



THE FUTURE

United States Patent and Trademark Office

# PERFORMANCE & ACCOUNTABILITY REPORT

**FY  
17**



OF INNOVATION



UNITED STATES  
PATENT AND TRADEMARK OFFICE



## FINANCIAL AND RELATED HIGHLIGHTS

(Dollars In Thousands)	% Change 2017 over 2016	For the year ended September 30, 2017	For the year ended September 30, 2016
Fund Balance with Treasury	(4.2%)	\$ 2,259,911	\$ 2,358,227
Property, Plant, and Equipment, Net	3.9%	523,842	504,025
Other Assets	7.1%	33,421	31,212
Total Assets	(2.6%)	<u>\$ 2,817,174</u>	<u>\$ 2,893,464</u>
Deferred Revenue	(2.5%)	\$ 936,854	\$ 960,398
Accounts Payable	8.8%	101,703	93,461
Accrued Payroll, Benefits, and Leave	4.3%	251,427	241,147
Other Liabilities	(0.9%)	149,638	150,936
Total Liabilities	(0.4%)	\$ 1,439,622	\$ 1,445,942
Net Position	(4.8%)	1,377,552	1,447,522
Total Liabilities and Net Position	(2.6%)	<u>\$ 2,817,174</u>	<u>\$ 2,893,464</u>
Total Earned Revenue	(0.9%)	\$ 3,105,346	\$ 3,133,370
Total Program Cost	2.4%	(3,193,411)	(3,119,584)
Net (Cost)/ Income from Operations	(738.8%)	\$ (88,065)	\$ 13,786
Budgetary Resources Available for Spending	(0.8%)	\$ 3,577,570	\$ 3,607,845
Net Outlays	(22.6%)	\$ 94,625	\$ 122,253
Federal Personnel	(1.1%)	12,588	12,725
On-Time Payments to Vendors	-%	99%	99%

## PERFORMANCE HIGHLIGHTS

Performance Measures	FY 2017 Target	FY 2017 Actual	Performance Results*
Patent Average First Action Pendency (months)	14.8	16.3	Not Met
Patent Average Total Pendency (months)	24.8	24.2	Met
Trademark Average First Action Pendency (months)	2.5-3.5	2.7	Met
Trademark Average Total Pendency (months)	12.0	9.5	Met
Trademark First Action Compliance Rate	95.5%	97.3%	Met
Trademark Final Compliance Rate	97.0%	98.3%	Met
Exceptional Office Action	40.0%	45.0%	Met
Trademark Applications Processed Electronically	82.0%	86.5%	Met
<i>Percentage of prioritized countries for which country teams have made progress on at least 75% of action steps in the country-specific action plans along the following dimensions:</i>			
<ul style="list-style-type: none"> <li>▪ Institutional improvements of intellectual property (IP) office administration for advancing IP rights,</li> <li>▪ Institutional improvements of IP enforcement entities, Improvements in IP laws and regulations, and</li> <li>▪ Establishment of government-to-government cooperative mechanisms.</li> </ul>	75%	100%	Met
Number of Foreign Government Officials Trained on Best Practices to Protect and Enforce IP	5,000	4,134	Not Met

\* The performance result of a given measure is either met (100% or greater of target), slightly below (95-99% of the target), or not met (below 95% of target).



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## THE FUTURE OF INNOVATION

As part of the agency's strategic goals, the USPTO supports government-wide efforts to promote Science, Technology, Engineering, and Mathematics (STEM) education initiatives for students of all ages. This year's cover features images from three programs, which directly support that goal. (Photos: Jay Premack, USPTO)



### **CAMP INVENTION**

Students conduct experiments while attending Camp Invention in Hyattsville, Maryland. Camp Invention holds one-week sessions at over 1,400 schools nationwide each summer. Fun, engaging programs are developed with the collaboration of National Inventors Hall of Fame inductees to challenge children's creativity, innovation, and problem-solving skills. Attendees also learn about the importance of protecting their intellectual property.

### **NATIONAL SUMMER TEACHER INSTITUTE**

Idaho teacher Delise Denham works on her team Innovation Challenge project at the National Summer Teacher Institute in Denver. Each year the USPTO gathers a select group of K-12 educators for workshops designed to help them teach invention, innovation, and the importance of intellectual property.

### **COLLEGIATE INVENTORS COMPETITION**

The Collegiate Inventors Competition showcases and rewards the cutting-edge research and innovation of some of the nation's top young minds. Competitors' inventions are designed to solve a wide range of scientific, medical, engineering, and humanitarian challenges. Finalists are not only judged by, but receive feedback, brainstorming, and encouragement from experts, including National Inventors Hall of Fame inductees.

Pictured are finalists Ameer Shakeel and Payam Pourtaheri of the University of Virginia, who won the 2016 undergraduate category for their invention of AgroSpheres, a solution to remove pesticide residue from crops before harvest.





Joe Matal

## MESSAGE FROM THE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

I am pleased to present the United States Patent and Trademark Office’s (USPTO) Performance and Accountability Report for Fiscal Year 2017. This report describes how we managed our resources and administered our programs, and provides an assessment of the USPTO’s detailed financial information. We continued making tremendous progress on the strategic goals set out in our [2014-2018 Strategic Plan](#).

### MISSION-FOCUSED STRATEGIC GOALS

#### GOAL I:

Optimize Patent Quality and Timeliness

#### GOAL II:

Optimize Trademark Quality and Timeliness

#### GOAL III:

Provide Domestic and Global Leadership to Improve intellectual Property Policy, Protection, and Enforcement Worldwide  
**MANAGEMENT GOAL:** Achieve Organizational Excellence

### PATENTS

In 2017, USPTO patent examiners continued to reduce total patent application pendency, although first action pendency rose slightly. First action pendency increased by 0.1 months and total pendency dropped by 1.1 months. While we achieved our total pendency target, we narrowly missed our first action pendency target by less than one month and are working hard to address challenges. We remain committed to achieving our pendency goals.

As part of the new administration’s efforts to encourage innovation, we expanded our activities to help applicants and their representatives navigate the patent prosecution process. One highlight is our work with pro se inventors—those applying for patents without an attorney—through the USPTO Pro Se Assistance Program. This program provides dedicated educational resources to these applicants, in-person assistance, and centralizes examination of the applications.

The Patent Trial and Appeal Board (PTAB) has successfully implemented the patent dispute resolution portions of the America Invents Act (AIA) and has continued to meet all AIA statutory deadlines. Despite high workload levels, PTAB remains committed to evaluating workload and resources to meet these deadlines.

### TRADEMARKS

Trademark filings increased by 12 percent in FY 2017. Nevertheless, our trademark attorneys exceeded pendency and quality targets for the 12th consecutive fiscal year. In addition, thanks in part to new fee increases in paper filing that went into effect in January 2017, fully electronic processing of trademark applications rose to 86.5 percent of applications in FY 2017.

Electronic filing benefits our users, workflow processes, data collection, and file management. It also supports our objective of end-to-end electronic processing of trademark applications. We will continue to engage with the public to identify ways to streamline processes, lessen the financial burden on applicants, and efficiently process trademark applications.

The Trademark Trial and Appeal Board (TTAB) issued a Request for Comments seeking customer input on a proposed streamlined cancellation proceeding as part of the USPTO’s ongoing effort to improve the accuracy of the U.S. Trademark Register. The proceeding would facilitate speedier, less costly challenges by petitioners seeking cancellation of registrations for unused marks. TTAB outreach included a public meeting to report on the comments received and to engage in a robust discussion with stakeholders regarding the proposal.



## **POLICY AND INTERNATIONAL AFFAIRS**

The Office of Policy and International Affairs continued to advise the Administration and Congress on intellectual property (IP) policy issues, including providing IP expertise in international trade matters. We also continued to develop and provide programs to improve IP systems in key countries and regions for the benefit of U.S. stakeholders. Participants included officials with IP-related responsibilities such as judges, prosecutors, patent and trademark examiners, and IP office administrators. In FY 2017, we trained over 7,000 participants, including more than 4,000 foreign government officials representing 120 countries. While we were below our target with respect to the number of foreign officials trained, this was due to a decision to shift our focus toward training more U.S. small- and medium-sized enterprises on how to navigate foreign IP systems. We also worked throughout FY 2017 to improve IP protection and enforcement for U.S. stakeholders around the world, with a strong focus on China.

## **ORGANIZATIONAL EXCELLENCE**

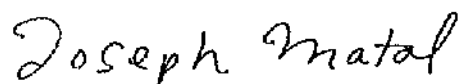
Last fiscal year, the Department of Commerce's Office of Inspector General (OIG) issued a report that included six recommendations on how the USPTO could strengthen its time and attendance systems to prevent abuse. We accepted all of the OIG's recommendations in an effort to improve our already extensive workforce oversight measures, and in some cases, we have gone well beyond the OIG's recommendations. Collectively, these changes ensure that the agency is transparent and accountable for the work that we do.

We are confident that the USPTO's financial and performance data are complete, reliable, accurate, and consistent. The USPTO, for the 25th consecutive year, earned an unmodified audit opinion on our annual financial statements. The independent auditors did not identify any material weaknesses or instances of non-compliance with laws and regulations for the FY 2017 financial reporting period.

Attaining and maintaining full, sustainable funding for the agency as a whole continues to present challenges. We will continue to pursue full access to all fee collections, seek permanent fee-setting authority, maintain prudent operating reserves, optimize the fee structure under existing authorities, and work to optimize the management and strategic use of the USPTO's financial resources. Failure in these areas could result in our inability to fulfill the performance commitments we make when setting fees, as well as loss of stakeholder confidence.

The USPTO is strongly positioned for success in the new fiscal year. We have a talented nationwide workforce, and we are committed to ensuring that they have the tools they need to succeed in a dynamic IP landscape. We are also committed to working with the IP community through a variety of public engagements and activities throughout the nation.

American ingenuity and creativity have long set the pace for discovery and advancement worldwide. Innovators, and the ideas they patent, are the foundation of economic growth and opportunity. We look forward to leading collaboration with our global IP partners to promote innovation for the betterment of all.



*Joseph Matal*

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

November 9, 2017

## The USPTO Mission

Fostering innovation, competitiveness, and economic growth, domestically and abroad, by delivering (1) high-quality and timely examination of patent and trademark applications, (2) guiding domestic and international intellectual property policy, and (3) delivering intellectual property information and education worldwide, with a highly-skilled, diverse workforce.

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**INTRODUCTION**





## ABOUT THIS REPORT

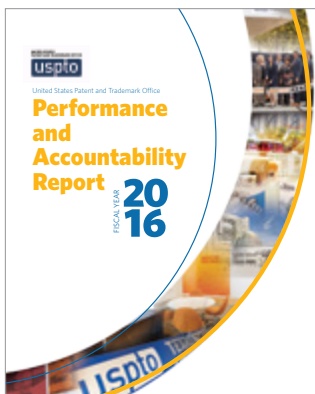
The United States Patent and Trademark Office (USPTO) Performance and Accountability Report (PAR) provides information on the USPTO’s programs and the results of the agency’s programmatic and financial performance for fiscal year (FY) 2017. This report demonstrates to Congress, the administration, and to the public the USPTO’s efforts to promote transparency and accountability over the resources entrusted to the agency. This report is available on the USPTO’s website at [www.uspto.gov/annualreport](http://www.uspto.gov/annualreport) and satisfies the reporting requirements contained in the following legislation:

- Title 35 U.S.C. § 13;
- Leahy-Smith America Invents Act (AIA) of 2011;
- Federal Managers’ Financial Integrity Act of 1982;
- Government Performance and Results Modernization Act of 2010;
- Government Management Reform Act of 1994;
- Accountability of Tax Dollars Act of 2002;
- Improper Payments Information Act of 2002, as amended;
- Reports Consolidation Act of 2000;
- Federal Financial Management Improvement Act of 1996; and
- Chief Financial Officers Act of 1990.

The USPTO’s program and financial performance is summarized in the USPTO Citizen Centric Report, available on the USPTO website at [www.uspto.gov/annualreport](http://www.uspto.gov/annualreport).

### CONTRIBUTORS

The financial and program performance information presented in this report is the joint effort of the Office of the Under Secretary and Director, the Patent organization, the Trademark organization, the Office of Policy and International Affairs (OPIA), the Patent Trial and Appeal Board (PTAB), the Trademark Trial and Appeal Board (TTAB), the Office of the Chief Information Officer (OCIO), the Office of the Chief Administrative Officer (OCAO), the Office of Equal Employment Opportunity and Diversity (OEEOD), the Office of the Chief Communications Officer (OCCO), the Office of the General Counsel (OGC), and the Office of the Chief Financial Officer (OCFO).



Last year’s PAR cover and AGA’s Certificate of Excellence in Accountability Reporting



## YOUR GUIDE TO USING THIS REPORT

**THIS REPORT IS ORGANIZED INTO FOUR SECTIONS, PLUS A GLOSSARY AND URL INDEX.**

### **MANAGEMENT'S DISCUSSION AND ANALYSIS SECTION**

This section provides an overview of the USPTO's historical facts, mission, organization, and its strategic framework. A summary of significant case law developments and the agency's FY 2017 program and financial performance are provided, in addition to management's assessment of the challenges facing the USPTO and its assurances on the USPTO's internal controls. The program performance information is provided in more detail in the **Performance Information Section**, and the financial information is provided in more detail in the **Financial Section**.

### **PERFORMANCE INFORMATION SECTION**

The Performance Information Section details the USPTO's performance accomplishments relative to the [agency's strategic plan](#) as required by Office of Management and Budget (OMB) Circular A-11, "Preparation, Submission, and Execution of the Budget." This section identifies the USPTO's key and supporting performance metrics and presents results achieved under the strategic goals and objectives. An overview is also provided of how the performance data are verified and validated.

### **FINANCIAL SECTION**

A message from the USPTO's Chief Financial Officer opens this section, followed by the agency's audited financial statements, accompanying notes, required supplementary information, and the independent auditor's report.

### **OTHER INFORMATION SECTION**

This section provides the top management challenges facing the USPTO, as identified by the Inspector General (IG); a summary table of financial statement audit and management assurances; information on the agency's efforts to eliminate improper payments; information on the government-wide effort to reduce the federal footprint; matters related to the Federal Civil Penalties Inflation Adjustment Act of 1990; other administrative updates; and reporting requirements required under USPTO legislation (the Nature of Training Provided to the USPTO Examiners and FY 2017 Workload Tables).

### **GLOSSARY OF ACRONYMS AND ABBREVIATIONS**

The glossary lists and defines the acronyms used throughout this report.

### **URL INDEX**

For those using the paper version of the USPTO PAR, the items underlined in text can be found in the URL Index on page 201. It provides full Web addresses for all hyperlinks included in the Management's Discussion and Analysis narrative.



# **MANAGEMENT'S DISCUSSION AND ANALYSIS**



## MISSION AND ORGANIZATION OF THE USPTO

The USPTO's mission is derived from Article I, Section 8, Clause 8, of the U.S. Constitution, "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries," and from the Commerce Clause of the Constitution (Article I, Section 8, Clause 3) supporting the federal registration of trademarks.

In addition, the USPTO has a statutory mandate (35 U.S.C. § 2(a)) to advise the President and all federal agencies, through the Secretary of Commerce, on national and international intellectual property (IP) policy issues. The USPTO is also authorized by statute to provide IP education worldwide, to conduct programs and studies on IP, and to interact with intergovernmental organizations and with other IP offices throughout the world.

For most of the last century, the United States has been the clear leader in developing new technologies, products, and entire industries that provide high-value jobs for Americans under the legal framework that the USPTO leads.

As an agency of the U.S. Department of Commerce, the USPTO is uniquely situated to support the Department's mission to create conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship. The USPTO supports the Department of Commerce's goal of fostering a more innovative U.S. economy—one that is better at inventing, improving, and commercializing products and technologies. The USPTO also supports the Department of Commerce's goal of expanding the U.S. economy through increased exports and inward foreign investment that will lead to more and better American jobs.

### **OUR ORGANIZATION**

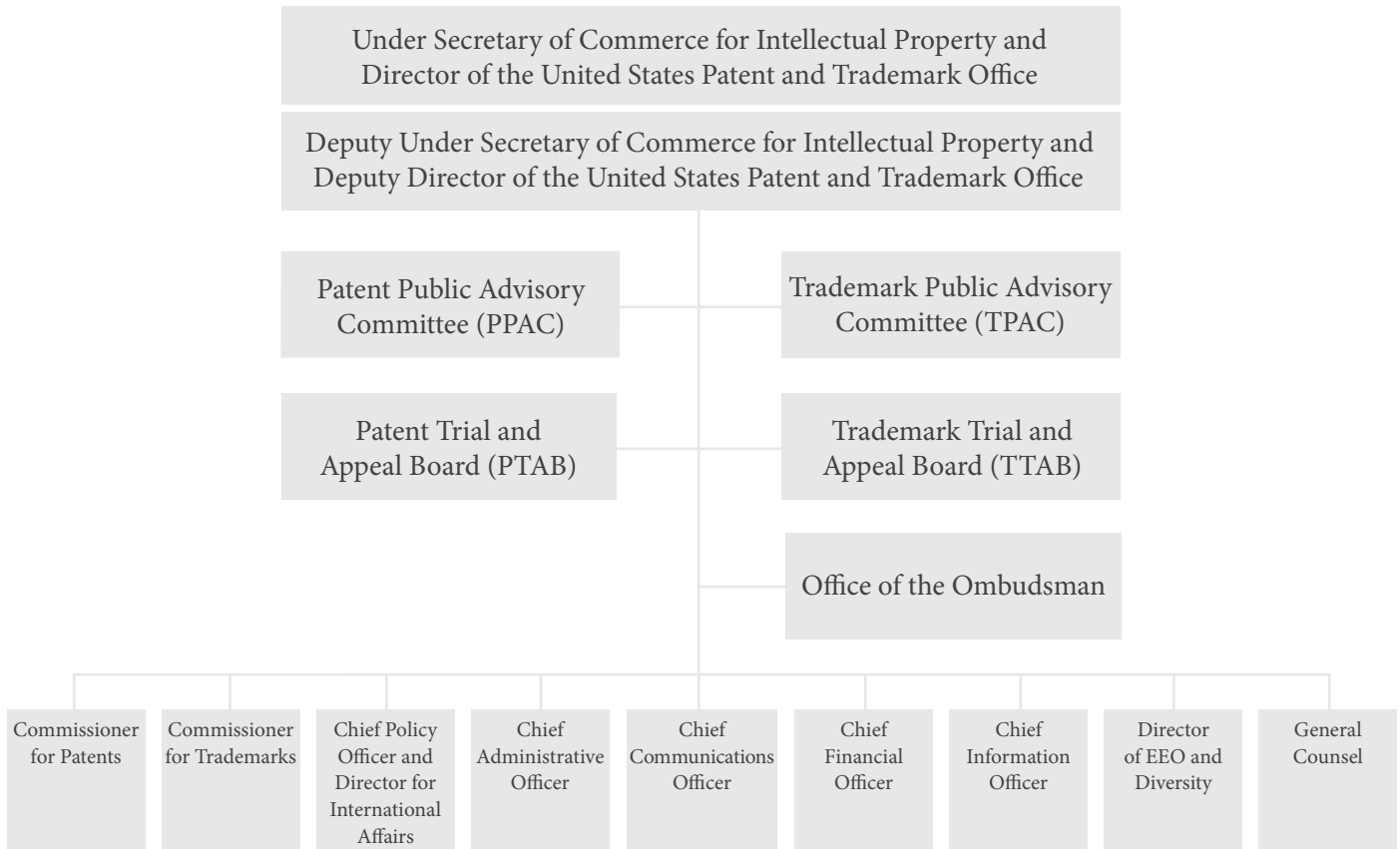
As shown in Figure 1, the USPTO is led by the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, who consults with the Patent Public Advisory Committee (PPAC) and the Trademark Public Advisory Committee (TPAC). The USPTO is composed of two major business lines, the Patent Business Line and the Trademark Business Line. Its policy and international work is spearheaded by OPIA, and the USPTO also has several other supporting units.

Headquartered in Alexandria, Va., the USPTO also has four regional offices: the Elijah J. McCoy Midwest Regional Office in Detroit, Mich.; the Rocky Mountain Regional Office in Denver, Colo.; the Silicon Valley Regional Office in San Jose, Calif.; and the Texas Regional Office in Dallas, Texas. The USPTO has two storage facilities located in Virginia and Pennsylvania.

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 (AIPA) established the USPTO as an agency with performance-based attributes. For example, the USPTO has a clear mission statement, measurable services, a performance measurement system providing performance expectations to customers, and known sources of funding from those customers. In 2011, the America Invents Act (AIA) was enacted, and the reforms under this law help the USPTO to improve and clarify patent rights, reduce the application backlog, and offer effective alternatives to costly patent litigation. It also provided temporary fee-setting authority that is essential to the USPTO's sustainable funding model.

Figure 1.

## U.S. PATENT AND TRADEMARK OFFICE ORGANIZATIONAL CHART



See <http://www.uspto.gov/about-us> for more details about the USPTO organization.

### PATENT ORGANIZATION

The Patent organization examines patent applications to determine whether the claimed invention is eligible for patent protection, useful, adequately disclosed, clearly defined, and evaluates the claimed invention in comparison to a large body of technological information to determine whether it is novel and non-obvious. Patent examiners also respond to appeal briefs on applications appealed to the PTAB and prepare preliminary examination reports for international applications filed under the Patent Cooperation Treaty (PCT). The patent process includes performing an administrative review of newly filed applications, publishing pending applications, issuing patents to successful applicants, and disseminating issued patents to the public.

## **TRADEMARK ORGANIZATION**

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.

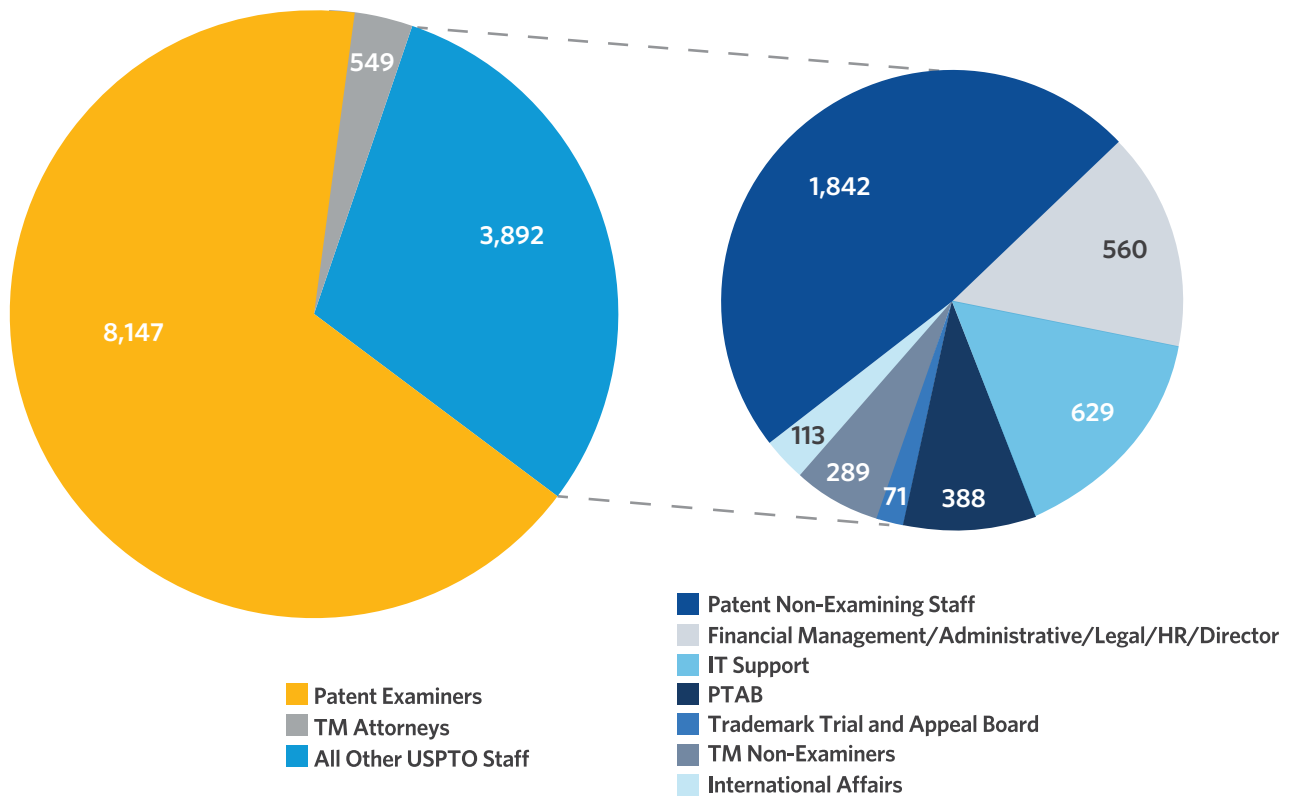
## **POLICY AND INTERNATIONAL AFFAIRS**

OPIA supports the Under Secretary and Director's Office in fulfilling the USPTO's statutory mandate to advise the President (through the Secretary of Commerce) and all federal agencies on all IP policy issues, to conduct programs and studies on IP, and to work with IP offices and intergovernmental organizations worldwide. OPIA's work includes advising the Secretary of Commerce and the administration on the full range of IP policy matters, providing educational programs on IP, leading negotiations on behalf of the United States at the World Intellectual Property Organization (WIPO); providing expert assistance in negotiating the IP provisions of international trade agreements and advising on their implementation; managing the IP Attaché Program, through which IP experts are placed in cities throughout the world to promote appropriate IP protection; engaging with Congress and other federal agencies on IP legislation; and performing and supporting empirical studies of the economic impacts of IP and innovation.

