

## Intellectual Property Leadership

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

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

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

to make business decisions regarding the use of the mark.

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



Robert L. Stoll,  
Administrator for  
External Affairs

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

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

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

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

### Domestic Activities

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

- **Intellectual Property Technical Amendments**—On September 19, 2000, the House passed H.R. 4870, the "Intellectual Property Technical Amendments Act of 2000." This bill would make clerical, technical, and minor substantive changes to the U.S. Code to clarify provisions of the AIPA. (It also provided that the title of the head of the USPTO revert to the traditional title of Commissioner.) This legislation was not enacted in the 106th Congress.

- **The USPTO Reauthorization and Fees**—On May 9, 2000, the House Judiciary Committee approved H.R. 4034, the "United States Patent and Trademark Office Reauthorization Act." H.R. 4034 would permit the USPTO to access all of its fees without prior authorization in appropriation Acts. This legislation was not enacted in the 106th Congress.

- **USPTO Appropriations**—The USPTO's fiscal year 2001 appropriation funds the agency at \$1,039 million, consistent with the President's budget request. Of that \$1,039 million, \$784 million is to be derived from fiscal year 2001 fee income and \$255 million will be carried over from fiscal years 1999 and 2000. Any fees received in excess of the \$784 million will not be available for obligation during fiscal year 2001. Recent congressional action also resulted in a 0.22 percent across-the-board rescission which will translate into an approximately \$2.3 million funding cut to the USPTO.

The USPTO also participated in the following domestic activities:

- **The National Intellectual Property Law Enforcement Coordination Council (NIPLECC)**—The USPTO Director serves as co-chair of the NIPLECC, which was established in 1999 pursuant to PL 106-58 to coordinate domestic and international IP law enforcement among Federal and foreign entities. In its first year, the Council and staff members met on

several occasions to shape the council's agenda. A *Federal Register* notice was published on June 5, 2000, requesting public comment on the issues to be addressed by the council and the nature of council-industry cooperation. To give the public an additional opportunity to help shape NIPLECC's future activities, a public meeting was held on November 27, 2000. Among others, representatives of the Business Software Alliance, the Recording Industry Association of America, the Pharmaceutical Researchers and Manufacturers of America, and the International Trademark Association, made presentations to the Council.

- **State Sovereign Immunity**—The USPTO, in cooperation with American Intellectual Property Law Association (AIPLA) and the Intellectual Property Section of the American Bar Association, held a conference on March 31, 2000, to discuss the impact on the enforcement of federally protected IP rights of the Supreme Court's 1999 Florida Prepaid decisions concerning state sovereign immunity under the 11th Amendment. Participants included leading constitutional and intellectual property scholars, private industry, the United States Copyright Office of the Library of Congress, House and Senate staff, and the Solicitors-General of New York and Kansas. The USPTO Director testified on the issue before the House Judiciary Subcommittee on Courts and Intellectual Property on July 27, 2000.

#### International Activities

To protect, promote, and expand intellectual property rights domestically and abroad, the USPTO engaged in the following international activities:

- **Patent Law Treaty (PLT)**—On June 2, 2000, a World Intellectual Property Organization (WIPO) Diplomatic Conference in Geneva successfully concluded with the signing of the Patent Law Treaty (PLT) by 43 WIPO member states,

including the United States. The PLT, which will enter into force approximately three years after ratification by 10 member states, provides uniform filing requirements and formal procedures among the Treaty's member states to reduce the high costs of securing patent protection in other nations. The USPTO secured a major concession in the negotiations by reducing from 2010 to 2005 the time at which member states will be able to require electronic patent filing pursuant to the Treaty.

