling system that ranks at highest levels in terms of best practice within the government, as well as outside the government. This is an important foundation as we thoroughly analyze the cost of operations at the USPTO relative to the fees we charge for patent and trademark products and services.

As noted by many, the USPTO continued a high standard of financial management and its achievements and challenging goals can only be accomplished by the dedicated efforts of our talented and committed employees. We look forward to the future with confidence as we continue to exercise fiscal prudence into FY 2010.



Mark J. Olechowski
Acting Chief Financial Officer
November 5, 2009

Principal Financial Statements and Related Notes



PAR TEAM — Members of the USPTO FY 2008 Performance and Accountability Report team. From left: CFO Barry Hudson, Shana Willard, Maureen Brown, Karen Smith, Dennis Detar, Jack Buie, Ali Emgushov and Deputy CFO Mark Olechowski.

UNITED STATES PATENT AND TRADEMARK OFFICE CONSOLIDATED BALANCE SHEETS

As of September 30, 2009 and 2008

(Dollars in Thousands)	2009	2008
ASSETS		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	\$ 1,309,807	\$ 1,431,242
Accounts Receivable	143	—
Advances and Prepayments	3,480	2,591
Total Intragovernmental	1,313,430	1,433,833
Cash	3,231	4,358
Accounts Receivable, Net	295	517
Advances and Prepayments	9,582	5,398
Property, Plant, and Equipment, Net (Note 4)	205,802	204,184
Total Assets	\$ 1,532,340	\$ 1,648,290
LIABILITIES		
Intragovernmental:		
Accounts Payable	\$ 4,852	\$ 4,675
Accrued Payroll and Benefits	12,486	9,323
Accrued Workers' and Unemployment Compensation	1,771	1,950
Customer Deposit Accounts (Note 3)	5,419	4,535
Total Intragovernmental	24,528	20,483
Accounts Payable	85,336	92,019
Accrued Payroll and Benefits	76,758	76,052
Accrued Leave	67,512	60,060
Customer Deposit Accounts (Note 3)	92,659	96,940
Patent Cooperation Treaty Account (Note 3)	—	11,598
Madrid Protocol Account (Note 3)	—	311
Deferred Revenue (Note 6)	800,256	848,505
Actuarial Liability (Note 7)	8,097	8,318
Contingent Liability (Note 14)	1,400	1,400
Total Liabilities (Note 5)	\$ 1,156,546	\$ 1,215,686
NET POSITION		
Cumulative Results of Operations – Earmarked Funds (Note 10)	\$ 375,794	\$ 432,604
Total Net Position	\$ 375,794	\$ 432,604
Total Liabilities and Net Position	\$ 1,532,340	\$ 1,648,290

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

UNITED STATES PATENT AND TRADEMARK OFFICE CONSOLIDATED STATEMENTS OF NET COST

For the years ended September 30, 2009 and 2008

(Dollars in Thousands)	2009	2008
Strategic Goal 1: Optimize Patent Quality and Timeliness		
Total Program Cost	\$ 1,744,676	\$ 1,655,656
Total Program Earned Revenue	(1,697,432)	(1,624,993)
Net Program Cost	47,244	30,663
Strategic Goal 2: Optimize Trademark Quality and Timeliness		
Total Program Cost	193,187	192,587
Total Program Earned Revenue	(229,698)	(237,181)
Net Program Income	(36,511)	(44,594)
Strategic Goal 3: Improve Intellectual Property Protection and Enforcement Domestically and Abroad		
Total Program Cost	44,077	44,347
Net Cost of Operations (Note 11)	\$ 54,810	\$ 30,416
Total Entity		
Total Program Cost (Notes 12 and 13)	\$ 1,981,940	\$ 1,892,590
Total Earned Revenue	(1,927,130)	(1,862,174)
Net Cost of Operations (Note 11)	\$ 54,810	\$ 30,416

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

UNITED STATES PATENT AND TRADEMARK OFFICE CONSOLIDATED STATEMENTS OF CHANGES IN NET POSITION

For the years ended September 30, 2009 and 2008

(Dollars in Thousands)	2009	2008
	Earmarked Funds	Earmarked Funds
Cumulative Results of Operations		
Beginning Balances	\$ 432,604	\$ 464,020
Budgetary Financing Sources:		
Transfers Out Without Reimbursement	(2,000)	(1,000)
Total Financing Sources	(2,000)	(1,000)
Net Cost of Operations	(54,810)	(30,416)
Net Change	(56,810)	(31,416)
Cumulative Results of Operations	\$ 375,794	\$ 432,604
Net Position, End of Year	\$ 375,794	\$ 432,604

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

UNITED STATES PATENT AND TRADEMARK OFFICE COMBINED STATEMENTS OF BUDGETARY RESOURCES

For the years ended September 30, 2009 and 2008

(Dollars in Thousands)	2009	2008
BUDGETARY RESOURCES		
Unobligated Balance - Brought Forward, October 1	\$ 72,079	\$ 28,036
Recoveries of Prior Year Unpaid Obligations	30,760	11,963
Spending Authority from Offsetting Collections:		
Earned:		
Collected	1,927,415	1,862,291
Customer Receivables and Refund Payables	136	(77)
Change in Unfilled Customer Orders - Advance Received	(47,186)	23,407
Total Spending Authority from Offsetting Collections	1,880,365	1,885,621
Nonexpenditure Transfers, Net, Anticipated and Actual	(2,000)	(1,000)
Total Budgetary Resources	\$ 1,981,204	\$ 1,924,620
STATUS OF BUDGETARY RESOURCES		
Obligations Incurred - Reimbursable	\$ 1,862,512	\$ 1,852,541
Unobligated Balance:		
Apportioned for Current Year	118,692	64,068
Unobligated Balance not Available	-	8,011
Total Status of Budgetary Resources	\$ 1,981,204	\$ 1,924,620
CHANGE IN OBLIGATED BALANCE		
Obligated Balance, Net		
Unpaid Obligations, Brought Forward, October 1	\$ 483,861	\$ 511,467
Customer Receivables and Refund Payables, Brought Forward, October 1	661	584
Total Unpaid Obligated Balance Brought Forward, Net	484,522	512,051
Obligations Incurred, Net	1,862,512	1,852,541
Gross Outlays	(1,984,363)	(1,868,184)
Recoveries of Prior Year Unpaid Obligations, Actual	(30,760)	(11,963)
Change in Customer Receivables and Refund Payables	(136)	77
Total Unpaid Obligated Balance, Net, Current Year	(152,747)	(27,529)
Obligated Balance, Net, End of Year		
Unpaid Obligations	331,250	483,861
Uncollected Customer Receivables and Unpaid Refund Payables	525	661
Total Unpaid Obligated Balance, Net, End of Year	\$ 331,775	\$ 484,522
NET OUTLAYS		
Gross Outlays	\$ 1,984,363	\$ 1,868,184
Offsetting Collections	(1,880,229)	(1,885,698)
Net Outlays /(Collections)	\$ 104,134	\$ (17,514)

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

UNITED STATES PATENT AND TRADEMARK OFFICE CONSOLIDATED STATEMENTS OF CASH FLOWS (INDIRECT METHOD)

For the years ended September 30, 2009 and 2008

(Dollars in Thousands)	2009	2008
CASH FLOWS FROM OPERATING ACTIVITIES		
Net Cost of Operations	\$ (54,810)	\$ (30,416)
Adjustments Affecting Cash Flow:		
Decrease in Accounts Receivable	79	4,561
Increase in Advances and Prepayments	(5,073)	(1,856)
(Decrease)/Increase in Accounts Payable	(6,506)	92
Increase in Accrued Payroll and Benefits	3,869	16,822
Increase in Accrued Leave and Workers' and Unemployment Compensation	7,273	8,411
(Decrease)/Increase in Customer Deposit Accounts	(3,397)	9,606
Decrease in Patent Cooperation Treaty Account	—	(2,119)
Decrease in Madrid Protocol Account	—	(139)
(Decrease)/Increase in Deferred Revenue	(48,249)	20,435
Increase in Contingent Liability	—	748
(Decrease)/Increase in Actuarial Liability	(221)	389
Depreciation, Amortization, or Loss on Asset Dispositions	63,345	67,636
Total Adjustments	11,120	124,586
Net Cash (Used)/Provided by Operating Activities	(43,690)	94,170
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchases of Property and Equipment	(64,963)	(67,243)
Net Cash Used in Investing Activities	(64,963)	(67,243)
CASH FLOWS FROM FINANCING ACTIVITIES		
Transfers Out Without Reimbursement	(2,000)	(1,000)
Net Cash Used in Financing Activities	(2,000)	(1,000)
Net Cash (Used)/Provided by Operating, Investing, and Financing Activities	(110,653)	25,927
Effect of Implementation of SFFAS No. 31 (Notes 1 and 15)	(11,909)	—
Net Cash (Used)/Provided	\$ (122,562)	\$ 25,927
Fund Balance with Treasury and Cash, Beginning of Year	\$ 1,435,600	\$ 1,409,673
Net Cash (Used)/Provided	(122,562)	25,927
Fund Balance with Treasury and Cash, End of Year	\$ 1,313,038	\$ 1,435,600

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

UNITED STATES PATENT AND TRADEMARK OFFICE NOTES TO FINANCIAL STATEMENTS

As of and for the years ended September 30, 2009 and 2008

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

REPORTING ENTITY

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

These financial statements include the USPTO's three core business activities – granting patents, registering trademarks, and intellectual property protection and enforcement – that promote the use of intellectual property rights as a means of achieving economic prosperity. These activities give innovators, businesses, and entrepreneurs the protection and encouragement they need to turn their creative ideas into tangible products, and also provide protection for their inventions and trademarks.

These financial statements report the accounts for salaries and expenses (13X1006), special fund receipts (135127), customer deposits from the public and other Federal agencies (13X6542), Patent Cooperation Treaty collections (13X6538), and the Madrid Protocol Collections (13X6554) that are under the control of the USPTO. The Federal budget classifies the USPTO under the Other Advancement of Commerce (376) budget function. The USPTO does not have custodial responsibility, nor does it have lending or borrowing authority. The USPTO does not transact business among its own operating units, and therefore, no intra-entity eliminations are necessary.

BASIS OF PRESENTATION

As required by the Chief Financial Officers' Act of 1990 and 31 U.S.C. §3515(b), the accompanying financial statements present the financial position, net cost of operations, budgetary resources, and cash flows for the USPTO's core business activities. The books and records of the USPTO serve as the source of this information.

These financial statements were prepared in accordance with accounting principles generally accepted in the United States (GAAP) and the form and content for entity financial statements specified by the Office of Management and Budget (OMB) in Circular A-136, *Financial Reporting Requirements*, as amended, as well as the accounting policies of the USPTO. Therefore, they may differ from other financial reports submitted pursuant to OMB directives for the purpose of monitoring and controlling the use of the USPTO's budgetary resources. The GAAP for Federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official body for setting the accounting standards of the Federal Government.

Throughout these financial statements, assets, liabilities, revenues, and costs have been classified according to the type of entity with which the transactions are associated. Intra-governmental assets and liabilities are those from or to other Federal entities. Intra-governmental earned revenues are collections or accruals of revenue from other Federal entities and intra-governmental costs are payments or accruals to other Federal entities.

The USPTO is a party to allocation transfers with another federal agencies as a receiving (child) entity. Allocation transfers are legal delegations by one department of its authority to obligate budget authority and outlay funds to another department. A separate fund account (allocation account) is created in the U.S. Treasury as a subset of the parent fund account for tracking and reporting purposes. All allocation transfers of balances are credited to this

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES *(Continued)*

account, and subsequent obligations and outlays incurred by the child entity are charged to this allocation account as they execute the delegated activity on behalf of the parent entity. Generally, all financial activity related to these allocation transfers (e.g. budget authority, obligations, and outlays) is reported in the financial statements of the parent entity, from which the underlying legislative authority, appropriations, and budget apportionments are derived. The USPTO receives allocation transfers, as the child, from the General Services Administration. Activity relating to these child allocation transfers is not reported in the USPTO's financial statements.

BASIS OF ACCOUNTING

Transactions are recorded on the accrual basis of accounting, as well as on a budgetary basis. Accrual accounting allows for revenue to be recognized when earned and expenses to be recognized when goods or services are received, without regard to the receipt or payment of cash. Budgetary accounting allows for compliance with the requirements for and controls over the use of Federal funds. The accompanying financial statements are presented on the accrual basis of accounting.

EARMARKED FUNDS

Statement of Federal Financial Accounting Standard 27, *Identifying and Reporting Earmarked Funds*, requires separate identification of the earmarked funds on the *Consolidated Balance Sheets* (Net Position section), *Consolidated Statements of Changes in Net Position*, and further disclosures in a footnote (Note 10).

Earmarked funds are financed by specifically identified revenues, which remain available over time. These specifically identified revenues are required by statute to be used for designated activities, benefits, or purposes, and must be accounted for separately from the Government's general revenues. At the USPTO, earmarked funds include the salaries and expenses fund (13X1006) and the special fund receipts (135127).

FIDUCIARY ACTIVITIES

Statement of Federal Financial Accounting Standard 31, *Accounting for Fiduciary Activities*, requires that, starting in FY 2009, fiduciary activities will no longer be recognized on the financial statements, but will be reported on schedules in the notes to the financial statements (Note 15).

Fiduciary cash and other assets are not assets of the Federal Government. Fiduciary activities are the collection or receipt, and the management, protection, accounting, and disposition by the Federal Government of cash or other assets in which non-Federal individuals or entities have an ownership interest that the Federal Government must uphold. At the USPTO, fiduciary activities are recorded in the Patent Cooperation Treaty fund (13X6538) and the Madrid Protocol fund (13X6554).

BUDGETS AND BUDGETARY ACCOUNTING

Total budgetary resources are primarily comprised of Congressional authority to spend current year fee collections. In FY 2009, the USPTO was appropriated up to \$2,010,100 thousand for fees collected during the fiscal year. However, as the fiscal year progressed, fee collections were not being received as they had been anticipated. In FY 2008, the USPTO was appropriated up to \$1,915,500 thousand for fees collected during the fiscal year. For the year ended September 30, 2009, the USPTO collected \$26,724 thousand less than the amount apportioned through September 30, 2009. For the year ended September 30, 2008, the USPTO collected \$36,205 thousand less than the amount apportioned through September 30, 2008.

The USPTO receives an apportionment of Category A funds from OMB, which apportions budgetary resources by fiscal quarter. The USPTO does not receive any Category B funds, or those exempt from apportionment.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

FUNDING LIMITATIONS

Pursuant to the *Patent and Trademark Office Fee Fairness Act of 1999* (35 U.S.C. §42(c)), all fees available to the Director under section 31 of the Trademark Act of 1946 are used only for the processing of trademark registrations and for other activities, services, and materials relating to trademarks, as well as to cover a proportionate share of the administrative costs of the USPTO.

Legislation was passed in July 2009 that allows the USPTO to use surplus funds from Trademark revenues to cover any shortfalls that may occur as the result of the decrease in Patent fee collections [H.R. 3114]. The authority to use these funds lasts until June 2010. Should such use of Trademark funds be necessary, the amount must be paid back to the Trademark organization no later than September 30, 2014. As of September 30, 2009, Trademark funds were not used for Patent operations.

In addition, the FY 2009 appropriation language restricted from obligation \$5,000 thousand of offsetting collections until “the USPTO has completed a comprehensive review of the assumptions behind the patent examiner expectancy goals and adopted a revised set of expectancy goals for patent examination.”

The total temporarily unavailable fee collections pursuant to Public Law as of September 30, 2009 are \$762,216 thousand. Of this amount, certain USPTO collections of \$233,529 thousand were withheld in accordance with the Omnibus Budget Reconciliation Act (OBRA) of 1990, and deposited in a special fund receipt account at the U.S. Department of the Treasury.

USE OF ESTIMATES

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates.

REVENUE AND OTHER FINANCING SOURCES

The USPTO’s fee rates are established by law and, consequently, in some instances may not represent full cost or market price. Since FY 1993, the USPTO’s funding has been primarily through the collection of user fees. Fees that are remitted with initial applications and requests for other services are recorded as exchange revenue when received, with an adjustment to defer revenue for services that have not been performed. All amounts remitted by customers without a request for service are recorded as liabilities in customer deposit accounts until services are ordered.

The USPTO also receives some financial gifts and gifts-in-kind. All such transactions are included in the consolidated Gifts and Bequests Fund financial statements of the U.S. Department of Commerce. These gifts are not of significant value and are not reflected in the USPTO’s financial statements. Most gifts-in-kind are used for official travel to further attain the USPTO mission and objectives.

ENTITY/NON-ENTITY

Assets that an entity is authorized to use in its operations are termed entity assets, while assets that are held by an entity and are not available for the entity’s use are termed non-entity assets. Most of the USPTO’s assets are entity assets and are available to carry out the mission of the USPTO, as appropriated by Congress, with the exception of a portion of the Fund Balance with Treasury and cash as highlighted in Note 3.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

FUND BALANCE WITH TREASURY

The USPTO deposits fees collected in commercial bank accounts maintained by the Treasury's Financial Management Service (FMS). All moneys maintained in these accounts are transferred to the Federal Reserve Bank on the next business day following the day of deposit. In addition, many customer deposits are wired directly to the Federal Reserve Bank. All banking activity is conducted in accordance with the directives issued by the FMS. Treasury processes all disbursements. (Note 2)

ACCOUNTS RECEIVABLE

Accounts receivable balances are established for amounts owed to the USPTO from its customers. The USPTO's accounts receivable balances are comprised of amounts due from former employees for the reimbursement of education expenses and other benefits, amounts due from foreign intellectual property offices for the reimbursement of services provided, amounts due from other Federal agencies for the reimbursement of services provided, and other revenue-related receivables. This balance in accounts receivable remains as a very small portion of the USPTO's assets, as the USPTO requires payment prior to the provision of goods or services during the course of its core business activities.

The USPTO has written off, but not closed out, \$154 thousand and \$60 thousand of accounts receivables that are considered not collectible as of September 30, 2009 and 2008, respectively. These offsets are established for receivables older than two years with little or no collection activity that have been transferred to Treasury, subsequently adjusting the gross amount of its employee-related accounts receivable to the net realizable value. The gross amount of the USPTO's employee-related accounts receivable as of September 30, 2009 and 2008 was \$424 thousand and \$474 thousand, respectively.

Receivables due from foreign intellectual property offices as of September 30, 2009 and 2008 were \$15 thousand and \$58 thousand, respectively.

Intragovernmental receivables as of September 30, 2009 totaled \$143 thousand.

Revenue-related receivables as of September 30, 2009 and 2008 totaled \$10 thousand and \$45 thousand, respectively.

ADVANCES AND PREPAYMENTS

On occasion, the USPTO prepays amounts in anticipation of receiving future benefits. Although a payment has been made, an expense is not recorded until goods have been received or services have been performed. The USPTO has prepayments and advances with non-governmental, as well as governmental vendors.

Total prepayments and advances to non-governmental vendors as of September 30, 2009 and 2008 were \$9,582 thousand and \$5,398 thousand, respectively. The largest prepayments as of September 30, 2009 were \$5,948 thousand for various hardware and software maintenance agreements. The largest prepayments as of September 30, 2008 were \$1,556 thousand for various cooperative efforts with the National Inventors Hall of Fame, the International Intellectual Property Institute, and the World Intellectual Property Organization. Travel advances to personnel as of September 30, 2009 and 2008 were \$13 thousand and \$18 thousand, respectively.

Total prepayments and advances to governmental vendors as of September 30, 2009 and 2008 were \$3,480 thousand and \$2,591 thousand, respectively. The largest governmental prepayments include the USPTO deposit accounts held with the U.S. Government Printing Office to facilitate recurring transactions. Deposit accounts held with the U.S. Government Printing Office as of September 30, 2009 and 2008 were \$1,671 thousand and \$1,491 thousand, respectively.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES *(Continued)*

CASH

Most of the USPTO's cash balance consists of checks, electronic funds transfer, and credit card payments for deposits that are in transit and have not been credited to the USPTO's Fund Balance with Treasury. As of September 30, 2009, \$2,698 thousand were in transit due to the lag time between deposits in commercial bank accounts and the confirmation received from Treasury. Of this balance, \$954 thousand were non-entity deposit account assets. As of September 30, 2008, \$2,729 thousand were in transit due to the lag time between deposits in commercial bank accounts and the confirmation received from Treasury. Of this balance, \$772 thousand were non-entity deposit account assets, \$141 thousand were Patent Cooperation Treaty assets, and \$12 thousand were Madrid Protocol Account assets.