## **OUR PEOPLE**

At the end of FY 2017, the USPTO workforce (Figure 2) was composed of 12,588 federal employees, including 8,147 patent examiners, 549 trademark examining attorneys, and 3,892 other staff performing functions in areas including, but not limited to, patent and trademark trial and appeal boards, international affairs, congressional relations, information technology (IT) support, financial management, administrative duties, legal affairs, human resources, and supporting the Under Secretary and Director's office.

Figure 2.  
**USPTO STAFFING**







## SIGNIFICANT CASE LAW DEVELOPMENTS

### RECENT DECISIONS

The USPTO continues to play a critical role in shaping IP law through litigation, as both a party and as an amicus (i.e., “friend of the court”). The agency’s IP litigation responsibilities fall primarily on the Office of the Solicitor within the USPTO’s OGC. The Solicitor’s Office defends the agency’s IP policy and procedures in federal court, including the decisions of the agency’s two administrative boards (i.e., the PTAB and TTAB), the decisions of the Director, and the agency’s rulemaking and policies. This litigation encompasses a broad spectrum of legal issues that affect both agency practice and substantive patent and trademark law.

In FY 2017, the USPTO worked with the Solicitor General’s Office on several important IP cases at the U.S. Supreme Court. Notably, the USPTO appeared as a party in *Matal v. Tam*, a case concerning the constitutionality of section 2(a) of the Trademark Act that precludes the USPTO from registering marks that “disparage . . . persons, . . . institutions, beliefs, or national symbols.” In 2011, Simon Shiao Tam sought federal registration for his rock band’s mark, The Slants. The USPTO refused registration under the disparagement provision of section 2(a), finding that the band’s name was disparaging to persons of Asian descent. Tam appealed, arguing that the band name represents “a way to reclaim a racial slur and to assert Asian pride.” The Supreme Court eventually struck down the disparagement provision of section 2(a) as unconstitutional, holding that it violated the First Amendment’s Free Speech Clause. This holding produced an immediate effect in another trademark case pending in the U.S. Court of Appeals for the Fourth Circuit: *Pro-Football, Inc. v. Blackhorse*, an appeal from a district court decision affirming the USPTO’s cancellation of several trademark registrations for marks containing the term *Redskins* as disparaging to Native Americans. Consistent with the *Tam* decision, the United States and the appellees asked the Fourth Circuit to reverse the district court’s judgment and remand the case with instructions to enter a judgment in favor of Pro-Football.

On other fronts, the USPTO achieved a major victory in *NantKwest v. Matal*, securing full compensation for resources spent in the defense of section 145 appeals. More specifically, patent applicants dissatisfied with the final outcome of patent prosecution proceedings may seek judicial review in an appeal to the Federal Circuit under 35 U.S.C. § 141, or in a civil action in the U.S. District Court for the Eastern District of Virginia under 35 U.S.C. § 145. Section 145 provides that applicants seeking relief in the latter forum must pay “[a]ll of the expenses of the proceeding,” “regardless of the outcome.” Although the USPTO had not previously interpreted “all of the expenses of the proceeding” to include attorney and paralegal fees, that changed when the Fourth Circuit issued its 2015 decision in *Shammas v. Focarino*, confirming the USPTO’s entitlement to attorney and paralegal fees under the analogous trademark statute, that is, 15 U.S.C. § 1071(b). After prevailing on the merits in the district court in *NantKwest v. Matal*, the USPTO sought to recover over \$110,000 in expenses from NantKwest under section 145, including attorney and paralegal fees (calculated using an adjusted hourly rate based on employee annual salaries). Although the district court granted the USPTO’s expert fees request, it denied the USPTO’s request for attorney and paralegal fees, citing the “American Rule,” under which litigants pay their own attorneys’ fee—win or lose—unless a statute or contract provides otherwise. A three-judge panel of the Federal Circuit reversed, holding that section 145 entitles the USPTO to compensation for the diversion of its resources to defend the PTAB’s decisions in section 145 appeals. At the end of August 2017, the court decided sua sponte to rehear the case en banc (i.e., by all active judges of the court). If the en banc court upholds the panel decision, the USPTO may then seek the reimbursement of \$208,000 in attorney and paralegal fees for those section 145 cases concluding during FY 2017 alone.



# PERFORMANCE HIGHLIGHTS

## INTRODUCTION TO PERFORMANCE

This section of the Management's Discussion and Analysis describes the USPTO's strategic and performance-planning framework and provides highlights of the agency's FY 2017 performance results. The USPTO issued its [2014-2018 Strategic Plan](#) in 2014. The Plan demonstrates the progress made to date by building on the tangible successes of recent years with a focus on achieving the USPTO's vision as a global IP leader by:

- Establishing progress toward the optimal pendency and quality levels for both patents and trademarks that will enable the USPTO to operate efficiently and effectively within the expectations of the IP community;
- Administering effectively the provisions of the AIA;
- Continuing to transform the USPTO with next-generation technology and services;
- Maintaining a strong and diverse leadership team, agile management structure, and a diverse and engaged cadre of employees in achieving the agency's mission and vision;
- Continuing to work with other government agencies, Congress, and the USPTO's global partners to establish IP systems that benefit innovation, create jobs, and lead to strong economies around the world; and
- Recruiting and retaining the highest quality employees to accomplish the agency's important work.

The USPTO's *2014-2018 Strategic Plan* recognizes that innovation has become a principal driver of the modern economy by stimulating economic growth and creating high-paying jobs. America's innovators rely on the U.S. patent and trademark systems to secure investment capital and to bring their products and services to the marketplace as soon as possible. As a result, it is critical that the USPTO thrive for American innovation to succeed.

## STRATEGIC PERFORMANCE FRAMEWORK

To fulfill the mission and goals included in the *2014-2018 Strategic Plan*, the USPTO developed a comprehensive Strategic Performance Framework that guides and monitors implementation of its objectives, initiatives, and performance measures and indicators. The comprehensive framework also includes the balanced scorecard that is included in the Accompanying Information section of the *2014-2018 Strategic Plan* (pp. 28-38). Each responsible business unit prepared action plans for implementing each of the initiatives, and results are documented semiannually and reported to the Director and executive staff.

The USPTO's strategic goals are aligned to the U.S. Department of Commerce's strategic goals and objectives. These priorities support the U.S. Department of Commerce's strategic objectives of increasing opportunities for U.S. companies by opening markets globally, increasing the capacity of U.S. regional economies to accelerate the production of value-added goods and services, strengthening the nation's digital economy by championing policies that maximize the potential of the Internet, expanding broadband capacity, enhancing cybersecurity, and accelerating growth of innovation-intensive

economic sectors by building public and private capacity to invent, improve, and commercialize new products and services.

For 2017, there were 10 Strategic Plan key performance outcome measures, all designed to monitor progress as the USPTO implements initiatives to achieve its strategic goals. Annual performance targets were developed for each measurable outcome. Supporting measures are metrics that support or facilitate progress on the key performance measures, and many can be seen online in the [USPTO's Data Visualization Center](#). In FY 2017, the USPTO met or exceeded its targets for 8 out of 10 key performance metrics. A summary of the key performance measurement results is provided in Tables 1 and 2.

**TABLE 1: SUMMARY OF FY 2017 KEY PERFORMANCE MEASURE RESULTS**

Strategic Goal	Total Number of Objectives	Total Number of <b>Key Performance Measures</b>	Key Performance Measures that <b>Met Target</b>	Key Performance Measures that Were <b>Slightly Below Target</b>	Key Performance Measures Where the Target was <b>Not Met</b>
<b>Goal I:</b> Optimize Patent Quality and Timeliness	7	2	1	-	1
<b>Goal II:</b> Optimize Trademark Quality and Timeliness	5	6	6	-	-
<b>Goal III:</b> Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide	2	2	1	-	1
<b>Management Goal:</b> * Achieve Organization Excellence	4	-	-	-	-
<b>TOTAL</b>	<b>18</b>	<b>10</b>	<b>8</b>	<b>-</b>	<b>2</b>

\*At the USPTO, the Management Goal enables the three primary strategic goals for patent, trademark, and policy and international affairs. Management Goal performance measures are subsets of the performance indicators contained within the first three strategic goals.

The FY 2017 USPTO performance results are illustrated in Table 2 and Figure 3. The goals and objectives for these performance commitments are outlined in the strategic framework presented in Table 3. A summary of strategic goal results by strategic goal is presented in Figure 3.

**TABLE 2**

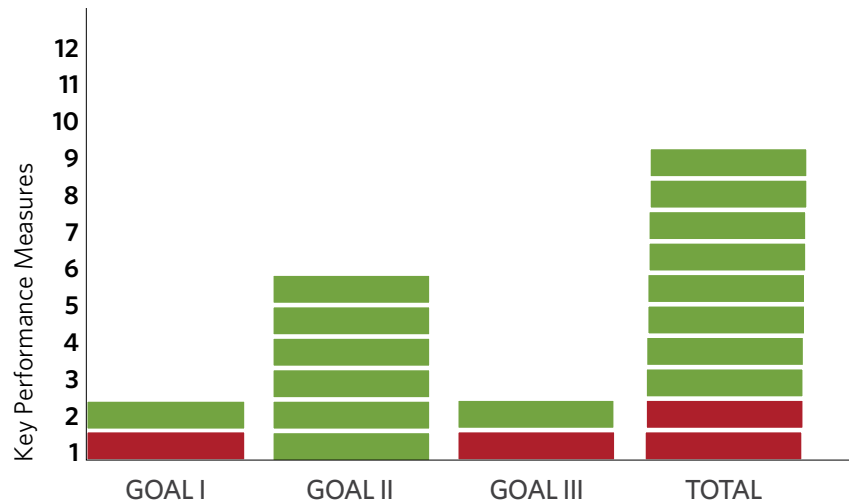
Summary of Key Strategic Goal Results for FY 2013–2017						
Strategic Goals Key Performance Measures	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 Actual	FY 2017 Target	FY 2017 Actual*
<b>GOAL I: Optimize Patent Quality and Timeliness</b>						
Average First Action Pendency (months)	18.2	18.4	17.3	16.2	14.8	16.3
Average Total Pendency (months)	29.1	27.4	26.6	25.3	24.8	24.2
<b>GOAL II: Optimize Trademark Quality and Timeliness</b>						
Average First Action Pendency (months)	3.1	3.0	2.9	3.1	2.5–3.5	2.7
Average Total Pendency (months)	10.0	9.8	10.1	9.8	12.0	9.5
First Action Compliance Rate	96.3%	95.8%	96.7%	97.1%	95.5%	97.3%
Final Compliance Rate	97.1%	97.2%	97.6%	97.8%	97.0%	98.3%
Exceptional Office Action	35.1%	43.0%	48.3%	45.4%	40.0%	45.0%
Applications Processed Electronically	79.0%	80.7%	82.2%	84.8%	82.0%	86.5%
<b>GOAL III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide</b>						
Percentage of prioritized countries for which country teams have made progress on at least 75% of action steps in the country-specific action plans along the following dimensions: <ul style="list-style-type: none"> <li>• Institutional improvements of intellectual property (IP) office administration for advancing IP rights,</li> <li>• Institutional improvements of IP enforcement entities,</li> <li>• Improvements in IP laws and regulations, and</li> <li>• Establishment of government-to-government cooperative mechanisms.</li> </ul>	100.0%	100.0%	100.0%	100.0%	75.0%	100.0%
Number of Foreign Government Officials Trained on Best Practices to Protect and Enforce Intellectual Property	7,078	4,960	5,283	4,975	5,000	4,134

\*Current year actuals are preliminary and may change after the publication of this report. Subsequent changes, if any, will be reported in the FY 2018 Performance and Accountability Report.

■ Met (100% of target)    
■ Slightly below (95–99% of target)    
■ Not met (below 95% of target)

Figure 3.

**2017 PERFORMANCE RESULTS BY STRATEGIC GOAL**



\*At the USPTO, the Management Goal enables the three primary strategic goals for patent, trademark, and policy and international affairs. Management Goal performance measures are subsets of the performance indicators contained within the first three strategic goals.

- Met (100% of target)
- Slightly below (95-99% of target)
- Not met (below 95% of target)

**SUMMARY OF STRATEGIC GOAL RESULTS**

Table 2 highlights the FY 2017 actual performance results for the USPTO’s key performance measures against established goal objectives and performance targets. For those measures that have been retained from prior fiscal years, the table also includes actual performance results for the past four fiscal years. For the latest updated status of these and other performance measures, please visit the USPTO’s [Data Visualization Center](#). More complete performance data are included in the Performance Information Section.

**TABLE 3**

2014-2018 Strategic Plan	
<b>MISSION</b>	
Fostering innovation, competitiveness and economic growth, domestically and abroad by delivering high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide, with a highly-skilled, diverse workforce.	
<b>VISION</b>	
Leading the Nation and the World in Intellectual Property (IP) Protection and Policy	
Strategic Goals with Resources Invested	Objectives
<b>Goal I:</b> <b>Optimize Patent Quality and Timeliness</b> Obligations: \$2,875.3 million Total Program Cost: \$2,856.7 million	Refine Optimal Patent Pendency
	Increase Efficiencies and Patent Examination Capacity to Align with the Optimal Patent Pendency
	Increase International Cooperation and Work Sharing
	Continue to Enhance Patent Quality
	Ensure Optimal Information Technology (IT) Service Delivery to All Users
	Continue and Enhance Stakeholder and Public Outreach
	Maintain the Patent Trial and Appeal Board's (PTAB's) Ability to Provide Timely and High-Quality Decisions
<b>Goal II:</b> <b>Optimize Trademark Quality and Timeliness</b> Obligations: \$281.9 million Total Program Cost: \$285.2 million	Maintain Trademark First Action Pendency on Average Between 2.5-3.5 Months with 12 Months Pendency
	Maintain High Trademark Quality
	Ensure Optimal IT Service Delivery to All Users
	Continue and Enhance Stakeholder and Public Outreach
	Enhance Operations of the Trademark Trial and Appeal Board (TTAB)
<b>Goal III:</b> <b>Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide</b> Obligations: \$46.9 million Total Program Cost: \$51.5 million	Provide Leadership and Education on IP Policy and Awareness
	Provide Leadership and Education on International Agreements and Policies for Improving the Protection and Enforcement of IP Rights
<b>MANAGEMENT GOAL:</b> <b>Achieve Organizational Excellence *</b>	Leverage IT Investments to Achieve Business Results
	Continue to Build and Maintain a Flexible, Diverse, and Engaged Workforce
	Enhance Internal and External Relations
	Secure Sustainable Funding to Deliver Value to Fee-Paying Customers and the Public
	Establish Regional (formerly Satellite) Offices and a Regional Presence

\*The cost associated with Management Goal activities is distributed among the agency's primary Strategic Goals I, II, and III.



## MANAGEMENT CHALLENGES AND WHAT'S AHEAD

*Achieving success is not without its challenges. The USPTO is committed to overcoming its challenges in its implementation of strategic goals, objectives, and initiatives as enumerated in the 2014–2018 Strategic Plan. These challenges are detailed in the following section.*

### **SUSTAINABLE FUNDING**

Attaining and maintaining full, sustainable funding continues to present challenges. The USPTO will continue to pursue full access to all fee collections, seek permanent fee-setting authority, maintain prudent operating reserves, optimize the fee structure under existing authorities, and work to optimize the management and strategic use of USPTO's financial resources. Failure in these areas could result in the agency's inability to fulfill the performance commitments it makes when setting fees, as well as loss of customer and stakeholder confidence.

The USPTO's fees are set at rates intended both to cover the cost of services provided and to allow the agency to maintain prudent operating reserves that help mitigate the high level of complexity and uncertainty in the agency's operating environment; however, the USPTO has not consistently received authority to spend all of the fees it collects. The AIA (Pub. Law 112-29) attempted to provide the USPTO full and timely access to its fees by establishing the Patent and Trademark Fee Reserve Fund (PTFRF)—a separate Treasury account into which all fees collected in excess of the USPTO's annual appropriation are deposited and reserved for the USPTO's exclusive use. Challenges like government-wide sequestration, however, continue to jeopardize the USPTO's ability to access its fees.

As the USPTO's needs and the economic and legal environment in which it operates constantly evolve, it must regularly analyze its fee structure and make adjustments to ensure that the USPTO fee schedule both supports sound public policy and generates sufficient income to fund agency operations. The pending expiration of the temporary fee-setting authority provided under the AIA (currently scheduled to sunset on September 16, 2018) represents a significant risk for the agency. The USPTO has implemented a thoughtful and transparent fee-setting process to ensure Congress and stakeholders will entrust the USPTO with fee-setting authority beyond the sunset date.

Finally, as the agency evolves, the USPTO is looking to not only secure sustainable funding, but also to continue to optimize the management of USPTO's financial resources. The USPTO will need to continue assessing how and when it expends resources throughout the year to ensure that sufficient funding is continually available to support USPTO's mission.

### **ADMINISTERING AIA PATENT DISPUTE RESOLUTION PROVISIONS**

The AIA has continued to significantly affect the operations of the PTAB. Continued success in implementing the patent dispute resolution portions of the AIA has increased the PTAB's case workload to levels that make meeting the AIA's 12-month pendency requirements challenging. Since the implementation of the AIA in September 2012, the inter partes review and post-grant review workload has grown and now represents about a third of the total PTAB workload. The PTAB, however, has continued to meet all AIA statutory deadlines, while simultaneously reducing the ex parte appeal backlog. For a more in-depth discussion on how PTAB is currently addressing these issues, please



see Goal I, Objective 7, “Maintain PTAB’s Ability to Provide Timely and High-Quality Decisions” on page 57.

## **RELIANCE ON INFORMATION TECHNOLOGY**

The USPTO relies upon IT as a mission-critical enabler for every aspect of its operation. Less than 15 years ago, most patent and trademark applications arrived on paper, and the USPTO expended vast resources to process that paper, including over four acres of public search rooms that housed paper copies of granted patents and trademarks. Since then, the USPTO has become “paperless,” and the quality, efficiency, and productivity of today’s patent and trademark operations depend on the performance of their IT systems.

The USPTO continuously conducts multi-year efforts to upgrade its business systems and the supporting IT infrastructure to keep pace with emerging business needs and technology standards. This includes providing a nationwide workforce “24/7/365” operational capability, improving IT support for examination and revenue-collection capabilities, providing IT recovery capabilities to sustain the business, making more successful and more reliable IT deployments, and enhancing the understanding of the interactions between IT and business functions.

The USPTO will continue to enhance the IT capabilities offered for both patent and trademark business areas and maintain effective legacy systems during transition to their retirement. These include implementing core electronic examination tools for document management and searching; improving interactions for filing, searching, payment, and communication; and making it easier and more secure to conduct business with the USPTO.

## **LEGAL CHALLENGES**

The USPTO continued to face legal challenges to its interpretation of the AIA and regulations implementing the statute in FY 2017. These challenges follow on the heels of the agency’s 2016 victory in *Cuozzo Speed Technologies, LLC v. Lee*. In *Cuozzo*, the U.S. Supreme Court sustained the USPTO’s interpretation of the statute governing inter partes review and held that the Agency’s decisions to institute these proceedings are not reviewable by the courts. This year, the USPTO intervened in *Wi-Fi One, LLC v. Broadcom Corp.* to similarly argue that the courts lack jurisdiction to review agency findings regarding the timeliness of petitions to institute inter partes review. That case is currently pending before the Federal Circuit. The agency is also working with the Solicitor General’s Office in *SAS Institute, Inc. v. Lee* to defend the USPTO’s position that the AIA does not require the PTAB to address all of the patent claims raised in a petition seeking inter partes review in its final written decision on the merits. That case is currently pending before the U.S. Supreme Court. The USPTO is also working with the Solicitor General to formulate the government’s amicus position in *Oil States Energy Services v. Greene’s Energy Group*, in which the Supreme Court will decide whether inter partes review violates the Seventh Amendment of the U.S. Constitution by extinguishing a private property right through a non-Article III forum without a jury. The USPTO also defended the agency’s practice of placing the burden of demonstrating the patentability of proposed new claims on patentees during inter partes review proceedings before the Federal Circuit, sitting *en banc*, in *In re Aqua Products, Inc.* The USPTO expects challenges like these to continue over the next few years as more cases implementing new AIA procedures become ripe for review.



## SYSTEMS AND CONTROLS

### MANAGEMENT ASSURANCES

**O**n the basis of the USPTO's comprehensive internal control program during FY 2017, the USPTO can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations, reporting, and compliance with applicable laws and regulations as of September 30, 2017, 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 Enterprise Risk Management and 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, 2017 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, 2017 and September 30, 2017.*

*Joseph Matal*

Joseph Matal

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

October 10, 2017

### **Federal Managers' Financial Integrity Act (FMFIA)**

The FMFIA requires federal agencies to provide an annual statement of assurance regarding management controls and financial systems. 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 are to ensure:

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

The statement of assurance is based on the wide variety of evaluations, control assessments, internal analyses, reconciliations, reports, and other information, including the U.S. Department of Commerce's Office of Inspector General (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, the USPTO is not identified on the Government Accountability Office's High Risk List related to controls governing various areas.

### **Federal Financial Management Improvement Act (FFMIA)**

The FFMIA requires federal agencies to report on an agency's substantial compliance with federal financial management system requirements, federal accounting standards, and the U.S. Standard General Ledger at the transaction level. In accordance with OMB Circular A-123, Appendix D, substantial compliance is achieved when an agency's financial management systems routinely provide reliable and timely financial information for managing day-to-day operations as well as to produce reliable financial statements, maintain effective internal control, and comply with legal and regulatory requirements. The USPTO complied substantially with the FFMIA for FY 2017.