- **Patent Cooperation Treaty (PCT)**—In fiscal year 2000, the USPTO continued to lead the effort to streamline the processing of international applications under the Patent Cooperation Treaty. The USPTO put forward a



comprehensive proposal for PCT reform based upon formal and informal discussions with other major patent offices, WIPO officials, and PCT users in the United States. In conjunction with adoption of the PLT, it would allow applicants to prepare a relatively simplified patent application in a single format, which would be accepted by all patent offices throughout the world as a national patent application or an international PCT application. At a meeting of the WIPO Governing Bodies in September-October 2000, the PCT Assembly approved a measure to

In September 2000, the USPTO hosted the "Symposium of the Americas: Protecting Intellectual Property in the Digital Age." The Symposium provided an opportunity for 40 high-ranking Government IP officials from 30 countries in the Western Hemisphere, as well as members of the business and IP communities, to formulate an agenda for cooperation in IP enforcement. Over the course of the two-day symposium, approximately 300 people from Western Hemisphere nations and elsewhere participated in the program.

international PCT application. At a meeting of the WIPO Governing Bodies in September-October 2000, the PCT Assembly approved a measure to establish a special body to consider the U.S. proposal. That body will consist of member States, International Searching and Preliminary Examining Authorities, and non-governmental organizations representing PCT users.

- **Trilateral Patent Cooperation**—The USPTO continued its work with the Japanese Patent Office (JPO) and the European Patent Office (EPO) to seek ways to benefit from advances in information technology, develop and share search tools, and to strengthen mutual understanding in search and examination techniques. At the June 2000 Trilateral Technical meeting in Tokyo, Japan, a comparative study on Business Method applications was finalized and approved by the JPO and the USPTO. The USPTO also put forward a proposal for reform of the International Patent Classification system to move toward eventual classification harmonization.
- **Trade Related Aspects of Intellectual Property Agreement (TRIPs) Council**—Since TRIPs came into force in 1995, the World Trade Organization (WTO), WIPO, the United States, and other developed countries have provided technical assistance to help developing country members implement their IP obligations. Accordingly, the USPTO reviewed numerous draft laws in fiscal year 2000 for their consistency with the TRIPs Agreement provisions.
- **Intellectual Property (IP) Enforcement Training**—The USPTO and WIPO co-sponsored three IP enforcement programs in fiscal year 2000 for Government officials from over 20 countries. The programs provided high-level Government and law enforcement officials with an in-depth review of TRIPs' substantive and enforcement provisions, and an understanding of how to create an effective IP enforcement system to protect IP rights in the Digital Era. The USPTO partnered with WIPO to cosponsor regional seminars focusing on Internet enforcement for countries in West Africa and Asia, and hosted a similar program for countries in the Western Hemisphere.

- **Madrid Protocol**—On February 10, 2000, the Senate Judiciary Committee approved S. 671, the "Madrid Protocol Implementation Act." The bill is a similar version of the one passed by the House in 1999 and would implement the protocol related to the Madrid Agreement on the International Registration of Marks, adopted June 1989 and effective April 1996. The Protocol would permit U.S. trademark owners to file for registration in any number of member countries by filing a single standardized application, in English, with a single set of fees at the USPTO. The accession package for the Treaty is pending before the U.S. Senate. This legislation was not enacted in the 106th Congress and will be reintroduced in the 107th Congress.

- **Audiovisual Performers Rights**—The USPTO and other U.S. Government agencies continued to work with the U.S. motion picture industry and performers' unions to lay the groundwork for an agreement to improve international protection for audiovisual performers' rights. The United States put forward a comprehensive proposal for a new Treaty on Audiovisual Performers Rights that aims to meet the needs of both performers and film producers in the marketplace. In preparation for a WIPO Diplomatic Conference on this issue in December 2000, the USPTO continues to work with industry and the unions to garner stronger support for the U.S. proposal.

- **The Hague Agreement on Design Applications**—The USPTO began preparing a legislative implementation and ratification package for a new "Act of the Hague Agreement Concerning the International Registration of Industrial Designs," which was signed in July 1999 by the United States and 22 other countries. The new Geneva Act attempted to establish an international system for obtaining protection for industrial designs that is compatible with the existing diverse range of national laws. The new Act revised the current agreement in order to make the system simpler, less expensive, and more responsive to the creators of industrial design.