The cash balance also consists of undeposited checks for fees that were not processed at the Balance Sheet date due to the lag time between receipt and initial review. All such undeposited check amounts are considered to be cash equivalents. As of September 30, 2009 and 2008, the cash balance includes undeposited checks of \$532 thousand and \$1,628 thousand, respectively. Of these balances, \$34 thousand were non-entity Patent Cooperation Treaty Account assets as of September 30, 2008.

Cash is also held outside the Treasury to be used as imprest funds. An imprest fund of \$1 thousand was held as of September 30, 2009 and 2008.

PROPERTY, PLANT, AND EQUIPMENT, NET

The USPTO's capitalization policies are summarized below:

Classes of Property, Plant, and Equipment	Capitalization Threshold for Individual Purchases	Capitalization Threshold for Bulk Purchases
IT Equipment	\$25 thousand or greater	\$500 thousand or greater
Software	\$25 thousand or greater	\$ 25 thousand or greater
Software in Progress	\$25 thousand or greater	\$ 25 thousand or greater
Furniture	\$25 thousand or greater	\$ 50 thousand or greater
Equipment	\$25 thousand or greater	\$500 thousand or greater
Leasehold Improvements	\$25 thousand or greater	Not applicable

Contractor costs for developing custom internal use software are capitalized when incurred for the design, coding, and testing of the software. Software in progress is not amortized until placed in service. (Note 4)

Property, plant, and equipment acquisitions that do not meet the capitalization criteria are expensed upon receipt. The USPTO does not defer to a future period maintenance on property, plant, and equipment.

WORKERS' COMPENSATION

Claims brought by USPTO employees for on-the-job injuries fall under the Federal Employees' Compensation Act (FECA) administered by the U.S. Department of Labor (DOL). The DOL bills each agency annually as its claims are paid, but payment on these bills is deferred approximately two years to allow for funding through the budget process. As of September 30, 2009, the USPTO had a \$1,622 thousand liability for estimated claims paid on its behalf during the benefit period July 1, 2007 through September 30, 2009. As of September 30, 2008, the USPTO had a \$1,791 thousand liability for estimated claims paid on its behalf during the benefit period July 1, 2006 through September 30, 2008.

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

UNEMPLOYMENT COMPENSATION

USPTO employees who lose their jobs through no fault of their own may receive unemployment compensation benefits under the unemployment insurance program administered by the DOL. The DOL bills each agency quarterly as its claims are paid. As of September 30, 2009 and 2008, the USPTO liability was \$149 thousand and \$159 thousand, respectively, for estimated claims paid by the DOL on behalf of the USPTO.

ANNUAL, SICK, AND OTHER LEAVE

Annual leave and compensatory time are accrued as earned, with the accrual being reduced when leave is taken. An adjustment is made each fiscal quarter to ensure that the balances in the accrued leave accounts reflect current pay rates. No portion of this liability has been obligated. To the extent current year funding is not available to pay for leave earned but not taken, funding will be obtained from future financing sources. Sick leave and other types of non-vested leave are expensed as used.

Accrued leave as of September 30, 2009 and 2008 was \$67,512 thousand and \$60,060 thousand, respectively.

EMPLOYEE RETIREMENT SYSTEMS AND POST-EMPLOYMENT BENEFITS

USPTO employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). The FERS was established by the enactment of Public Law 99-335. Pursuant to this law, the FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees who had five years of Federal civilian service prior to 1984 and who are rehired after a break in service of more than one year may elect to join the FERS and Social Security system or be placed in the CSRS offset retirement system.

The USPTO's financial statements do not report CSRS or FERS assets, accumulated plan benefits, or liabilities applicable to its employees. The reporting of such amounts is the responsibility of the U.S. Office of Personnel Management (OPM), who administers the plans. While the USPTO reported no liability for future payments to employees under these programs, the Federal Government is liable for future payments to employees through the various agencies administering these programs. The USPTO financial statements recognize an expense, which represents the USPTO's share of the costs to the Federal Government of providing pension, post-retirement health, and post-retirement life insurance benefits to all eligible USPTO employees. The USPTO appropriation requires full funding of the present costs of post-retirement benefits, such as the Federal Employees Health Benefit Program (FEHB) and the Federal Employees Group Life Insurance Program (FEGLI), and full funding of the CSRS and FERS pension liabilities. While ultimate administration of any post-retirement benefits or retirement system payments will continue to be administered by various Federal Government agencies, the USPTO is responsible for the payment of the present value associated with these costs calculated using the OPM factors. (Note 9)

For the years ended September 30, 2009 and 2008, the USPTO made current year contributions through agency payroll contributions and quarterly supplemental payments to OPM equivalent to approximately 19.1 percent and 18.2 percent of the employee's basic pay for those employees covered by CSRS, based on OPM cost factors, respectively. For the years ended September 30, 2009 and 2008, the USPTO made current year contributions through agency payroll contributions and quarterly supplemental payments to OPM equivalent to approximately 11.5 percent and 11.2 percent of the employee's basic pay for those employees covered by FERS, based on OPM cost factors, respectively.

All employees are eligible to contribute to a thrift savings plan. For those employees participating in the FERS, a thrift savings plan is automatically established, and the USPTO makes a mandatory contribution to this plan equal to one percent of the employees' compensation. In addition, the USPTO makes matching contributions ranging from one to

four percent of the employees' compensation for FERS-eligible employees who contribute to their thrift savings plans. No matching contributions are made to the thrift savings plans for employees participating in the CSRS. Employees participating in the FERS are also covered under the Federal Insurance Contributions Act (FICA), for which the USPTO contributes a matching amount to the Social Security Administration.

DEFERRED REVENUE

Deferred revenue represents fees that have been received by the USPTO for requested services that have not been substantially completed. Two types of deferred revenue are recorded. The first type results from checks received, accompanied by requests for services, which were not yet deposited due to the lag time between receipt and initial review. The second type of deferred revenue relates primarily to fees for applications that have been partially processed. The deferred revenue calculation is a complex accounting estimate, dependent upon numerous business and administrative processes, workloads, and inventories. (Note 6)

ENVIRONMENTAL CLEANUP

The USPTO does not have any liabilities for environmental cleanup.

NOTE 2. FUND BALANCE WITH TREASURY

As of September 30, 2009 and 2008, Fund Balance with Treasury consisted of the following:

(Dollars in Thousands)	2009	2008
Fund Balances by Treasury Fund Type:		
Special Funds	\$ 233,529	\$ 233,529
General Funds	979,154	1,085,288
Deposit Funds	97,124	112,425
Total Fund Balance with Treasury	\$ 1,309,807	\$ 1,431,242
Status of Fund Balance with Treasury:		
Obligated Balance Not Yet Disbursed	\$ 331,775	\$ 484,522
Unobligated Balance Available	118,692	64,068
Unobligated Balance Unavailable	—	8,011
Temporarily Not Available Pursuant to Public Law	528,687	528,687
Non-Budgetary Fund Balance with Treasury	330,653	345,954
Total Fund Balance with Treasury	\$ 1,309,807	\$ 1,431,242

No discrepancies exist between the Fund Balance reflected in the general ledger and the balance in the Treasury accounts.

As of September 30, 2009 and 2008, the Non-Budgetary Fund Balance with Treasury includes surcharge receipts of \$233,529 thousand, and Non-Entity Fund Balance with Treasury of \$97,124 thousand and \$112,425 thousand, respectively.

NOTE 3. NON-ENTITY ASSETS

Non-entity assets consist of amounts held on deposit for the convenience of the USPTO customers and fees collected on behalf of the World Intellectual Property Organization (WIPO) and the European Patent Office (EPO). Customers have the option of maintaining a deposit account at the USPTO to facilitate the order process. Customers can draw from their deposit account when they place an order and can replenish their deposit account as desired. Funds maintained in customer deposit accounts are not available for the USPTO use until an order has been placed. Once an order has been placed, the funds are reclassified to entity funds. Also, in accordance with the Patent Cooperation Treaty and the Madrid Protocol Implementation Act, the USPTO collects international fees on behalf of the WIPO and the EPO.

(Dollars in Thousands)	2009	2008
Fund Balance with Treasury:		
Intragovernmental Deposit Accounts	\$ 5,419	\$ 4,535
Other Customer Deposit Accounts	91,705	96,168
Patent Cooperation Treaty Account	—	11,423
Madrid Protocol Account	—	299
Total Fund Balance with Treasury	97,124	112,425
Cash:		
Other Customer Deposit Accounts	954	772
Patent Cooperation Treaty Account	—	175
Madrid Protocol Account	—	12
Total Non-Entity Assets	98,078	113,384
Total Entity Assets	1,434,262	1,534,906
Total Assets	\$ 1,532,340	\$ 1,648,290

NOTE 4. PROPERTY, PLANT, AND EQUIPMENT, NET

As of September 30, 2009, property, plant, and equipment, net consisted of the following:

(Dollars in Thousands)

Classes of Property, Plant, and Equipment	Depreciation/Amortization Method	Service Life (Years)	Acquisition Value	Accumulated Depreciation/Amortization	Net Book Value
IT Equipment	SL	3-5	\$ 284,681	\$ 235,850	\$ 48,831
Software	SL	3-5	271,084	221,858	49,226
Software in Progress	—	—	25,771	—	25,771
Furniture	SL	5	28,315	19,931	8,384
Equipment	SL	3-5	13,730	11,497	2,233
Leasehold Improvements	SL	5-20	94,923	23,566	71,357
Total Property, Plant, and Equipment			\$ 718,504	\$ 512,702	\$ 205,802

As of September 30, 2008, property, plant, and equipment, net consisted of the following:

(Dollars in Thousands)

Classes of Property, Plant, and Equipment	Depreciation/Amortization Method	Service Life (Years)	Acquisition Value	Accumulated Depreciation/Amortization	Net Book Value
IT Equipment	SL	3-5	\$ 255,101	\$ 213,033	\$ 42,068
Software	SL	3-5	238,172	199,602	38,570
Software in Progress	—	—	46,000	—	46,000
Furniture	SL	5	26,803	15,702	11,101
Equipment	SL	3-5	11,873	10,144	1,729
Leasehold Improvements	SL	5-20	83,065	18,349	64,716
Total Property, Plant, and Equipment			\$ 661,014	\$ 456,830	\$ 204,184

NOTE 5. LIABILITIES

The USPTO records liabilities for amounts that are likely to be paid as the direct result of events that have already occurred. The USPTO considers liabilities covered by three types of resources: realized budgetary resources; unrealized budgetary resources that become available without further Congressional action; and cash and Fund Balance with Treasury. Realized budgetary resources include obligated balances funding existing liabilities and unobligated balances as of September 30, 2009. Unrealized budgetary resources are amounts that were not available for spending through September 30, 2009, but become available for spending on October 1, 2009 once apportioned by the OMB. In addition, cash and Fund Balance with Treasury cover liabilities that will never require the use of a budgetary resource. These liabilities consist of deposit accounts, refunds payable to customers for fee overpayments, undeposited collections, and amounts collected by the USPTO on behalf of other organizations.

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

As of September 30, 2009 and 2008, liabilities covered and not covered by budgetary resources were as follows:

(Dollars in Thousands)	2009	2008
Liabilities Covered by Resources		
Intragovernmental:		
Accounts Payable	\$ 4,852	\$ 4,675
Accrued Payroll and Benefits	12,486	9,323
Accrued Unemployment Compensation	149	159
Customer Deposit Accounts	5,419	4,535
Total Intragovernmental	22,906	18,692
Accounts Payable	85,174	92,019
Accrued Payroll and Benefits	49,771	44,542
Customer Deposit Accounts	92,659	96,940
Patent Cooperation Treaty Account	—	11,598
Madrid Protocol Account	—	311
Deferred Revenue	119,224	73,672
Total Liabilities Covered by Resources	\$ 369,734	\$ 337,774
Liabilities Not Covered by Resources		
Intragovernmental:		
Accrued Workers' Compensation	\$ 1,622	\$ 1,791
Total Intragovernmental	1,622	1,791
Accounts Payable	162	—
Accrued Payroll and Benefits	26,987	31,510
Accrued Leave	67,512	60,060
Deferred Revenue	681,032	774,833
Actuarial Liability	8,097	8,318
Contingent Liability	1,400	1,400
Total Liabilities Not Covered by Resources	\$ 786,812	\$ 877,912
Total Liabilities	\$ 1,156,546	\$ 1,215,686

NOTE 6. DEFERRED REVENUE

As of September 30, 2009, deferred revenue consisted of the following:

(Dollars in Thousands)	Patent	Trademark	Total
Unearned Fees	\$ 741,829	\$ 57,895	\$ 799,724
Undeposited Checks	470	62	532
Total Deferred Revenue	\$ 742,299	\$ 57,957	\$ 800,256

As of September 30, 2008, deferred revenue consisted of the following:

(Dollars in Thousands)	Patent	Trademark	Total
Unearned Fees	\$ 777,614	\$ 69,297	\$ 846,911
Undeposited Checks	1,394	200	1,594
Total Deferred Revenue	\$ 779,008	\$ 69,497	\$ 848,505

NOTE 7. ACTUARIAL LIABILITY

The FECA provides income and medical cost protection to covered Federal civilian employees injured on the job and for those who have contracted a work-related occupational disease, and beneficiaries of employees whose death is attributable to a job-related injury or occupational disease. Claims incurred for benefits under the FECA for the USPTO's employees are administered by the DOL and are paid ultimately by the USPTO.

The DOL estimated the future workers compensation liability by applying actuarial procedures developed to estimate the liability for FECA benefits. The actuarial liability estimates for FECA benefits include the expected liability for death, disability, medical, and miscellaneous costs for approved compensation cases, plus a component for incurred but not reported claims. The actuarial liability is updated annually.

The DOL method of determining the liability uses historical benefit payment patterns for a specific incurred period to predict the ultimate payments for that period. Consistent with past practice, these projected annual benefit payments have been discounted to present value using the OMB's economic assumptions for ten-year Treasury notes and bonds. Interest rate assumptions utilized for discounting were as follows:

2009	2008
4.22% in year 1, 4.72% in year 2, and thereafter	4.37% in year 1, 4.77% in year 2, and thereafter

Based on information provided by the DOL, the U.S. Department of Commerce estimated the USPTO's liability as of September 30, 2009 and 2008 was \$8,097 thousand and \$8,318 thousand, respectively.

NOTE 8. LEASES

OPERATING LEASES:

The General Services Administration (GSA) negotiates long-term office space leases and levies rent charges, paid by the USPTO, approximate to commercial rental rates. These operating lease agreements for the USPTO's office buildings expire at various dates between FY 2014 and FY 2024. During the years ended September 30, 2009 and 2008, the USPTO paid \$90,533 thousand and \$90,026 thousand, respectively, to the GSA for rent.

Under existing commitments, the future minimum lease payments as of September 30, 2009 are as follows:

<u>Fiscal Year</u>	<u>(Dollars in Thousands)</u>
2010	\$ 67,461
2011	67,630
2012	67,630
2013	67,630
2014	65,721
Thereafter	581,533
Total Future Minimum Lease Payments	\$ 917,605

The commitments shown above relate primarily to the operating lease for the USPTO headquarters in Alexandria, Virginia, beginning in FY 2004 and extending to FY 2024.

NOTE 9. POST-EMPLOYMENT BENEFITS

For the years ended September 30, 2009 and 2008, the post-employment benefit expenses were as follows:

<u>(Dollars in Thousands)</u>	<u>2009</u>	<u>2008</u>
CSRS	\$ 14,790	\$ 14,405
FERS	97,778	83,486
FEHB	50,389	42,116
FEGLI	155	138
FICA	63,857	58,281
Total Cost	\$ 226,969	\$ 198,426

NOTE 10. EARMARKED FUNDS

Earmarked funds are financed by specifically identified revenues, which remain available over time. These specifically identified revenues are required by statute to be used for designated activities, benefits, or purposes, and must be accounted for separately from the Government's general revenues. At the USPTO, earmarked funds include the salaries and expenses fund and the special fund receipts. Non-entity funds, as disclosed in Note 3, are not earmarked funds and are therefore excluded from the below amounts.

The following tables provide the status of the USPTO's earmarked funds as of and for the years ended September 30, 2009 and 2008.

(Dollars in Thousands)	Salaries and Expenses Fund	Surcharge Fund	Total Earmarked Funds
Balance Sheet as of September 30, 2009			
Fund Balance with Treasury	\$ 979,154	\$ 233,529	\$ 1,212,683
Cash	2,277	—	2,277
Accounts Receivable, Net	438	—	438
Other Assets	218,864	—	218,864
Total Assets	\$ 1,200,733	\$ 233,529	\$ 1,434,262
Total Liabilities	\$ 1,058,468	\$ —	\$ 1,058,468
Cumulative Results of Operations	142,265	233,529	375,794
Total Liabilities and Net Position	\$ 1,200,733	\$ 233,529	\$ 1,434,262
Statement of Net Cost For the Year Ended September 30, 2009			
Total Program Cost	\$ 1,981,940	\$ —	\$ 1,981,940
Less Earned Revenue	(1,927,130)	—	(1,927,130)
Net Cost of Operations	\$ 54,810	\$ —	\$ 54,810
Statement of Changes in Net Position For the Year Ended September 30, 2009			
Net Position, Beginning of Year	\$ 199,075	\$ 233,529	\$ 432,604
Budgetary Financing Sources	\$ (2,000)	\$ —	\$ (2,000)
Net Cost of Operations	(54,810)	—	(54,810)
Change in Net Position	\$ (56,810)	\$ —	\$ (56,810)
Net Position, End of Year	\$ 142,265	\$ 233,529	\$ 375,794

NOTE 10. EARMARKED FUNDS (Continued)

(Dollars in Thousands)	Salaries and Expenses Fund	Surcharge Fund	Total Earmarked Funds
Balance Sheet as of September 30, 2008			
Fund Balance with Treasury	\$ 1,085,288	\$ 233,529	\$ 1,318,817
Cash	3,399	—	3,399
Accounts Receivable, Net	517	—	517
Other Assets	212,173	—	212,173
Total Assets	\$ 1,301,377	\$ 233,529	\$ 1,534,906
Total Liabilities	\$ 1,102,302	\$ —	\$ 1,102,302
Cumulative Results of Operations	199,075	233,529	432,604
Total Liabilities and Net Position	\$ 1,301,377	\$ 233,529	\$ 1,534,906
Statement of Net Cost For the Year Ended September 30, 2008			
Total Program Cost	\$ 1,892,590	\$ —	\$ 1,892,590
Less Earned Revenue	(1,862,174)	—	(1,862,174)
Net Cost of Operations	\$ 30,416	\$ —	\$ 30,416
Statement of Changes in Net Position For the Year Ended September 30, 2008			
Net Position, Beginning of Year	\$ 230,491	\$ 233,529	\$ 464,020
Budgetary Financing Sources	\$ (1,000)	\$ —	\$ (1,000)
Net Cost of Operations	(30,416)	—	(30,416)
Change in Net Position	\$ (31,416)	\$ —	\$ (31,416)
Net Position, End of Year	\$ 199,075	\$ 233,529	\$ 432,604

The **Salaries and Expenses Fund** contains moneys used for the administering of the laws relevant to patents and trademarks and advising the Secretary of Commerce, the President of the United States, and the Administration on patent, trademark, and copyright protection, and trade-related aspects of intellectual property. This fund is used for the USPTO's three core business activities – granting patents, registering trademarks, and intellectual property protection and enforcement – that promote the use of intellectual property rights as a means of achieving economic prosperity. These activities give innovators, businesses, and entrepreneurs the protection and encouragement they need to turn their creative ideas into tangible products, and also provide protection for their inventions and trademarks. The USPTO may use moneys from this account only as authorized by Congress via appropriations.

The **Surcharge Fund** was created in FY 1992 through the Patent and Trademark Office Surcharge provision in the OBRA of 1990 (Section 10101, Public Law 101-508). This required that the USPTO impose a surcharge on certain patent fees and set in statute the amounts of money that the USPTO should deposit in a special fund receipt account at the U.S. Department of the Treasury. This surcharge was eliminated in FY 1999. The USPTO may use moneys from this account only as authorized by Congress, and only as made available by the issuance of a Treasury warrant.