### **OTHER COMPLIANCE WITH LAWS AND REGULATIONS**

#### **Federal Information Security Management Act (FISMA)**

The USPTO remains vigilant in reviewing administrative controls over information systems and is always seeking methods of improving our security program. During FY 2017, the USPTO continued its dedicated efforts in support of compliance with FISMA standards and improvement of our security program. The USPTO IT Security Program includes a strategy for continuous monitoring, which conducts credentialed compliance and vulnerability scans on servers, network devices, databases, and Web-applications on a quarterly basis. The quarterly analysis is being performed to ensure that operating systems have been configured in accordance with their security baseline and appropriate software patch levels. New secure baseline configuration guides are being developed with current configuration settings based on the addition of the newer operating systems devices. Additionally, the IT Security program has integrated artifacts to support Security Impact Analysis within the systems development lifecycle that allow assessment of testing requirements for systems undergoing new developments, enhancements, or maintenance. This proactive approach to security within the development process has successfully assessed changes and enabled security compliance for systems as they are being developed or updated.

As a result, the Chief Information Security Officer and the OCIO staff working together made a concerted effort to meet the compliance requirements of FISMA, while also meeting the reporting requirements to OMB. These endeavors were a success. All USPTO systems achieved a 100 percent FISMA compliance reporting level for FY 2017. There were no deficiencies identified that are considered to be the result of any material weaknesses in internal control. As a result of the work accomplished, the USPTO was able to continue with continuous monitoring and provide an accurate summary of information consistent with OMB reporting requirements for year-end reporting.

The Inspector General's Statement of Management Challenges for the DOC (referred to in the Other Information section of this report) identifies IT security as a cause for concern department-wide, to include the USPTO. While the OIG continues to report IT security as a Commerce-wide concern, USPTO management does not agree that any of the USPTO-specific FISMA findings, either individually or collectively, rise to the level that would require treating the matter as a material weakness. As indicated, the USPTO's continuous monitoring and proactive approach to security compliance for systems provides the support for removing the material weakness at the USPTO.

The USPTO continues to coordinate closely with the OIG throughout the year, as well as review annual assessments with the OIG, to gain additional insight and ensure compliance with requirements.

### **Improper Payments Elimination and Recovery Act**

We continue to maintain internal control procedures that help monitor disbursement of federal funds for valid obligations. The USPTO continues to assess improper payment risks covering all programs and activities, as required by OMB Circular A-123, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*. These improper payment risk assessments include assessments of the control and procurement environments, and are now in the continuous process stage of being updated annually. Additional details can be found in the Other Information section of this report (see page 154).

### **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 2017, the USPTO did not pay interest penalties on 99.8 percent of the 10,069 vendor invoices processed, representing payments of approximately \$853.8 million. Of the 14 invoices that were not processed in a timely manner, the USPTO was required to pay interest penalties on all 14 invoices. The USPTO paid \$19 in interest penalties for every million dollars disbursed in FY 2017. Virtually all recurring payments were processed by EFT in accordance with the EFT provisions of the Debt Collection Improvement Act of 1996.

### **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 120 days old has been transferred to the U.S. Department of the Treasury for cross-servicing.

### **Digital Accountability and Transparency Act of 2014**

The Digital Accountability and Transparency Act of 2014 (DATA Act) aims to increase the accessibility, accuracy, and usefulness of Federal spending information. The DATA Act establishes government-wide data standards for financial data, seeks to simplify financial reporting, and provides consistent, reliable, accurate, and searchable spending data that is accurately displayed for taxpayers and policy makers on USASpending.gov.

The budget, financial spending, and award data that is required to be submitted to comply with the DATA Act currently is housed in a single source system at the USPTO. Most of the activities required to implement the DATA Act at the USPTO entailed extracting, validating, and reconciling the data prior to submission to Treasury. With minimal operational business process changes, the USPTO is using existing system resources to comply with the reporting requirements. In accordance with the DATA Act requirements, for all periods required during FY 2017, the USPTO reported financial and payment data in accordance with data standards established by the Department of Treasury and OMB.

## **OTHER SYSTEMS AND CONTROL CONSIDERATIONS**

### **Financial Management Systems Strategy**

The USPTO's Consolidated Financial System (CFS) provides support for financial management, fee collections, procurement, and travel management functions to the USPTO. CFS leverages several Commercial-off-the-shelf (COTS)/Government-off-the-shelf (GOTS) products, including a core financial and acquisition system (Momentum Financials), an acquisition tool (Aeon), an eTravel system (Concur), a budget execution and compensation projection system (Corporate Planning Tool built using Cognos Planning), a statistical analysis tool (Automated Fee Forecasting built using Alteryx), a cost accounting system (Activity Based Information System built using the Profitability and Cost Management tool), and a data warehouse (Enterprise Data Warehouse accessed using Business Objects). Additionally, CFS includes an internally developed fee collection system (Revenue Accounting and Management (RAM) and Fee Processing Next Generation (FPNG)), an imaging system (Office of Finance Imaging System (OFIS) built using Documentum), a content repository (Electronic Library for Financial Management Systems (EL4FMS) built using Cassandra and DataStax) and an internally developed application to automate the transit subsidy program (Transit Subsidy System).

The FPNG investment is replacing RAM, the USPTO's legacy fee collection system. The final release of the multi-year FPNG investment that replaces RAM is planned for FY 2018. FPNG uses a combination of COTS, GOTS, and open source code, as well as a custom user interface that has the same look-and-feel as other USPTO websites. Developing and implementing FPNG supports USPTO's Strategic Priority, "Leverage IT Investments to Achieve Business Results," and is replacing legacy RAM with modern 21st century technology that has more automated internal controls, electronic commerce capabilities, and will be able to meet the patent and trademark fee collection needs of the future. As the USPTO progresses with its Patent and Trademark IT strategies (Patents End-to-End and Trademarks Next Generation), the fee processing system also needs to progress to the next generation, with the goals of improving financial and budget management agency-wide. The lack of modern technology in legacy RAM hinders the USPTO from taking full advantage of the potential benefits from Patents End-to-End and Trademarks Next Generation initiatives.



# FINANCIAL DISCUSSION AND ANALYSIS

## FINANCIAL HIGHLIGHTS

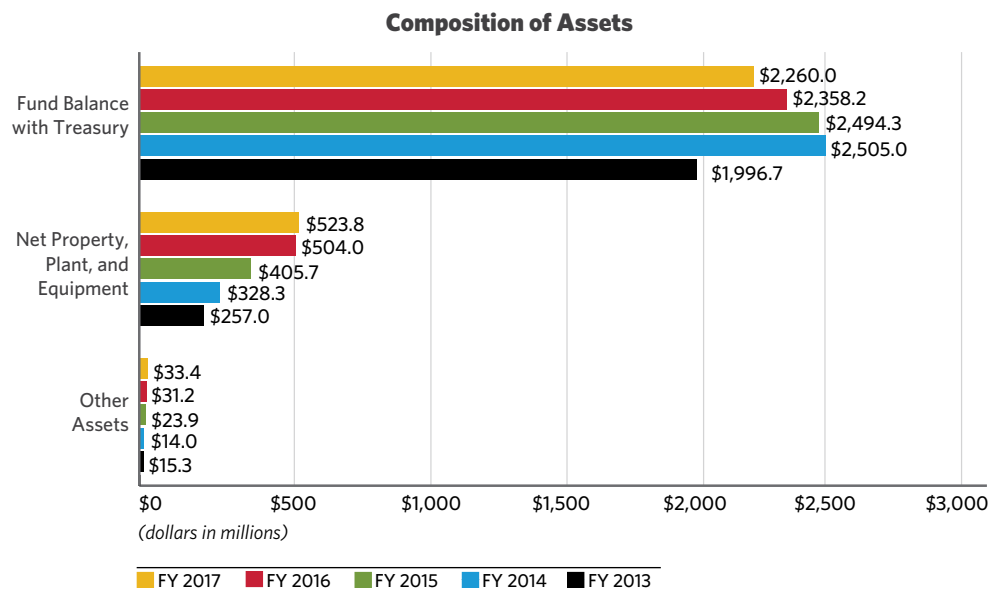
The USPTO received an unmodified (clean) audit opinion from the independent public accounting firm of KPMG LLP on its FY 2017 financial statements, provided in the Financial Section of this report. This is the 25th consecutive year that the USPTO has received a clean opinion. Our unmodified audit opinion 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. KPMG LLP continues to report a significant deficiency related to IT security. Refer to the Other Information section for the Summary of Financial Statement Audit and Management Assurances.

The summary financial highlights presented in this section provide an analysis of the information that appears in the USPTO’s FY 2017 financial statements. The USPTO financial management process ensures that management financial decision-making information is dependable, internal controls over financial reporting are effective, and that compliance with laws and regulations is maintained. The issuance of these financial statements is a component of the USPTO’s objective to continually improve the accuracy and usefulness of its financial management information.

## Balance Sheet and Statement of Changes in Net Position

At the end of FY 2017, the USPTO’s consolidated Balance Sheet presents total assets of \$2,817.2 million, total liabilities of \$1,439.6 million, and a net position of \$1,377.6 million.

Total assets decreased during FY 2017. Overall, there has been an increase of 24.2 percent over the last four years, resulting largely from the increase in Fund Balance with Treasury. The following graph shows the changes in assets during this period.



Fund Balance with Treasury is the single largest asset on the Balance Sheet and represents 80.2 percent of total assets at the end of FY 2017. Over half of the Fund Balance with Treasury represents fees the USPTO has collected, but has not been authorized to spend through the annual appropriation process – this includes temporarily unavailable fees of \$937.8 million and unavailable special fund receipts under OBRA of \$233.5 million, which total \$1,171.3 million in unavailable fees. This asset is also comprised of unpaid obligated funds of \$581.1 million, other funds held on deposit for customers of \$134.0 million, and unobligated funds carried over from one year to the next (operating reserve) of \$373.6 million.

The temporarily unavailable funds and the unavailable special fund receipts require Congressional appropriation before they will be available for USPTO's use. These funds, together with amounts obligated and held on deposit, represent 83.5 percent of the Fund Balance with Treasury.

The operating reserve is available for use without further Congressional appropriation and is maintained to permit the USPTO to plan for long-term financial stability, as well as temporary changes in our cash flow. As such, the operating reserve is not tied to a specific event and enables the USPTO to address fluctuations in revenues or unexpected demands on resources. In addition, the operating reserve is used to manage cash flow at the beginning of the fiscal year to ensure the agency has adequate resources to sustain current operations. Total fee collections are lower than operating requirements early in the year, and do not fully cover the necessary expenses such as payroll and contractual obligations that occur close to the fiscal year start. The operating reserve is intended to provide sufficient resources to continue current operations until the collection of fees builds over the subsequent months.

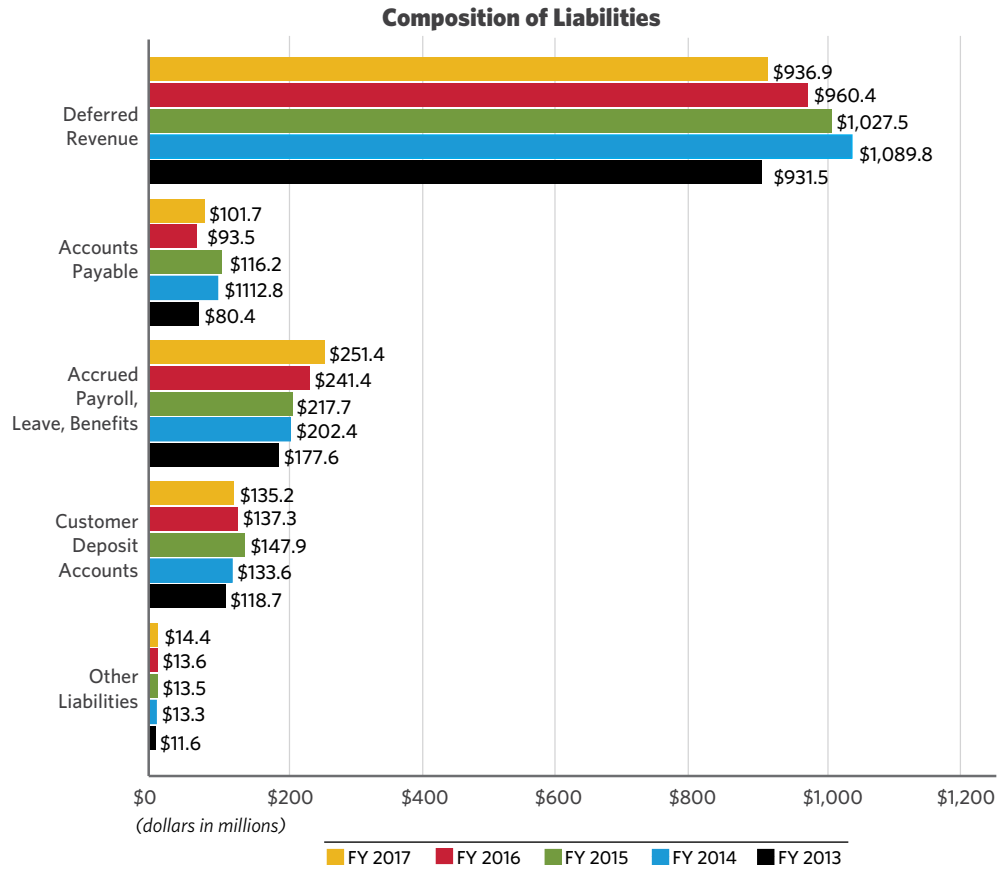
As required by 35 U.S.C. § 42(c)(3), the USPTO maintains and tracks two separate and distinct operating reserve balances – one for Patent operations and one for Trademark operations. At the end of FY 2017, the Patent operating reserve decreased from \$354.2 million (1.5 months of operating expenses) at the end of FY 2016 to \$252.9 million (1.0 months of operating expenses) at the end of FY 2017, representing a decrease of \$101.3 million, or 28.6 percent. At the end of FY 2017, the Trademark operating reserve increased from \$107.0 million (4.6 months of operating expenses) at the end of FY 2016 to \$120.7 million (4.9 months of operating expenses) at the end of FY 2017, representing an increase of \$13.7 million, or 12.8 percent.

During FY 2017, the USPTO continued operating consistent with the strategic plan and utilized the operating reserve to invest in IT improvements, as is evident by the decrease in Fund Balance with Treasury and the increase in property, plant, and equipment.

The other major asset is property, plant, and equipment. The net balance of this asset has increased by \$266.8 million during the past four years, with the acquisition values of property, plant, and equipment increasing by \$431.9 million. The USPTO is continuing to completely re-invent our IT systems from end-to-end, which will lead to future increases in IT hardware, software, and software in development balances. This was evidenced by an increase of \$393.2 million from FY 2013 through FY 2017 for IT hardware, software, and software in development.

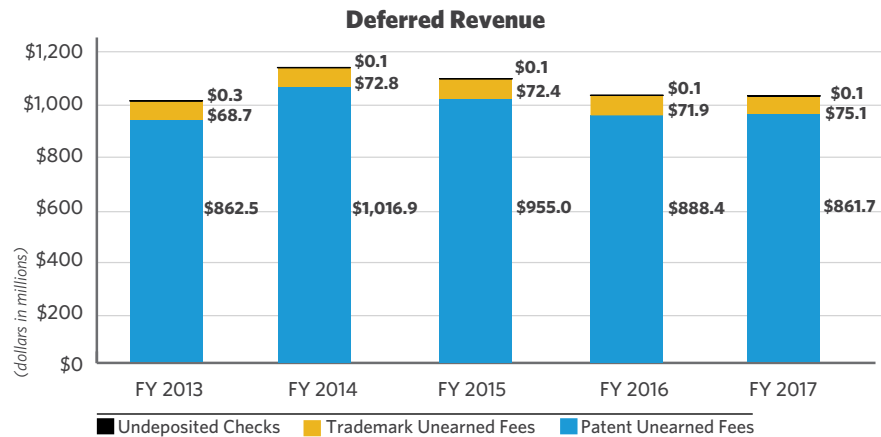
Total liabilities decreased from \$1,445.9 million at the end of FY 2016 to \$1,439.6 million at the end of FY 2017, representing a decrease of \$6.3 million, or 0.4 percent. The following graph shows the composition of liabilities during the past five years.





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

FY 2017 resulted in a decrease to the deferred revenue liability of \$23.5 million, or 2.4 percent from FY 2016. The deferred revenue liability includes unearned patent and trademark fees, as well as an immaterial amount of undeposited checks. The unearned patent fees represented 92.0 percent of this liability for FY 2017. The following graph depicts the composition of the deferred revenue liability, in addition to the change in this liability during each of the past five years.



Deferred revenue at the USPTO is largely impacted by the change in patent and trademark filings, changes in the first action pendency months, and changes in fee rates. Increases in patent and trademark filings, first action pendency months, and fee rates result in increases in deferred revenue.

The following table depicts the changes in the filings and pendency months during the past five years.

<b>Filings and Pendencies</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
Patent Filings	601,464	618,457	618,062	650,411	647,388 <sup>1</sup>
<i>Percentage Change in Patent Filings</i>	6.3%	2.8%	(0.1)%	5.2%	(0.5)%
Patent First Action Pendency (months)	18.2	18.4	17.3	16.2	16.3
<i>Percentage Change in Patent First Action Pendency</i>	(16.9)%	1.1%	(6.0)%	(6.4)%	0.6%
Total Patent Pendency (months)	29.1	27.4	26.6	25.3	24.2
<i>Percentage Change in Total Patent Pendency</i>	(10.2)%	(5.8)%	(2.9)%	(4.9)%	(4.3)%
Trademark Filings	433,654	455,017	503,889	530,270	594,107
<i>Percentage Change in Trademark Filings</i>	4.5%	4.9%	10.7%	5.2%	12.0%
Trademark First Action Pendency (months)	3.1	3.0	2.9	3.1	2.7
<i>Percentage Change in Trademark First Action Pendency</i>	(3.1)%	(3.2)%	(3.3)%	6.9%	(12.9)%
Total Trademark Average Pendency (months)	10.0	9.8	10.1	9.8	9.5
<i>Percentage Change in Total Trademark Average Pendency</i>	(2.0)%	(2.0)%	3.1%	(3.0)%	(3.1)%

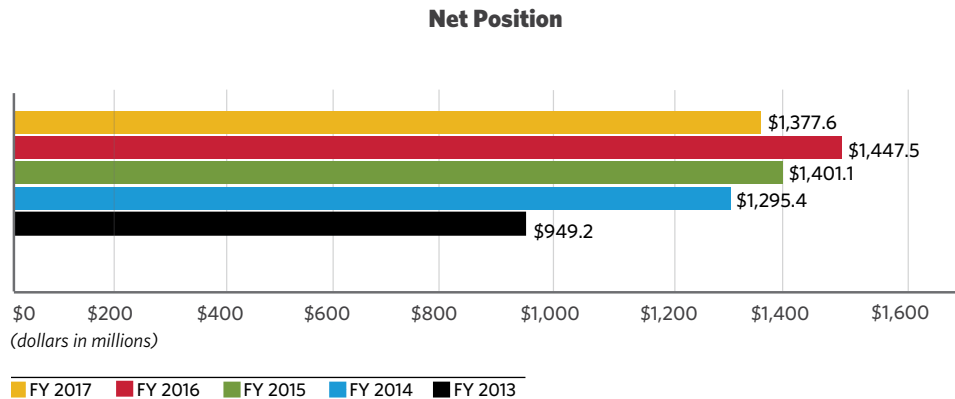
<sup>1</sup> Preliminary data

In FY 2017, unearned patent fees decreased 3.0 percent as a result of the decrease in total patent pendency of 1.1 months and a decrease in application filings. Deferred revenue associated with the patent process is expected to decrease in the upcoming years due to the anticipated decreases in pendencies. In the FY 2018 President's Budget, the number of patent applications filed from FY 2018 through FY 2022 is expected to gradually increase, with first action pendency decreasing to 9.6 months and total pendency to 18.5 months by FY 2022. The pendency decreases will result in patent deferred revenue decreases.

The deferred revenue associated with the trademark process increased in FY 2017. Trademark deferred revenue increased by \$3.2 million, or 4.5 percent, from FY 2016, with an overall 9.3 percent increase over the past four years. The FY 2017 increase was consistent with an increase in trademark applications, offset by total trademark average pendency decreasing to 9.5 months and a decrease in trademark first action pendency to 2.7 months. Estimates included in the FY 2018 President's Budget project the pendencies to remain constant in the upcoming years.

The Statement of Changes in Net Position presents the changes in the financial position of the USPTO due to results of operations. The movement in net position is primarily the result of the net income or net cost for the year. The change in the net position during the past five years is presented in the following graph.

The decrease in net position from \$1,447.5 million at the end of FY 2016 to \$1,377.6 million at the end of FY 2017, or 4.8 percent, is primarily attributable to the results of operations.



### 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 Policy, Protection and Enforcement Worldwide. The following table presents the total USPTO's results of operations for the past five fiscal years. In FY 2017, the USPTO generated a net cost of \$88.1 million. A significant portion of the decrease was due to an increase in personnel services and benefit, depreciation and amortization, and maintenance and repairs program costs, offset by a decrease in earned fee collections.

Net Income/(Cost) (dollars in millions)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Earned Revenue	\$ 2,719.9	\$ 3,018.1	\$ 3,074.0	\$ 3,133.4	\$ 3,105.3
Program Cost	(2,540.4)	(2,732.4)	(3,012.8)	(3,119.6)	(3,193.4)
Net Income/(Cost)	<u>\$ 179.5</u>	<u>\$ 285.7</u>	<u>\$ 61.2</u>	<u>\$ 13.8</u>	<u>\$ (88.1)</u>

The Statement of Net Cost compares earned fees 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 earned fees 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, as these fees are considered earned immediately. Maintenance fees collected in FY 2017 are a reflection of patent issue levels 3.5, 7.5, and 11.5 years ago that customers have elected to renew, rather than a reflection of patents issued in FY 2017. Therefore, maintenance fees can have a significant impact on matching costs and revenue.

During FY 2017, the number of patent filings decreased by 0.5 percent over the prior year. However, the Patent organization issued 3.9 percent more patents than were issued during FY 2016. The resulting pendency reduction resulted in a decrease in patent deferred revenue and an increase in earned revenue.

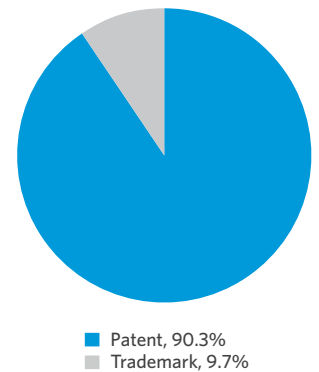
During FY 2017, with the number of trademark applications increasing by 12.0 percent over the prior year, the Trademark organization was able to continue to address the existing inventory and maintain pendency between 2.5 and 3.5 months. The Trademark organization was able to do this while recognizing a slight increase in deferred revenue and corresponding decrease in revenue earned.

### Earned Revenue

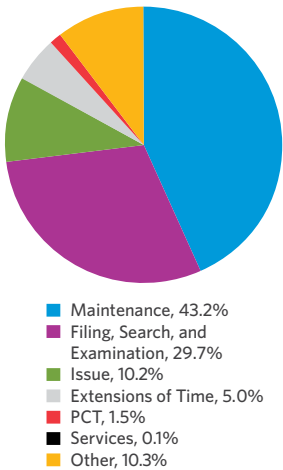
The USPTO's earned revenue is derived from the fees collected for patent and trademark products and services. Fee collections are recognized as earned revenue when the activities to complete the work associated with the fee are completed. The earning process is the same for all collections even though a certain portion of the fees may not be made available to the USPTO for spending.