- **Hague Convention on Jurisdiction and Foreign Judgments**—The USPTO continued to work with the

State Department on a convention concerning jurisdiction and enforcement of judgments proposed by the Hague Conference on Private International Law. The Draft Convention on Jurisdiction and Foreign Judgments in Civil and Commercial Matters seeks to create common rules of jurisdiction in international civil and commercial cases and provide for the international recognition and enforcement of the resulting judgments. The Hague Conference has scheduled a Diplomatic Conference to conclude negotiations on the proposed convention for June 2001.

- Wire the World**—The USPTO continued to promote the “Wire the World” project to enable WIPO member countries to take advantage of advances in information technology. WIPO’s newly formed Standing Committee on Information Technologies is working to develop and deploy a secure global information infrastructure, to establish a network of IP digital libraries, and to automate the PCT system and extend and deploy solutions based on this automated system in interested IP offices. It is expected that 64 Member State IP Offices will be connected to WIPONET during 2001. The first phase of deployment will include basic services such as e-mail, Internet connection, and discussion group capability.

The USPTO hosted the 15th Annual Visiting Scholars Program (VSP), for 16 officials from 14 countries on May 8-19, 2000. The program gave representatives from IP offices around the world a better understanding of the critical role IP protection plays in building strong, vibrant economies. It featured two weeks of classroom and hands-on study focusing on U.S. patent, trademark, and copyright law and examination issues, including special subjects, such as computer software patents, biotechnology, and semi-conductor arts. In addition, USPTO representatives made presentations on TRIPs Agreement obligations in the areas of patents, trademarks, copyrights, and enforcement. A second Visiting Scholars session was also conducted from October 30-November 9, 2000, with a similar program and schedule of presentations.



## Patents

The USPTO received 293,244 utility, plant, and reissue (UPR) applications in fiscal year 2000, a 12.3 percent increase over fiscal year 1999. The increased applications were primarily in the areas of telecommunications, information processing, and biotechnology. The USPTO also issued a record 165,504 UPR patents, a 15.2-percent increase over fiscal year 1999. For fiscal year 2001, UPR applications are expected to increase another 12 percent to approximately 327,500. Additionally, we anticipate 7,500 applications to be refiled as a result of AIPA legislation, for a total of 335,000 UPR applications, with the high technology areas again leading this growth. Among applications, 81.2 percent received a first Office action within 14 months or sooner. Pendency to first Office action finished at 13.6 months, better than the projected target of 14.2 months.



Nicholas P. Godici,  
Commissioner  
for Patents

Cooperation Treaty (PCT) also continued to increase. In fiscal year 2000, the USPTO received 36,671 international applications, an increase of 21.0 percent over the 30,305 international applications filed in fiscal year 1999.

Also in fiscal year 2000, 16,713 Demands for International Preliminary Examination were filed, an increase of 18.1 percent over the 14,151 Demands filed in fiscal year 1999. Additionally, 23,628 U.S. National Stage applications were submitted, 18.5 percent more than the 19,941 National Stage applications submitted the previous year.

### American Inventors Protection Act

On November 29, 1999, the AIPA was signed into law. It was the most significant change to the patent system since the 1952 Patent Act, and presented the USPTO with a number of challenges, as well as opportunities. The following are some of the key provisions of the Act that the USPTO began implementing in fiscal year 2000 in its strategic planning and performance goals, and will continue to implement in fiscal year 2001.

The AIPA provided that inventors must be compensated for certain USPTO processing delays and for delays in the prosecution of applications pending more than three years. Diligent applicants are guaranteed a minimum 17 year patent term under this provision. Accordingly, we have implemented the “14-4-4-36” timeliness standard. This standard provides commensurate restoration of a patent term to diligent applicants when the following requirements are not met by the USPTO:

Figure P-1  
Patent Applications and Examiner Disposals: FY 1998-2002