NOTE 11. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE

Total intragovernmental costs and exchange revenue, by Strategic Goal, for the years ended September 30, 2009 and 2008 were as follows:

(Dollars in Thousands)	2009			
	Patent	Trademark	Intellectual Property Protection	Total
Strategic Goal 1: Optimize Patent Quality and Timeliness				
Intragovernmental Gross Cost	\$ 356,328	\$ —	\$ —	\$ 356,328
Gross Cost with the Public	1,388,348	—	—	1,388,348
Total Program Cost	1,744,676	—	—	1,744,676
Intragovernmental Earned Revenue	(7,163)	—	—	(7,163)
Earned Revenue from the Public	(1,690,269)	—	—	(1,690,269)
Total Program Earned Revenue	(1,697,432)	—	—	(1,697,432)
Net Program Cost	\$ 47,244	\$ —	\$ —	\$ 47,244
Strategic Goal 2: Optimize Trademark Quality and Timeliness				
Intragovernmental Gross Cost	\$ —	\$ 39,456	\$ —	\$ 39,456
Gross Cost with the Public	—	153,731	—	153,731
Total Program Cost	—	193,187	—	193,187
Intragovernmental Earned Revenue	—	(280)	—	(280)
Earned Revenue from the Public	—	(229,418)	—	(229,418)
Total Program Earned Revenue	—	(229,698)	—	(229,698)
Net Program Income	\$ —	\$ (36,511)	\$ —	\$ (36,511)
Strategic Goal 3: Improve Intellectual Property Protection and Enforcement Domestically and Abroad				
Intragovernmental Gross Cost	\$ —	\$ —	\$ 9,002	\$ 9,002
Gross Cost with the Public	—	—	35,075	35,075
Total Program Cost	—	—	44,077	44,077
Net Cost/(Income) from Operations	\$ 47,244	\$ (36,511)	\$ 44,077	\$ 54,810
Total Entity				
Total Program Cost (Notes 12 and 13)	\$ 1,744,676	\$ 193,187	\$ 44,077	\$ 1,981,940
Total Earned Revenue	(1,697,432)	(229,698)	—	(1,927,130)
Net Cost/(Income) from Operations	\$ 47,244	\$ (36,511)	\$ 44,077	\$ 54,810

NOTE 11. INTRAGOVERNMENTAL COSTS AND EXCHANGE REVENUE (Continued)

(Dollars in Thousands)	2008			
	Patent	Trademark	Intellectual Property Protection	Total
Strategic Goal 1: Optimize Patent Quality and Timeliness				
Intragovernmental Gross Cost	\$ 314,108	\$ —	\$ —	\$ 314,108
Gross Cost with the Public	1,341,548	—	—	1,341,548
Total Program Cost	1,655,656	—	—	1,655,656
Intragovernmental Earned Revenue	(7,145)	—	—	(7,145)
Earned Revenue from the Public	(1,617,848)	—	—	(1,617,848)
Total Program Earned Revenue	(1,624,993)	—	—	(1,624,993)
Net Program Cost	\$ 30,663	\$ —	\$ —	\$ 30,663
Strategic Goal 2: Optimize Trademark Quality and Timeliness				
Intragovernmental Gross Cost	\$ —	\$ 36,537	\$ —	\$ 36,537
Gross Cost with the Public	—	156,050	—	156,050
Total Program Cost	—	192,587	—	192,587
Intragovernmental Earned Revenue	—	(282)	—	(282)
Earned Revenue from the Public	—	(236,899)	—	(236,899)
Total Program Earned Revenue	—	(237,181)	—	(237,181)
Net Program Income	\$ —	\$ (44,594)	\$ —	\$ (44,594)
Strategic Goal 3: Improve Intellectual Property Protection and Enforcement Domestically and Abroad				
Intragovernmental Gross Cost	\$ —	\$ —	\$ 8,414	\$ 8,414
Gross Cost with the Public	—	—	35,933	35,933
Total Program Cost	—	—	44,347	44,347
Net Cost/(Income) from Operations	\$ 30,663	\$ (44,594)	\$ 44,347	\$ 30,416
Total Entity				
Total Program Cost (Notes 12 and 13)	\$ 1,655,656	\$ 192,587	\$ 44,347	\$ 1,892,590
Total Earned Revenue	(1,624,993)	(237,181)	—	(1,862,174)
Net Cost/(Income) from Operations	\$ 30,663	\$ (44,594)	\$ 44,347	\$ 30,416

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

NOTE 12. PROGRAM COSTS

Program costs consist of both costs related directly to the individual business lines and overall support costs allocated to the business lines. All costs are assigned to specific programs. Total program or operating costs for the years ended September 30, 2009 and 2008 by cost category were as follows:

(Dollars in Thousands)	2009		
	Direct	Allocated	Total
Personnel Services and Benefits	\$ 1,224,763	\$ 96,794	\$ 1,321,557
Travel and Transportation	2,230	641	2,871
Rent, Communications, and Utilities	83,643	34,631	118,274
Printing and Reproduction	58,688	312	59,000
Contractual Services	224,999	131,952	356,951
Training	3,350	1,048	4,398
Maintenance and Repairs	2,374	32,912	35,286
Supplies and Materials	7,980	799	8,779
Equipment not Capitalized	3,584	7,622	11,206
Insurance Claims and Indemnities	198	75	273
Depreciation, Amortization, or Loss on Asset Dispositions	39,044	24,301	63,345
Total Program Costs	\$ 1,650,853	\$ 331,087	\$ 1,981,940

(Dollars in Thousands)	2008		
	Direct	Allocated	Total
Personnel Services and Benefits	\$ 1,113,181	\$ 85,490	\$ 1,198,671
Travel and Transportation	3,756	1,022	4,778
Rent, Communications, and Utilities	82,505	33,768	116,273
Printing and Reproduction	59,886	403	60,289
Contractual Services	252,198	134,796	386,994
Training	5,036	2,215	7,251
Maintenance and Repairs	3,117	20,768	23,885
Supplies and Materials	9,348	1,325	10,673
Equipment not Capitalized	7,392	8,433	15,825
Insurance Claims and Indemnities	134	181	315
Depreciation, Amortization, or Loss on Asset Dispositions	41,702	25,934	67,636
Total Program Costs	\$ 1,578,255	\$ 314,335	\$ 1,892,590

The unfunded portion of personnel services and benefits for the years ended September 30, 2009 and 2008 was \$2,540 thousand and \$11,255 thousand, respectively.

NOTE 13. PROGRAM COSTS BY CATEGORY AND RESPONSIBILITY SEGMENT

The program costs for the years ended September 30, 2009 and 2008 by cost category and business line were as follows:

(Dollars in Thousands)	2009			
	Patent	Trademark	Intellectual Property Protection	Total
Direct Costs				
Personnel Services and Benefits	\$ 1,098,854	\$ 107,900	\$ 18,009	\$ 1,224,763
Travel and Transportation	325	87	1,818	2,230
Rent, Communications, and Utilities	73,424	7,631	2,588	83,643
Printing and Reproduction	58,249	430	9	58,688
Contractual Services	202,956	13,252	8,791	224,999
Training	3,002	306	42	3,350
Maintenance and Repairs	1,735	562	77	2,374
Supplies and Materials	7,441	246	293	7,980
Equipment not Capitalized	2,296	1,049	239	3,584
Insurance Claims and Indemnities	167	31	—	198
Depreciation, Amortization, or Loss on Asset Dispositions	34,409	4,183	452	39,044
Subtotal Direct Costs	\$ 1,482,858	\$ 135,677	\$ 32,318	\$ 1,650,853
Allocated Costs				
Automation	\$ 126,254	\$ 31,612	\$ 2,812	\$ 160,678
Resource Management	135,564	25,898	8,947	170,409
Subtotal Allocated Costs	\$ 261,818	\$ 57,510	\$ 11,759	\$ 331,087
Total Program Costs	\$ 1,744,676	\$ 193,187	\$ 44,077	\$ 1,981,940

The unfunded portion of personnel services and benefits for the year ended September 30, 2009 was \$2,540 thousand.

NOTE 13. PROGRAM COSTS BY CATEGORY AND RESPONSIBILITY SEGMENT (Continued)

(Dollars in Thousands)	2008			
	Patent	Trademark	Intellectual Property Protection	Total
Direct Costs				
Personnel Services and Benefits	\$ 993,585	\$ 101,728	\$ 17,868	\$ 1,113,181
Travel and Transportation	756	190	2,810	3,756
Rent, Communications, and Utilities	72,608	7,311	2,586	82,505
Printing and Reproduction	59,378	435	73	59,886
Contractual Services	226,180	19,411	6,607	252,198
Training	4,475	279	282	5,036
Maintenance and Repairs	2,400	616	101	3,117
Supplies and Materials	8,620	478	250	9,348
Equipment not Capitalized	5,867	1,340	185	7,392
Insurance Claims and Indemnities	134	—	—	134
Depreciation, Amortization, or Loss on Asset Dispositions	35,787	5,410	505	41,702
Subtotal Direct Costs	\$ 1,409,790	\$ 137,198	\$ 31,267	\$ 1,578,255
Allocated Costs				
Automation	\$ 121,704	\$ 28,118	\$ 3,750	\$ 153,572
Resource Management	124,162	27,271	9,330	160,763
Subtotal Allocated Costs	\$ 245,866	\$ 55,389	\$ 13,080	\$ 314,335
Total Program Costs	\$ 1,655,656	\$ 192,587	\$ 44,347	\$ 1,892,590

The unfunded portion of personnel services and benefits for the year ended September 30, 2008 was \$11,255 thousand.

NOTE 14. COMMITMENTS AND CONTINGENCIES

COMMITMENTS

In addition to the future lease commitments discussed in Note 8, the USPTO is obligated for the purchase of goods and services that have been ordered, but not yet received. Total undelivered orders for all of the USPTO's activities were \$192,549 thousand and \$341,794 thousand as of September 30, 2009 and 2008, respectively. Of these amounts, \$179,487 thousand and \$333,805 thousand, respectively, were unpaid.

CONTINGENCIES

The USPTO is a party to various routine administrative proceedings, legal actions, and claims brought by or against it, including threatened or pending litigation involving labor relations claims, some of which may ultimately result in settlements or decisions against the Federal Government.

As of September 30, 2009, management expects it is reasonably possible that approximately \$82,676 thousand may be owed for awards or damages involving labor relations claims. As of September 30, 2008, management expects it is reasonably possible that approximately \$78,200 thousand may be owed for awards or damages involving labor relations claims.

The USPTO is subject to suits where adverse outcomes are probable and claims are \$1,400 thousand as of September 30, 2009 and 2008, respectively.

For the year ended September 30, 2009, the USPTO was required to make one payment totaling \$5 thousand to the Judgment Fund. For the year ended September 30, 2008, the USPTO was required to make two payments totaling \$45 thousand to the Judgment Fund.

An investigation was completed in FY 2009 into the validity of certain refund transactions processed in previous fiscal years. The investigation identified the misappropriation of funds by an employee. Thirty-two transactions totaling \$534 thousand were identified. In the event of a valid claim by a customer deposit account holder, the USPTO will be liable to replenish the appropriate accounts.

NOTE 15. FIDUCIARY ACTIVITIES

Fiduciary activities are the collection or receipt, and the management, protection, accounting, and disposition by the Federal Government of cash or other assets in which non-Federal individuals or entities have an ownership interest that the Federal Government must uphold. Fiduciary cash and other assets are not assets of the Federal Government and accordingly are not recognized on the proprietary financial statements.

The Patent Cooperation Treaty authorized the USPTO to collect patent filing and search fees on behalf of the WIPO, EPO, Korean Intellectual Property Office, and the Australian Patent Office from U.S. citizens requesting an international patent. The Madrid Protocol Implementation Act authorized the USPTO to collect trademark application fees on behalf of the International Bureau of the WIPO from U.S. citizens requesting an international trademark.

The following tables provide the USPTO's fiduciary activity and fiduciary net assets as of and for the year ended September 30, 2009.

(Dollars in Thousands)	Patent Cooperation Treaty	Madrid Protocol
Schedule of Fiduciary Activity		
For the Year ended September 30, 2009		
Fiduciary Net Assets, Beginning of Year	\$ 11,598	\$ 311
Contributions	116,818	8,618
Disbursements To and on Behalf of Beneficiaries	(119,282)	(8,477)
(Decrease)/Increase in Fiduciary Net Assets	(2,464)	141
Fiduciary Net Assets, End of Year	\$ 9,134	\$ 452

(Dollars in Thousands)	Patent Cooperation Treaty	Madrid Protocol
Fiduciary Net Assets		
As of September 30, 2009		
Cash and Cash Equivalents	\$ 9,134	\$ 452
Total Fiduciary Net Assets	\$ 9,134	\$ 452

NOTE 16. RECONCILIATION OF NET COST OF OPERATIONS TO BUDGET

Most entity transactions are recorded in both budgetary and proprietary accounts. However, because different accounting bases are used for budgetary and proprietary accounting, some transactions may appear in only one set of accounts. The following reconciliation provides a means to identify the relationships and differences that exist between the aforementioned budgetary and proprietary accounts.

The reconciliation of net cost of operations to budget for the years ended September 30, 2009 and 2008 is as follows:

(Dollars in Thousands)	2009	2008
RESOURCES USED TO FINANCE ACTIVITIES		
Budgetary Resources Obligated:		
Obligations Incurred	\$ 1,862,512	\$ 1,852,541
Spending Authority from Offsetting Collections and Recoveries	(1,911,125)	(1,897,584)
Net Obligations	(48,613)	(45,043)
Total Resources Used to Finance Activities	(48,613)	(45,043)
RESOURCES USED TO FINANCE ITEMS NOT PART OF THE NET COST OF OPERATIONS		
Change in Budgetary Resources Obligated for Goods, Services and Benefits Ordered but not yet Provided	149,246	41,314
Resources that Fund Costs Recognized in Prior Periods	(4,913)	(1,232)
Budgetary Offsetting Collections that do not Affect Net Cost of Operations	(47,128)	23,026
Resources that Finance the Acquisition of Assets Capitalized on the Balance Sheet	(64,963)	(67,243)
Total Resources Used to Finance Items not Part of the Net Cost of Operations	32,242	(4,135)
COMPONENTS OF NET COST OF OPERATIONS THAT WILL NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD		
Components Requiring or Generating Resources in Future Periods:		
Costs that will be Funded by Resources in Future Periods	7,615	12,052
Net Decrease in Revenue Receivables not Generating Resources until Collected	77	123
Total Components of Net Cost of Operations that will Require or Generate Resources in Future Periods	7,692	12,175
Components not Requiring or Generating Resources:		
Depreciation, Amortization, or Loss on Asset Dispositions	63,345	67,636
Other Costs that will not Require Resources	144	(217)
Total Components of Net Cost of Operations that will not Require or Generate Resources	63,489	67,419
Total Components of Net Cost of Operations that will not Require or Generate Resources in the Current Period	71,181	79,594
Net Cost of Operations	\$ 54,810	\$ 30,416

Independent Auditors' Report



global



results

innovation



creativity



intellectual
property





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

November 10, 2009

MEMORANDUM FOR: David Kappos
 Under Secretary of Commerce for Intellectual Property and
 Director of the U.S. Patent and Trademark Office

FROM: Todd J. Zinser

SUBJECT: FY 2009 Financial Statements
 Final Audit Report No. FSD-19650-0-0002

I am pleased to provide you with the attached audit report, which presents an unqualified opinion on the U.S. Patent and Trademark Office's FY 2009 financial statements. The audit results indicate that USPTO has established an internal control structure that facilitates the preparation of reliable financial and performance information.

KPMG LLP, an independent public accounting firm, performed the audit of USPTO's financial statements for the fiscal year ended September 30, 2009. The contract with KPMG required that the audit be performed in accordance with U.S. generally accepted government auditing standards and Office of Management and Budget Bulletin 07-04, *Audit Requirements for Federal Financial Statements*, as amended.

In its audit of USPTO, KPMG found that

- the financial statements were fairly presented, in all material respects and in conformity with U.S. generally accepted accounting principles;
- there was one significant deficiency related to controls over general information technology, which was not considered a material weakness in internal control as defined in the audit report;
- there were no instances of material noncompliance with laws, regulations, and contracts; and
- there were no instances in which the USPTO's financial management systems did not substantially comply with the requirements of the Federal Financial Management Improvement Act of 1996.



My office oversaw the audit's performance and delivery. We reviewed KPMG's report and related documentation, and made inquiries of its representatives. Our review disclosed no instances where KPMG did not comply, in all material respects, with generally accepted government auditing standards. However, our review cannot be construed as an audit in accordance with U.S. generally accepted government auditing standards. It was not intended to enable us to express—and we do not express—any opinion on USPTO's financial statements, conclusions about the effectiveness of internal controls, or conclusions on compliance with laws, regulations, and contracts. KPMG is solely responsible for the attached audit report dated November 5, 2009, and the conclusions expressed in the report.

An audit action plan is not required to address the significant deficiency reported by KPMG. However, we ask that you provide a plan addressing the related specific recommendations included in the separate, limited-distribution information technology general controls report (FSD-19650-0-0001) in accordance with Department Administrative Order 213-5, *Audit Resolution and Follow-up*.

If you wish to discuss the contents of this report, please call me at (202) 482-4661, or Dr. Brett M. Baker, assistant inspector general for audit, at (202) 482-2600.

We appreciate the cooperation and courtesies USPTO extended to KPMG and my staff during the audit.

Attachment

cc: Mark J. Olechowski
Acting Chief Financial Officer
U.S. Patent and Trademark Office

John F. Charles
Acting Chief Financial Officer and Acting Assistant Secretary for Administration
Department of Commerce



KPMG LLP
2001 M Street, NW
Washington, DC 20036

Independent Auditors' Report

Inspector General, U.S. Department of Commerce and
Under Secretary of Commerce for Intellectual Property and
Director of the U.S. Patent and Trademark Office:

We have audited the accompanying consolidated balance sheets of the U.S. Patent and Trademark Office (USPTO), an agency within the U.S. Department of Commerce, as of September 30, 2009 and 2008, and the related consolidated statements of net cost, changes in net position, cash flows, and combined statements of budgetary resources (hereinafter referred to as "financial statements") for the years then ended. The objective of our audits was to express an opinion on the fair presentation of these financial statements. In connection with our fiscal year 2009 audit, we also considered the USPTO's internal control over financial reporting and tested the USPTO's compliance with certain provisions of applicable laws, regulations, and contracts that could have a direct and material effect on these financial statements.

Summary

As stated in our opinion on the financial statements, we concluded that the USPTO's financial statements as of and for the years ended September 30, 2009 and 2008, are presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles.

Our consideration of internal control over financial reporting resulted in one matter related to weaknesses in the USPTO's general information technology controls being identified as a significant deficiency. However, this significant deficiency is not considered to be a material weakness.

The results of our tests of compliance with certain provisions of laws, regulations, and contracts disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*, issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, as amended.

The following sections discuss our opinion on the USPTO's financial statements; our consideration of the USPTO's internal control over financial reporting; our tests of the USPTO's compliance with certain provisions of applicable laws, regulations, and contracts; and management's and our responsibilities.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of the U.S. Patent and Trademark Office as of September 30, 2009 and 2008, and the related consolidated statements of net cost, changes in net position, cash flows, and the combined statements of budgetary resources for the years then ended.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the U.S. Patent and Trademark Office as of September 30, 2009 and 2008, and its net costs, changes in net position, budgetary resources, and cash flows for the years then ended, in conformity with U.S. generally accepted accounting principles.



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The information in the Management's Discussion and Analysis section is not a required part of the financial statements, but is supplementary information required by U.S. generally accepted accounting principles. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However, we did not audit this information and, accordingly, we express no opinion on it.

Our audits were conducted for the purpose of forming an opinion on the financial statements taken as a whole. The information in the Other Accompanying Information section on pages 110 through 141 are presented for purposes of additional analysis and are not required as part of the financial statements. This information has not been subjected to auditing procedures and, accordingly, we express no opinion on it.

Internal Control Over Financial Reporting

Our consideration of the internal control over financial reporting was for the limited purpose described in the Responsibilities section of this report and would not necessarily identify all deficiencies in the internal control over financial reporting that might be significant deficiencies or material weaknesses.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the USPTO's financial statements will not be prevented, or detected and corrected on a timely basis.

In our fiscal year 2009 audit, we identified the following matter related to the USPTO's financial management systems, summarized below, and in more detail in Exhibit I, that we consider to be a significant deficiency. However, we do not believe this significant deficiency is a material weakness.

General information technology controls. We found that although the USPTO has taken corrective actions to address certain information technology (IT) control weaknesses, general IT weaknesses still exist. Despite the positive efforts made by the USPTO, the USPTO needs to make continued improvement in its IT general control environment to fully ensure that financial data being processed on the USPTO's systems has integrity, is confidentially maintained, and is available when needed.

Exhibit II presents the status of the prior year significant deficiencies.

We noted certain additional matters that we reported to management of the USPTO in two separate documents addressing the information technology and other internal control matters, respectively.