Earned revenue totaled \$3,105.3 million for FY 2017, a decrease of \$28.1 million, or 0.9 percent, over FY 2016 earned revenue of \$3,133.4 million. Of revenue earned during FY 2017, \$728.3 million related to fee collections that were deferred for revenue recognition in prior fiscal years, \$1,209.8 million related to maintenance fees collected during FY 2017, which were considered earned immediately, \$1,162.6 million related to work performed for fees collected during FY 2017, and \$4.6 million were not fee-related.

**FY 2017 Earned Revenue**



**FY 2017 Patent Revenue  
by Fee Type**



## 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 approximately 83.1 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 2017, maintenance fees collected decreased \$2.4 million, or 0.2 percent, from FY 2016.

In order to maintain exclusive rights, a patent holder must pay maintenance fees at three separate intervals: 3.5, 7.5, and 11.5 years from the date a patent is issued. Failure to pay these fees results in the lapse of patent protection and the rights provided by a patent are no longer enforceable. Maintenance fees can be paid during the “window period,” the six-month period preceding each due date. Additionally, a maintenance fee can be paid, with a surcharge, during the “grace period,” which is the 6-month period immediately following each due date. If a maintenance fee has not been paid in a timely manner and the owner of the patent wants to have the patent rights reinstated, a petition and proper fees are required.

Maintenance fees are recognized immediately as earned revenue and fluctuations in both the timing of renewal payments and the rates of renewal may have a significant impact on the total earned revenue of the USPTO. The table on the next page shows the renewal rates for all three stages of maintenance fees based on the year the patent was issued. Maintenance fee payments are needed to fund operations, therefore the USPTO closely monitors payment behaviors (both rates of renewal and timing of payment) to forecast maintenance fee revenue. The revenue from renewals helps to recoup costs incurred during the initial patent process.

When analyzing patent renewal rates, no significant fluctuations have been observed. The payment window for some patents issued in 2013 (first stage), 2009 (second stage), and 2005 (third stage) has not yet closed. Using the data available at the end of FY 2017, the trend in first stage patent renewal rates is comparable to the past few years. An analysis of second stage patent renewal rates shows a minor downward trend, and thus far, the yearly renewal rate is 0.6 percent below the previous year. When looking at the third stage patent renewal rates, thus far, the yearly renewal rate is below last year. The decision to renew a patent is influenced by many factors including, but not limited to, Federal court decisions, IP budgets, the perceived value of the patent, and the economy.

Patent Renewal Rates Issue Date	First Stage	Second Stage	Third Stage
2000	85.8%	68.7%	51.2%
2001	86.4%	68.1%	50.4%
2002	87.7%	67.6%	47.7%
2003	88.8%	69.6%	48.1%
2004	89.0%	70.9%	47.5%
2005	87.6%	69.4%	<b>45.8%<sup>1</sup></b>
2006	86.0%	67.5%	
2007	87.4%	67.5%	
2008	88.1%	66.8%	
2009	87.3%	<b>66.2%<sup>1</sup></b>	
2010	86.6%		
2011	85.6%		
2012	85.6%		
2013	<b>85.6%<sup>1</sup></b>		

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, 85.6 percent of the patents issued in 2013 paid the first stage maintenance fee.

<sup>1</sup>Preliminary data. The full calendar year data for 2013, 2009, and 2005 will be available in the FY 2018 PAR.

Application fee revenue earned upon filing decreased from \$82.0 million in FY 2016 to \$81.2 million in FY 2017 (decrease of 1.0 percent), with the number of applications decreasing from 650,411 to 647,388 over the same period (decrease of 0.5 percent). The decreased in application filings is a result of decreased customer demand. The FY 2018 President’s Budget projects an increase in patent applications filed beginning in FY 2018 through FY 2022, which will contribute to continued budgetary resources, as well as earned fee revenue.

Earned issue fee revenue increased from \$274.2 million in FY 2016 to \$285.6 million in FY 2017 (increase of 4.2 percent), with the number of patents issued increasing from 334,107 to 347,243 over the same period (increase of 3.9 percent). The increase in patent issues is in line with the increase in production and the patent allowance rate. The FY 2018 President’s Budget projects that patents issued will gradually increase, which may result in increases in maintenance fees in future years.

**FY 2017  
Trademark  
Revenue by Fee Type**



- Use-Based and Intent-to-Use Based Application Filings, 52.7%
- Renewal Fees, 9.6%
- Services, 8.2%
- Trademark Trial and Appeal Board, 14.3%
- Other Intent-to-Use Fees, 15.2%

### Trademark

Trademark fees are comprised of application filing, renewals, 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 filings increased from \$146.1 million in FY 2016 to \$159.1 million in FY 2017, with the number of trademarks registered (disposed of) increasing from 309,188 to 327,314 over the same period, increases of 8.9 percent and 5.9 percent, respectively. The FY 2018 President’s Budget projects that trademark applications filed will continue to increase, which will contribute to the continued growth in budgetary resources, as well as earned fee revenue.

Trademark registrations are 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 2018 President’s Budget, earned revenue from trademark renewals is expected to continue at approximately the same renewal rates in the future.

Trademark Renewal Rates*	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017 <sup>2</sup>
Renewals	31.5%	32.4%	32.4%	32.1%	31.5%

\* Note: The renewals occur every 10th year for registered trademarks. For example, in FY 2017, 31.5 percent of the trademarks registered ten years ago were renewed.

<sup>2</sup> Preliminary data

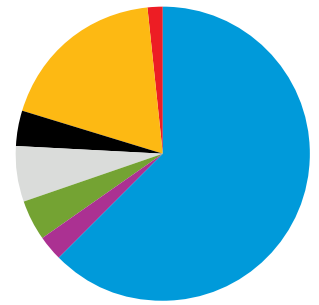


## Program Costs

Program costs totaled \$3,193.4 million for the year ended September 30, 2017, an increase of \$73.8 million, or 2.4 percent, over FY 2016 program costs of \$3,119.6 million. The USPTO's most significant program cost is personnel services and benefits, which comprise approximately 62.5 percent of the 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, 2017, were \$2,155.0 million, an increase of \$25.6 million, or 1.2 percent, over FY 2016 personnel services and benefits costs of \$2,129.4 million. This change primarily reflects a 2.4 percent increase in payroll compensation costs resulting from salary increases, a 5.4 percent increase in health benefit costs, as well as a net decrease of 137 personnel, from 12,725 at the end of FY 2016 to 12,588 at the end of FY 2017.

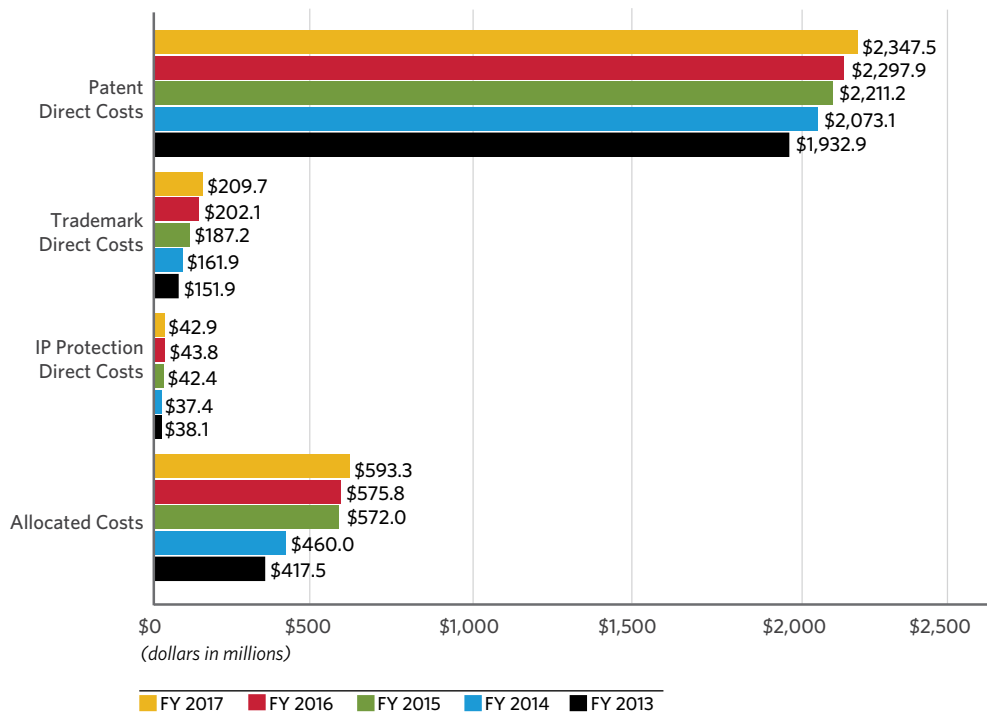
The USPTO directs maximum resources to the priority functions of patent and trademark examination, as well as IP policy, protection, and enforcement worldwide. For FY 2017, costs directly attributable to the Patent, Trademark, and IP protection business areas represent 81.4 percent of total USPTO costs. The remaining costs, representing support costs, are allocated to the business areas using activity-based cost accounting.

**FY 2017 Program Costs**

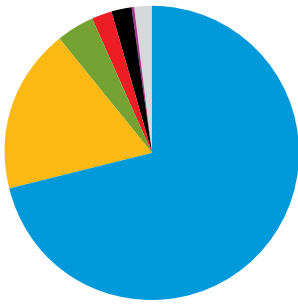


- Personnel Costs, 62.5%
- Rent, Communication, and Utilities, 2.9%
- Printing, 4.4%
- Contractual Services, 6.2%
- Depreciation, 3.8%
- Allocated Costs, 18.6%
- Other, 1.6%

**USPTO Program Costs**



**FY 2017 Patent Cost by Product**



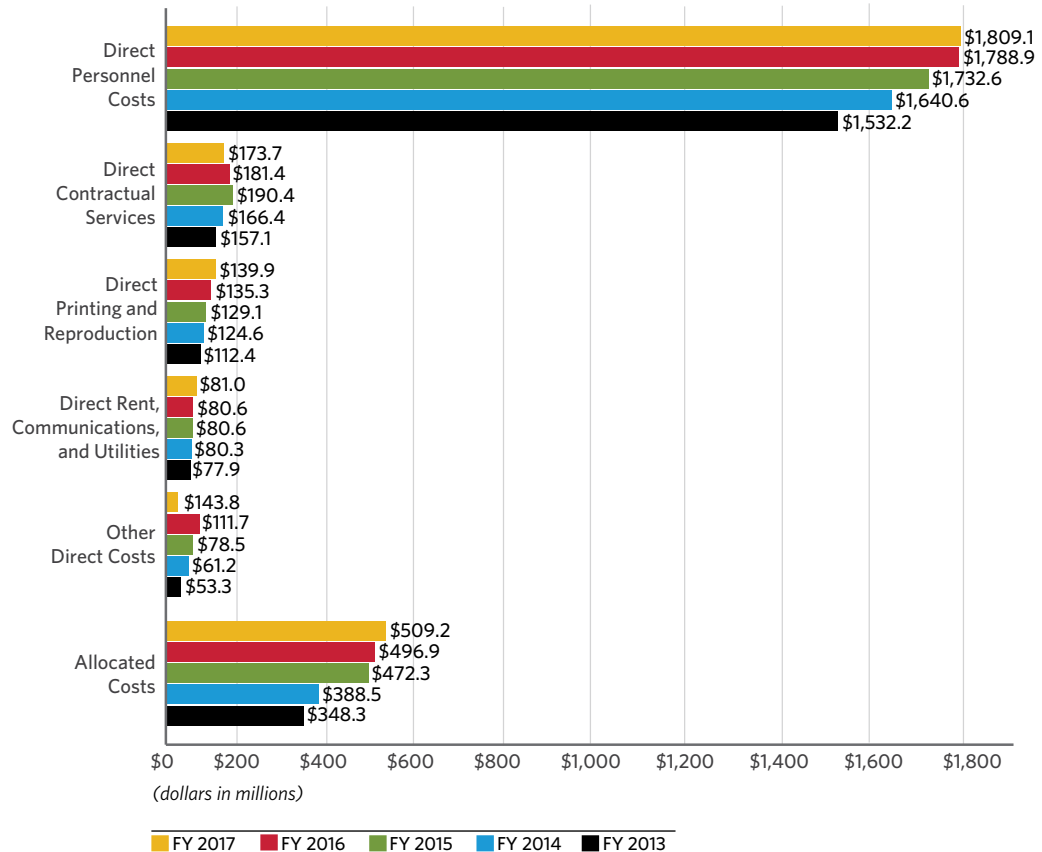
- Utility, 71.3%
- 371 Filing, 18.2%
- Patent Trial and Appeal Board, 4.2%
- PCT, 2.0%
- Design, 2.3%
- Plant, 0.2%
- Other, 1.8%

**Patent**

Total costs for the Patent program increased \$575.5 million, 25.2 percent, from FY 2013 through FY 2017. The Patent organization’s most significant direct program costs relate to personnel services, and account for 48.1 percent of the increase in total cost of Patent operations during the past four years. Patent personnel costs for the year ended September 30, 2017, were \$1,809.1 million, an increase of \$20.2 million, or 1.1 percent, over FY 2016 personnel costs of \$1,788.9 million. Rent, communications, and utilities; printing and reproduction; and contractual service costs represent 13.8 percent of the Patent program costs for FY 2017. During FY 2017, contractual services costs decreased as a result of support costs decreases for Patent IT systems.

Patent costs were predominantly spread over two patent products: utility patents and 371 filings (an international application). The cost percentages presented are based on direct and indirect costs allocated to patent operations and are a function of the volume of applications processed in each product area.

**Patent Costs**

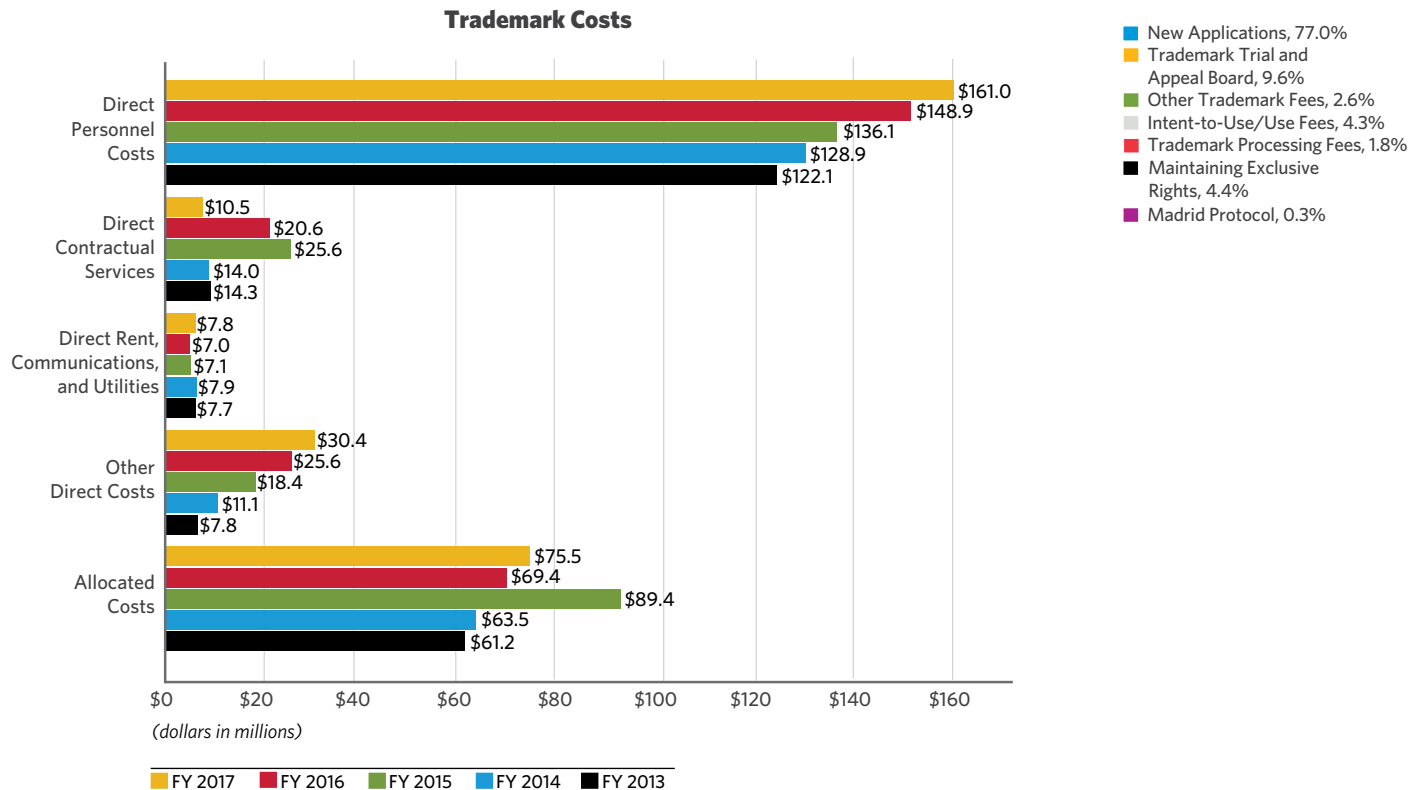
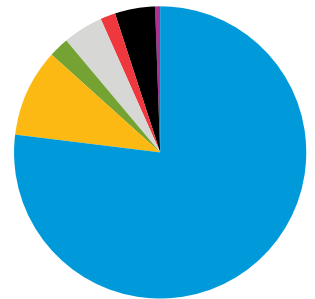


## Trademark

Total costs for the Trademark program increased \$72.1 million, 33.8 percent, from FY 2013 through FY 2017. The Trademark organization's most significant direct program costs relate to personnel services, and account for most of the increase in total direct cost of Trademark operations during the past four years. This increase of \$38.9 million was offset by other cost increases and decreases.

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.

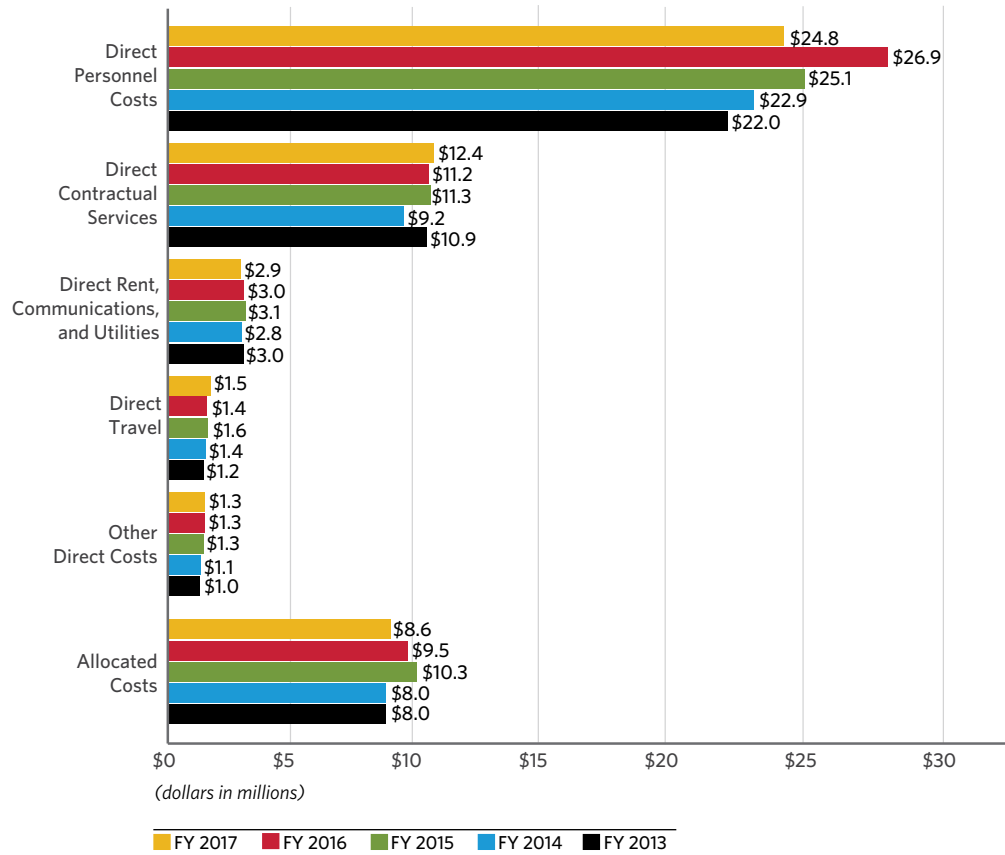
**FY 2017 Trademark Cost by Product**



### Intellectual Property Policy, Protection, and Enforcement Worldwide

Total costs for the IP Protection program increased \$5.4 million, or 11.7 percent, from FY 2013 through FY 2017. The most significant direct program costs for IP Protection in FY 2017 relate to personnel services, and account for 48.2 percent of the total cost for IP Protection operations. The next largest cost associated with the policy, protection, and enforcement of intellectual property worldwide is contractual services, which include joint project agreements. These costs were incurred in line with the activities discussed on pages 72 to 85.

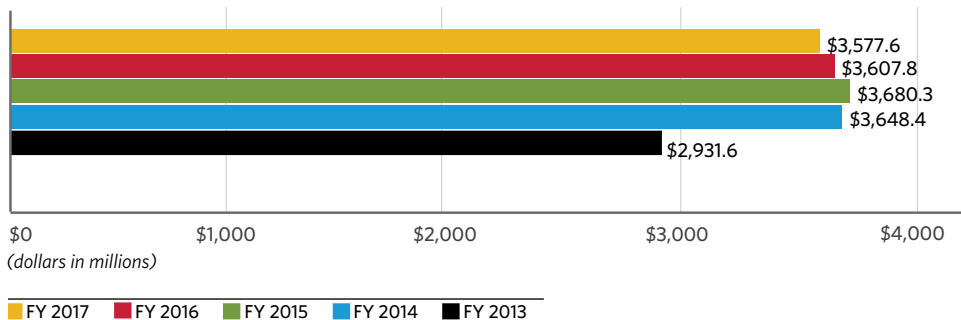
**Intellectual Property Policy, Protection, and Enforcement Costs**



## Statement of Budgetary Resources

During FY 2017, total budgetary resources available for spending was 0.8 percent less than the amount available in the preceding year, with a 22.0 percent increase over the past five fiscal years. The change in budgetary resources available for use is depicted by the graph below.

**Annual Growth in Available Budgetary Resources**



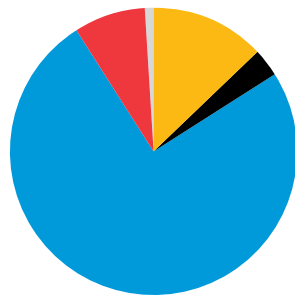
The USPTO was provided appropriation authority to spend anticipated fee collections in FY 2017 for an amount up to \$3,230.0 million. In FY 2017, the USPTO did not collect the entire amount of anticipated fee collections appropriated; patent and trademark fee collections amounted to \$3,078.9 million (see following Sources of Funds chart). The appropriation was more than the amount of total fees collected in FY 2017. In past years, when the USPTO has not been appropriated the authority to spend all fees collected, the excess has been recognized as temporarily unavailable fee collections. However, the AIA established a statutory provision allowing the USPTO to deposit funds in the Patent and Trademark Fee Reserve Fund for fees collected in excess of the appropriated levels for each fiscal year. During FY 2014, the USPTO collected \$148.2 million of user fees that were deposited in the Patent and Trademark Fee Reserve Fund. The FY 2014 appropriation provided the authorization for the USPTO to spend those fees and are available without fiscal limitation until expended. After successfully working through the reprogramming process with congressional appropriators early in FY 2015, the USPTO was able to gain access to these funds, which were transferred into our operating reserve, where they were used in FY 2016 for compensation and operational requirements on a first-in, first-out basis. In FY 2013, sequestration was enacted government-wide to effect an annual five percent reduction in spending, which restricted full access to agency fee collections. As we are an agency funded entirely by user fees, this reduced our available budgetary resources and affected our operations significantly.

In FY 2013, the USPTO used the authority in the AIA to set patent fees to enable the Office to have sufficient resources to reduce the backlog of patent applications, improve our information technology, and manage patent revenue fluctuations and properly align fees in a timely, fair, and consistent manner. In FY 2014, the Office proposed to reduce trademark fees to promote efficiency in operations and offer additional electronic application processing options. Consequently, certain Trademark fee rates were reduced effective January 2015. During FY 2015, the USPTO continued to assess patent and trademark fees to assure that the Office is using the fee setting authority in a responsible manner. Following the comprehensive review of all fees completed during FY 2015, in early FY 2016, the USPTO shared fee adjustment proposals with its public advisory committees and the public. Currently, the USPTO is following the fee setting direction provided for in the AIA and federal rulemaking process.

In October 2016, the USPTO issued a final rule to set or increase certain trademark fees, as authorized by the AIA. The final fee schedule is responsive to stakeholder concerns as expressed during the public comment period while still allowing the USPTO to recover the aggregate estimated cost of Trademark and Trademark Trial and Appeal Board (TTAB) operations and USPTO administrative services that support Trademark operations. In January 2017, these revised trademark fee rates went into effect. Also in October 2016, the USPTO issued a notice of proposed rulemaking (NPRM) to set or increase certain patent fees, as authorized by the AIA. The proposed fees will allow the USPTO to recover the aggregate estimated cost of Patent and Patent Trial and Appeal Board (PTAB) operations and USPTO administrative services that support Patent operations. After carefully considering stakeholder feedback, the USPTO has revised its plans, and an adjusted patent fee setting package is expected to be finalized in early FY 2018.

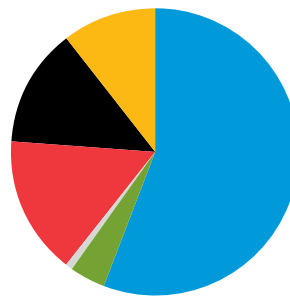
The following charts present the budgetary resources made available to the USPTO in FY 2017, and the use of such funds representing FY 2017 total obligations incurred and the operating reserve, as reflected on the Statement of Budgetary Resources.

**Sources of Funds** (dollars in millions)



- Operating Reserve, \$461.2
  - Recovery of Prior Year Obligations, \$33.2
  - Patent Fee Collections, \$2,775.1
  - Trademark Fee Collections, \$303.8
  - Other Fee Collections, \$4.3
- Total \$3,577.6

**Uses of Funds** (dollars in millions)



- Patent Direct, \$2000.7
  - Trademark Direct, \$138.1
  - IP Policy, Protection, and Enforcement Direct, \$36.1
  - IT Allocated, \$550.7
  - Other Allocated, \$478.4
  - Operating Reserve, \$373.6
- Total \$3,577.6

USPTO operations rely on patent maintenance fees to fund a portion of the work being completed each fiscal year. During FY 2017, maintenance fees collected increased \$24.6 million, or 2.1 percent, from FY 2016. As maintenance fees are one of the largest sources of 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 31, the renewal rates for all three stages of maintenance fees decreased during FY 2017.

During FY 2017, the USPTO did not collect any fee collections that were designated as temporarily unavailable. As a result, the \$937.8 million in temporarily unavailable fee collections at the end of FY 2013 remained the same through FY 2017.

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

<b>Temporarily Unavailable Fee Collections (dollars in millions)</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
Fiscal year fee collections	\$ 2,815.7	\$ 3,172.2	\$ 3,008.8	\$ 3,063.2	\$ 3,078.9
Fiscal year collections appropriated	(2,668.0)	(3,172.2)	(3,008.8)	(3,063.2)	(3,078.9)
Fiscal year unavailable collections	\$ 147.7	\$ -	\$ -	\$ -	\$ -
Prior year collections unavailable	790.1	937.8	937.8	937.8	937.8
Subtotal	\$ 937.8	\$ 937.8	\$ 937.8	\$ 937.8	\$ 937.8
Special fund unavailable receipts	233.5	233.5	233.5	233.5	233.5
Cumulative temporarily unavailable fee collections	\$ 1,171.3	\$ 1,171.3	\$ 1,171.3	\$ 1,171.3	\$ 1,171.3

These cumulative unavailable fee collections remain in the USPTO's general fund account at the U.S. Department of the Treasury (Treasury) until appropriated for use by Congress. 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 Treasury.

## Statement of Cash Flows

The Statement of Cash Flow, while not a required financial statement, is audited and is presented for purposes of additional analysis. The Cash Flow statement records the company's cash transactions (the inflows and outflows) during the given period. The document provides aggregate data regarding all cash inflows received from both its ongoing operations and investment sources, as well as all cash outflows that pay for business activities and investments during the period. Cash flow is calculated by making certain adjustments to net income/cost by adding or subtracting differences in revenue and expense transactions (appearing on the Balance Sheet and Statement of Net Cost) resulting from transactions that occur from one year to the next. These adjustments are made because non-cash items are included in preparing the net income/cost (Statement of Net Cost) and total assets and liabilities (Balance Sheet). Since not all transactions involve actual cash items, many items have to be adjusted when calculating cash flow.

The USPTO receives fees for its primary activities of issuing patents and registering trademarks and chooses to include information on the sources and amounts of cash provided to assist report users in understanding its operating performance. While the fees received are an increase in cash flow, they may not necessarily be available for spending based on budgetary restrictions. Over half of the Fund Balance with Treasury represents fees the USPTO has collected in past years, but has not been authorized to spend through the annual appropriation process. Cash flow is determined by looking at three components by which cash enters and leaves the USPTO: operations, investing, and financing.

Composition of USPTO Cash Flows (dollars in millions)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Cash Flows from Operations					
Net Income/(Cost)	\$ 179.5	\$ 285.7	\$ 61.2	\$ 13.8	\$ (88.1)
Reconciling Adjustments					
Imputed Financing	44.8	62.5	46.6	34.7	20.1
Depreciation	71.9	90.7	105.3	139.0	182.7
Operating Adjustments					
Accrued Payroll, Leave, and Benefits	(39.8)	24.9	15.2	23.4	10.5
Deferred Revenue	100.6	158.3	(62.4)	(67.1)	(23.5)
Other Adjustments	7.3	38.3	3.7	(30.6)	2.7
Total Adjustments	184.8	374.7	108.4	99.4	192.5
Net Cash Provided by Operating Activities	364.3	660.4	169.6	113.2	104.4
Investing Activities					
Property, Plant, and Equipment	(91.4)	(150.5)	(179.4)	(245.6)	(201.0)
Net Cash Used in Investing Activities	(91.4)	(150.5)	(179.4)	(245.6)	(201.0)
Financing Activities					
Non-Expenditure Transfer	(2.0)	(2.0)	(2.0)	(2.1)	(2.0)
Net Cash Used in Financing Activities	(2.0)	(2.0)	(2.0)	(2.1)	(2.0)
Net Cash Provided/(Used)	\$ 270.9	\$ 507.9	\$ (11.8)	\$ (134.5)	\$ (98.6)



Historically at the USPTO, cash flow adjustments to operational activities result in an increase to net cash provided by operational activities. Depreciation and Accrued Payroll, Leave, and Benefits operate similarly, as the accrued expenses that do not affect the cash flow are adjusted for, thereby increasing net cash provided by operational activities. Deferred revenue is also a significant factor, as the USPTO has received the fees, but not completed all of the work; in a year when the deferred revenue liability decreases, such as FY 2017, net income increases without a corresponding increase in the cash flow; the increase to net income is removed for determining cash flow. Other adjustments are predominantly comprised of changes in accounts payable balances; in a year when the overall liability balance decreases, then a reader can conclude that an increased amount of cash was disbursed, thereby requiring a reduction to net cash provided by operational activities; alternately, in a year when the overall liability balance increases, a reader can conclude that a lesser amount of cash was disbursed.

The investment of property, plant, and equipment is a cash transaction that has not been accounted for in net income/cost and must be adjusted for in calculating net cash used in investing activities. The USPTO has been focused on upgrading our IT systems from end-to-end, which resulted in increases in IT software and software in development values.

Adjustments to financing-type activities are infrequent at the USPTO. Non-expenditure transfers at the USPTO are cash transactions reflecting the movement of appropriated fee collections to other federal governmental entities that have not been accounted for in net income/cost and must be adjusted for in calculating net cash used in financing activities.

### **Limitation on Financial Statements**

The principal financial statements included in this report have been prepared by USPTO management to report the financial position and results of operations of the USPTO, pursuant to the requirements of 31 U.S.C. § 3515(b). While the statements have been prepared from the books and records of the USPTO in accordance with Generally Accepted Accounting Principles (GAAP) for federal entities and the formats prescribed in OMB Circular A-136 (revised), 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 understanding that they are for a component of the U.S. Government, a sovereign entity.

### **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.

A decorative graphic consisting of seven squares. The top row has four orange squares, and the bottom row has one blue square positioned under the second orange square of the top row.

**PERFORMANCE  
INFORMATION**

*Unaudited. Please see the accompanying auditors' report.*



# INTRODUCTION TO THE USPTO'S PERFORMANCE GOALS AND RESULTS

The Performance Section presents a detailed discussion of the USPTO's performance results by objectives within each strategic goal based upon the *USPTO 2014–2018 Strategic Plan*. This is the fourth year that USPTO has operated under this plan. The *2014–2018 Strategic Plan* is available at [www.uspto.gov/about/stratplan/](http://www.uspto.gov/about/stratplan/).

The USPTO strategic performance framework, provided in the Performance Highlights section of the Management's Discussion and Analysis, is designed to strengthen the capacity of the USPTO by focusing on a specific set of goals and the steps the USPTO must take to reach them, which include:

- Provide timely examination of patent applications—Reduce the average time to first office action for patent applications to 10 months (average time from filing until an examiner's initial determination on patentability) and average total pendency to 20 months (average time from filing until the application is issued as a patent or abandoned);
- Enhance quality of patent examination;
- Improve patent appeal and post-grant processes;
- Optimize trademark quality and maintain pendency;
- Demonstrate global leadership in all aspects of IP policy development;
- Improve IT infrastructure and tools;
- Implement a sustainable funding model for operations; and
- Continue to improve relations with employees and stakeholders.

These steps also support the U.S. Department of Commerce's focus on economic growth and its goal of delivering the tools, systems, policies, and technologies critical to transforming the U.S. economy, fostering U.S. competitiveness, and driving the development of new businesses.

The Balanced Scorecard included in the USPTO's *2014–2018 Strategic Plan* aligns the agency's goals and objectives with the associated performance indicators that provide meaningful information on the status and performance of every initiative provided in the plan.

## **PERFORMANCE AUDITS AND EVALUATIONS**

The U.S. Department of Commerce's OIG completed and issued one final audit report in FY 2017 for the USPTO. The report, *Inadequate Security Practices, Including Impaired Security of Cloud Services, Undermine USPTO's IT Security Posture* (<https://www.oig.doc.gov/OIGPublications/OIG-17-021-A.pdf>), found that the USPTO's IT security posture was undermined due to inadequate security practices, including impaired security of cloud services. Specifically, the USPTO (1) failed to implement the required security controls for cloud-based subsystems, (2) used non-Federal Risk and Authorization Management Program compliant cloud services without proper security assurance, and (3) deficiently implemented fundamental security controls, which increased the cybersecurity risk of USPTO systems. The OIG provided 12 recommendations to mitigate these findings.

The USPTO concurred with the recommendations made in the report and continually considers ways to improve its IT infrastructure to better support its mission while following applicable cybersecurity policies and best practices.

A number of the issues the IG identified related to USPTO's implementation of the Global Patent Search Network (GPSN). To support Federal CIO's 2011 Cloud First policy initiative—and as a first adopter of this policy—the USPTO deployed the Global Patent Search Network (GPSN) system to Amazon Web Services in 2012. The USPTO selected a small experimental search system deployed only with Chinese patent data, minimizing the risk exposure to the USPTO. GPSN was an external subsystem of the Patent End-to-End (PE2E) system, with no system interconnections with any of the other USPTO systems. GPSN was never used to host USPTO data. The USPTO has since retired GPSN and terminated all supporting system components.

In response to the issues related to security controls raised in the report, the USPTO has ensured that credentialed scans are performed for all types of devices, password policy requirements are enforced, and unauthorized ports are disabled. The USPTO has also reviewed its security controls and has taken steps to improve its processes and procedures to reduce risk and to conform to best practices.

### **PERFORMANCE DATA VERIFICATION AND VALIDATION**

In accordance with the Government Performance and Results Act (GPRA) Modernization Act of 2010 requirements, the USPTO is committed to making certain that 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 as follows:

**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 that 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 OCIO. Each system, such as the Patent Application Location and Monitoring or Trademark Reporting and Application Monitoring, 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 that 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 impact a specific performance indicator. For examination quality measures, the review programs themselves under review are assessed in terms of reviewer variability, data-entry errors, and various potential biases.

### **COMMISSIONERS' PERFORMANCE FOR FY 2017**

The 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 have FY 2017 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 on an evaluation of their performance as defined in the agreement, of up to 50 percent of their base salary. The results achieved in FY 2017 are documented in this report in the performance information for Strategic Goals I and II. FY 2017 bonus information was not available at publishing time. That information will be provided in next year's PAR. For FY 2016, the Commissioner for Patents was awarded a bonus of 20.3 percent of base salary. The Commissioner for Trademarks was awarded a bonus of 10.8 percent of base salary.



# PATENTS:

## STRATEGIC GOAL I

### **WHAT IS A PATENT?**

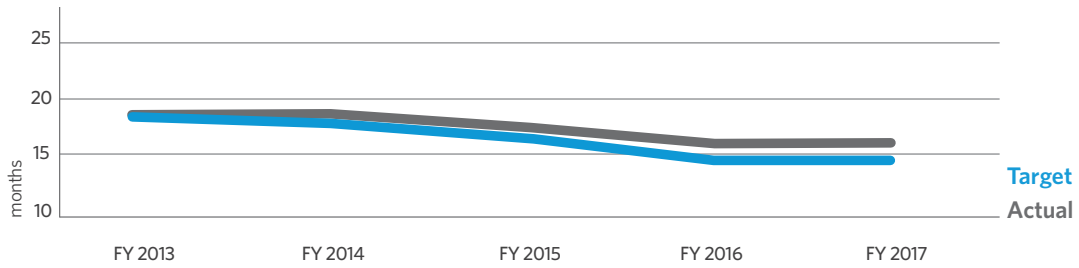
A patent is an intellectual property right granted by the government of the United States of America to an inventor “to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States” for a limited time in exchange for public disclosure of the invention when the patent is granted.

There are three types of patents: utility, design, and plant. Utility patents may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof. Design patents may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture. Plant patents may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant.

For a detailed look at how the patent application examination process works, please visit [www.uspto.gov/patents-getting-started/patent-process-overview](http://www.uspto.gov/patents-getting-started/patent-process-overview).

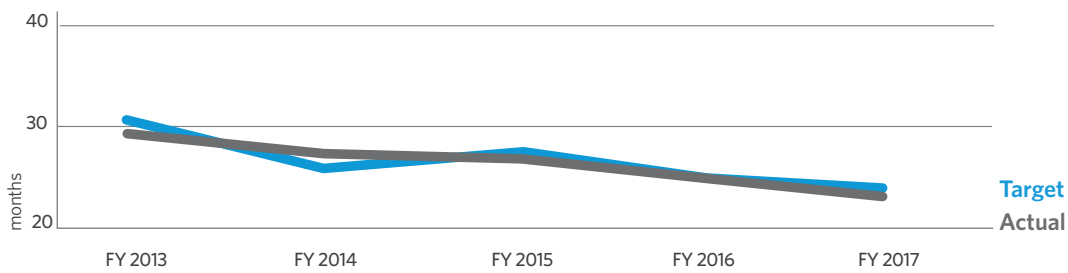
What follows are those Strategic Goal I key measures for which enough data are available to establish performance trends.

### PATENT AVERAGE FIRST ACTION PENDENCY



Trend: The trend line indicates that the performance trend is positive with some variability of the direction of the trend line in predicting future results. Additional discussion for this measure can be found on page 49.

### PATENT AVERAGE TOTAL PENDENCY



Trend: The trend line indicates that the performance trend is positive with little variability of the direction of the trend line in predicting future results. Additional discussion for this measure can be found on page 49.



# STRATEGIC GOAL I:

## OPTIMIZE PATENT QUALITY AND TIMELINESS

The USPTO is dedicated to carrying out its mission to deliver “high quality and timely examination of patent...applications” in accordance with laws, regulations, and practices and consistent with the goals and objectives in the USPTO 2014–2018 *Strategic Plan*. This goal and its key performance measures directly support the Department of Commerce Priority Goal to Improve Patent Processing Time and Quality. Additional information on the USPTO’s performance metrics is available at [www.performance.gov](http://www.performance.gov). Economic growth in advanced economies, like that of the United States, is driven by creating new and better ways of producing goods and services, a process that triggers new and productive investments.

### **PATENT QUALITY AND TIMELINESS**

American innovators and businesses rely on the legal rights associated with patents to reap the benefits of their innovations. Timely issuance of high-quality patents—that is, patents that are correctly issued in compliance with the requirement of Title 35, as well as the relevant case law at the time of issuance—provides market certainty and allows businesses and innovators to make informed, timely decisions on product and service development. Processing patent applications in a high-quality and timely manner advances economic prosperity by using IP as a tool to create a business environment that cultivates and protects new ideas, technologies, services, and products.

Between the end of FY 2016 and the end of FY 2017, average first action pendency increased by 0.1 months to 16.3 months and total pendency decreased by 1.1 months to 24.2 months. First action pendency measures the time from when an application is filed until it receives an initial determination of patentability by the patent examiner. Total pendency measures the time from filing until an application is either issued as a patent or abandoned.

The USPTO’s dedicated employees continue to make great strides in reducing the unexamined patent application backlog from 537,655 at the end of FY 2016 to 526,579 at the end of FY 2017, which represents a decline of 2.1 percent below FY 2016.

The RCE backlog decreased from 27,394 at the end of FY 2016 to 22,473 at the end of FY 2017, and the time from the filing of an RCE to the next office action was reduced from 2.7 months at the end of FY 2016 to 2.4 months at the end of FY 2017.

### **OBJECTIVE 1: REFINE OPTIMAL PENDENCY**

The USPTO recognizes that it must continually refine and define optimal pendency in light of how external factors affect workload inputs and the commitments made to the fee-paying public.

The USPTO has continued its progress toward achieving an optimal working level inventory of unexamined patent applications and performance targets of 10 months for first action pendency and 20 months for total pendency in FY 2019. In addition, the USPTO has begun analyzing pendency within the timeframes of Patent Term Adjustment (PTA), with a view toward minimizing PTA while continuing towards the 10/20 months’ goals.



## Pendency

The USPTO achieved its total pendency target; however, it missed its first action pendency target. The USPTO hired only 144 patent examiners in FY 2017 instead of the planned 600 due to a government-wide hiring freeze. This combined with less-than-expected overtime usage prevented the USPTO from making its first action pendency goal. The USPTO will make any necessary adjustments to long-term planning projections to ensure progress toward its pendency targets.

Patent processing times are primarily gauged by two measures: Average First Action Pendency (Table 4) and Average Total Pendency (Table 5). As shown in Tables 4 and 5, the USPTO has made strides in its ongoing efforts to reduce average pendency of filed patent applications.

**TABLE 4**

Measure: Patent Average First Action Pendency (Months)		
Fiscal Year	Target	Actual
2013	18.0	18.2
2014	17.4	18.4
2015	16.4	17.3
2016	14.8	16.2
2017	14.8	16.3
2018	14.5	

Target not met.

**TABLE 5**

Measure: Patent Average Total Pendency (Months)		
Fiscal Year	Target	Actual
2013	30.1	29.1
2014	26.7	27.4
2015	27.7	26.6
2016	25.4	25.3
2017	24.8	24.2
2018	23.5	

Target met.

## OBJECTIVE 2: INCREASE EFFICIENCIES AND PATENT EXAMINATION CAPACITY TO ALIGN WITH OPTIMAL PATENT PENDENCY

### Expansion of Patent Application Initiatives

The USPTO continues to evaluate programs designed to advance the progress of a patent application and to provide applicant assistance, including programs such as Track One for prioritized examination, First Action Interview, Quick Path Information Disclosure Statement (QPIDS), the After Final Consideration Program 2.0 (AFCP 2.0), and the Cancer Moonshot.

### **Post Grant Outcomes**

Post Grant Outcomes seeks to provide to the examiner the most useful post grant information from various sources, such as access to prior art and other evidence submitted by third parties in AIA trials before the PTAB. This program improves the efficiency of examiner searches and examination quality. The three objectives of the program are (1) enhanced patentability determinations in related child applications, (2) targeted examiner training, and (3) patent examiner education.

In FY 2017, a feature was added to the examination toolkit to provide an automated notification of information and allow examiners to readily access documents directly related to a pending application. For more information on the Post Grant Outcomes Program, please visit: [www.uspto.gov/patent/initiatives/post-grant-outcomes](http://www.uspto.gov/patent/initiatives/post-grant-outcomes).

### **Post Prosecution Pilot (P3)**

The P3 was launched as part of the USPTO's commitment to collaborate with stakeholders and to provide new programs to assist applicants and practitioners during prosecution of the application process. This program allows an applicant with a utility patent application to submit a proposed after-final amendment to be considered by a panel of experienced examiners. The applicant has the opportunity to make a presentation to the panel, either in-person or via phone, and the panel will provide a brief written summary of the status of the pending claims as well as the reasoning for maintaining any rejection.

The P3 was designed to combine the best aspects of the longstanding AFCP 2.0 and pre-appeal pilot programs. As set forth in the accompanying Federal Register Notice, "P3 [was] also designed to reduce the number of appeals and issues to be taken up on appeal to the PTAB, and reduce the number of Requests for Continued Examination (RCE), and simplify the after-final landscape."

Technology Center (TC) specific data points were collected throughout the pilot program from July 11, 2016, until January 12, 2017. Submissions were limited to 200 per TC, and a total of 1,984 submissions were received. TC-specific data, along with survey data received from both participating office personnel and external stakeholders, are being reviewed to determine the efficacy of P3 as an after-final program and in comparison to existing after-final programs (AFCP 2.0 and pre-appeal pilot) and traditional after-final practice. For more information on the Post Prosecution Pilot (P3), please visit: [www.uspto.gov/patent/initiatives/post-prosecution-pilot](http://www.uspto.gov/patent/initiatives/post-prosecution-pilot).

### **Pro Se Art Unit**

Established in October 2014, the USPTO's Pro Se Art Unit continues to provide dedicated educational and practical resources to small businesses, independent inventors, and under-resourced inventors. As a result, over 525 patents have been granted in applications handled by examiners in the Pro Se Art Unit. Through education and enhanced customer service, the Pro Se Art Unit has helped increase accessibility to patent protection with 25 percent of all applications examined by the Pro Se Art Unit resulting in a patent grant. In addition, examiners in the Pro Se Art Unit have worked with unrepresented applicants in thousands of applications to help make the patent system more transparent and understandable. By working proactively with unrepresented applicants from filing through disposal, the USPTO hopes to identify, streamline, and ameliorate procedural obstacles that plague first-time filers and increase pendency. Best practices are shared internally with patent examiners in "Working with Pro Se Applicants" refresher training.

Best practices are shared externally through Inventor’s Eye Articles, webinars, and a newly developed Pro Se Basic Training Series. At present, over 2,900 pro se-filed applications are assigned to the Pro Se Art Unit.