Compliance and Other Matters

The results of our tests of compliance as described in the Responsibilities section of this report, exclusive of those referred to in the *Federal Financial Management Improvement Act of 1996* (FFMIA), disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 07-04.



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The results of our tests of FFMIA disclosed no instances in which the USPTO's financial management systems did not substantially comply with the (1) Federal financial management systems requirements, (2) applicable Federal accounting standards, and (3) the United States Government Standard General Ledger at the transaction level.

* * * * *

Responsibilities

Management's Responsibilities. Management is responsible for the financial statements; establishing and maintaining effective internal control; and complying with laws, regulations, and contracts applicable to the USPTO.

Auditors' Responsibilities. Our responsibility is to express an opinion on the fiscal year 2009 and 2008 financial statements of the USPTO based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Bulletin No. 07-04. Those standards and OMB Bulletin No. 07-04 require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the USPTO's internal control over financial reporting. Accordingly, we express no such opinion.

An audit also includes:

- Examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- Assessing the accounting principles used and significant estimates made by management; and
- Evaluating the overall financial statement presentation.

We believe that our audits provide a reasonable basis for our opinion.

In planning and performing our fiscal year 2009 audit, we considered the USPTO's internal control over financial reporting by obtaining an understanding of the USPTO's internal control, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements. We did not test all controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*. The objective of our audit was not to express an opinion on the effectiveness of the USPTO's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the USPTO's internal control over financial reporting.

As part of obtaining reasonable assurance about whether the USPTO's fiscal year 2009 financial statements are free of material misstatement, we performed tests of the USPTO's compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of the financial statement amounts, and certain provisions of other laws and regulations



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specified in OMB Bulletin No. 07-04, including the provisions referred to in Section 803(a) of FFMA. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws, regulations, and contracts applicable to the USPTO. However, providing an opinion on compliance with laws, regulations, and contracts was not an objective of our audit and, accordingly, we do not express such an opinion.

The USPTO's response to the significant deficiency identified in our audit is presented in Exhibit I. We did not audit the USPTO's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of the USPTO's and the U.S. Department of Commerce's management, the U.S. Department of Commerce's Office of Inspector General, OMB, the U.S. Government Accountability Office, and the U.S. Congress and is not intended to be and should not be used by anyone other than these specified parties.

KPMG LLP

November 5, 2009

U.S. Patent and Trademark Office
 Independent Auditors' Report
 Exhibit I – Significant Deficiency

Financial Management Systems Need Improvement (*Repeat Condition*)

Effective Information Technology (IT) general controls add assurance that data used to prepare and report financial information and statements is complete, reliable, and has integrity. Our fiscal year 2009 IT assessment, performed in support of the fiscal year 2009 financial statement audit, was focused on the IT general controls over the USPTO's major financial management systems and supporting network infrastructure, using GAO's *Federal Information System Controls Audit Manual* (FISCAM) that was revised in February 2009, as a guide. The five FISCAM IT general control review areas, and our related findings, are as follows:

- **Security management.** These controls provide a framework and continuing cycle of activity for assessing risk, developing and implementing effective security procedures, assigning responsibilities, and monitoring the effectiveness of these procedures. Office of Management and Budget (OMB) Circular A-130, *Management of Federal Information Resources*, provides key guidance for establishing and maintaining an entity-wide information security program. The *Department of Commerce IT Security Program Policy and Minimum Implementation Standards*, reiterates OMB Circular A-130 guidance, and implements key elements of such guidance as Department-wide policy.

During our fiscal year 2009 audit, we did not identify weaknesses related to security management controls.

- **Access controls.** In close concert with an organization's security management, access controls for general support systems and financial systems should provide reasonable assurance that computer resources such as data files, application programs, and computer-related facilities and equipment are protected against unauthorized modification, disclosure, loss, or impairment. Access controls are facilitated by an organization's entity-wide security program. Such controls include physical controls and logical controls.

The objectives of limiting access are to ensure that users have only the access needed to perform their duties; that access to very sensitive resources, such as security software programs, is limited to very few individuals; and that employees are restricted from performing incompatible functions or functions beyond their responsibility. This is reiterated by Federal guidelines. For example, OMB Circular A-130 and supporting NIST Special Publications provide guidance related to the maintenance of technical access controls. In addition, the *Department of Commerce IT Security Program Policy and Minimum Implementation Standards* contain many requirements for operating Department IT devices in a secure manner.

During fiscal year 2009, we noted that USPTO should improve access controls by (1) appropriately removing and periodically re-certifying viewing data center access, (2) consistently tracking visitors' access to the data center, (3) strengthening network and financial database password controls, (4) preventing the use of shared user accounts and passwords, (5) disabling inactive network, financial application, and database user accounts, (6) disabling network, financial application, and database user permissions of terminated employees and contractors, (7) configuring audit settings so that they are consistent with approved baselines, (8) defining auditable events and activities and consistently

U.S. Patent and Trademark Office
Independent Auditors' Report
Exhibit I – Significant Deficiency, Continued

monitoring audit logs, and (9) strengthening access authorizations and recertification efforts. We recognize that USPTO has certain compensating controls in place to help reduce the risk of the identified vulnerabilities, and we have considered such compensating controls as part of our financial statement audit.

- **Configuration management.** Configuration management involves the identification and management of security features for all hardware, software, and firmware components of an information system at a given point and systematically controls configuration changes throughout the system's life cycle. Establishing controls over modifications to information system components and related documentation helps to ensure that only authorized systems and related program modifications are implemented. This is accomplished by instituting policies, procedures, and techniques to help ensure that hardware, software and firmware programs and program modifications are properly authorized, tested, and approved, and that access to and distribution of programs is carefully controlled. Without proper controls, there is a risk that security features could be inadvertently or deliberately omitted or turned off, or that processing irregularities or malicious code could be introduced into the IT environment.

Effective configuration management prevents unauthorized changes to information system resources and provides reasonable assurance that systems are configured and operating securely and as intended. Without effective configuration management, users do not have adequate assurance that the system and network will perform as intended and to the extent needed to support missions.

During fiscal year 2009, we noted that configuration management controls should be improved by (1) consistently applying patches and configuring devices for the protection against external and internal vulnerabilities, (2) implementing documented and approved configuration management policy and procedures, and (3) maintaining up-to-date hardware and software libraries.

- **Segregation of duties.** Work responsibilities should be segregated so that an individual does not control more than one critical function within a process. Inadequately segregated duties increase the risk that erroneous or fraudulent transactions could be processed, improper program changes could be implemented, and computer resources could be damaged or destroyed. Key areas of concern for segregation of duties among major operating and programming activities, including duties performed by users, application programmers, and data center staff. Policies outlining individual responsibilities should be documented, communicated, and enforced. The prevention and/or detection of unauthorized or erroneous actions by personnel require effective supervision and review by management, as well as formal operating procedures.

During fiscal year 2009, we noted that segregation of duties controls should be improved by preventing developers and programmers from having conflicting access to the production environment.

- **Contingency planning.** Losing the capability to process, retrieve, and protect information maintained electronically can significantly affect an agency's ability to accomplish its mission. For this reason, an agency should have: (1) procedures in place to protect information resources and minimize the risk of unplanned interruptions, and (2) a plan to recover critical operations should interruptions occur.

U.S. Patent and Trademark Office
Independent Auditors' Report
Exhibit I – Significant Deficiency, Continued

During fiscal year 2009, we noted that contingency planning controls should be improved by (1) maintaining up-to-date contingency plans that reflect the current processing environments, and (2) procuring an alternate processing site.

Recommendations

Specific recommendations are included in a separate limited distribution IT general controls report, issued as part of the fiscal year 2009 financial statement audit.

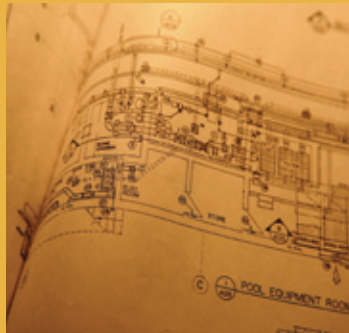
Management's Response

We agreed with your findings, conclusions, and recommendations related to improving the USPTO's financial management systems controls. The USPTO is in the process of developing corrective action plans to address the recommendations presented in the separate limited distribution IT general controls report.

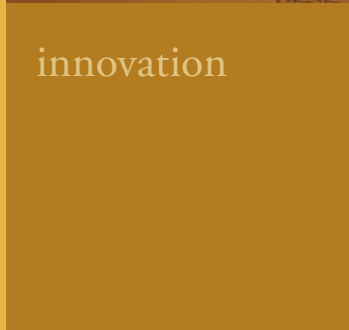
U.S. Patent and Trademark Office
 Independent Auditors' Report
 Exhibit II – Status of Prior Year Significant Deficiencies

Reported Issue	Prior Year Recommendation	Fiscal Year 2009 Status
<i>Financial Management Systems Need Improvement</i>		
Weaknesses in general controls were identified in four FISCAM review areas.	The USPTO should monitor actions to ensure effective implementation of our recommendations.	Still considered a significant deficiency (see comments in Exhibit I).
<i>Receipts Accounting Segregation of Duties</i>		
USPTO did not maintain adequate segregation of duties over responsibilities throughout the receipts accounting function.	The USPTO should perform an internal review over responsibilities throughout the receipts accounting function, to ensure that appropriate segregation of duties is maintained.	During FY 2009, the USPTO implemented corrective actions to improve controls in the receipts accounting function. This is no longer considered to be a significant deficiency. This is partially repeated as a control deficiency (reported to management in a separate document).

Other Accompanying Information



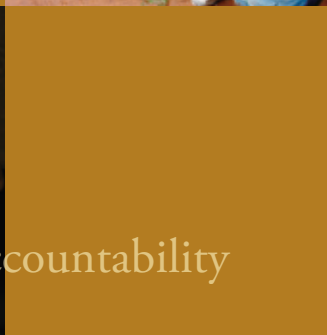
Intellectual
Property



innovation



creativity



accountability



results



Top Management Challenges Facing the USPTO

The Inspector General's Statement of Management Challenges

We are providing the management challenges for the U.S. Patent and Trademark Office in accordance with the provisions of the Reports Consolidation Act of 2000 (PL 106-531). Detailed information about our work is available on our web site at <http://www.oig.doc.gov/>

*Inspector General
Todd J. Zinser*

Each year, the Department of Commerce's Office of Inspector General (OIG) reviews the Department's and its component bureaus' program activities to ensure that the management, financial, and operational activities are sound and meet the requirements of the Chief Financial Officers Act, the Federal Information Security Management Act, and the Government Performance and Results Act.

The emphasis by the President, the Office of Management and Budget, and Congress on improved government accountability underscores the Department's resolve to enhance transparency within the Department while promoting improved efficiency and effectiveness. Progress in these endeavors requires strong commitment from the senior leadership and staff at all levels.

The following is a description of the top challenges the U.S. Patent and Trademark Office faces. The OIG identified these management challenges and key issues in November 2008 (early FY 2009), which were current as of that date, and thus were used for this FY 2009 Performance and Accountability Report.

**STRENGTHEN INFORMATION SECURITY:
OIG RECOMMENDS MAINTAINING IT SECURITY
MATERIAL WEAKNESS**

The Federal Information Security Management Act (FISMA) requires that we annually assess USPTO's efforts to safeguard data processed by its computer systems and networks. At USPTO, IT security has been a material weakness under the Federal Managers' Financial Integrity Act because authorizing officials had not been provided complete, accurate, and trustworthy information on a system's security status so they could make timely, credible, risk-based decisions on whether to authorize operation. In FY 2008 we noted that USPTO improved and strengthened its security program and its certification and accreditation process, but these improvements had not been demonstrated in the systems we evaluated last year. However, we evaluated two USPTO systems this year (including one contractor-owned system) and found that both met FISMA requirements—although some deficiencies were identified. These are the first systems we found that met FISMA requirements since we recommended the material weakness in FY 2005.

Despite improvements in USPTO's security program, we do not have sufficient evidence to recommend removal of its IT security material weakness. We noted some deficiencies that will require management's attention. In particular, USPTO has not adequately assessed some of its more significant common controls. Over the past three years, our evaluations have noted and USPTO officials have confirmed that its computing environments rely increasingly on the use of virtual servers. However, USPTO has yet to define secure configurations for underlying virtual technologies or assess controls on such components—issues we have previously pointed out. USPTO has made significant changes in defining its systems' boundaries and plans to recertify and accredit at least 20 of 31 operational systems, and certify and accredit five new systems in FY 2010; this will significantly test the bureau's ability to manage IT security in accordance with FISMA requirements.

Our evaluations in the coming year will focus on these outstanding issues.

**USPTO'S LONG AND GROWING PATENT
PROCESSING TIMES, AND ITS FINANCING
VULNERABILITIES**

The efficiency with which the USPTO processes patent applications has a direct bearing on how well it achieves its mission of promoting U.S. competitiveness. Meeting the demand for new patents in a timely manner has been a long-standing challenge for USPTO. Increases in both the volume and complexity of patent applications have lengthened application processing times and backlogs dramatically. In 2004, USPTO had a patent backlog of nearly a half million applications and average processing times of 27 months. By 2007, processing times averaged nearly 32 months, with wait times for communications-related patents as long as 43 months. As of September 30, 2008, USPTO reported a backlog of 750,596 applications and estimated that the backlog will exceed 860,000 by September 2011. The 2010 President's Budget reflects a backlog of 740,000 applications by the end of FY 2009, which is a decrease of approximately 10,000 applications over end of FY 2008 numbers. USPTO needs to further decrease the backlog by continuing to implement measures discussed in its 2007-2012 strategic plan that have a significant impact on reducing the backlog, such as shortening application review times; improving examiner error rates; and continue its initiatives to improve the hiring, training, and retaining of skilled examiners.

USPTO's unique financing structure also presents challenges. There is a complex relationship between the number of patent applications filed, the size of the application backlog, the number of patents issued, and the fees USPTO collects in connection with the patent process. The Agency uses fees collected today to pay for patent applications filed and examined in prior years. With the backlog growing, processing times increasing, and the number of patents issued flattening, this method of financing could become increasingly risky. The current model for financing USPTO's critical mission warrants attention to ensure that it will continue to provide sufficient funding to process all backlogged applications as well as any newly filed.

Improper Payments Information Act (IPIA) Reporting Details

During FY 2009, the USPTO did not have any erroneous payments that exceeded the ten million dollar threshold. The USPTO continuously seeks to identify overpayments and erroneous payments by reviewing (1) credit memos and refund checks issued by vendors or customers and (2) undelivered electronic payments returned by financial institutions.

In FY 2008, the USPTO participated in the DOC Consolidated Risk Assessment. The USPTO was assessed as low risk in all categories: Program/Activity Inherent Risk, Program/Activity Specific Risk Factors, Corporate Control Environment, and Procurement Management Functions.

Improper Payment Reduction Outlook (Dollars in Millions)									
Program	FY 2008			FY 2009			FY 2010		
	Outlays	Improper Payment Percent	Improper Payment Dollars	Outlays	Improper Payment Percent	Improper Payment Dollars	Estimated Outlays	Improper Payment Percent	Improper Payment Dollars
Patent	\$1,634	0.30%	\$ 4.88	\$ 1,749	0.03%	\$ 0.52	\$ 1,652	0.01%	\$ 0.17
Trademark	190	0.30%	0.57	192	0.03%	0.06	183	0.01%	0.02
Intellectual Property	44	0.30%	0.13	43	0.03%	0.01	42	0.01%	0.00
Total	\$1,868	0.30%	\$ 5.58	\$ 1,984	0.03%	\$ 0.60	\$ 1,877	0.01%	\$ 0.19

Improper Payment Reduction Outlook (Dollars in Millions) continued						
Program	FY 2011			FY 2012		
	Estimated Outlays	Improper Payment Percent	Improper Payment Dollars	Estimated Outlays	Improper Payment Percent	Improper Payment Dollars
Patent	\$ 1,697	0.01%	\$ 0.17	\$ 1,746	0.01%	\$ 0.17
Trademark	188	0.01%	0.02	193	0.01%	0.02
Intellectual Property	43	0.01%	0.00	44	0.01%	0.01
Total	\$ 1,928	0.01%	\$ 0.19	\$ 1,984	0.01%	\$ 0.20

During FY 2005, the USPTO entered into an agreement with the DOC to use an existing contract for recovery audit services. The audit was limited to closed obligations greater than \$0.1 million. Further excluded were grants, travel payments, purchase card transactions, inter-agency agreements, government bills of lading, and gift and bequest transactions.

The audit was completed in FY 2006 and resulted in three invoices that were identified as recoverable improper payments, which are insignificant. The improper payments identified of \$0.1 million were recovered during FY 2006. No recovery audit services were conducted during FY 2007, FY 2008, or FY 2009.

Summary of Recovery Audit Effort <i>(Dollars in Millions)</i>	
Amount subject to review	\$ 159.4
# of invoices	4,433
Actual amount reviewed	\$ 107.3
# of invoices	985

During FY 2008, the USPTO initiated an internal recovery audit program. Under this program, a letter similar to that sent by our recovery audit contractor is sent to vendors on a rotational basis. There were no items identified as recoverable. This program excludes grants, travel payment, purchase card transactions, inter-agency agreements, government bills of lading, and gift and bequest transactions. This program continued through FY 2009.

In FY 2009, the USPTO continued its reporting procedures to senior management and to the DOC on improper payments, identifying the nature and magnitude of any improper payments, along with any necessary control enhancements to prevent further occurrences of the types of improper payments identified.

Summary of Financial Statement Audit and Management Assurances

Table 1. - Summary of Financial Statement Audit

Audit Opinion	Unqualified				
Restatement	No				
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Ending Balance
NONE	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0

Table 2. - Summary of Management Assurances

Effectiveness of Internal Control over Financial Reporting (FMFIA § 2)						
Statement of Assurance	Unqualified					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Effectiveness of Internal Control over Operations (FMFIA § 2)						
Statement of Assurance	Unqualified					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
Information Technology Security	1	0	1	0	0	0
Total Material Weaknesses	1	0	1	0	0	0
Conformance with Financial Management System Requirements (FMFIA § 4)						
Statement of Assurance	Systems conform to financial management system requirements					
Non-Conformances	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
NONE	0	0	0	0	0	0
Total non-conformances	0	0	0	0	0	0
Compliance with Federal Financial Management Improvement Act (FFMIA)						
		Agency		Auditor		
Overall Substantial Compliance		Yes		Yes		
1. System Requirements		Yes		Yes		
2. Accounting Standards		Yes		Yes		
3. USSGL at Transaction Level		Yes		Yes		

The Nature of the Training Provided to USPTO Examiners

Achieving organizational excellence demands a high performance workforce that delivers high quality work products and provides customer service excellence. Training is a critical component in achieving consistently high quality products and services. Patent examiners and Trademark examining attorneys received extensive legal, technical, and automation training in FY 2009. The USPTO has a comprehensive training program for new patent examiners and trademark examining attorneys, embedding a well-established curriculum including initial legal training, automation training, and training in examination practice and procedure. Automation training is provided to all examiners as new systems are deployed and existing systems are enhanced. New technology-specific legal and technical training was conducted throughout the examining operations. This specific training either focuses on practices particular to a technology or was developed to address training needs identified through patent and trademark examination reviews or staff requests.

The USPTO training staff works with the Patent and Trademark organizations to address specific training concerns and serve as consultants to design specific internal programs to fit the education needs of each business unit. Training is reviewed and evaluated on an ongoing basis to ensure it is up-to-date and that coursework reflects developments and changes that have taken place in the industry. In FY 2009, the Agency was forced to reduce training opportunities in response to patent funding shortfalls.



PATENT EXAMINER TRAINING

U.S. Patent Training Academy

- Mandatory training for first year examiners

Training in the Academy

This Program provides training for new examiners in Legal, Procedural, Automation, Life Skills, Technical, and Professional Development. Participants attend an eight-month training curriculum. Each class is composed of up to 160 new examiners, starting at specific dates during the year. The training is delivered in large group lectures or a small group workshop. The class is then split into groups of approximately 16 examiners for labs, small group discussions, and tailored training in their specific fields of study. Examiners have access to tutors, library and search assistance, and automation guidance. In addition to extensive lecture and lab training, attendees spend considerable time learning their jobs through the examination of real patent applications in a setting that provides immediate assistance when needed. The training is structured to provide new examiners with advanced entry-level competencies, as well as providing instruction in a variety of skills that will produce well-rounded, motivated employees.

■ **Curriculum**

Training in the Academy includes the legal and procedural training, plus enhanced instruction in areas such as: Classification Systems, Searching (classification, text), Claim Interpretation, Advanced Text Searching, Writing an Effective Examiner's Answer, Appeal Procedure and Practice (Appeal Conference & Pre-Conference; Prevent Administrative Remand).