USPTO staff met with attendees at Invention-Con 2017, a free, two-day independent inventors’ conference to inform and equip inventors and small businesses with intellectual property knowledge. The event was held August 11-12 at USPTO headquarters in Alexandria, Va. (Photo: Michael Cleveland/USPTO)

### Customer Partnership Meetings

The USPTO is continuing to expand Customer Partnership Meetings in an effort to provide an informal conduit for all stakeholders to share insights and experiences that improve patent prosecution in specific technology areas. In addition to the previously established partnership meetings, this year the USPTO has expanded the offerings to now include Cyber Security Partnership, Biotech Chemical Pharma Customer Partnership Meeting, Design Day, Additive Manufacturing Partnership, Partnering in Patents, TC3600/3700 Customer Partnership, TC2600 Customer Partnership Meeting, TC2800 Semiconductor Partnership, and Business Methods Partnership. The increased interactivity between the USPTO in specific technology areas and external stakeholders aims to enhance relationships and improve resolution of future prosecution related issues.

Table 6 provides the relative cost-effectiveness of the entire patent examination process over time, or the efficiency with which the organization applies its resources to production.

**TABLE 6**

Measure: Total Cost Per Patent Production Unit		
Fiscal Year	Target	Actual
2013	\$4,041	\$3,686
2014	\$4,633	\$3,940
2015	\$4,646	\$4,086
2016	\$4,558	\$4,198
2017	\$4,607	\$4,312
2018	\$4,786	
Target met.		

The “total cost of the patent production unit” is a relative measure of efficiency. This measure is calculated by taking the total cost of the Patent process for the fiscal year, including all support costs, and dividing it by the total number of Patent Production Units (PUs) for the same period, including design and PCT PUs. PUs are an internal measure of work completed by patent examiners. Although this measure is described as the “total cost of the patent production unit,” it is not a true “total cost.” Although a certain number of PUs are completed in a given fiscal year, the activities that contribute to this PU often occur over multiple years.

### **OBJECTIVE 3: INCREASE INTERNATIONAL COOPERATION AND WORK SHARING**

This third objective will help attain pendency targets and enhance quality through international collaboration, which is a critical component of an increasingly global IP system. Although foreign countries maintain sovereign control over their own patent laws and systems, collaboration among the various offices is increasingly important in fulfilling the needs of U.S. inventors and the global IP community. Furthermore, approximately half of the USPTO’s patent filings are from nondomestic filers. The USPTO seeks avenues to streamline the international patent system in both legal and procedural contexts and to reduce administrative costs for filers, where possible.

The USPTO continues to be engaged in specific application-level work sharing with international IP offices, including through the Global Patent Prosecution Highway (PPH) system or bilateral PPH agreements with 31 different IP offices. In addition, the USPTO completed two bilateral collaborative search pilots (CSPs), one with the Japan Patent Office (JPO) and a second with the Korean Intellectual Property Office (KIPO) to determine whether collaborative search and its evaluation of commonly filed claims prior to initial action can improve the examination process and provide more consistent results across offices. The pilots demonstrated that the offices can control, to a significant extent, the sharing of search information between offices such that applications are not receiving an unnecessary delay in examination. A detailed analysis of the applications involved in the first pilot has led to several program modifications, and a second phase of the CSP program is commencing. In addition, a third phase of the PCT Collaborative Search and Examination pilot is set to begin in May 2018 as agreed to at the five largest intellectual property offices worldwide (IP5) Heads Meeting in June 2017.

In continuing efforts to expedite and improve the overall patent examination process, the USPTO is exploring how to best utilize electronic resources, such as Global Dossier, to provide examiners with information (e.g., prior art, search reports, etc.) from an

applicant’s other applications as early as possible to increase patent examination quality and efficiency and reduce the applicant’s burden to provide this information to the USPTO. Extensive internal and external stakeholder outreach will continue throughout the project to better understand the needs of examiners and applicants, such as how such a system should be designed, controlled, and what information should be documented relative to the imported information.

At its November 2016 annual meeting, the Industrial Design 5 (ID5) approved 12 projects that will promote greater efficiency, consistency, and effectiveness for both applicants seeking protections for their industrial designs and for the ID5 partner offices. These projects include the following four projects, on which the USPTO is the co-lead: electronic priority document exchange via WIPO’s Digital Access Service (DAS), grace periods, partial designs, and emerging technology designs. The ID5 projects will lead to a greater understanding of the ID5 partner offices’ current practices and policies, along with areas of potential convergence of practices. This should reduce costs and lead to greater predictability for the industrial design stakeholders. In addition, the USPTO and JPO continue to cooperate in exploring the potential for harmonizing classification for industrial designs under a memorandum of cooperation that was signed in February 2016.

The USPTO continues to work with the EPO and other countries on a Cooperative Patent Classification (CPC) system. For further information on international cooperation, please see the discussion of Strategic Goal III, page 72.

**OBJECTIVE 4: CONTINUE TO ENHANCE PATENT QUALITY**

Providing high-quality, efficient examination of patent applications is paramount to the mission of the USPTO. To ensure that the USPTO continues to issue high-quality patents that will fuel innovation well into the future, the Office of the Deputy Commissioner for Patent Quality, along with partners across the Patent organization, promotes and supports the continuous improvement of patent products, processes, and services through collaboration with internal and external stakeholders of the IP community.

Table 7 shows the results in correctness of office actions that the USPTO achieved during FY 2017. The USPTO met all of its quality goals, indicating that its recent focus on improved quality has paid dividends. In addition, the USPTO determined baseline levels for clarity.

**TABLE 7**

<b>Measures: Patent Correctness Indicators</b>		
<b>Statute</b>	<b>Goal</b>	<b>Actual</b>
35 U.S.C. § 101 (including utility and eligibility)	93.0-98.0%	96.5%
35 U.S.C. § 102 (prior art compliance)	90.0-95.0%	94.4%
35 U.S.C. § 103 (prior art compliance)	88.0-93.0%	92.4%
35 U.S.C § 112 (35 U.S.C. § 112(a),(b) including (a)/(b) rejections related to 35 U.S.C. § 112(f))	87.0-92.0%	92.6%

In collaboration with stakeholders, the USPTO identified three areas of focus to best facilitate improvement in patent quality. The areas of focus include data analysis; examiner resources, tools, and training; and changes to process and products. Some of the programs in these areas include the following:

**The Clarity and Correctness Data Capture Program** developed a system to enable reviewers in both the Office of Patent Quality Assurance (OPQA) and the TCs to consistently document and access office action quality review data. This system includes the new Master Review Form (MRF), which captures both correctness and clarity information via a series of standardized questions. The form was built by using smart form logic; thus, reviewers only see those sections/questions that are applicable to a particular review. In FY 2017, OPQA completed 18,106 reviews. This volume of reviews allows the office to identify quality trends by statute, as well as by office action type for individual TCs and workgroups, and to identify corps-level quality trends earlier than before.

**The Quality Metrics Program** created a new approach to capturing, measuring, and evaluating the quality of patent work products. Committed to self-improvement, the USPTO continues to identify new metrics to gain a more thorough understanding of its work products and processes. This new quality metrics approach provides greater accuracy, clarity, and consistency in measuring quality of office work products. The categories of quality metrics are as follows:

- **Product Indicators** include metrics on the correctness and clarity of USPTO work products. These metrics are formulated by using data from reviews conducted by the OPQA, who uses the master review form.
- **Process Indicators** assist in tracking the efficiency and consistency of internal processes. The current focus is on analyzing reopening of prosecution and rework of office actions, as well as improving consistency of decision-making.
- **Perception Indicators** use both internal and external stakeholder surveys to solicit information that can be used for root cause analysis and to validate/verify the other metrics.

**The Improving Clarity and Reasoning in Office Actions Training (ICR Training) Program** was developed to train examiners on legal and technical subject matter with emphasis on ways of making their prosecution rationale clearer to applicants. For example, office training was delivered in smaller workshop style formats and included examples on how to write clear rejections with supporting rationale and tips for responding to applicant arguments, and provided applicants with suggested changes to overcome rejections.

**The Clarity of the Record Pilot** helped identify best examiner practices for clarity of various aspects of the prosecution record, particularly with respect to claim interpretation, reasons for allowance and interview summaries, and to study the impact on the examination process of implementing these best practices. The USPTO used the gathered data to conduct a statistical assessment of whether the best practices of the pilot improved the clarity of the office's actions. Data and feedback from the pilot will also be used to assist other initiatives in the office, such as the refinement of the Master Review Form and Examination Time Analysis (ETA), as well as for exploring new areas of focus for future pilots, including a second phase of the clarity of the record pilot.





A panel discussion featuring design examiners and practitioners was one of the agenda items at the USPTO's 11th annual Design Day on April 25th. The conference covered a range of technical, legal, and practical issues in the world of industrial design and design patents. (Photo: Michael Cleveland/USPTO)

### **The Stakeholder Training on Examination Practice and Procedure (STEPP) Program**

was created based on public feedback and is a new and important part of USPTO's mission to deliver IP information and education to external stakeholders. Training delivered through STEPP is designed to provide external stakeholders with a better understanding of how and why an examiner makes decisions while examining a patent application. In-person courses are led by USPTO trainers and are based on material developed for training employees of the USPTO.

Patent Quality chats are hosted by the Office of the Deputy Commissioner for Patent Quality. The Patent Quality Chat series is a monthly webinar designed to provide information on patent quality topics and to gather the public's input. These webinars include a presentation (approximately 20 minutes), reserving the remainder of the time for questions and comments from the virtual audience (sent in via email). All Patent Quality Chats are free and open to the public ([www.uspto.gov/patent/initiatives/patent-quality-chat](http://www.uspto.gov/patent/initiatives/patent-quality-chat)).

### **OBJECTIVE 5: ENSURE OPTIMAL INFORMATION TECHNOLOGY SERVICE DELIVERY TO ALL USERS**

An important component of the Patent goal is to leverage IT to accomplish the USPTO's mission-related objectives. This Patent objective reaffirms the agency's commitment to PE2E processing and lays out the USPTO's plans for ensuring optimal IT service delivery to both internal and external users.

The USPTO has progressed on a multipronged effort to stabilize the Patent Application Location and Monitoring (PALM) legacy system used for patent examining. The Patent Reporting System was improved for examiners and managers and increased usage of the PALM services gateway as demonstrated by an increase in services.

The USPTO has continued the replacement of legacy tools with new tools. The entire patent-examining corps has migrated to the new Docket and Application Viewer (DAV) tool. DAV is a customizable, searchable tool to help examiners manage their workload and prioritize tasks.

Once fully deployed, the USPTO's PE2E system will provide examiners with an improved way of processing patent applications, integrating activities currently managed across separate systems into a central place, and leveraging modern technology. In 2017, the USPTO started the launch of the Office Correspondence tool. This tool will allow the patent examination corps to write their office actions, fill out the appropriate forms and route that office action for approval, and communicate with the applicant.

In early 2018, patent examiners will have a new search capability, a high-performance tool that will find prior art supporting complex Boolean searches, reviewing results, hit terms, and documents.

The USPTO is working to further modernize its e-commerce capabilities—transactions that involve the transfer of information across e-commerce—and integrating MyUSPTO to tie all e-commerce offerings together at the USPTO. In 2017, a pilot program of the Patent Center was released. Patent Center is a unified interface for patent applicants, and during the beta launch, it received text patent applications from pilot participants. Throughout 2018, the Patent Center will be deploying functionality to replace Electronic Filing System (EFS)-Web and Patent Application Information Retrieval and integrate them with MyUSPTO.

For patent applicants, MyUSPTO and the Patent Center will help provide a simpler authentication process, improved functionality, and a more user-friendly interface and documents. For patent examiners, the updated systems will streamline patent application review, management processes, and increase accuracy of application processing and publication. Overall, it will serve as a more easy-to-use electronic patent application process, which will improve efficiency, communication, and patent quality.

#### **OBJECTIVE 6: CONTINUE AND ENHANCE STAKEHOLDER AND PUBLIC OUTREACH**

Expanding the USPTO's regional presence enhances its commitment to reaching stakeholders across the country. With four regional offices now open, the focus is on educating patent applicants on the wide variety of services provided by the USPTO. Some of these services concentrate on aspiring entrepreneurs, innovators, and students who are looking for beginner information on IP concepts. Other services take the form of meetings and roundtable sessions performed in conjunction with various state Patent and Trademark Resource Centers (PTRCs). These meetings and sessions include topics that focus on how IP can be used as a business strategy and basic information on patents. The agency is also keeping patent practitioners up to date through seminars that discuss such topics as reviews and petitions.

The USPTO continued to assist small businesses and under-resourced inventors through education and outreach programs, pro se assistance (e.g., walk-ins, calls, emails for inventors who are contemplating filing or have filed, new virtual walk-in service being piloted with two PTRCs, and the new Inventor Info Chat monthly educational online series), and raising awareness about other programs that could be of assistance.





Patent examiners from around the country gathered at USPTO headquarters for a semiannual PaTH (Patent Training at Headquarters) event. PaTH gives examiners working remotely the opportunity to meet with their colleagues for group training and networking. (Photo: Michael Cleveland/USPTO)

The Patents Ombudsman Program enhances the USPTO's ability to assist applicants or their representatives with issues that arise during patent application prosecution. More specifically, when there is a breakdown in the normal application process, including before and after prosecution, the Patents Ombudsman Program can assist in getting the application back on track. The Patents Ombudsman Program staff also provides informative presentations to educate customers on the Patents Ombudsman Program, with particular emphasis paid on how to proactively resolve the most frequent types of inquiries. In FY 2017, the program provided outreach to about 250 IP professionals. The Patent Ombudsman program is available online at [www.uspto.gov/patent/ombudsman-program](http://www.uspto.gov/patent/ombudsman-program).

## **OBJECTIVE 7: MAINTAIN PTAB'S ABILITY TO PROVIDE TIMELY AND HIGH-QUALITY DECISIONS**

### **Allocating Resources Effectively**

In September 2011, the AIA re-established the Board of Patent Appeals and Interferences as the PTAB, effective in September 2012. Since then, the PTAB has been accepting petitions for the new AIA post-grant proceedings (AIA trials). The PTAB continues to be a faster and less expensive alternative to litigation in the district courts. In FY 2017, the PTAB received more than 1,800 petitions under the AIA and met all statutory deadlines. The PTAB also decided over 14,000 appeals and reduced the PTAB Ex Parte Appeal backlog from over 21,000 in FY 2015 to about 14,000 by the end of FY 2017.

To meet the rising demand for its services, the PTAB has grown quickly. This has required additional administrative infrastructure and minor organizational realignments, with close attention being paid to appropriate manager-to-employee ratios. The opening of the USPTO's four permanent regional offices, with hearings now being conducted in each of these locations, has led to a requirement for additional hearing and administrative-support personnel. PTAB recruited and hired 6 administrative patent judges in FY 2017.

The number of AIA petitions filed each month is difficult to predict because the impact of factors, such as rule changes, pending legislative initiatives, and judicial decisions, is not well known or easily predictable. The challenge of balancing workload with human capital resources at PTAB will remain a focus. The PTAB will continue to closely monitor filing trends and make adjustments to staffing requirements to meet goals.

### **Patent Trial and Appeal Board End-to-End (PTAB E2E) IT System**

In September 2012, the USPTO deployed an e-filing system known as the Patent Review Processing System (PRPS) for trials under the AIA. Since then, usage of PRPS has exceeded expectations; however, the time has come to transition to a new system to better serve the needs of the public.

In July 2016, the USPTO deployed a new system called PTAB End-to-End (E2E). PTAB E2E is a fully integrated IT system designed to meet the specific business needs of the PTAB and its stakeholders. PTAB E2E uses a Web browser and a step-by-step filing program to enable petitioners and patent owners to provide metadata and upload PDF documents to the system. PTAB E2E also provides an interface to the Financial Manager for paying fees.

The PTAB E2E system initially provided for AIA petitions to be filed for inter partes review, post-grant review, and covered business method review, and then included derivation proceedings in December 2016. Work is currently underway to integrate appeal decision functionality including integrating the iFiling Interference Web portal capabilities into PTAB E2E in the future.



# TRADEMARKS: STRATEGIC GOAL II

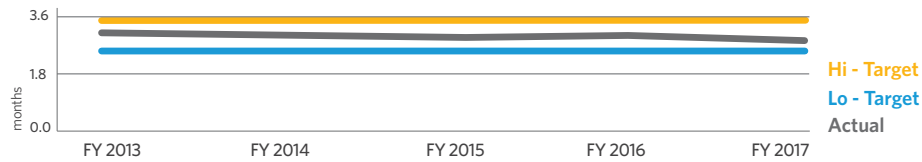
## **WHAT IS A TRADEMARK OR SERVICE MARK?**

A trademark or service mark is a word, name, symbol, device, or any combination thereof, used to identify and distinguish the goods and services of one seller or provider from those of others and to indicate the source of the goods and services. Although federal registration of a mark is not mandatory, it has several advantages, including notice to the public of the registrant's claim of ownership of the mark, legal presumption of ownership nationwide, and a presumption of the exclusive right to use the mark on or in connection with the goods and services listed in the registration. Recordation of a registered trademark with U.S. Customs and Border Protection enables the owner to stop infringing goods from entering the United States.

For a look at the steps involved for obtaining a trademark registration from the USPTO, please visit [www.uspto.gov/trademarks-getting-started/trademark-process](http://www.uspto.gov/trademarks-getting-started/trademark-process).

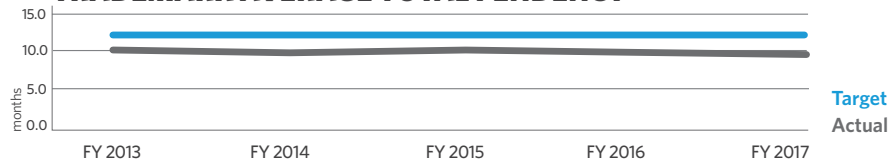
What follows are those Strategic Goal II measures for which enough data are available to establish performance trends.

### TRADEMARK AVERAGE FIRST ACTION PENDENCY



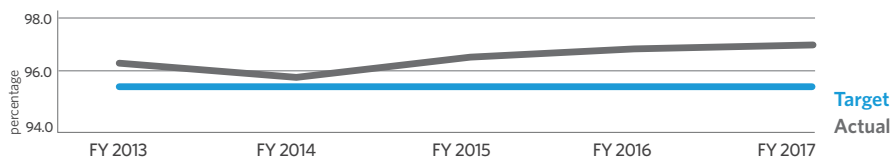
Trend: The trend line indicates that the performance is meeting goals within the expected target range of 2.5 to 3.5 months. Additional discussion for this measure can be found on page 62.

### TRADEMARK AVERAGE TOTAL PENDENCY



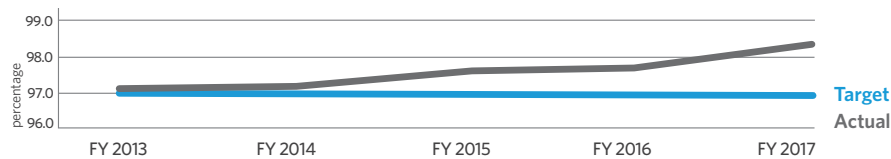
Trend: The trend line indicates that the performance trend is meeting goals within the target range. Additional discussion for this measure can be found on page 62.

### TRADEMARK FIRST ACTION COMPLIANCE RATE



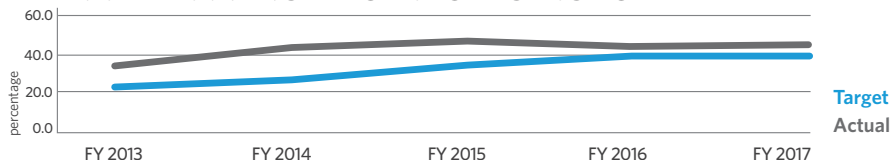
Trend: The trend line indicates that the performance is maintaining standards within the target. This measure is the percentage of applications reviewed meeting the criteria for decision making for the first Office action under the Trademark Act. Additional discussion for this measure can be found on page 63.

### TRADEMARK FINAL COMPLIANCE RATE



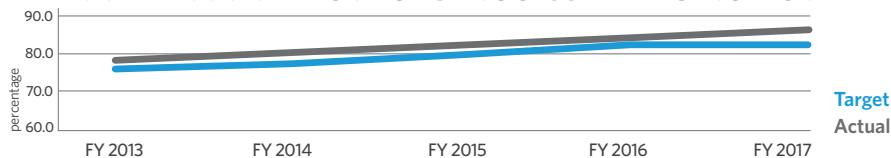
Trend: The trend line indicates that the performance is maintaining standards within the target. This measure is the percentage of applications reviewed meeting the criteria for decision making for registration based on the examiner's approval or denial of the application including first Office actions under the Trademark Act. Additional discussion for this measure can be found on page 64.

### TRADEMARK EXCEPTIONAL OFFICE ACTION



Trend: The trend line indicates positive performance. Additional discussion for this measure can be found on page 64.

### TRADEMARK APPLICATIONS PROCESSED ELECTRONICALLY



Trend: The trend line indicates positive performance. Additional discussion for this measure can be found on page 63.



## STRATEGIC GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS

The USPTO protects consumers and provides benefits to businesses by executing the trademark laws of the United States. Federal trademark registrations allow consumers to identify the source of products and services, and indicate a trademark's quality to its owner.

The USPTO consistently delivers high-quality trademarks within target pendency. Since 2008, trademarks have been registered in less than 12 months on average. An indication of registrability via a first action has been provided in less than 3.5 months every month since April 2007. The USPTO and its trademark stakeholders consider these to be optimal pendency rates. The number of trademark applications processed completely electronically increased to 86.5 percent in FY 2017. First and final action compliance rates, which measure trademark quality, exceed 97 percent. The USPTO strives to maintain this strong performance as filings continue to increase.

The USPTO's Trademarks operations are guided by the strategic goal to optimize trademark quality and timeliness. The USPTO has continued to sustain this level of performance under the *2014–2018 Strategic Plan*. The following objectives focus on management actions to ensure that staffing, resources, and refined processes are aligned to meet demand for products and services.

### **OBJECTIVE 1: MAINTAIN TRADEMARK FIRST ACTION PENDENCY ON AVERAGE BETWEEN 2.5–3.5 MONTHS WITH 12.0 MONTHS FINAL PENDENCY**

The USPTO has continued to align trademark examination capacity with the changing volume of incoming applications. The agency manages the workload by using methods such as prudent use of overtime, production incentives, career development details, and hiring.

Over the past few years, economic uncertainty has affected business decisions and investments. Uncertainty contributes to volatile application-filing levels and the challenge of developing precise forecasts. Despite these factors, the USPTO managed resources and staffing to maintain the timeliness that the agency's stakeholders have come to expect. In response to a 12-percent increase in trademark filings for FY 2017 and anticipated filings increase of 8.6 percent in FY 2018, the USPTO plans to continue hiring examining attorneys to ensure that capacity meets the expected increase in application volume.

#### **Continue to Achieve Optimal Pendencies**

First action pendency measures the length of time between receipt of a trademark application and when the USPTO makes a preliminary decision. In FY 2017, first action pendency was 2.7 months, within the optimum target range of 2.5 to 3.5 months. Average total pendency—the average number of months from date of filing to notice of abandonment, notice of allowance, or registration—averaged 9.5 months. The USPTO has sustained optimal pendency (see Tables 8 and 9), which is an important indicator for stakeholders when making business decisions. The USPTO is committed to achieving its overall targets with the IP community.

**TABLE 8**

Measure: Trademark Average First Action Pendency (Months)		
Fiscal Year	Target	Actual
2013	2.5 to 3.5	3.1
2014	2.5 to 3.5	3.0
2015	2.5 to 3.5	2.9
2016	2.5 to 3.5	3.1
2017	2.5 to 3.5	2.7
2018	2.5 to 3.5	
Target met.		