Technical training in the Academy encompasses: Introduction to examining applications in specific areas of technology, the current state of specific technologies, ongoing technology topics, etc.

Examiners attending the Academy receive extensive training in automation, including classes in more than a dozen specialized applications used in patent examination, multiple search systems, databases, and commonly used office applications.

The Academy provides new examiners training in life skills such as: time management, physical security, ethics, stress management, balancing quality and production, professionalism, balancing work and personal life, diversity training, dealing with conflict and difficult situations, and benefits and financial planning basics.

■ **Individual Development Plan**

The Academy training program includes creating an Individual Development Plan (IDP) for each examiner. The IDP is composed of formal training courses, development assignments, and on-the-job training. The IDP is designed to assist the examiner from day one, through the first 24 months of employment. When the examiner graduates from the Academy, and is transferred to a Technology Center, the IDP will continue to enable the examiner to acquire the competencies essential to perform assigned duties and to prepare for further development.

PATENT EXAMINER TRAINING (*Continued*)

Programs for all Examiners

- **Continuing Education**

Continuing education courses are for patent examiners. Courses include: Federal Circuit Court Decisions Affecting USPTO Practice - Key Cases of the Past Year and mastery of updated automation tools.

- **Legal Training**

TC Level courses taught by TC personnel, some developed within the TC's. Examples include: 101 Training, 102/103 Training, Obviousness Type Double Patenting, Patent Law & Evidence.

- **Non-Duty Legal Studies program***

This is a voluntary program established to provide reimbursement for additional legal training.

- **Non-Duty Technical Training Program***

This is a voluntary program established to provide reimbursement for additional technical training.

- **Examiner Technical Training (Technology Center Focused)***

Includes attendance at technology fairs; seminars and lectures in the fields of biotechnology, computer software and hardware technology, semiconductors, communication technology, and knowledge management.

- **Automation Training**

TC-Focused Classes: EAST Databases, EAST, Automated Searching for Design Examiners, EAST and Optical Character Recognition, OACS Basics for Design Examiners, Non-Patent Literature Web Resources in Your Art Area, Classification and Security Review.

* These programs were suspended in FY 2009 due to reductions in fee collections.

TRADEMARK EXAMINING ATTORNEY TRAINING

In FY 2009, in the Trademark organization, using data gathered from the results of quality reviews that were analyzed were used to prepare the content of on-line e-learning training materials for trademark examining attorneys. Live and Webcast Training Sessions and Modules were developed and released covering the following list of topics.

- Evidence for Refusals/Requirements - When Needed, Types Available, and Strategies for Gathering
- Examination Procedures for Section 2(a) and Section 2(e)(3) Deceptiveness Refusals for Geographic Marks
- Examination Procedures for Section 2(a) Deceptiveness Refusals for Non-Geographic Marks
- 46 Separate Discussions on Classification (Reflecting International Classes 1 through 45)
- Evidentiary Issues in Ex Parte Appeals to the TTAB
- Scope Considerations in Relation to Amendments to an Applicant's Identification of Goods or Services
- Fraud in Trademark Prosecution and the Medinol line of Cases
- Discussion of Revisions in the TMEP
- Letters of Protest in Trademark Applications
- Panel discussion on the federal trademark registration process from the perspective of a law firm attorney or in-house counsel representing a client before the USPTO
- Industry training on trademark issues in the online industry sponsored by the International Trademark Association (INTA)

Law Office Presentations and Computer-Based Training Modules were developed and released covering the following list of topics.

- Evidence for Refusals/Requirements - When Needed, Types Available, and Strategies for Gathering
- Top Amendment Entry Issues in Trademark Examination
- X-SEARCH - Truncation, Pattern Matching and Limiting by Class
- Genericness issues

Four Exam Guides and Two Exam Notes were published.

- Updated Exam Guide 2-08 (originally released May 2008, but updated May 2009) - Examination Procedures for the Description of the Mark Requirement in Trademark Rule 2.37
- Examination Guide 4-08 - Letters of Protest in Pending Trademark Applications
- Examination Guide 1-09 - Examination Procedures for Section 2(a) Deceptiveness Refusals for Non-Geographic Marks
- Examination Guide 2-09 - Examination Procedures for Section 2(a) and Section 2(e)(3) Deceptiveness Refusals for Geographic Marks
- Exam Note Regarding TEAS-Filed Responses
- Exam Note: When to Suspend Action on an Application Pending Receipt of the Foreign Registration Where Section 44(d) is Claimed

Other Guidance covering two topics were also published and released.

- Summary of Miscellaneous Changes to Trademark Rules Effective January 16, 2009
- List of Countries that Have Standard Character Marks or Equivalent

Fiscal Year 2009 USPTO Workload Tables

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TABLE 1

SUMMARY OF PATENT EXAMINING ACTIVITIES
(FY 2005 - FY 2009)**(PRELIMINARY FOR FY 2009)¹**

Patent Examining Activity	2005	2006	2007	2008	2009
Applications filed, total^{1,2}	409,532	445,613	468,330	496,886	485,500
Utility ³	381,797	417,453	439,578	466,258	457,966
Reissue	1,143	1,204	1,057	1,080	961
Plant	1,288	1,103	1,002	1,331	992
Design	25,304	25,853	26,693	28,217	25,581
Provisional Applications Filed^{2,4}	111,753	121,471	132,459	143,034	134,435
First actions					
Design	20,108	23,291	29,029	28,756	27,858
Utility, Plant, and Reissue	297,287	320,349	367,953	422,065	469,946
PCT/Chapter	22,795	25,034	24,741	51,300	20,797
Patent application disposals, total	298,838	332,535	362,227	396,228	487,140
Allowed patent applications, total	182,254	186,593	195,530	187,607	214,523
Design	18,161	20,721	25,747	24,735	25,403
Utility, Plant, and Reissue	164,093	165,872	169,783	162,872	189,120
Abandoned, total	116,564	145,912	166,690	208,610	272,607
Design	1,332	2,125	2,661	2,936	3,840
Utility, Plant, and Reissue	115,232	143,787	164,029	205,674	268,767
Statutory invention registration disposals, total	20	30	7	11	10
PCT/Chapter II examinations completed	12,594	7,295	5,336	2,937	3,468
Applications Published⁵	291,221	291,259	302,678	309,194	325,988
Patents issued^{2,6}	165,483	183,187	184,376	182,556	190,121
Utility	151,077	162,509	160,306	154,699	165,212
Reissue	195	500	548	662	398
Plant	816	1,106	979	1,179	1,096
Design	13,395	19,072	22,543	26,016	23,415
Pendency time of average patent application ⁷	29.1	31.1	31.9	32.2	34.6
Reexamination certificates issued	223	329	367	575	698
PCT international applications received by USPTO as receiving office	46,926	52,524	54,214	54,488	47,572
National requirements received by USPTO as designated/elected office	41,256	48,158	52,339	57,345	57,879
Patents renewed under Public Law (Pub.L.) 102-204 ⁸	268,935	324,913	343,894	353,923	304,096
Patents expired under Pub.L. 102-204 ⁸	67,534	72,654	67,122	67,127	66,330

¹ FY 2009 data are preliminary and will be finalized in the FY 2010 PAR.

² FY 2008 application data has been updated with final end of year numbers.

³ Utility patents include chemical, electrical and mechanical applications.

⁴ Provisional applications provided for in Pub.L. 103-465.

⁵ Eighteen-month publication of patent applications provided for in the American Inventors Protection Act of 1999, Pub.L. 106-113.

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

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

⁸ The provisions of Pub.L. 102-204 regarding the renewal of patents superseded Pub.L. 96-517 and Pub.L. 97-247.

TABLE 2

**PATENT APPLICATIONS FILED
(FY 1989 - FY 2009)**

(PRELIMINARY FOR FY 2009)¹

Year	Utility	Design	Plant	Reissue	Total
1989	150,418	11,975	418	495	163,306
1990	162,708	11,140	395	468	174,711
1991	166,765	10,368	414	536	178,083
1992	171,623	12,907	335	581	185,446
1993	173,619	13,546	362	572	188,099
1994	185,087	15,431	430	606	201,554
1995	220,141	15,375	516	647	236,679
1996	189,922	15,160	557	637	206,276
1997	219,486	16,272	680	607	237,045
1998	238,850	16,576	658	582	256,666
1999	259,618	17,227	759	664	278,268
2000	291,653	18,563	786	805	311,807
2001	324,211	18,636	914	956	344,717
2002	331,580	19,706	1,134	974	353,394
2003	331,729	21,966	785	938	355,418
2004	353,319	23,457	1,212	996	378,984
2005	381,797	25,304	1,288	1,143	409,532
2006	417,453	25,853	1,204	1,103	445,613
2007	439,578	26,693	1,002	1,057	468,330
2008 ²	466,258	28,217	1,331	1,080	496,886
2009¹	457,966	25,581	992	961	485,500

¹ FY 2009 data are preliminary and will be finalized in the FY 2010 PAR.

² FY 2008 application data has been updated with final end of year numbers.

TABLE 3**PATENT APPLICATIONS PENDING PRIOR TO ALLOWANCE¹
(FY 1989 - FY 2009)**

Year	Awaiting Action by Examiner	Total Applications Pending²
1989	92,377	222,755
1990	104,179	244,964
1991	104,086	254,507
1992	112,201	269,596
1993	99,904	244,646
1994	107,824	261,249
1995	124,275	298,522
1996	139,943	303,720
1997	112,430	275,295
1998	224,446	379,484
1999	243,207	414,837
2000	308,056	485,129
2001	355,779	542,007
2002	433,691	636,530
2003	471,382	674,691
2004	528,685	756,604
2005	611,114	885,002
2006	701,147	1,003,884
2007	760,924	1,112,517
2008	771,529	1,208,076
2009	735,961	1,207,794

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

² Applications under examination, including those in preexamination processing.

TABLE 4

**PATENT PENDENCY STATISTICS
(FY 2009)**

UPR Pendency Statistics by Technology Center (in months)	Average First Action Pendency	Total Average Pendency
Total UPR Pendency	25.8	34.6
Tech Center 1600 - Biotechnology & Organic Chemistry	22.5	35.1
Tech Center 1700 - Chemical and Materials Engineering	25.9	37.4
Tech Center 2100 - Computer Architecture, Software & Information Security	29.4	40.7
Tech Center 2400 - Networks, Multiplexing, Cable & Security	28.6	47.7
Tech Center 2600 - Communications	33.0	42.7
Tech Center 2800 - Semiconductor, Electrical, Optical Systems & Components	20.8	29.7
Tech Center 3600 - Transportation, Construction, Agriculture & Electronic Commerce	24.4	35.1
Tech Center 3700 - Mechanical Engineering, Manufacturing & Products	26.5	35.5

TABLE 5

**SUMMARY OF TOTAL PENDING PATENT APPLICATIONS
(FY 2009)**

Stage of Processing	Utility, Plant and Reissue Applications	Design Applications	Total Patent Applications
Pending patent applications, total	1,249,764	30,007	1,279,771
In preexamination processing, total	110,420	2,982	113,402
Under examination, total	1,073,910	19,704	1,093,614
Undocketed	205,637	3,017	208,654
Awaiting first action by examiner	402,778	11,127	413,905
Rejected, awaiting response by applicant	323,660	4,205	327,865
Amended, awaiting action by examiner	106,468	1,249	107,717
In interference	229	3	232
On appeal, and other ¹	35,138	103	35,241
In post-examination processing, total	65,434	7,321	72,755
Awaiting issue fee	48,751	5,817	54,568
Awaiting printing ²	13,512	1,503	15,015
D-10s (secret cases in condition for allowance)	3,171	1	3,172

¹ Includes cases on appeal and undergoing petitions.

² Includes withdrawn cases.

TABLE 6

**PATENTS ISSUED
(FY 1989 - FY 2009)¹**

Year	Utility ²	Design	Plant	Reissue	Total
1989	95,829	5,844	728	309	102,710
1990	88,972	7,176	295	282	96,725
1991	91,819	9,387	318	334	101,858
1992	99,406	9,612	336	375	109,729
1993	96,675	9,946	408	302	107,331
1994	101,270	11,138	513	346	113,267
1995	101,895	11,662	390	294	114,241
1996	104,900	11,346	338	291	116,875
1997	111,977	10,331	400	267	122,975
1998	139,297	14,419	577	284	154,577
1999	142,852	15,480	436	393	159,161
2000	164,486	16,718	453	561	182,218
2001	169,571	17,179	563	504	187,817
2002	160,839	15,096	912	465	177,312
2003	171,493	16,525	1,178	394	189,590
2004	169,295	16,533	998	343	187,169
2005	151,077	13,395	816	195	165,483
2006	162,509	19,072	1,106	500	183,187
2007	160,306	22,543	979	548	184,376
2008	154,699	26,016	1,179	662	182,556
2009³	165,212	23,415	1,096	398	190,121

¹ Past years' data may have been revised from prior year reports.

² Includes chemical, electrical, and mechanical applications.

³ FY 2009 data is preliminary.

TABLE 7

PATENT APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES¹
(FY 2005 - FY 2009)²

State/Territory	2005	2006	2007	2008	2009 ³	State/Territory	2005	2006	2007	2008	2009 ³
Total	218,472	236,012	247,898	257,818	N/A	Nebraska	555	532	689	592	N/A
Alabama	884	837	886	996	N/A	Nevada	1,400	1,426	1,629	1,996	N/A
Alaska	93	86	82	88	N/A	New Hampshire	1,384	1,474	1,450	1,564	N/A
Arizona	4,090	4,123	4,486	4,460	N/A	New Jersey	7,994	8,973	8,649	9,428	N/A
Arkansas	381	365	406	420	N/A	New Mexico	949	802	960	857	N/A
California	52,401	57,608	63,027	66,370	N/A	New York	13,482	14,595	15,518	16,838	N/A
Colorado	4,794	4,889	4,918	4,898	N/A	North Carolina	4,827	5,427	5,841	7,008	N/A
Connecticut	3,872	4,368	4,281	4,326	N/A	North Dakota	200	217	218	178	N/A
Delaware	873	897	954	922	N/A	Ohio	6,836	7,508	8,104	7,791	N/A
District of Columbia	192	223	250	262	N/A	Oklahoma	1,071	1,079	1,129	1,048	N/A
Florida	7,309	7,896	8,184	8,480	N/A	Oregon	4,912	5,197	4,841	4,487	N/A
Georgia	3,966	4,906	4,818	4,946	N/A	Pennsylvania	6,812	7,448	7,811	7,951	N/A
Hawaii	206	245	294	300	N/A	Rhode Island	697	652	716	740	N/A
Idaho	2,783	3,114	2,495	1,905	N/A	South Carolina	1,255	1,541	1,506	1,585	N/A
Illinois	8,471	9,108	9,323	9,340	N/A	South Dakota	168	170	198	193	N/A
Indiana	3,209	3,085	3,178	3,345	N/A	Tennessee	2,063	2,357	2,320	2,010	N/A
Iowa	1,428	1,580	1,490	1,641	N/A	Texas	13,903	14,803	15,886	17,339	N/A
Kansas	1,270	1,355	1,475	1,587	N/A	Utah	1,987	2,304	2,391	2,516	N/A
Kentucky	1,198	1,184	1,129	1,215	N/A	Vermont	866	983	1,001	1,309	N/A
Louisiana	777	808	838	709	N/A	Virginia	2,993	3,242	3,554	3,532	N/A
Maine	348	382	415	411	N/A	Washington	10,149	10,444	11,163	12,602	N/A
Maryland	3,450	3,731	3,840	3,694	N/A	West Virginia	292	309	294	274	N/A
Massachusetts	9,990	10,506	11,218	11,534	N/A	Wisconsin	4,127	4,453	4,631	4,341	N/A
Michigan	7,764	7,964	8,249	8,447	N/A	Wyoming	128	147	198	183	N/A
Minnesota	6,871	7,755	7,997	8,164	N/A	Puerto Rico	84	75	70	70	N/A
Mississippi	347	367	329	320	N/A	Virgin Islands	9	7	10	10	N/A
Missouri	2,010	2,166	2,273	2,335	N/A	U.S. Pacific Islands ⁴	3	2	3	-	N/A
Montana	346	291	281	258	N/A	United States ⁵	3	6	2	3	N/A

- Represents zero.

¹ Data include utility, plant, design, and reissue applications.

² Finalized data for FY 2005 to 2008 provided.

³ FY 2009 preliminary data should be available January 2010 at www.uspto.gov, and finalized in the FY 2010 PAR.

⁴ Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

⁵ State/Territory information not available.

TABLE 8

PATENTS ISSUED TO RESIDENTS OF THE UNITED STATES¹
(FY 2008 - FY 2009)

State/Territory	2008 ⁴	2009 ⁵	State/Territory	2008 ⁴	2009 ⁵
Total	91,843	93,726	Nebraska	222	231
Alabama	365	345	Nevada	484	408
Alaska	28	48	New Hampshire	541	567
Arizona	1,847	1,853	New Jersey	3,172	3,273
Arkansas	168	132	New Mexico	292	309
California	22,122	22,973	New York	5,942	6,217
Colorado	1,848	1,932	North Carolina	2,163	2,277
Connecticut	1,586	1,645	North Dakota	74	82
Delaware	369	335	Ohio	3,085	2,989
District of Columbia	68	64	Oklahoma	512	426
Florida	2,904	2,804	Oregon	2,130	2,094
Georgia	1,560	1,616	Pennsylvania	2,823	3,020
Hawaii	109	94	Rhode Island	302	314
Idaho	1,245	1,044	South Carolina	517	572
Illinois	3,577	3,567	South Dakota	56	54
Indiana	1,268	1,205	Tennessee	769	791
Iowa	634	692	Texas	6,106	6,417
Kansas	537	519	Utah	713	829
Kentucky	481	435	Vermont	512	545
Louisiana	316	288	Virginia	1,165	1,153
Maine	137	129	Washington	4,059	4,632
Maryland	1,458	1,420	West Virginia	90	93
Massachusetts	3,908	3,880	Wisconsin	1,983	1,830
Michigan	3,537	3,525	Wyoming	42	59
Minnesota	2,903	2,902	Puerto Rico	21	18
Mississippi	162	126	Virgin Islands	5	3
Missouri	785	850	U.S. Pacific Islands ²	4	0
Montana	135	99	United States ³	2	1

¹ Data include utility, design, plant, and reissue patents.

² Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

³ No State indicated in database.

⁴ Finalized data for FY 2008 provided.

⁵ FY 2009 data is preliminary.

TABLE 9

UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES¹
(FY 2005 - FY 2009)

Residence	2005	2006	2007	2008 ²	2009 ³	Residence	2005	2006	2007	2008 ²	2009 ³
Total	191,060	209,601	220,432	239,068	N/A	Cyprus	13	11	5	8	N/A
Afghanistan	1	-	-	-	N/A	Czech Republic	87	102	129	180	N/A
Albania	1	-	-	-	N/A	Denmark	1,167	1,259	1,232	1,654	N/A
Algeria	3	2	3	1	N/A	Dominican Republic	5	8	7	9	N/A
Andorra	2	-	5	8	N/A	Ecuador	5	12	5	5	N/A
Anguilla	-	1	-	-	N/A	Egypt	17	17	33	53	N/A
Antigua & Barbuda	2	-	2	1	N/A	El Salvador	-	-	3	-	N/A
Argentina	92	133	166	139	N/A	Estonia	20	14	18	35	N/A
Armenia	3	10	3	9	N/A	Ethiopia	-	1	1	-	N/A
Aruba	1	-	-	-	N/A	Finland	2,096	2,310	2,517	2,782	N/A
Australia	3,339	3,078	3,612	4,194	N/A	French Polynesia	2	1	-	-	N/A
Austria	1,119	1,200	1,417	1,785	N/A	France	7,515	7,228	8,204	9,281	N/A
Azerbaijan	3	4	1	1	N/A	Georgia	5	10	14	5	N/A
Bahamas	16	18	13	20	N/A	Germany	21,598	22,263	23,535	26,331	N/A
Bahrain	-	1	1	-	N/A	Ghana	3	-	3	1	N/A
Bangladesh	1	-	-	1	N/A	Gibraltar	7	10	3	3	N/A
Barbados	9	2	6	7	N/A	Greece	65	81	86	128	N/A
Belarus	4	13	15	11	N/A	Greenland	-	-	3	4	N/A
Belgium	1,539	1,578	1,700	1,748	N/A	Guatemala	1	7	3	2	N/A
Belize	-	-	-	4	N/A	Haiti	-	-	1	-	N/A
Benin	1	-	-	1	N/A	Honduras	3	1	1	1	N/A
Bermuda	7	8	4	8	N/A	Hungary	128	172	193	203	N/A
Bolivia	2	2	2	3	N/A	Iceland	52	47	37	41	N/A
Bosnia & Herzegovina	1	-	3	6	N/A	India	1,444	1,862	2,280	2,869	N/A
Brazil	340	333	385	499	N/A	Indonesia	24	31	37	25	N/A
British Virgin Islands	5	7	11	10	N/A	Iran	4	10	18	28	N/A
Brunei	-	-	1	-	N/A	Iraq	-	1	-	1	N/A
Bulgaria	67	52	49	83	N/A	Ireland	507	528	561	740	N/A
Burkina Faso	-	-	1	-	N/A	Israel	3,191	3,617	4,114	4,916	N/A
Burundi ⁶	-	-	-	1		Italy	3,685	3,691	3,832	4,273	N/A
Cameroon	2	1	3	1	N/A	Jamaica	5	4	4	12	N/A
Canada	9,114	10,243	10,788	11,436	N/A	Japan	73,250	76,940	79,725	84,473	N/A
Cayman Islands	14	2	4	6	N/A	Jordan	2	7	12	8	N/A
Chad ⁴	-	1	-	-	N/A	Kazakhstan	3	4	1	2	N/A
Chile	56	50	105	63	N/A	Kenya	7	7	9	4	N/A
China (Hong Kong)	1,319	1,318	1,447	1,419	N/A	Korea, Dem. Republic of	-	-	1	2	N/A
China (Macau) ⁵	3	5	3	5	N/A	Korea, Republic of	16,643	21,963	23,589	25,507	N/A
China (People's Republic)	2,330	3,838	4,422	5,148	N/A	Kuwait	23	36	25	18	N/A
Colombia	15	15	27	35	N/A	Kyrgyzstan	1	-	-	-	N/A
Cook Islands	-	-	-	-	N/A	Latvia	6	8	10	6	N/A
Costa Rica	47	25	33	20	N/A	Lebanon	7	14	12	11	N/A
Croatia	42	37	32	39	N/A	Liechtenstein	25	27	26	35	N/A
Cuba	16	9	16	38	N/A	Lithuania	9	10	11	13	N/A
						Luxembourg	78	84	118	102	N/A

TABLE 9
CONT.**UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES¹**
(FY 2005 - FY 2009)

Residence	2005	2006	2007	2008 ²	2009 ³	Residence	2005	2006	2007	2008 ²	2009 ³
Madagascar	-	-	1	-	N/A	Serbia	-	7	12	16	N/A
Macedonia	1	-	1	-	N/A	Serbia & Montenegro	6	-	-	-	N/A
Malaysia	341	392	378	326	N/A	Seychelles	2	1	-	1	N/A
Malta	6	13	5	10	N/A	Singapore	949	1,183	1,192	1,376	N/A
Mauritius	-	-	2	1	N/A	Slovakia	18	29	32	36	N/A
Mexico	217	229	216	269	N/A	Slovenia	50	47	53	71	N/A
Moldova	-	1	1	1	N/A	South Africa	241	243	280	319	N/A
Monaco	18	21	15	16	N/A	Spain	855	868	1,080	1,294	N/A
Morocco	4	2	2	11	N/A	Sri Lanka	6	9	9	16	N/A
Namibia	-	-	-	1	N/A	Sweden	2,371	2,793	3,132	3,508	N/A
Netherlands	3,637	4,098	4,249	4,240	N/A	Switzerland	2,651	2,968	3,138	3,681	N/A
Netherlands Antilles	1	-	1	1	N/A	Syria Arab Rep	2	-	-	1	N/A
New Zealand	416	449	474	580	N/A	Taiwan	17,933	21,165	20,447	19,733	N/A
Nigeria	3	2	5	1	N/A	Thailand	79	82	111	127	N/A
Norway	583	593	662	856	N/A	Trinidad & Tobago	6	3	4	6	N/A
Oman	5	1	2	5	N/A	Tunisia	1	3	7	9	N/A
Pakistan	12	12	10	21	N/A	Turkey	62	68	86	103	N/A
Panama	3	6	7	12	N/A	Turks and Caicos Islands	2	1	5	2	N/A
Paraguay	-	1	-	1	N/A	Ukraine	34	32	35	46	N/A
Peru	3	3	9	9	N/A	United Arab Emirates	15	22	22	30	N/A
Philippines	60	85	87	72	N/A	United Kingdom	8,603	9,127	9,185	10,795	N/A
Poland	122	93	104	122	N/A	Uruguay	11	18	8	13	N/A
Portugal	55	43	66	91	N/A	Uzbekistan	-	1	-	-	N/A
Qatar	1	-	4	-	N/A	Vanuatu (New Hebrides) ⁴	-	1	-	4	N/A
Romania	16	31	39	47	N/A	Venezuela	31	33	37	27	N/A
Russian Federation	361	377	443	531	N/A	Vietnam	6	4	3	13	N/A
Samoa ⁴	-	5	-	4	N/A	West Bank/Gaza ⁴	-	1	-	-	N/A
San Marino	-	-	1	-	N/A	Zimbabwe	1	-	3	2	N/A
Saudi Arabia	41	51	69	90	N/A	Other ⁵	-	-	-	-	N/A

- Represents zero.

¹ Data includes utility, design, plant, and reissue applications. Country listings include possessions and territories of that country unless listed separately in the table. Data is subject to minor revisions.

² FY 2008 data is updated and final.

³ FY 2009 preliminary data should be available January 2010 at www.uspto.gov, and finalized in the FY 2010 PAR.

⁴ Countries/Territories not previously reported.

⁵ Country of origin information not available.

⁶ New entry.

Note: Deleted Czechoslovakia, Macau, Soviet Union and Yugoslavia as provided in previous reports.

TABLE 10

PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES¹
(FY 2005 - FY 2009)^{2,3}

Residence	2005	2006	2007	2008	2009	Residence	2005	2006	2007	2008	2009
Total	80,245	87,014	89,760	90,713	96,395	French Polynesia	-	-	1	-	1
Algeria	-	1	-	-	-	Gabon	-	-	1	-	-
Andorra	2	-	1	1	2	Georgia	2	2	7	3	1
Anguilla	-	-	1	-	1	Germany	10,502	10,083	10,256	9,794	10,279
Antigua and Barbuda	-	-	-	1	-	Ghana	-	-	1	-	-
Argentina	37	39	52	46	47	Gibraltar	-	-	1	3	1
Armenia	-	3	1	1	1	Greece	18	22	26	25	26
Australia	1,091	1,413	1,493	1,485	1,717	Greenland ⁴	-	-	-	-	3
Austria	546	575	553	572	729	Guatemala	1	1	-	4	1
Azerbaijan	-	1	2	2	-	Honduras	1	-	2	-	-
Bahamas	9	7	3	5	6	Hungary	48	41	55	68	53
Bangladesh	-	-	-	1	-	Iceland	23	22	20	23	26
Barbados	-	2	2	2	3	India	405	470	560	650	678
Belarus	2	3	7	8	6	Indonesia	36	11	16	21	20
Belgium	629	665	629	602	677	Iran	1	-	4	3	6
Belize ⁴	-	-	-	-	1	Iraq	-	-	-	1	-
Benin	-	-	1	-	-	Ireland	192	186	174	174	180
Bermuda	2	-	6	1	-	Israel	1,000	1,231	1,218	1,322	1,426
Bolivia	-	-	-	1	-	Italy	1,706	1,817	1,791	1,890	1,842
Bosnia and Herzegovina ⁴	-	-	-	-	2	Jamaica	1	-	1	2	4
Brazil	93	152	112	131	146	Japan	34,079	36,482	36,658	35,847	37,879
British Virgin Islands	7	5	1	1	4	Jordan	-	1	1	1	1
Brunei ⁴	-	-	-	-	1	Kazakhstan	2	1	3	-	2
Bulgaria	6	4	3	18	31	Kenya	10	4	1	2	6
Burkina Faso ⁴	-	-	-	-	1	Korea, Republic of	4,811	5,835	6,882	8,410	9,401
Cameroon	-	-	1	-	1	Kuwait	3	6	7	12	12
Canada	3,368	3,743	3,974	4,052	4,361	Kyrgyzstan	-	-	-	1	-
Cayman Islands	2	-	12	2	1	Latvia	2	2	2	2	4
Chad	-	-	-	1	-	Lebanon	1	2	2	5	4
Chile	15	12	25	19	28	Liechtenstein	16	13	14	15	20
China (Hong Kong)	627	717	733	738	576	Lithuania	5	6	9	13	4
China (Macau) ⁴	1	3	-	2	-	Luxembourg	49	48	58	40	55
China (Mainland)	583	868	1,139	1,684	2,196	Macedonia ⁴	-	-	-	-	1
Colombia	9	7	8	9	11	Macedonia, Former	-	-	-	-	173
Costa Rica	12	29	14	17	14	Malaysia	95	124	154	179	7
Croatia	10	17	15	14	19	Malta	1	1	1	2	-
Cuba	3	2	2	6	5	Mauritius	-	-	-	1	82
Cyprus	6	4	4	1	2	Mexico	88	93	89	78	-
Czech Republic	28	28	39	58	48	Moldova, Republic	1	-	-	-	8
Denmark	463	547	494	573	512	Monaco	8	9	13	9	4
Dominican Republic	1	3	2	3	5	Morocco	-	4	1	3	-
Ecuador	3	2	5	3	3	Namibia	-	-	-	1	1,634
Egypt	7	3	10	6	2	Netherlands	1,268	1,504	1,594	1,670	-
El Salvador	2	2	-	-	-	Netherlands Antilles	-	-	1	-	-
Estonia	3	4	10	2	4	New Guinea	-	-	-	-	179
Ethiopia	-	-	1	-	-	New Zealand	163	159	157	180	-
Fiji	1	-	1	-	-	Nigeria	-	-	1	1	303
Finland	778	946	967	894	974	Norway	245	250	285	288	4
France	3,355	3,542	3,757	3,683	3,836	Oman	-	1	-	2	5
						Pakistan	4	3	4	6	-

TABLE 10
CONT.**PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES¹**
(FY 2005 - FY 2009)^{2,3}

Residence	2005	2006	2007	2008	2009	Residence	2005	2006	2007	2008	2009
Palau	-	-	-	-	3	Sri Lanka	3	1	5	1	1,230
Panama	1	-	-	1	-	Sweden	1,269	1,255	1,298	1,249	1,428
Paraguay	-	1	-	-	8	Switzerland	1,214	1,295	1,283	1,340	-
Peru	4	2	2	1	24	Syrian Arab Rep	-	3	1	-	7,958
Philippines	18	30	26	22	50	Taiwan	6,311	7,356	7,569	7,424	-
Poland	29	26	37	64	18	Tanzania	-	-	-	-	32
Portugal	14	18	16	30	1	Thailand	28	38	29	38	3
Qatar	2	2	-	1	7	Trinidad & Tobago	-	3	1	-	-
Romania	6	11	11	11	206	Tunisia	1	1	1	2	32
Russian Federation	160	169	183	186	-	Turkey	11	24	19	35	-
Saint Kitts & Nevis	-	-	-	1	-	Turks and Caicos Islands	7	1	1	1	-
Samoa	-	-	4	-	20	Uganda	-	-	-	-	21
Saudi Arabia	16	21	23	28	5	Ukraine	18	27	14	16	10
Serbia ²	-	2	6	2	-	United Arab Emirates	4	7	5	6	3,904
Serbia and Montenegro ²	5	-	-	-	-	United Kingdom	3,744	3,978	4,100	3,882	5
Seychelles	-	-	2	1	496	Uruguay	1	1	3	3	-
Singapore	420	424	457	426	13	Uzbekistan	-	1	-	-	11
Slovakia	1	2	8	13	27	Venezuela	14	14	13	19	2
Slovenia	17	21	23	17	148	Vietnam	2	-	1	-	4
South Africa	115	123	117	111	415	Zimbabwe	2	1	1	-	-
Spain	320	373	350	386	6						

- Represents zero.

¹ Data includes utility, design, plant, and reissue patents. Country listings include possessions and territories of that country unless separately listed in the table.

² FY 2009 Numbers are preliminary. Past years' data may have been revised from prior year reports to reflect patent withdrawal information that was updated during the year. It is not uncommon for the withdrawal status of patents issued in prior years to change.

³ Each patent grant is listed under only one country of residence.

⁴ New entry.

Note: Deleted Macau as provided in previous reports.

TABLE 11**STATUTORY INVENTION REGISTRATIONS PUBLISHED**
(FY 2005 - 2009)

Assignee	2005	2006	2007	2008	2009
Air Force	6	8	7	3	2
Army	-	-	-	-	-
Energy	-	-	-	-	-
Navy	3	13	4	6	3
Health & Human Services	-	-	-	-	-
USA ^{1,2}	-	-	-	-	-
Other Than U.S. Government	5	20	16	12	4
Total	14	41	27	21	9

- Represents zero.

¹ United States of America - no agency indicated in database.

² Past year's data may have been revised from prior year reports.

TABLE 12

UNITED STATES GOVERNMENT AGENCY PATENTS¹
(FY 2005 - FY 2009)³

Activity	2005	2006	2007	2008	2009	TOTAL
Agriculture	25	35	30	27	24	141
Air Force	38	58	33	36	45	210
Army	124	167	155	134	119	699
Attorney General	-	1	-	-	-	1
Commerce	8	5	2	3	5	23
Energy	22	23	22	20	17	104
EPA	7	11	9	9	9	45
FCC	-	-	-	-	-	-
HEW/HHS	77	108	116	100	105	506
Interior	12	2	6	1	4	25
NASA	78	74	65	72	86	375
Navy	257	267	255	241	230	1,250
NSA	10	16	11	16	15	68
NSF	-	0	-	-	-	-
Postal Service	7	14	15	19	14	69
State Department	1	-	-	-	-	1
Transportation	2	-	-	-	-	2
TVA	1	1	-	1	-	3
USA ²	-	2	1	3	2	8
VA	6	2	5	8	10	31
Total	675	786	725	690	685	3,561

- Represents zero.

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

² United States of America - no agency indicated in database.

³ FY 2009 Numbers are preliminary. Past years' data may have been revised from prior year reports to reflect patent withdrawal information that was updated during the year. It is not uncommon for the withdrawal status of patents issued in prior years to change.

TABLE 13A

EX PARTE REEXAMINATION
(FY 2005 - FY 2009)

Activity	2005	2006	2007	2008	2009
Requests filed, total	524	511	643	680	658
By patent owner	166	129	124	87	67
By third party	358	382	519	593	591
Commissioner ordered	-	-	-	-	-
Determinations on requests, total	537	458	594	666	614
Requests granted:					
By examiner	509	422	575	626	574
By petition	2	5	2	-	-
Requests denied	26	31	17	40	40
Requests known to have related litigation	176	229	369	316	372
Filings by discipline, total	524	511	643	680	658
Chemical	138	118	133	138	120
Electrical	188	228	275	305	335
Mechanical	198	165	235	237	203

- Represents zero.

TABLE 13B

INTER PARTES REEXAMINATION
(FY 2005 - FY 2009)

Activity	2005	2006	2007	2008	2009
Requests filed, total	59	70	126	168	258
Determinations on requests, total	57	47	119	150	229
Requests granted:					
By examiner	54	43	118	142	218
By petition	-	-	-	-	1
Requests denied	3	4	1	8	11
Requests known to have related litigation	29	32	81	115	220
Filings by discipline, total	59	70	126	168	258
Chemical	17	17	30	38	35
Electrical	20	27	53	67	153
Mechanical	22	26	43	63	70

- Represents zero.

TABLE 14

**SUMMARY OF CONTESTED PATENT CASES
(Within the USPTO, as of September 30, 2009)**

Item	Total
Ex parte cases	
Appeals	
Cases pending as of 9/30/08	3,956
Cases filed during FY 2009	15,483
Disposals during FY 2009, total	
Decided, total	
Affirmed	3,574
Affirmed-in-Part	961
Reversed	1,732
Dismissed/Withdrawn	131
Remanded	464
Cases pending as of 9/30/09	12,577
Rehearings	
Cases pending as of 9/30/09	32
Inter partes cases	
Cases pending as of 9/30/08	52
Cases declared or reinstated during FY 2009	55
Inter partes cases, FY 2009 total	107
Cases terminated during FY 2009	63
Cases pending as of 9/30/09	44

TABLE 15

**SUMMARY OF TRADEMARK EXAMINING ACTIVITIES
(FY 2005 - FY 2009)**

Item	2005	2006	2007	2008	2009
Applications for Registration:					
Applications including Additional Classes	323,501	354,775	394,368	401,392	352,051
Applications Filed	258,527	275,790	298,796	302,253	266,939
Disposal of Trademark Applications:					
Registrations including Additional Classes	143,396	188,899	194,327	274,250	241,637
Abandonments including Additional Classes	108,879	126,884	129,200	156,093	189,687
Trademark First Actions including Additional Classes	317,757	405,998	455,802	415,896	372,830
Applications Approved for Publication including Additional Classes	211,624	288,042	344,617	345,067	320,246
Certificates of Registration Issued:¹					
1946 Act Principal Register	63,088	95,188	98,564	120,173	102,607
Principal Register					
ITU-Statements of Use Registered	43,930	45,720	44,108	81,387	69,920
1946 Act Supplemental Register	5,477	6,210	7,392	8,344	7,993
Total Certificates of Registration	112,495	147,118	150,064	209,904	180,520
Renewal of Registration:*					
Section 9 Applications Filed	39,354	36,939	40,786	42,388	43,953
Section 8 Applications Filed**	39,659	36,952	40,798	42,395	43,868
Registrations Renewed	32,279	37,305	47,336	42,159	42,282
Affidavits, Sec. 8/15:					
Affidavits Filed	47,752	48,444	49,241	68,470	65,322
Affidavits Disposed	41,466	45,676	55,888	65,222	63,483
Amendments to Allege Use Filed	9,497	10,007	9,646	9,140	8,633
Statements of Use Filed	54,182	67,543	76,866	96,415	90,493
Notice of Allowance Issued	108,268	164,752	172,422	220,333	181,702
Total Active Certificates of Registration	1,255,570	1,322,155	1,380,150	1,497,131	1,547,168
Pendency - Average Months:					
Between Filing and Examiner's First Action	6.3	4.8	2.9	3.0	2.7
Between Filing, Registration (Use Applications)					
Abandonments and NOAs - including suspended and inter partes proceedings	19.6	18.0	15.1	13.9	13.5
Between Filing, Registration (Use Applications)					
Abandonments and NOAs - excluding suspended and inter partes proceedings	17.2	15.5	13.4	11.8	11.2

¹ With the exception of Certificates of Registration, Renewal of Registration, Affidavits filed under Section 8/15 and 12(c), the workload count includes extra classes.

"Applications filed" refers simply to the number of individual trademark applications received by the USPTO. There are, however, 47 different classes of items in which a trademark may be registered. An application must request registration in at least one class, but may request registration in multiple classes. Each class application must be individually researched for registerability. "Applications filed, including additional classes" reflects this fact, and therefore more accurately reflects the Trademark business workload. With the exception of Certificates of Registration, Renewal of Registration, Affidavits filed under Section 8/15 and 12(c), the workload count includes extra classes.

* Renewal of registration is required beginning 10 years following registration concurrent with 20 - year renewals coming due.

** Section 8 Affidavit is required for filing a renewal beginning October 30, 1999 (FY 2000) with the implementation of the Trademark Law Treaty.

TABLE 16**TRADEMARK APPLICATIONS FILED FOR REGISTRATION
AND RENEWAL AND TRADEMARK AFFIDAVITS FILED
(FY 1989 - FY 2009)**

Year	For Registration	For Renewal¹	Section 8 Affidavit
1989	83,169	6,127	17,986
1990	127,294	6,602	20,636
1991	120,365	5,634	25,763
1992	125,237	6,355	20,982
1993	139,735	7,173	21,999
1994	155,376	7,004	20,850
1995	175,307	7,346	23,497
1996	200,640	7,543	22,169
1997	224,355	6,720	20,781
1998	232,384	7,413	33,231
1999	295,165	7,944	33,104
2000	375,428	24,435	28,920
2001	296,388	24,174	33,547
2002	258,873	34,325	39,484
2003	267,218	35,210	43,151
2004	298,489	32,352	41,157
2005	323,501	39,354	47,752
2006	354,775	36,939	48,444
2007	394,368	40,786	49,241
2008	401,392	42,388	68,470
2009	352,051	43,953	65,322

¹ Renewal of registration term changed with implementation of the Trademark Law Reform Act (Pub.L. 100-667) beginning November 16, 1989 (FY1990).