**TABLE 9**

Measure: Trademark Average Total Pendency (Months)		
Fiscal Year	Target	Actual
2013	12.0	10.0
2014	12.0	9.8
2015	12.0	10.1
2016	12.0	9.8
2017	12.0	9.5
2018	12.0	
Target met.		

In addition to managing trademark examination capacity to address filings and pendency, the USPTO took an important step to encourage applicants to use electronic communication. Following the fee decrease in 2015 for those willing to commit to fully electronic prosecution, on January 14, the USPTO implemented additional fee changes communicated in the *Federal Register*, 81 Fed. Reg. 72694 in October 2016, to raise fees for paper filings. Fees for paper filings increased as did fees for filings that are not restricted to electronic communications. The fee changes further the USPTO's strategic objectives by (1) better aligning fees with the full cost of relevant products and services; (2) protecting the integrity of the register by incentivizing more timely filing or examination of applications and other filings, and more efficient resolution of appeals and trials; and (3) promoting the efficiency of the process, in large part through encouraging applicants to utilize electronic filing options, which reduce the USPTO's examination costs. Fees for ex parte appeals, oppositions, cancellations, and affidavits at the TTAB were also adjusted to better align with costs.

The fee adjustment had a dramatic impact on paper filed applications. By the end of the fiscal year, paper application filings had been reduced from an average of 21 per week, to 7 per week. Overall, FY 2016 paper applications totaled 1,189, but in FY 2017, the USPTO only received 425 paper filed applications. All other paper filings showed declines as well, which was the desired effect.

Electronic processing of trademark applications throughout the entire prosecution cycle continued to increase to 86.5 percent of applications disposed in FY 2017, as shown in Table 10.

The USPTO will continue to engage with the public to identify ways to streamline processes, lessen the financial burden on applicants by offering fee options, and efficiently process trademark applications. The long-term goal is exclusively electronic correspondence by FY 2019.

**TABLE 10**

<b>Measure: Trademark Applications Processed Electronically</b>		
<b>Fiscal Year</b>	<b>Target</b>	<b>Actual</b>
2013	76.0%	79.0%
2014	78.0%	80.7%
2015	80.0%	82.2%
2016	82.0%	84.8%
2017	82.0%	86.5%
2018	86.0%	
Target met.		

**OBJECTIVE 2: MAINTAIN HIGH TRADEMARK QUALITY**

Trademark examination quality is indicated by the first and final compliance rate. This is determined through an in-process review evaluation of the statutory bases for which the USPTO raises issues and/or refuses marks for registration based on the first Office action and the examiner’s approval or denial of the application (see Tables 11 and 12).

**TABLE 11**

<b>Measure: Trademark First Action Compliance Rate</b>		
<b>Fiscal Year</b>	<b>Target</b>	<b>Actual</b>
2013	95.5%	96.3%
2014	95.5%	95.8%
2015	95.5%	96.7%
2016	95.5%	97.1%
2017	95.5%	97.3%
2018	95.5%	
Target met.		

Quality measurement considers adherence to registrability standards and the comprehensive excellence of USPTO actions, including research, writing, legal decision-making, and evidence. Trademarks routinely achieves quality targets, and sustains high performance by improving training and feedback, promoting electronic filing and processing, making greater use of online tools and enhanced processes, and adopting more rigorous customer-centric measures. All three Trademark quality targets were met again in FY 2017, which is compelling evidence that specialized training, online tools, and enhanced communication efforts are effective.

**TABLE 12**

Measure: Trademark Final Compliance Rate		
Fiscal Year	Target	Actual
2013	97.0%	97.1%
2014	97.0%	97.2%
2015	97.0%	97.6%
2016	97.0%	97.8%
2017	97.0%	98.3%
2018	97.0%	
Target met.		

The USPTO has consistently exceeded its targets for Exceptional Office Action, the most comprehensive quality measure (see Table 13), illustrating the USPTO's commitment to ongoing excellence in searching, preparing supporting evidence, writing office actions, and communicating decisions. The measure demonstrates the USPTO's success in emphasizing a holistic approach to quality. The USPTO continues to address quality by developing guidelines specific to quality review findings. The target has been raised consistently to reflect not only the new level of quality, but also to consider the impact of hiring a significant number of new examiners and implementing new procedures or processes.

Incentive awards have motivated examiners to strive for exceptional work products. In late 2017, the USPTO established a non-monetary award known as the *Exemplary Office Action Award* to further recognize exceptional work.

**TABLE 13**

Measure: Exceptional Office Action		
Fiscal Year	Target	Actual
2013	23.0%	35.1%
2014	28.0%	43.0%
2015	36.0%	48.3%
2016	40.0%	45.4%
2017	40.0%	45.0%
2018	45.0%	
Target met.		

The USPTO will continue its multifaceted training program for its trademark examining attorneys and support its professional staff. New examining attorneys are first trained in the classroom and then work with a mentor for an extended period. Experienced examining attorneys are provided with continuing training resources to improve performance. This includes in-house legal training by the USPTO's Office of Trademark Quality Review and ongoing trademark case law updates and examination guidelines by the legal policy office. The USPTO provides continuing legal education on relevant topics by outside lawyers and offers training on the use of IT to provide new research resources and procedures to minimize errors. The USPTO continues to engage stakeholders in verifying trademark-quality findings; offers user-group-provided, industry-specific training; and works with industry experts on updating identifications for goods and services. Regular meetings and



roundtables with outside constituent groups, a customer call center, and an email box for customer problems also provide valuable feedback about examination quality.

Table 14 shows how the USPTO evaluates the efficiency of the trademark examination process, as measured by the average cost of a trademark disposal compared with trademark direct and indirect costs. This efficiency measure is calculated by dividing total expenses associated with the examination and processing of trademarks (including associated overhead and allocated expenses), as well as multi-year investments in IT by outputs or office disposals. Actual results are based on total trademark-related expenditures office-wide compared with office disposals (abandoned and registered applications, etc.).

**TABLE 14**

Measure: Total Cost Per Trademark Office Disposal		
Fiscal Year	Target	Actual
2013	\$609	\$552
2014	\$650	\$559
2015	\$673	\$667
2016	\$600	\$600
2017	\$561	\$586
2018	\$540	
Target not met.		

**OBJECTIVE 3: ENSURE OPTIMAL INFORMATION TECHNOLOGY SERVICE DELIVERY TO ALL USERS**

**Modernize IT Systems Through Developing the Trademark Next Generation**

Work to replace trademark legacy IT systems began in 2010 with the launch of the Trademark Next Generation (TMNG) project. When completed, TMNG will separate the trademark IT infrastructure from the rest of the USPTO IT infrastructure and implement an integrated IT system for end-to-end electronic processing of trademark applications and trademark registration maintenance. TMNG is expected to eventually enable end-to-end processing that is faster, more practical, more feature-rich, and more reliable for USPTO employees, trademark applicants, trademark owners, and the public at large. User-centered design is a core component of the TMNG development effort, and the system takes advantage of virtualization and cloud computing. This modernization effort is a multi-year investment that has not progressed as quickly as planned. Some progress was made in FY 2017 on the development and eventual replacement of the first major legacy system, FAST 1—the online examination system used by examining attorneys. The deployment has been delayed until functional requirements can be delivered.

**OBJECTIVE 4: CONTINUE AND ENHANCE STAKEHOLDER AND PUBLIC OUTREACH**

The USPTO continues to expand outreach to practitioners across the country by making greater use of social media to host roundtables for open discussion to explore topics, including the current state of trademark operations; updates for entries in the Identifications and Classifications Manual for social media, finance, and computer terminology; and the impact of technology changes on descriptions of goods and services in registered marks. Roundtables were held in conjunction with different stakeholder groups, including multiple bar associations such as the American Intellectual Property Law Association (AIPLA) and the International Trademark Association (INTA), in cities throughout the United States.

Trademarks held its first ever “Twitter Chat” in FY 2017 with 39,900 impressions—tweets that actually generate interaction or replies from others. It also expanded its video chat sessions, which were started in conjunction with regional offices around the country. The regional offices invited area business people and entrepreneurs to learn about the trademark application process from highly experienced Trademarks officials. These highly interactive sessions are conducted monthly at USPTO regional offices in Detroit, San Jose, Dallas, and Denver.

### Trademark Expo

The National Trademark Expo was held on October 21-22, 2016, in Washington, DC. The event was designed to educate the public about the instrumental role that trademarks play in business development and the value of trademarks for growth in the global marketplace.

The theme of the Expo was “Movement and Energy.” Highlighting key themes such as “Unusual Trademarks” and “Brand Evolution,” the Expo offered a variety of educational seminars including “Trademark Basics,” “Applying to Seek Federal Registration,” “What Happens After Federal Registration,” and “Why Buy Legit.” A number of our country’s leading corporations, small businesses, and governmental agencies participated, highlighting their trademarks and providing information on the benefits of federal trademark registration.

The Expo featured exhibits and display cases of authentic goods alongside counterfeit goods, including a display by the Indian Arts and Crafts Board. Losses to U.S. businesses from counterfeiting of trademarked consumer products are estimated at billions of dollars and hundreds of thousands of jobs annually and create serious public health risks and safety hazards. The USPTO is planning the next National Trademark Expo for early FY 2019.



Commissioner Mary Boney Denison delivers opening remarks at the Trademark Expo in Washington, DC, on October 21, 2016. (USPTO photo)



Elizabeth Dougherty, Director of the Office of Innovation Development; John Cabeca, Director of the Silicon Valley Regional Office; Ken Takeda, Regional Outreach Officer for the Silicon Valley Office; and Tanya Amos of Trademarks represent the agency at the Consumer Electronics Show (CES) in Las Vegas, Nev., on January 5, 2017. (USPTO photo)

### Providing Access to Pro Bono Trademark Legal Services Through Law School Clinics

The USPTO also assists patent and trademark applicants by providing pro bono services through its law school clinic program, now expanded to include 45 participating colleges and universities. The program benefits both law school programs and the business owners they represent in filing applications and obtaining trademark protection. This program allows law students enrolled in participating law schools to practice both patent and trademark law before the USPTO and under the strict guidance of a faculty supervisor. In 2017, 519 trademark applications were filed as a result of the program, a 7.9 percent increase compared to the same time period in FY 2016. For a more in-depth discussion on pro bono services, please see Management Goal, Objective 3, “Enhance Internal and External Relations” on page 99.

### Engagement of Stakeholders for the Trademark Registry

The USPTO continued its goal of strengthening the integrity of the Trademark Register and addressed the growing issue of unused marks, sometimes referred to as *trademark cluttering*. The results of a Post Registration Pilot that began in 2012 showed that more than half of a random sample of registrants were unable to provide the requested “proof of use” of their mark; thus, changes have been made to improve the accuracy of the Register.

The USPTO chose a three-pronged attack to rid the Register of unused marks. First, in January the USPTO changed the declaration to make it easier to read. Increasing the solemnity of the declaration did not require a rule change, but the new language was posted on *Ideascale*, an interactive online program, to allow users to provide suggestions and comments prior to implementation. Second, in March the USPTO issued rulemaking to make the random audits from the pilot program permanent and plans to implement the program in early FY 2018. Third, as advocated by stakeholders, the USPTO is developing proposals for streamlined cancellation proceedings to quickly and inexpensively cancel registrations of marks not in use. The USPTO published a Request for Comments in the *Federal Register* in May and held a public roundtable in September to discuss reviewing the comments. In addition, the USPTO has continued its 2015 pilot program regarding goods and services impacted by technology evolution, ensuring the integrity of the Register to reflect marks that still remain in use in their relevant industry.

### Education and Outreach

The USPTO reaches out to small businesses around the country with information about trademark basics, enforcement measures, and tools for protecting and enforcing trademark rights. These educational programs and materials are geared to those generally not acquainted with trademark information, such as non-trademark attorneys, the small business community, the entrepreneurial community, and students. The USPTO partners with colleges and universities, entrepreneurship clubs, and similar groups to present lectures on trademarks and the importance of a strong mark that is both federally registrable and legally protectable.

The USPTO has also increased information available through its website by updating the *Basic Facts About Trademarks* booklet and corresponding videos, which are available in both English and Spanish. *What Every Small Business Should Know Now, Not Later* is one of several informational videos designed specifically for anyone interested in starting a business. This video highlights the important role of trademarks in starting a business, including a discussion of how trademarks, patents, copyrights, domain names, and business name registrations differ, and gives guidelines on how to select the right mark. The video also explains the benefits of federal registration, suggests helpful resources for preparing and filing an application, and clarifies why addressing trademarks in a business plan can be critical to success. This video has been watched more than 757,897 times since it was launched in August 2013.

### Addressing Fraudulent Solicitations Roundtable

In July 2017, the USPTO co-hosted its first ever public roundtable on fraudulent solicitations with the Trademark Public Advisory Committee. The objectives of the event were to educate the public about the problem of misleading or fraudulent solicitations for trademark services, to learn more about what other government agencies were doing, and to brainstorm new ideas for tackling this complex issue. The topic has gained increased attention as applicants and registrants paid fees to private companies while mistakenly thinking that they were paying fees required by the USPTO.



Trademark Fraudulent Solicitation Roundtable with Joe Matal, Mary Boney Denison, and others in the Global Intellectual Property Academy (GIPA) at the United States Patent and Trademark Office (USPTO).



Joseph Matal, who is performing the duties and functions of Secretary of Commerce for Intellectual Property and Director of the USPTO, spoke at this roundtable, as did 11 public speakers and seven federal speakers from the USPTO, the U.S. Department of Justice, the U.S. Postal Inspection Service (USPIS), the Federal Trade Commission (FTC), the Small Business Administration (SBA), and the U.S. Customs and Border Protection (USCBP).

The USPTO continues to work diligently to fight solicitations from companies fraudulently promising to provide trademark services. The agency will continue to collaborate with other federal agencies to educate the public on this issue and to identify those responsible. For further information on fraudulent solicitations, please see “Combatting Fraudulent Solicitation” in Strategic Goal III on page 75.

### **Customer Experience**

The USPTO launched a new initiative to improve the trademark customer experience—what a customer thinks, feels, and does during interactions with the Trademarks organization. Customer and employee experiences are inextricably linked by their interactions throughout the process. The initiative will examine a number of interactions to enhance the experience of using the website and systems, the clarity of correspondence and forms, and in-person and on-the-phone experience. The goal is to have a process that is consistent, clear, and intuitive.

### **Cooperation With Global Peers and Stakeholders**

The USPTO places a high priority on collaborating and exchanging best practices with its international partners. In May, USPTO officials participated in the 2017 International Trademark Association (INTA) Annual Meeting in Barcelona, Spain. The meeting’s largest attendance ever helped the USPTO to broaden its exposure to the trademark and IP community.

While at the INTA Annual Meeting, Mary Boney Denison, the Commissioner for Trademarks attended the TM5 mid-term meeting hosted by the European Union Intellectual Property Office (EUIPO). The TM5 includes the five largest trademark offices in the world: the USPTO, the JPO, KIPO, the EUIPO, and the Trademark Office of the State Administration for Industry and Commerce of the People’s Republic of China (SAIC). The TM5 allows partner offices to exchange information on trademark-related matters and to cooperate in harmonizing and improving their respective trademark protection systems and procedures. Collective efforts to minimize bad-faith filings was among the topics discussed, but the main objective of the midterm meeting was to assess the progress of all projects and to prepare for the annual meeting, which will take place in late November 2017 at the EUIPO in Alicante, Spain. The mid-year meeting saw progress on a number of cooperative projects and included sessions with users, designed to obtain feedback on the existing efforts and to generate ideas and discussion about future work.

For further information on international cooperation, please see Strategic Goal III, Objective 2, “Provide Leadership and Education on International Agreements and Policies for Improving the Protection and Enforcement of Intellectual Property Rights” on page 79.

## **OBJECTIVE 5: ENHANCE OPERATION OF THE TRADEMARK TRIAL AND APPEAL BOARD**

On January 14, 2017, the TTAB's amended Rules of Practice in Trademark Cases became effective. These rules apply to all proceedings before the Board, including those pending as of the effective date. The first update to the rules since 2007, the amended rules streamline trial proceedings by promoting efficient and cost-effective use of resources of both the Board and parties to the proceedings. Since the effective date of the rules, the Board has issued two precedential and several non-precedential orders that clarify and interpret certain aspects of the rules. In addition, on July 21, 2017, the USPTO published a final rule in the *Federal Register* clarifying certain provisions of the rules related to deadlines for filing various motions. The clarifying rule reflects ongoing and current practice, as articulated by non-precedential orders, and in keeping with the goals of promoting efficiency and predictability in trial case procedure.

As part of the USPTO's ongoing effort to improve the accuracy of the U.S. Trademark Register, the Board and Trademarks met with various stakeholder groups in FY 2016 to explore options for allowing challenges by interested parties to registrations for unused marks, in addition to traditional cancellation proceedings. In FY 2017, the Board focused on one such option, the concept of a streamlined version of a cancellation proceeding that would be limited to seeking cancellation of registrations on the grounds of nonuse or abandonment. On May 16, 2017, the Board published a Request for Comments in the *Federal Register* outlining such a streamlined process and seeking stakeholder input. Comments submitted in response were collected and discussed at a public meeting hosted by the TTAB on September 25, 2017, where additional input was welcomed. In the coming year, the Board will assess the feasibility of rulemaking to implement a version of the streamlined proceedings.

The TTAB continues its commitment to transparent reporting of data and performance measures and welcomes comments on the utility of these measures from the TPAC and other stakeholders. Data reported in FY 2017 show continuing improvement (declines) in overall average pendency (from commencement to completion) of appeals, trial cases, and Accelerated Case Resolution (ACR) trial cases. It is significant to note that FY 2017 is expected to mark the sixth consecutive year that the TTAB has reduced overall average pendency in trial cases.

In FY 2017, the Board varied from its past practice of issuing only one revision of the Trademark Board Manual of Procedure (TBMP) and issued two updates instead. The first update, published January 2017, reflected the changes in practice and procedure set forth in the new amended Trademark Rules and case law since the 2016 edition. The second update was made in June 2017 and incorporated references to new case law, issued since the January 2017 version of the TBMP. Both revisions were published in a searchable format and PDF. Finally, the Board continued to fulfill its commitment to developing the law by issuing precedential opinions and orders, with such decisions issued on a wide variety of substantive and procedural matters.

Committed to proactively engaging with the public regarding Board operations, the TTAB continued its partnership with the PTAB in offering joint hearing programs at two law schools, Suffolk University Law School in April 2017 and the University of Minnesota Law School in September 2017. The purpose of such programs is to showcase PTAB AIA trial

proceedings and TTAB trial and appeal proceedings. During those events, the Boards worked with law school faculty and local practitioners to offer educational sessions about practice before the two Boards. In addition, TTAB judges and interlocutory attorneys routinely speak at local professional meetings throughout the country, offering tips for practice before the Board, discussing the Board's amended rules, and seeking feedback with respect to the proposed streamlined cancellation proceedings.

The Board also implemented two sets of updates to its IT systems, including both the online system for submission of electronic filings to the Board and the electronic case file system that houses submitted documents and proceeding data. These updates facilitated the work of the Board's paralegals and attorneys and also aided stakeholders using these systems. In addition, the Board increased its interaction with Trademarks and the CIO in regard to efforts focusing on development of next generation systems.



# INTELLECTUAL PROPERTY: STRATEGIC GOAL III

## **WHAT IS THE ROLE OF THE USPTO AND INTELLECTUAL PROPERTY POLICY?**

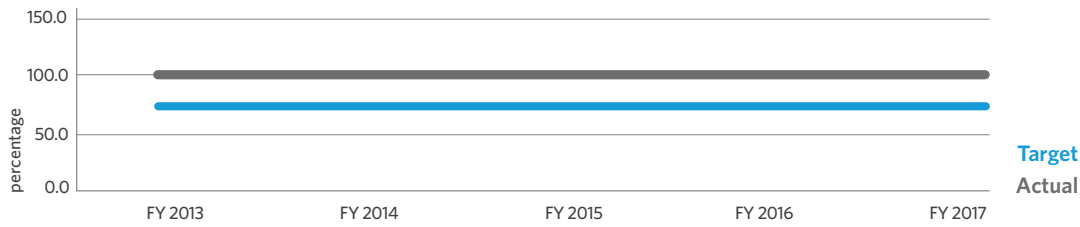
The USPTO advises the president—through the Secretary of Commerce—and federal agencies on national and international IP policy issues, including IP protection and enforcement in other countries. The USPTO’s strategic plan highlights these activities in Strategic Goal III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide.



What follows is the Strategic Goal III measure for which sufficient data are available to establish performance trends.

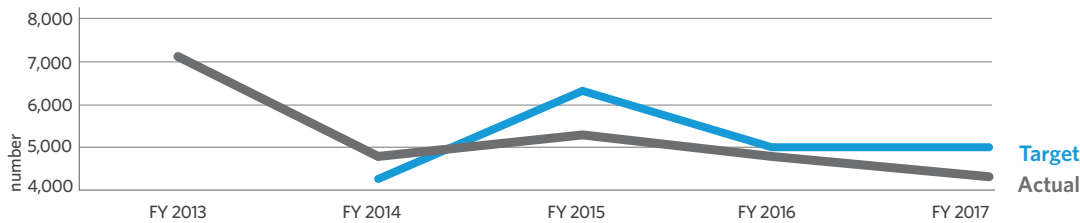
**PERCENTAGE OF PRIORITIZED COUNTRIES FOR WHICH COUNTRY TEAMS HAVE MADE PROGRESS ON AT LEAST 75% OF ACTION STEPS IN THE COUNTRY-SPECIFIC ACTION PLANS ALONG THE FOLLOWING DIMENSIONS:**

1. Institutional improvement of IP office administration for advancing IP rights,
2. Institutional improvement of IP enforcement entities,
3. Improvement in IP laws and regulations, and
4. Establishment of government-to-government cooperative mechanisms.



Trend: The trend line indicates that the performance is maintaining standards for the target. Additional discussion for this measure can be found on page 85.

**NUMBER OF FOREIGN GOVERNMENT OFFICIALS TRAINED ON BEST PRACTICES TO PROTECT AND ENFORCE INTELLECTUAL PROPERTY**



Trend: The trend line indicates that the performance trend is decreasing with significant variability in predicting future results. Additional discussion for this measure can be found on page 84.



## STRATEGIC GOAL III:

### PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION, AND ENFORCEMENT WORLDWIDE

The USPTO is authorized by statute to provide guidance, to conduct programs and studies, and to interact with IP offices worldwide and with international intergovernmental organizations on matters involving IP.

The USPTO's initiatives to fulfill this mandate are reflected under Strategic Goal III. It leads negotiations on behalf of the United States at WIPO; advises the administration on the negotiation and implementation of the IP provisions of international trade agreements; advises the Secretary of Commerce and the administration on a full range of IP policy matters, including in the areas of patent, copyright, trademarks, plant variety protection, and trade secrets; conducts empirical research on IP; and provides educational programs on the protection, use, and enforcement of IP.

#### **OBJECTIVE 1: PROVIDE LEADERSHIP AND EDUCATION ON INTELLECTUAL PROPERTY POLICY AND AWARENESS**

The USPTO works to meet Objective 1 by providing policy formulation; by conducting a wide variety of educational and training programs on IP, by encouraging and undertaking empirical studies on the economic impacts of IP and innovation, and by improving access to IP-related data. In addition, the USPTO plays a leadership role in domestic and international IP initiatives and policy development for the administration, and engages with Congress and federal agencies on legislative efforts to improve the IP system.