TABLE 17

**SUMMARY OF PENDING TRADEMARK APPLICATIONS
(FY 2009)**

Stage of Processing	Application Files	Classes
Pending applications, total	411,818	581,177
In preexamination processing	54,944	67,835
Under examination, total	278,542	405,512
Applications under initial examination	82,827	123,924
Amended, awaiting action by Examiner	81,145	121,771
Awaiting first action by Examiner	1,682	2,153
Intent-To-Use applications pending Use	150,484	212,627
Applications under second examination	10,024	13,487
Administrative processing of Statements of Use	82	98
Undergoing second examination	3,016	3,903
Amended, awaiting action by Examiner	6,926	9,486
Other pending applications¹	35,207	55,474
In post-examination processing	78,332	107,830
(Includes all applications in all phases of publication and issue and registration)		

¹ Includes applications pending before the Trademark Trial and Appeal Board, and suspended cases.

TABLE 18

**TRADEMARKS REGISTERED, RENEWED, AND PUBLISHED
UNDER SECTION 12(C)¹
(FY 1989 - FY 2009)**

Year	Certificates of Regis. Issued	Renewed²	Published Under 12(c)	Registrations (Incl. Classes)
1989	51,802	9,209	84	-
1990	56,515	7,122	19	-
1991	43,152	6,416	19	-
1992	62,067	5,733	13	-
1993	74,349	6,182	21	86,122
1994	59,797	6,136	11	68,853
1995	65,662	6,785	4	75,372
1996	78,674	7,346	11	91,339
1997	97,294	7,389	11	112,509
1998	89,634	6,504	8	106,279
1999	87,774	6,280	3	104,324
2000	106,383	8,821	15	127,794
2001	102,314	31,477	11	124,502
2002	133,225	29,957	26	164,457
2003	143,424	34,370	5	185,182
2004	120,056	34,735	4	155,991
2005	112,495	32,279	3	143,396
2006	147,118	37,305	1	188,899
2007	150,064	47,336	13	194,327
2008	209,904	42,159	3	274,250
2009	180,520	42,282	4	241,637

- Represents zero.

¹ Includes withdrawn numbers.

² Includes Renewal of registration term changed with implementation of the Trademark Law Reform Act (Pub.L. 100-667) beginning November 16, 1989 (FY 1990).

TABLE 19

TRADEMARK APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES
(FY 2009)

State/Territory	2009	State/Territory	2009	State/Territory	2009
Total	274,603	Kentucky	1,671	Oklahoma	1,321
Alabama	1,495	Louisiana	1,491	Oregon	3,135
Alaska	238	Maine	680	Pennsylvania	7,769
Arizona	4,941	Maryland	4,668	Rhode Island	1,020
Arkansas	986	Massachusetts	7,213	South Carolina	1,912
California	58,643	Michigan	5,733	South Dakota	408
Colorado	5,853	Minnesota	5,412	Tennessee	3,878
Connecticut	3,932	Mississippi	608	Texas	15,933
Delaware	2,857	Missouri	3,638	Utah	3,071
District of Columbia	2,250	Montana	614	Vermont	518
Florida	18,730	Nebraska	1,104	Virginia	6,530
Georgia	7,624	Nevada	4,745	Washington	5,719
Hawaii	932	New Hampshire	1,038	West Virginia	337
Idaho	840	New Jersey	10,794	Wisconsin	3,625
Illinois	12,327	New Mexico	743	Wyoming	394
Indiana	2,864	New York	28,383	Puerto Rico	349
Iowa	1,337	North Carolina	5,150	Virgin Islands	43
Kansas	1,603	North Dakota	263	U.S. Pacific Islands ¹	55
		Ohio	7,119	United States ²	67

¹ Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

² No state indicated in database, includes APO filings.

TABLE 20

TRADEMARKS REGISTERED TO RESIDENTS OF THE UNITED STATES¹
(FY 2009)

State/Territory	2009	State/Territory	2009	State/Territory	2009
Total	145,872	Kentucky	566	Oklahoma	662
Alabama	564	Louisiana	522	Oregon	1,488
Alaska	134	Maine	334	Pennsylvania	3,026
Arizona	2,023	Maryland	1,782	Rhode Island	368
Arkansas	274	Massachusetts	2,364	South Carolina	663
California	16,326	Michigan	2,447	South Dakota	230
Colorado	2,269	Minnesota	2,543	Tennessee	1,309
Connecticut	1,145	Mississippi	210	Texas	5,459
Delaware	28,292	Missouri	1,667	Utah	1,263
District of Columbia	960	Montana	267	Vermont	216
Florida	6,782	Nebraska	559	Virginia	2,193
Georgia	2,703	Nevada	3,370	Washington	2,620
Hawaii	329	New Hampshire	367	West Virginia	112
Idaho	315	New Jersey	3,246	Wisconsin	1,862
Illinois	4,406	New Mexico	308	Wyoming	246
Indiana	1,553	New York	8,303	Puerto Rico	96
Iowa	774	North Carolina	1,848	Virgin Islands	13
Kansas	664	North Dakota	128	U.S. Pacific Islands ²	8
		Ohio	3,219	United States ³	20,475

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

² Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

³ No state indicated in database, includes APO filings.

TABLE 21

TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES
(FY 2005 - FY 2009)

Residence	2005	2006	2007	2008	2009	Residence	2005	2006	2007	2008	2009
Total	60,995	71,551	84,072	86,882	77,448	Dominica	3	6	2	9	-
Afghanistan	-	3	2	2	9	Dominican Republic	47	64	70	77	50
Albania	1	19	1	3	-	Ecuador	18	15	28	24	32
Algeria	-	-	1	-	-	Egypt	17	8	11	11	14
Andorra	3	7	2	1	8	El Salvador	50	31	69	56	34
Angola	2	-	-	-	-	Estonia	16	24	26	35	48
Anguilla	4	8	4	7	23	Ethiopia	4	-	-	2	1
Antarctica	-	-	-	1	-	Faroe Islands	-	-	-	12	1
Antigua & Barbuda	26	97	2	20	4	Fiji	12	1	3	1	-
Argentina	225	228	253	266	223	Finland	374	476	548	526	547
Armenia	2	22	5	4	10	France	4,555	4,843	5,460	6,254	5,620
Aruba	24	-	18	1	3	French Polynesia	16	9	9	3	2
Australia	2,204	2,593	3,685	3,164	3,025	Georgia	6	4	2	3	11
Austria	696	1,125	1,187	1,344	1,181	Germany	8,146	9,896	11,455	12,686	11,345
Azerbaijan	-	-	2	3	-	Ghana	-	-	-	2	1
Bahamas	207	192	218	152	121	Gibraltar	65	50	59	32	52
Bahrain	3	7	17	11	19	Greece	64	120	126	244	137
Bangladesh	-	-	10	3	4	Greenland	-	5	-	-	-
Barbados	213	177	322	310	164	Grenada	1	1	1	-	-
Belarus	18	3	16	20	10	Guadeloupe	3	-	2	-	-
Belgium	581	606	804	869	997	Guatemala	42	31	56	39	29
Belize	12	52	30	19	20	Guinea	-	-	-	1	-
Benin	2	-	-	-	-	Guyana	6	5	2	7	1
Bermuda	251	234	353	296	178	Haiti	4	3	2	1	-
Bhutan	-	-	1	-	-	Honduras	4	19	5	9	17
Bolivia	4	-	3	5	8	Hong Kong	1,130	1,113	1,305	1,211	1,162
Bosnia & Herzegovina	-	-	2	-	1	Hungary	88	115	135	77	155
Botswana	-	-	-	-	3	Iceland	42	74	140	240	87
Brazil	495	445	525	517	477	India	275	346	412	697	461
British Virgin Islands	389	665	625	623	498	Indonesia	55	32	35	62	64
Brunei	1	2	3	3	8	Iran	12	13	9	39	27
Bulgaria	84	81	145	101	95	Iraq	-	-	-	-	4
Cambodia	-	1	-	-	2	Ireland	392	488	634	724	441
Cameroon	-	8	-	-	-	Isle of Man	56	59	82	101	36
Canada	7,730	8,337	9,127	9,614	8,354	Israel	534	614	761	764	679
Cape Verde	-	1	1	-	-	Italy	2,894	4,057	4,912	4,395	4,203
Cayman Islands	188	134	296	360	390	Jamaica	55	55	32	49	53
Channel Islands	73	67	104	68	37	Japan	4,824	4,705	5,258	4,764	4,832
Chile	217	161	201	206	185	Jordan	7	14	15	23	21
China (mainland)	1,246	1,784	2,364	2,262	2,096	Kazakhstan	-	-	5	7	-
Colombia	156	185	249	187	183	Kenya	9	13	1	3	2
Cook Islands	2	6	-	-	5	Korea, Dem. Republic of	1	3	2	-	1
Costa Rica	58	73	68	100	66	Korea, Republic of	614	1,207	1,599	1,566	1,554
Croatia	47	34	12	22	42	Kuwait	2	12	37	37	16
Cuba	26	11	3	13	6	Kyrgyzstan	2	-	-	-	-
Cyprus	73	115	88	101	115	Latvia	29	29	29	20	30
Czechoslovakia	93	164	212	256	266	Lebanon	22	14	7	22	24
Denmark	637	886	922	1,197	997	Liberia	-	-	-	2	-
						Liechtenstein	165	180	202	247	240

TABLE 21
CONT.**TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES**
(FY 2005 - FY 2009)

Residence	2005	2006	2007	2008	2009	Residence	2005	2006	2007	2008	2009
Lithuania	9	21	6	25	17	Saint Christ-Nevis	12	10	26	31	16
Luxembourg	294	403	403	550	499	Saint Lucia	8	4	5	17	12
Macao	1	4	2	20	12	Saint Vincent/Grenadines	3	2	-	-	6
Macau	-	-	1	-	-	Samoa	2	11	6	11	5
Macedonia	-	2	8	7	-	San Marino	2	4	4	3	17
Madagascar	-	1	-	-	7	Saudi Arabia	27	50	71	61	49
Malaysia	97	81	93	119	126	Scotland	66	105	93	73	18
Malta	8	50	24	48	81	Senegal, Republic of	-	2	-	1	-
Marshall Islands	2	4	-	5	4	Serbia/Montenegro	3	-	42	11	14
Martinique	-	-	1	-	-	Seychelles	5	23	24	27	26
Mauritania	2	-	-	-	1	Sierra Leone	1	-	-	-	-
Mauritius	27	61	63	32	28	Singapore	311	355	503	479	526
Mexico	1,403	1,487	1,592	1,484	1,393	Slovakia	24	31	67	82	46
Micronesia	2	2	1	7	2	Slovenia	53	67	171	105	152
Monaco	81	147	158	113	81	South Africa	208	285	241	218	183
Mongolia	-	-	1	4	7	Russian Federation	276	380	441	733	676
Morocco	18	33	26	60	35	Spain	1,136	1,735	1,742	1,864	1,798
Mozambique	1	-	4	-	-	Sri Lanka	12	21	16	33	15
N. Mariana Island	2	7	-	-	5	Swaziland	2	-	-	-	-
Namibia	-	-	-	3	2	Sweden	1,123	1,127	1,521	1,482	1,222
Nepal	-	-	-	1	2	Switzerland	3,346	3,687	4,692	4,772	3,883
Netherlands	1,725	2,133	2,367	2,618	2,220	Syria	3	3	1	6	7
Netherlands Antilles	41	56	130	76	68	Taiwan	1,196	1,427	1,257	1,283	1,221
New Zealand	510	513	648	534	486	Tanzania	-	-	-	2	-
Nicaragua	9	2	4	7	5	Thailand	114	80	155	206	146
Nigeria	1	5	12	1	25	Togo	-	1	-	5	-
Niue	2	-	-	-	-	Trinidad & Tobago	7	11	37	1	23
Norway	331	354	616	630	835	Tunisia	5	3	6	2	7
Oman	5	2	1	2	11	Turkey	349	461	632	602	511
Pakistan	12	20	25	27	19	Turks and Caicos Islands	-	24	4	13	10
Palau	-	-	-	-	1	Uganda	-	-	-	3	1
Panama	125	131	88	149	114	Ukraine	59	61	81	90	63
Papua New Guinea	1	-	-	3	1	United Arab Emirates	48	150	171	307	212
Paraguay	11	18	7	11	7	United Kingdom	6,273	7,557	9,431	9,463	7,624
Peru	50	40	46	101	49	Uruguay	47	37	57	35	35
Philippines	56	86	55	62	66	Uzbekistan	-	-	-	1	3
Poland	148	189	196	273	300	Vanuatu	7	9	30	-	-
Portugal	198	309	268	372	318	Venezuela	53	61	77	120	35
Qatar	6	10	34	16	10	Vietnam	39	41	40	61	101
Republic Moldova	22	16	18	6	9	Yemen	3	6	3	4	-
Romania	48	24	53	73	37	Yugoslavia	9	36	8	4	-
Rwanda	-	-	-	-	1	Zimbabwe	-	-	-	1	1
St. Kitts & Nevis	-	3	-	-	-	Other ¹	261	183	35	16	33

- Represents zero.

¹ Country of Origin information not available or not indicated in database, includes African Regional Industrial Property Organization filings.

TABLE 22

TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES
(FY 2005 - FY 2009)

Residence	2005	2006	2007	2008	2009	Residence	2005	2006	2007	2008	2009
Total	19,968	27,592	27,798	38,800	34,648	Cyprus	11	21	19	41	37
Afghanistan	2	3	3	5	2	Czechoslovakia	13	26	37	79	69
Albania	1	2	7	6	6	Denmark	193	326	349	424	424
Algeria	-	1	4	3	3	Djibouti	-	-	-	1	-
Andorra	-	6	2	2	1	Dominica	1	-	4	2	1
Angola, Republic of	-	1	-	1	2	Dominican Republic	27	18	29	32	25
Anguilla	5	5	2	8	5	East Timor	-	-	2	-	-
Antarctica	-	1	1	-	-	Ecuador	10	18	17	17	17
Antigua & Barbuda	4	16	20	18	13	Egypt	3	10	8	5	6
Argentina	92	123	130	182	131	El Salvador	20	26	22	64	38
Armenia	1	7	7	19	6	Eritrea	-	-	1	-	-
Aruba	-	1	2	18	5	Estonia	4	5	12	9	13
Australia	709	1,030	1,076	1,609	1,383	Ethiopia	-	1	1	3	1
Austria	178	267	273	397	367	Faroe Islands	-	-	-	-	1
Bahamas	39	32	52	61	56	Fiji	2	2	3	1	2
Bahrain	4	2	1	-	2	Finland	130	173	203	218	221
Bangladesh	1	3	3	4	1	France	1,360	2,055	2,046	2,638	2,278
Barbados	78	94	84	115	92	French Guiana	-	-	1	1	-
Belarus	2	2	6	10	10	French Polynesia	-	20	7	10	2
Belgium	152	243	283	399	337	Georgia	-	1	1	-	-
Belize	3	7	11	14	5	Germany	2,583	3,866	3,708	4,674	4,409
Benelux Convention	6	7	5	9	13	Ghana	-	1	1	5	2
Bermuda	148	130	129	164	197	Gibraltar	2	15	11	32	30
Benin	-	-	-	2	1	Greece	18	27	40	68	53
Bhutan	-	-	-	1	-	Greenland	-	-	1	-	-
Bolivia	1	4	4	4	5	Grenada	-	-	1	-	-
Bosnia & Herzegovina	-	-	-	1	1	Guatemala	5	15	30	-	-
Brazil	152	195	164	235	227	Guyana	1	4	2	4	5
British Virgin Islands	182	211	242	381	323	Haiti	-	8	1	6	2
Brunei Darussalam	-	-	1	8	-	Honduras	1	2	2	12	8
Bulgaria	7	30	46	47	26	Hong Kong	290	373	424	633	521
Burundi	1	-	-	1	-	Hungary	27	38	39	45	36
Cambodia	-	-	1	1	-	Iceland	11	15	32	62	66
Cameroon	1	1	1	-	2	India	104	126	129	186	213
Canada	2,917	3,562	3,168	4,396	4,084	Indonesia	17	22	23	36	29
Cape Verde	-	-	1	-	3	Iran	5	5	12	16	13
Cayman Islands	53	86	129	146	170	Ireland	117	175	165	264	260
Channel Islands	14	22	25	5	2	Isle of Man	5	11	12	10	7
Chile	92	109	86	145	84	Israel	218	233	240	392	319
China (mainland)	364	697	1,020	1,601	1,459	Italy	899	1,542	1,693	2,281	1,819
Colombia	85	91	79	114	115	Jamaica	23	28	26	41	23
Congo	2	-	1	-	-	Japan	1,821	2,197	2,216	2,941	2,453
Cook Islands	1	-	1	3	1	Jordan	11	1	3	4	13
Costa Rica	17	18	16	24	27	Kazakhstan	-	2	-	1	1
Cote D'Ivoire	1	1	-	-	1	Kenya	4	3	2	2	4
Croatia	4	9	8	22	8	Korea, Dem. Republic of	2	2	4	1	7
Cuba	-	10	3	16	6	Korea, Republic of	395	409	496	849	760
						Kuwait	1	-	1	3	6

TABLE 22
CONT.**TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES**
(FY 2005 - FY 2009)

Residence	2005	2006	2007	2008	2009	Residence	2005	2006	2007	2008	2009
Latvia	2	6	10	17	6	Saint Lucia	1	2	2	4	8
Lebanon	6	6	7	7	6	Saint Vincent/Grenadines	4	4	-	1	2
Liberia	5	2	4	8	22	San Marino	4	1	3	4	2
Liechtenstein	44	62	49	85	75	Saudi Arabia	12	11	10	19	13
Lithuania	3	-	7	7	8	Scotland	12	10	8	30	50
Luxembourg	71	103	131	168	184	Senegal	-	-	1	-	-
Macao	-	3	1	-	-	Serbia/Montenegro	-	3	2	-	-
Macau	3	-	-	-	2	Seychelles	9	1	5	11	8
Macedonia	-	-	1	6	1	Sierra Leone	-	1	-	-	-
Malaysia	27	37	52	58	57	Singapore	100	110	134	199	174
Mali	-	-	1	-	-	Slovakia	2	11	12	9	26
Malta	5	6	3	12	5	Slovenia	3	10	14	27	33
Marshall Islands	1	1	2	3	3	South Africa	-	-	-	125	104
Mauritius	16	10	13	33	25	Russian Federation	37	132	118	168	162
Mexico	433	544	589	952	830	Spain	432	687	709	1,000	821
Micronesia	-	-	1	4	1	Sri Lanka	5	10	13	7	21
Monaco	19	22	25	32	24	Sudan	-	-	1	-	-
Mongolia	1	-	-	1	1	Swaziland	1	1	5	1	4
Morocco	2	2	1	3	7	Sweden	381	486	441	644	603
Mozambique	-	-	1	2	-	Switzerland	932	1,427	1,345	1,953	1,672
Namibia	-	-	1	-	-	Syria	3	1	3	2	2
Nauru	-	1	-	2	-	Taiwan	683	768	820	1,096	845
N. Mariana Island	4	4	7	2	-	Tajikistan	-	-	-	1	-
Netherlands	610	879	788	1,001	931	Thailand	52	65	57	82	71
Netherlands Antilles	17	30	33	47	32	Togo	-	-	-	-	1
Nepal	1	-	-	-	1	Trinidad & Tobago	8	10	8	13	7
New Zealand	136	228	194	333	265	Tunisia	-	-	-	3	3
Nicaragua	2	4	2	7	5	Turkey	57	127	169	206	169
Nigeria	2	5	4	16	10	Turks and Caicos Islands	-	1	1	5	2
Niue	-	1	-	-	-	Uganda	1	-	-	1	3
Norway	71	90	142	192	175	Ukraine	3	22	19	33	18
Oman	2	-	1	-	-	United Arab Emirates	12	14	21	27	36
Pakistan	7	5	7	19	11	United Kingdom	1,777	2,384	2,246	3,136	3,098
Panama	42	45	63	98	58	Uruguay	23	20	17	21	20
Papua New Guinea	-	-	-	1	1	Uzbekistan	1	-	1	-	2
Paraguay	3	5	-	6	4	Vanuatu	1	3	1	4	1
Peru	16	13	26	49	57	Vatican City	-	-	-	1	-
Philippines	16	34	27	42	50	Venezuela	28	34	26	49	45
Poland	36	62	60	104	103	Vietnam	35	50	32	42	34
Portugal	48	70	89	147	136	Western Samoa/Samoa	1	1	4	-	-
Qatar	-	1	1	9	6	Yemen	-	-	-	2	1
Republic Moldova	3	11	4	8	3	Yugoslavia	-	-	-	2	3
Romania	8	18	13	23	20	Zimbabwe	-	-	-	2	2
Saint Christ & Nevis	18	10	10	16	26	Other ¹	15	11	3	40	55
St. Kitts & Nevis	-	3	4	-	-						

- Represents zero.

¹ Country of origin information not available.

TABLE 23

**SUMMARY OF CONTESTED TRADEMARK CASES
(Within the USPTO, as of September 30, 2009)**

Activity	Ex Parte	Cancellations	Use	Interference	Opposition	Total
Cases pending as of 9/30/08, total	2,176	1,731	92	-	7,730	11,729
Cases filed during FY 2009	3,321	1,392	42	-	5,307	10,062
Disposals during FY 2009, total	3,964	1,605	56	-	6,912	12,537
Before hearing	3,454	1,573	56	-	6,748	11,831
After hearing	510	32	-	-	164	706
Cases pending as of 9/30/09, total	1,533	1,518	78	-	6,125	9,254
Awaiting decision	41	2		-	24	67
In process before hearing ¹	1,492	1,516	78	-	6,101	9,187
Requests for extension of time to oppose FY 2009	-	-	-	-	-	17,305

- Represents zero.

¹ Includes suspended cases.

TABLE 24

**ACTIONS ON PETITIONS TO THE DIRECTOR OF THE
U.S. PATENT AND TRADEMARK OFFICE
(FY 2005 - FY 2009)**

Nature of Petition	2005	2006	2007	2008	2009
Patent matters					
Actions on patent petitions, total	44,361	41,271	51,420	51,774	51,482
Acceptance of:					
Late assignments	432	477	619	621	628
Late issue fees	938	1,195	1,787	1,819	1,792
Late priority papers	27	16	7	10	13
Access	10	5	12	12	42
Certificates of correction	27,763	23,129	28,715	26,878	25,527
Deferment of issue	21	13	20	21	20
Entity Status Change	1,289	963	1,389	1,263	1,246
Filing date	1,815	1,129	1,090	975	723
Maintenance fees	2,208	2,038	2,355	2,774	1,949
Revivals	5,190	6,075	8,279	10,339	11,478
Rule 47 (37 CFR 1.47)	2,055	1,492	1,864	1,837	2,583
Supervisory authority	131	163	137	183	347
Suspend rules	290	272	214	228	301
Withdrawal from issue	1,950	1,996	1,476	1,642	1,423
Withdrawals of holding of aband./pat. lapse	242	2,308	3,456	3,172	3,410
Late Claim for Priority	843	788	981	986	1,121
Withdraw as Attorney	-	3,030	5,246	6,164	6,133
Matters Not Provided For (37 CFR 1.182)	1,270	961	994	1,009	1,334
To Make Special	-	2,018	3,913	4,653	4,797
Patent Term Adjustment/Extension	684	687	608	476	1,613
Trademark matters					
Actions on trademark petitions, total	22,377	17,590	21,755	29,703	24,747
Filing date restorations ¹	211	65	72	28	20
Inadvertently issued registrations	181	217	173	178	134
Letters of Protest	811	722	735	876	1,011
Madrid Petitions	-	13	19	13	21
Make special	208	185	205	121	94
Reinstatements ²	1,964	552	575	1,249	851
Revive (reviewed on paper)	18,134	4,379	4,275	6,524	2,526
Revive (granted electronically) ³	-	10,689	14,850	19,654	18,967
Waive fees/refunds	24	7	11	30	18
Miscellaneous Petitions to the Director ⁴	731	580	749	940	1,008
Board Matters ⁵	10	16	13	9	11
Post Registration Matters ⁶	103	165	78	81	86
Petitions awaiting action as of 9/30					
Trademark petitions awaiting response	222	275	166	56	72
Trademark petitions awaiting action	379	177	117	95	3
Trademark pending filing date issues	7	22	2	-	-

- Represents zero.

¹ Trademark Applications entitled to a particular filing date; based on clear evidence of Trademark organization error.

² Trademark Applications restored to pendency; inadvertently abandoned by the Trademark organization.

³ The petition to revive numbers were not separated into two categories (paper versus electronic) in previous years.

⁴ Not reported in previous years as a consolidation line item. Represents a consolidation of Affidavits of Use and Extensions, Decision by examiner, Grant application filing date, Interferences, Record documents affecting title, Restore jurisdiction to examiner, Section 44(e) Amendment and Review Letter of Protest Decision.

⁵ Not reported in previous years as a consolidation line item. Represents a consolidation of review board decisions and oppositions and extensions.

⁶ Not reported in previous years as a consolidation line item. Represents a consolidation of Section 7 correction/amendment, Section 9 renewal and Section 8 or 15.

TABLE 25

CASES IN LITIGATION
(Selected Courts of the United States, FY 2009)

	Patents	Trademarks	OED	Total
United States District Courts				
Civil actions pending as of 9/30/08, total	14	1	1	16
Filed during FY 2009	94	1	3	98
Disposals, total	16	1	1	18
Affirmed	4	-	-	4
Reversed	-	-	-	-
Remanded	1	-	-	1
Dismissed	11	1	1	13
Amicus/intervene	-	-	-	-
Transfer	-	-	-	-
Civil actions pending as of 9/30/09, total	92	1	3	96
United States Courts of Appeals¹				
Ex parte cases				
Cases pending as of 9/30/08	36	4	-	40
Cases filed during FY 2009	55	15	4	74
Disposals, total	61	12	2	75
Affirmed	26	4	1	31
Reversed	1	-	-	1
Remanded	12	2	-	14
Dismissed	20	6	1	27
Vacated	4	-	-	4
Transfer	2	-	-	2
Writs of mandamus:				
Granted	-	-	-	-
Granted-in-part	-	-	-	-
Denied	-	-	-	-
Dismissed	-	-	-	-
Total ex parte cases pending as of 9/30/09	30	7	2	39
Inter partes cases				
Cases pending as of 9/30/08	6	18	-	24
Cases filed during FY 2009	8	29	-	37
Disposals, total	6	35	-	41
Affirmed	3	5	-	8
Reversed	1	-	-	1
Remanded	-	2	-	2
Dismissed	3	27	-	30
Transferred	-	1	-	1
Total inter partes cases pending as of 9/30/09	8	12	-	20
Total United States Courts of Appeals cases pending as of 9/30/09	38	19	-	59
Supreme Court				
Ex parte cases				
Cases pending as of 9/30/08	2	-	-	2
Cases filed during FY 2009	3	1	-	4
Disposals, total	3	-	-	3
Cases pending as of 9/30/09, total	2	1	-	3
Notices of Suit filed in FY 2009	6,111	6,710	-	12,821

- Represents zero.

¹ Includes Federal Circuit and others.

TABLE 26

**PATENT CLASSIFICATION ACTIVITY
(FY 2005 - FY 2009)**

Activity	2005	2006	2007	2008	2009
Original patents professionally reclassified - completed projects	12,170	6,264	14,875	13,727	9,955
Subclasses established	496	498	1,466	1,037	631
Reclassified patents clerically processed, total	50,932	33,376	192,898	111,507	60,778
Original U.S. patents	16,572	9,740	4,991	25,903	18,765
Cross-reference U.S. patents	34,360	23,636	187,907	85,604	42,013

TABLE 27

**SCIENTIFIC AND TECHNICAL INFORMATION CENTER ACTIVITY
(FY 2009)**

Activity	Quantity
Prior Art Search Services Provided:	
Automated Prior Art Searches Completed	35,745
Genetic Sequence Searches Completed	8,553
Number of Genetic Sequences Searched	27,544
CRF Submissions Processed	20,515
PLUS Searches Completed	69,928
Foreign Patent Searches Completed	6,553
Document Delivery Services Provided:	
Document Delivery/Interlibrary Loan Requests Processed	29,270
Copies of Foreign Patents Provided	10,492
Information Assistance and Automation Services:	
One-on-One Examiner Information Assistance	18,093
One-on-One Examiner Automation Assistance	22,347
Patents Employee Attendance at Automation Classes	27,687
Foreign Patents Assistance for Examiners and Public	2,249
Examiner Briefings on STIC Information Sources and Services	12,735
Translation Services Provided for Examiners:	
Written Translations of Documents	6,211
Number of Words Translated (Written)	21,766,778
Documents Orally Translated	2,372
Total Number of Examiner Service Contacts	300,294
Collection Usage and Growth:	
Print/Electronic (NPL) Collection Usage	1,636,852
Print Books/Subscriptions Purchased	65,778
Full Text Electronic Journal Titles Available	21,762
Full Text Electronic Book Titles Available	41,418
NPL Databases Available for Searching (est.)	1,573

TABLE 28**END OF YEAR PERSONNEL¹
(FY 2005 - FY 2009)**

Activity	2005	2006	2007	2008	2009
Business					
Patent Business Line	6,494	7,283	7,959	8,582	8,786
Trademark Business Line	869	906	954	936	930
Total USPTO	7,363	8,189	8,913	9,518	9,716
Examination Staff					
Patent Examiners					
UPR Examiners	4,177	4,779	5,376	5,955	6,143
Design Examiners	81	104	101	100	99
Total UPR and Design Examiners	4,258	4,883	5,477	6,055	6,242
Trademark Examining Attorneys	357	413	404	398	388

¹ Number of positions.

TABLE 29A **TOP 50 TRADEMARK APPLICANTS (FY 2009)**

Name of Applicant	Classes ¹
MATTEL, INC.	671
Disney Enterprises, Inc.	541
JOHNSON & JOHNSON	541
NOVARTIS AG	324
Bristol-Myers Squibb Company	311
LG Electronics Inc.	271
IGT	264
FPL Group, Inc.	253
Lidl Stiftung & Co. KG	237
Harvey Ball Smile Limited	231
Glaxo Group Limited	222
DSM IP Assets B.V.	202
Sears Brands, LLC	202
THE CARTOON NETWORK, INC.	188
Bath & Body Works Brand Management, Inc.	186
Twentieth Century Fox Film Corporation	182
The Procter & Gamble Company	170
LF, LLC	168
T-Mobile USA, Inc.	163
HASBRO, INC.	156
Samsung Electronics Co., Ltd.	156
S. C. Johnson & Son, Inc.	154
sanofi-aventis	153
Home Box Office, Inc.	152
Humana Inc.	151
Warner Bros. Entertainment Inc.	149
PEPSICO, INC.	148
L'Oreal USA Creative, Inc.	143
American Specialty Health Incorporated	134
Wal-Mart Stores, Inc.	133
Victoria's Secret Stores Brand Managemen	129
United Football League, LLC	126
Nintendo Co., Ltd.	125
Ferguson Enterprises, Inc.	124
Reckitt Benckiser Inc.	118
Abbott Laboratories	117
Aldi Inc.	116
Fédération Internationale de Football As	115
Bayer Aktiengesellschaft	114
Church & Dwight Co., Inc.	111
Target Brands, Inc.	110
Tyler Candle Company, L.L.C.	110
Aristocrat Technologies Australia Pty Lt	106
Ford Motor Company	106
Jakks Pacific, Inc.	106
Sony Corporation	106
Bally Gaming, Inc.	105
Koninklijke Philips Electronics N.V.	105
Koshigi AG	105
Martha Stewart Living Omnimedia, Inc.	104

¹ Applications with Additional Classes.

TABLE 29B **TOP 50 TRADEMARK REGISTRANTS (FY 2009)**

Name of Applicant	Registrations
MATTEL, INC.	340
Disney Enterprises, Inc.	258
The Procter & Gamble Company	174
Deutsche Telekom	159
Deutsche Telekom AG	120
Novartis AG	90
IGT	85
Philip Morris USA Inc.	84
THE CARTOON NETWORK, INC.	81
Manheim Auctions, Inc.	80
Johnson & Johnson	79
Microsoft Corporation	74
L'Oreal	70
AMERICAN INTERNATIONAL GROUP, INC.	69
Illinois Tool Works Inc.	69
Lidl Stiftung & Co. KG	68
philosophy, inc.	68
Kohler Co.	66
Boehringer Ingelheim International GmbH	65
WMS GAMING INC.	65
Moshe INC	63
Samsung Electronics Co., Ltd.	63
Twentieth Century Fox Film Corporation	63
JOHNSON & JOHNSON	62
Bath & Body Works Brand Management, Inc.	61
Mars, Incorporated	61
HASBRO, INC.	60
Abercrombie & Fitch Trading Co.	59
Columbia Insurance Company	59
Hershey Chocolate & Confectionery Corpor	59
Marriott International, Inc.	59
Televisa, S.A. de C.V.	59
Aristocrat Technologies Australia Pty Lt	57
Conair Corporation	57
MeadWestvaco Corporation	56
VIACOM INTERNATIONAL INC.	56
Tyler Candle Company, L.L.C.	55
World Wrestling Entertainment, Inc.	54
Wal-Mart Stores, Inc.	50
American Specialty Health Incorporated	49
Bank of America Corporation	49
Societe des Produits Nestle S.A.	49
Tupperware Products S.A.	49
Glaxo Group Limited	48
L'Oreal USA Creative, Inc.	48
Ford Motor Company	47
Unilever Supply Chain, Inc.	47
Cargill, Incorporated	46
HEB GROCERY COMPANY, LP	46
Konami Gaming, Inc.	45

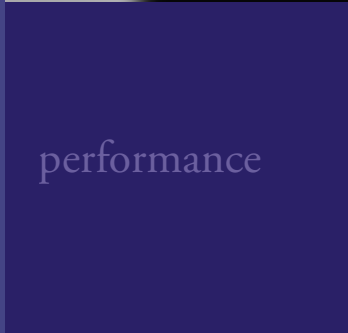
Glossary of Acronyms and Abbreviation List



transparency



innovation



performance



results



leadership



Glossary of Acronyms and Abbreviation List

AAO	Agency Administrative Order
ABC	Activity Based Cost
AIPA	American Inventors Protection Act
AIS	Automated Information System
APEC	Asian-Pacific Economic Cooperation
ASEAN	Association of South East Asian Nations
BPAI	Board of Patent Appeals and Interferences
C&A	Certification and Accreditation
CIPO	Canadian Intellectual Property Office
CAO	Chief Administrative Officer
COOP	Continuity of Operations Plan
CPIC	Capital Planning and Investment Control
CS	Commercial Service
CSAM	Cyber Security Assessment and Management
CSRS	Civil Service Retirement System
CSSC	Competitive Sourcing Steering Committee
DEA	Delegated Examining Authority
DKPTO	Danish Patent and Trademark Office
DOC	Department of Commerce
DOL	Department of Labor
DOO	Departmental Organization Order

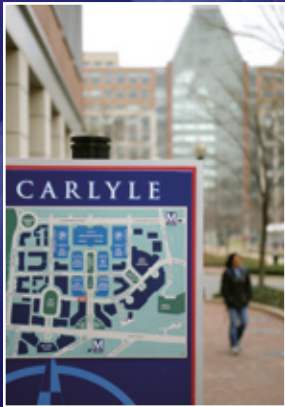
EAMS	Enterprise Asset Management System
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EFS	Electronic Filing System
EFT	Electronic Funds Transfer
ENS	Emergency Notification System
EPO	European Patent Office
eRF	eRed Folder
ESU	Examination Support Unit
EVM	Earned Value Management
FAIR	Federal Activities Inventory Reform
FASAB	Federal Accounting Standards Advisory Board
FAST	First Action System for Trademarks
FCIP	Federal Career Intern Program
FECA	Federal Employees' Compensation Act
FEGLI	Federal Employees Group Life Insurance
FEHB	Federal Employees Health Benefit Program
FEIR	Foreign Examiner in Residence
FERS	Federal Employees Retirement System
FFMIA	Federal Financial Management Improvement Act
FICA	Federal Insurance Contributions Act
FHCS	Federal Human Capital Survey
FIRST	For Inspiration and Recognition of Science and Technology
FISMA	Federal Information Security Management Act
FMFIA	Federal Managers' Financial Integrity Act
FMS	Financial Management Services
FTA	Free Trade Agreement
FY	Fiscal Year

G8	Group of Eight Countries
GAAP	Generally Accepted Accounting Principles
GAO	Government Accountability Office
GDP	Gross Domestic Product
GIPA	Global Intellectual Property Academy
GPRA	Government Performance and Results Act
GSA	U.S. General Services Administration
HCSP	Human Capital Strategic Plan
HR	Human Resources
IACB	Indian Arts Crafts Board (Interior)
IDP	Individual Development Plan
IEIR	International Examiners In Residence
IG	Inspector General
IIPi	International Intellectual Property Institute
INTA	International Trademark Association
IP	Intellectual Property
IPAU	IP Australia
IPIA	Improper Payments Information Act
IPR	Intellectual Property Rights
ISO	International Organization for Standardization
IT	Information Technology
ITA	Internal Trade Administration
ITU	Intent-To-Use/Division Unit
JPO	Japanese Patent Office
KIPO	Korean Intellectual Property Office
MBDA	Minority Business Development Agency
MTS	Metric Tracking System
NAMM	International Music Products Association

NIST	National Institute of Standards and Technology
OBRA	Omnibus Budget Reconciliation Act
OCAO	Office of the Chief Administration Officer
OCFO	Office of Chief Financial Officer
OCIO	Office of Chief Information Officer
OCR	Office of Civil Rights
OCS	Office of Corporate Services
OGA	Office of Governmental Affairs
OGC	Office of General Counsel
OHIM	Office for Harmonization in the Internal Market
OHR	Office of Human Resources
OIG	Office of the Inspector General
OIPPE	Office of Intellectual Property Policy and Enforcement
OMB	Office of Management and Budget
OPM	Office of Personnel Management
PALM	Patent Application Location and Monitoring
PAOs	Property Accountability Officers
PART	Program Assessment Rating Tool
PC	Property Custodians
PCT	Patent Cooperation Treaty
PDF	Portable Document Format
PELP	Patent Examiner Laptop Program
PFW	Patent File Wrapper
PIF	Pacific Island Forum
PMA	President's Management Agenda
PPAC	Patent Public Advisory Committee
PPH	Patent Prosecution Highway
Pub.L.	Public Law

RAM	Revenue Accounting and Management System
SFFAC	Statements of Federal Financial Accounting Concepts
SFFAS	Statements of Federal Financial Accounting Standards
SIPO	State Intellectual Property Office of the People's Republic of China
SITP	Strategic Information Technology Plan (USPTO)
SM	Service Mark
SMEs	Small and Medium-sized Enterprises
SOP	Standard Operating Procedure
STOP!	Strategy Targeting Organized Piracy!
TAC	Trademark Assistance Center
TARR	Trademarks Application and Retrieval (TARR) System
TEAS	Trademark Electronic Application System
TI	Transfer Inquiry
TLT	Trademark Law Treaty (WIPO)
TRAM	Trademark Reporting and Application Monitoring
TTAB	Trademark Trial and Appeal Board
U.S.	United States
U.S.C.	United States Code
UK	United Kingdom
UK-IPO	United Kingdom Intellectual Property Office
UNECE	United Nations Economic Commission for Europe
USPTO	United States Patent and Trademark Office
USTR	United States Trade Representative
WIPO	World Intellectual Property Organization
WTO	World Trade Organization

ACKNOWLEDGMENTS



This Performance and Accountability Report was produced with the energies and talents of the USPTO staff. To these individuals we would like to offer our sincerest thanks and acknowledgement.

In particular, we would like to recognize the following organizations and individuals for their contributions:

Office of the Under Secretary and Director – Norma Rose; Office of the Chief Administrative Officer – Karen Smith; Office of Corporate Planning – Ali Emgushov, and Joy Fulton; Office of Finance – Shana Willard, Dennis Detar, and Mark Krieger; Office of Public Affairs – Ruth Nyblod, Jennifer Rankin Byrne, and Dennis Forbes; Office of External Affairs – Judy Grundy, Kristine Schlegelmilch, Cherie Kazenske, and Janette Brown; Office of the Chief Information Officer – Scott Williams, Keith VanderBrink, and Maureen Brown; Office of the General Counsel – Mary Kelly and Kord Basnight; Office of the Commissioner for Patents – Jack Buie and David Fitzpatrick; Office of the Commissioner for Trademarks – Debbie Cohn, Robert Allen, and Karen Strohecker.



We would also like to acknowledge the Office of the Inspector General and KPMG LLP for the professional manner in which they conducted the audit of the FY 2009 Financial Statements.

We offer special thanks to AOC Solutions, Inc. and The DesignPond for their outstanding contributions in the design and production of this report.

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