#### **Provide Leadership on Policy Formulation and Guidance on Key Intellectual Property Issues**

Throughout FY 2017, USPTO officials provided policy formulation and guidance by organizing numerous briefings for congressional staff and by conducting public meetings to solicit stakeholder views on a range of IP policy matters, including patent-eligible subject matter, curbing abusive patent litigation, protecting trade secrets, and combatting fraudulent solicitations to trademark holders. The USPTO also continued to carry forth the recommendations made in the January 2016 *White Paper on Remixes, First Sale, and Statutory Damages*, issued by the Department of Commerce's Internet Policy Task Force (IPTF). The USPTO also exercised a leadership role by developing and strengthening international cooperative frameworks and agreements with foreign IP offices.

#### ***Report on Patent Subject Matter Eligibility***

In 2017, the USPTO published *Patent Eligible Subject Matter: Report on Views and Recommendations from the Public*, synthesizing public comments on an important question for innovators in a wide variety of industries: the appropriate boundaries of patent-eligible subject matter. This was the product of roundtables held in November and December 2016, and a request for public comment in the wake of four Supreme Court decisions—*Bilski*, *Mayo*, *Myriad*, and *Alice*—that significantly affected patent eligibility law. The useful feedback that the USPTO received will help ensure that the views and concerns of the innovation community are part of any future policy considerations.

### **Internet Policy Task Force (IPTF)**

As part of the work of the Department of Commerce's IPTF, in partnership with the National Telecommunications and Information Administration (NTIA), in FY 2017, the USPTO followed up on recommendations made in the IPTF green paper, *Copyright Policy, Creativity and Innovation in the Digital Economy*, and in the *White Paper on Remixes, First Sale and Statutory Damages*. This work included organizing a public meeting in December 2016 on developing the digital marketplace for copyrighted works, and continuing to engage with stakeholders and monitor developments; organizing a public meeting in April 2017 on consumer messaging in connection with online transactions involving copyrighted works; and consulting with stakeholders on how to reach a better understanding of the legal ground rules relating to the creation and dissemination of remixes.



In December 2016, the USPTO's IP attachés gathered in Alexandria, Va., for their annual series of domestic consultations with stakeholders on international IP issues. (USPTO photo)

In January 2017, the IPTF produced another green paper, *Fostering the Advancement of the Internet of Things*, to which the USPTO provided contributions related to IP.

### **European Union's Digital Single Market Initiative**

The USPTO also played a leading role in FY 2017 in the administration's ongoing analysis of the copyright-related proposals in the European Commission's Digital Single Market initiative and their subsequent consideration by the European Parliament and the European Council.

### **Combatting Fraudulent Solicitations**

Trademark owners identified the problem of fraudulent solicitations as one of their key priorities for the USPTO this year. This practice affects thousands of USPTO users each year: Nearly every trademark applicant or owner is contacted by private companies not associated with the USPTO, offering trademark-related services. These services are often unnecessary or are offered for vastly inflated fees. Sometimes, the entities behind these scams take no action at all, resulting in loss of registration renewal for a trademark owner who paid for their services.

The USPTO is working hard to address these fraudulent schemes and to raise awareness with trademark owners. Its website provides detailed information on the practice, along with a video and a list of the names of fraudulent entities that have made such solicitations (<https://www.uspto.gov/trademarks-getting-started/caution-misleading-notices>). In addition, the office actions that the USPTO issues include notifications about this problem, including a link to the warnings Web page. The USPTO also encourages recipients of deceptive trademark-related solicitations to contact their state consumer protection authority.

The USPTO has sought assistance from other government agencies that have the authority and tools to investigate and pursue fraudulent solicitations. From 2015 through 2017, the Department of Justice, working with the USPIA, obtained convictions against the individuals behind the Trademark Compliance Center, which operated in the Los Angeles area, as well as employees of a local bank who assisted in laundering the profits of that scam.

To raise public awareness of the issue, the USPTO, together with the TPAC, held a roundtable on this topic in July 2017 (see “Addressing Fraudulent Solicitations Roundtable” on page 68). It brought together representatives of industry and government to discuss fraudulent trademark solicitations with federal law enforcement officials. The USPTO also seeks to raise international awareness of fraudulent solicitations and is seeking international solutions within the TM5 framework.

### Provide Domestic Education, Outreach, and Capacity Building

The USPTO provides IP educational and training programs both to improve IP laws and their administration around the world and to enhance IP awareness and technical capacity. In FY 2017, OPIA conducted a total of 143 such training programs through its Global Intellectual Property Academy (GIPA), serving a total of 7,070 individuals (see Figure 4 and Figure 5). Approximately 37 percent of all individuals served were domestic IP rights owners and users, and approximately 58 percent were patent, trademark, and copyright officials; prosecutors; police; customs officials; and IP policymakers.

In FY 2017, GIPA’s domestic IP outreach focused on the importance of IP protection and enforcement to U.S. companies doing business abroad. Attendees included representatives of U.S. small- and medium-sized enterprises (SMEs), IP practitioners, academics, and IP rights owners and users.

Figure 4.  
**EDUCATIONAL PROGRAMS CONDUCTED**

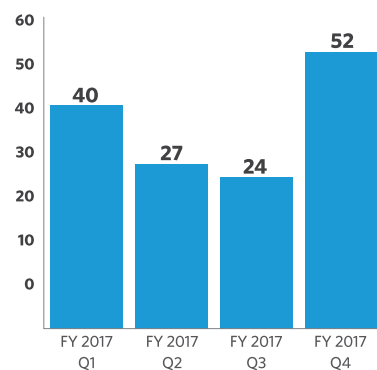
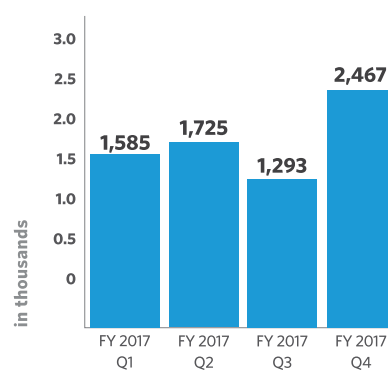


Figure 5.  
**NUMBER OF ATTENDEES TRAINED**



GIPA also presented programs for U.S. officials and policymakers, which provided updates on domestic and IP law and policy. One such GIPA program—on patent, trademark, copyright, and trade secret law—was for Foreign Service officers posted in U.S. embassies around the world, and was cosponsored by the U.S. Department of State’s Foreign Service Institute.

In addition to conducting live, in-person programs, the USPTO continues to utilize technology to make its training programs more efficient and to expand their reach. Both live online and on-demand modes of training and education are provided to increase just-in-time learning. When possible, IP awareness programs are webcast live to reach attendees from all over the country. In FY 2017, GIPA presented 24 programs with a distance-learning or remote engagement component, including a quarterly webinar initiative to provide IP education to grantees of the Small Business Administration’s Small Business Innovation Research and Small Business Technology Transfer (SBIR-STTR) programs.

OPIA produces and maintains in-depth, on-demand distance learning modules on the USPTO website. These modules, available in five languages and covering six different areas of IP protection, have received more than 67,568 unique visitors since they were first made available online in FY 2010.

In FY 2017, to support efforts to expand IP awareness, GIPA produced a short educational video, *Trade Secrets*, and established a playlist on USPTO’s YouTube channel for future IP micro-learning products.

### **Expand Knowledge of the IP Landscape through Empirical Research and Fact-Finding**

OPIA’s work on developing IP policy is supported by empirical, evidence-based studies, including the economic impacts of IP and innovation. These are carried out through the Office of the Chief Economist (OCE). OCE disseminates preliminary research through the USPTO Economic Working Paper Series. In FY 2017, OCE released six working papers.

To promote awareness, encourage empirical economic research, and inform IP policy, the USPTO hosted several domestic and international conferences in FY 2017. It also partnered with several academic institutions to co-host conferences on legal and policy developments in IP and their economic implications.

### **Improve Transparency of and Access to Intellectual Property-Related Data**

OCE continued to expand its efforts to enhance the utility of IP data. In FY 2017, it launched the full version of [PatentsView](#), the patent data Web tool that allows users to explore 40 years of data on inventors, their organizations, locations, and overall patenting activity. The launch introduced a revamped interface, with new data visualization tools and tools for sharing insights and search results using direct Web-address linking to content. The USPTO also added a community Web page to better engage with the PatentsView user community, and continued research on advanced algorithms for identifying unique inventors and assignees over time. For further information on data usage, please see “Digital Services & Big Data” in the Management Goal section on page 91.

Throughout FY 2017, the USPTO released new and updated datasets in forms convenient for public use and academic research on matters relevant to IP, entrepreneurship, and innovation. Among these were new datasets on patent claims text and U.S. District Court patent litigation cases. In collaboration with the Office of the Chief Technology Officer, OCE released, for the first time, comprehensive data on rejections issued by patent examiners.

## Engage Congress and Federal Agencies on Intellectual Property Legislation

Throughout FY 2017, the USPTO continued to engage Congress, other U.S. government agencies, local elected officials, and stakeholders to discuss, promote, and implement effective and balanced IP-related legislation, policy, and administrative actions. This engagement included matters involving patent litigation, patent subject matter eligibility, conduct of post-issuance patent review proceedings, cooperative educational efforts with the Small Business Administration, copyright policy, and USPTO operational matters, such as telework flexibility and time and attendance issues.

### *Briefings and Congressional Staff Events*

USPTO staff provided briefings for congressional staff on budgetary, operational, and IP policy issues, including efforts focused on enhancing patent quality, the USPTO's Big Data Initiative, patent examiner time and attendance, copyright policy matters, and recent Supreme Court decisions impacting IP laws. In February 2017, the USPTO conducted a "day in the life" informational session for congressional staff at its Alexandria headquarters, providing an opportunity for participants to learn about the patent and trademark examining functions and the USPTO's overall operations.

During FY 2017, the USPTO supported various congressional caucus events that focused on IP issues. These included a program for Capitol Hill staff, co-hosted by the House Manufacturing Caucus, which featured federal government and private-sector panelists who discussed the innovation lifecycle. The USPTO also hosted events on Capitol Hill and at its headquarters celebrating World IP Day 2017. First observed by WIPO in 2000, World IP Day promotes discussion of the role of IP in encouraging innovation and creativity. The 2017 theme was "Innovation: Improving Lives."



The USPTO's Chief Policy Officer and Director for International Affairs Shira Perlmutter addressed a gathering of members of Congress, congressional staff, and stakeholders on Capitol Hill in recognition of World Intellectual Property Day, April 26, 2017. (USPTO photo)



### ***Regional and Local Events***

Through its regional offices, the USPTO also conducted outreach to congressional members and staff and hosted events that featured remarks from members of Congress. Such members included Rep. John Culberson, who addressed a China IP road show program in Houston, Texas, in May, and Reps. Pete Sessions and Eddie Bernice Johnson, who addressed an “Anti-Counterfeiting and The Global Marketplace” program in Dallas in August. Regional directors also traveled to various cities throughout their regions in FY 2017 and met with local congressional staff to raise awareness of the resources available at the regional offices.

## **OBJECTIVE 2: PROVIDE LEADERSHIP AND EDUCATION ON INTERNATIONAL AGREEMENTS AND POLICIES FOR IMPROVING THE PROTECTION AND ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS**

The USPTO advances this objective in many settings and through a variety of undertakings. It helps lead efforts to improve IP rights systems in other countries, it provides technical expertise in the negotiation and implementation of international agreements that improve IP rights protection and enforcement, and it places a particular emphasis on China, working with the administration to improve IP protection and enforcement in that country. In performing these activities, the USPTO draws on its network of IP attachés based around the world.

### **Provide Technical Expertise in Negotiation and Implementation of Bilateral and Multilateral Agreements**

In FY 2017, the USPTO continued to provide expert technical advice on IP protection and enforcement in connection with ongoing negotiations of trade agreements and to monitor the implementation of existing trade agreements. For example, the USPTO conducted an extensive review of the laws of Mexico and Canada to prepare for the renegotiation of the North American Free Trade Agreement (NAFTA). The USPTO also assisted the Department of Commerce and the USTR in examining trade agreement compliance and abuse.

The USPTO supported Peru on implementation of the 1991 Act of the International Union for the Protection of New Varieties of Plants (UPOV) Convention and supported Myanmar and Thailand on the development of plant variety protection laws in conformity with the 1991 Act of the UPOV Convention. The USPTO also continued to provide technical expertise in IP in support of the USTR’s ongoing negotiations for Trade and Investment Framework Agreements (TIFAs) with Indonesia, Thailand, and Vietnam, as well as technical expertise to the Department of State on the negotiation and implementation of science and technology agreements with other countries.

### **Work with the Administration to Improve IP Protection and Enforcement in China**

The USPTO worked throughout FY 2017 to improve IP protection and enforcement for U.S. stakeholders in China. It did this through continued engagement with Chinese government officials responsible for IP rights enforcement, by monitoring changes to Chinese laws and regulations that affect IP, by conducting capacity-building and educational programs for Chinese officials, by collaboration with U.S. enforcement agencies, and through outreach to U.S. rights holders on how to enforce their IP rights in China.

### ***Outreach to U.S. Rights Holders***

In FY 2017, the USPTO conducted five “China IP Road Shows” designed to educate U.S. rights holders on how to better protect their IP in China. The programs featured speakers from Chinese and U.S. firms, U.S. government officials, law firm practitioners, and

representatives of SMEs doing business in China. Other notable outreach efforts to U.S. stakeholders in FY 2017 included participation in Alibaba’s “Gateway ’17” program, held June 21 in Detroit. The USPTO made a presentation reminding U.S. participants of the importance of obtaining IP protection domestically before entering foreign markets.

### ***Engagement with Chinese Officials***

The USPTO has three IP attachés posted to China—in Beijing, Guangzhou, and Shanghai. They work closely with resident U.S. law enforcement attachés and are in contact with numerous Chinese government IP agencies to discuss enforcement challenges.

On several occasions during FY 2017, the USPTO’s director and other USPTO officials met with senior Chinese government officials to discuss technical cooperation and outstanding IP policy issues facing the United States and China. These officials included the Vice Minister of China’s State Administration for Industry and Commerce, the President of the Beijing IP Court, and senior representatives from China’s SIPO, Ministry of Commerce, and State Forestry Administration.

### ***Review of Chinese Law and Regulation***

In FY 2017, working with other U.S. government agencies, the USPTO submitted comments to China regarding legislation it was considering in the areas of e-commerce and unfair competition, which governs the treatment of trade secrets and their misappropriation.

### **Lead Efforts to Improve International Intellectual Property Rights Systems, Including at WIPO and Other Intergovernmental Organizations**

The USPTO represents the U.S. government in IP discussions in intergovernmental organizations, such as WIPO, and at for a composed of the world’s largest IP offices (IP5, TM5, and ID5, each involving the relevant offices of the United States, China, Europe, Korea, and Japan). Its efforts in these settings are focused on furthering U.S. IP policy, enhancing the international framework administered by WIPO, and improving IP systems generally.

### ***WIPO Patent Cooperation Treaty***

The United States is a member of the WIPO-administered PCT. The PCT system enables inventors to apply for patent protection in multiple countries via a single international patent application.

One of the PCT’s undertakings is the Collaborative Search and Examination pilot, a program through which examiners from different IP offices around the world work together on PCT applications pending at their respective offices. The program helps U.S. rights holders by facilitating more comprehensive reviews of their PCT patent applications. In 2017, the USPTO led the United States’ participation in a successful effort to broaden participation in this collaborative program.

Some of the IP offices that participate in the PCT system are designated as International Searching Authorities (ISAs) and International Preliminary Examination Authorities (IPEAs). These authorities—of whom the USPTO is one—do the critical work of conducting preliminary examinations of the PCT applications. An IP office’s status as an ISA must be renewed periodically, and in 2017, the USPTO began the process of renewing its status. The USPTO’s work as an ISA/IPEA allows the United States to help lead the effort to maintain high standards for searching in the PCT system.



### ***International Union for the Protection of New Varieties of Plants***

The USPTO continued to provide leadership at the International Union for the Protection of New Varieties of Plants (UPOV), an intergovernmental organization that promotes development of new varieties of plants. To assist U.S. and other UPOV members, the USPTO aided in the development of a system for submitting UPOV forms electronically. That system enhances the organization's efficiency, and in FY 2017, it was expanded to include an additional 16 countries and to allow submissions regarding five additional crops. In addition, the USPTO also participated in the revision of official UPOV documents, which provide guidance on UPOV's complex legal processes.

### ***Geneva Act of the Lisbon Agreement***

Adopted in May 2015, the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (Geneva Act) expanded the scope of the Lisbon Agreement for the Protection of Appellations of Origin (Lisbon Agreement) by providing for the international registration of geographical indications (GIs) and by permitting certain intergovernmental organizations to accede to it.<sup>1</sup>

The United States was disappointed with this development, because the 2015 diplomatic conference did not allow for equal participation by all WIPO members and because the Geneva Act provides an overly broad scope of protection for appellations of origin and GIs, to the detriment of U.S. producers.

During FY 2017, the USPTO led the United States effort, together with a group of other countries, to press for a more balanced discussion on GIs at WIPO, and continued to encourage the Lisbon Union to become self-financing. In addition, the USPTO pressed for the discussions on GIs at WIPO to be more balanced, and there appears to be growing support for that.

The United States will continue to insist that any promotion of the Lisbon System be part of a comprehensive and balanced approach to the protection of GIs that adequately takes into account the impacts on U.S. trade and the use of common (generic) names by U.S. businesses.

### ***Improve Efficiency and Cooperation in the Global Patent System***

Patent work sharing with other IP offices continued to be a key element of the USPTO's international engagement in FY 2017. The PPH, first launched in 2006, is the cornerstone of the USPTO's work-sharing cooperation efforts. It allows an applicant who receives a positive ruling on a patent application from one participating office to request accelerated prosecution of corresponding applications in other participating offices. This potentially enables an applicant to obtain patents faster in multiple jurisdictions, and at less expense, while also enabling the participating offices to leverage each other's work, thereby improving examination efficiency and quality.

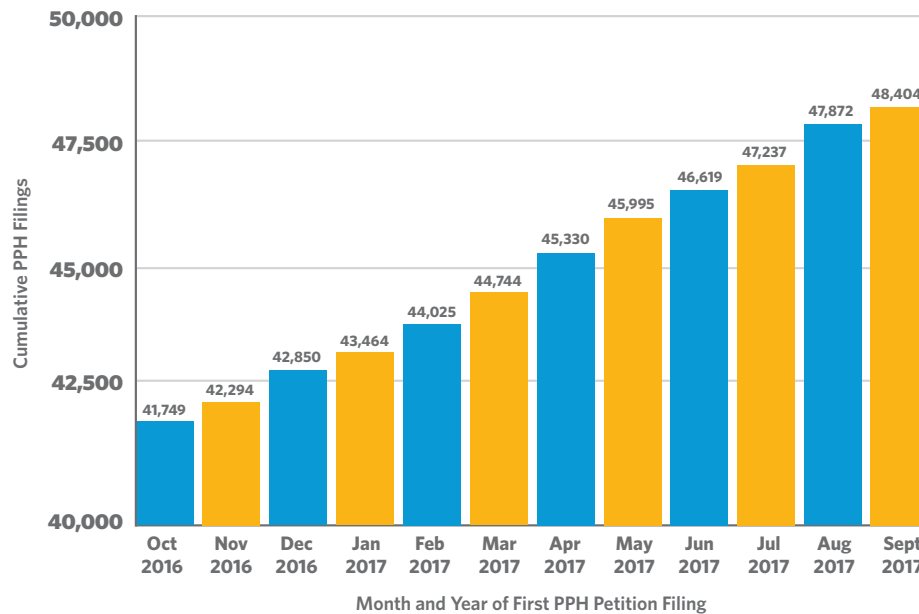
The PPH framework continues to be embraced across the world. In 2017, Brazil and Argentina joined the PPH. As of September 30, 2017, a cumulative total of 48,404 applications with petitions had been filed under the PPH, with 41,567 applications granted.

Figure 6 shows the USPTO's cumulative PPH filings for FY 2017.

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<sup>1</sup> An "appellation of origin" is a special kind of geographical indication that generally consists of a geographical name or a traditional designation used on a product.

Figure 6.  
**CUMULATIVE PPH FILINGS IN 2017**



Another advance in PPH efforts, Global PPH, was launched in January 2014. Global PPH is intended to simplify and streamline the existing PPH network by replacing the dozens of bilateral PPH arrangements among participating IP offices with a single, centralized framework of common requirements. This common set of standards makes it easier for offices to administer the program and also makes it easier for applicants to file their applications.

The USPTO is one of 26 offices currently accepting PPH requests under the Global PPH pilot program. In FY 2017, the number of Global PPH participating offices expanded with the addition of Colombia, New Zealand, and Poland.

In FY 2017, the IP5—which accounts for more than 80 percent of patent applications filed worldwide, as well as about 95 percent of all PCT work—commemorated 10 years of cooperation to strengthen work sharing, patent examination efficiency and quality, and the stability of patent rights for innovators around the world. The IP5 consists of the European Patent Office (EPO), the JPO, the KIPO, the State Intellectual Property Office of the People’s Republic of China (SIPO), and the USPTO.

During its first 10 years, the IP5 has delivered a number of successful products and services to its stakeholders, including Global Dossier, a public service that enables users to monitor, via a single online source, how a family of patent applications is processing at the IP5 offices; IP5 PPH; and the Common Citation Document (CCD), a database that provides for an exchange of citation information from patent files across the IP5.

In FY 2017, the USPTO helped lead the IP5 effort to enhance procedural efficiencies for applicants who apply for patents in multiple IP5 offices. This entailed mapping the differences in the offices’ respective procedural rules governing several matters that are key to the filing process to understand how those rules could be better harmonized.



In April 2017, the USPTO participated in the IP5 Deputy Heads meeting in Munich, Germany. The IP5 brings together the world's five largest patent offices to engage in collaborative efforts that strengthen work sharing, patent examination efficiency and quality, and the stability of patent rights for innovators around the world. (Photo courtesy European Patent Office)

### ***Improve Efficiency and Cooperation in the Global Industrial Design System***

Throughout FY 2017, the USPTO continued its efforts to improve the global industrial design system, including through its leadership at WIPO and at the ID5 Forum, a group comprised of the world's five largest industrial design offices.

At WIPO, in collaboration with Japan and Israel, the USPTO developed and submitted a joint proposal for the discussion and study of new technological designs, including designs for graphical user interfaces (GUIs), icons for electronic displays, and designs for typefaces and type fonts. This USPTO-led initiative, and the resulting studies, provided U.S. and other industrial design stakeholders with a better understanding of the state of IP protection systems for cutting-edge designs in new technologies.

At the ID5, the USPTO helped lead the group to an agreement to begin collaborative work on a range of projects. These projects are designed to aid U.S. and other rights holders in their efforts to obtain protection for their designs in multiple jurisdictions and to provide rights holders with enhanced and easily-accessible information about design protection.

### ***Improve Efficiency and Cooperation in the Global Trademark System***

In FY 2017, the USPTO advanced several strategic cooperative projects through the TM5, a framework that brings together the world's five largest trademark offices. The TM5's mission is to promote cooperation and collaboration among its members and to contribute to more user-friendly, and if possible, interoperable trademark systems.

One important ongoing TM5 project led by the USPTO is the TM5 ID List, which entails the ongoing development of a harmonized pick-list of descriptions of goods and services that are acceptable in applications for trademark registration submitted to all participating IP offices. During FY 2017, work continued on expanding the number of identification (ID) entries and their translation into multiple languages. IP offices from countries that are not TM5 members have been invited, and are actively participating, in this project. To date, the TM5 partners have developed more than 17,600 entries for the list.

Another USPTO-led TM5 project entails the adoption by partner offices of a common set of "status descriptors." These are terms—and corresponding symbols—that indicate the status of trademark applications and registrations in each of the TM5 partner offices.

In FY 2016, the USPTO deployed the common status descriptors on its Trademark Status and Document Retrieval (TSDR) tool, which is accessible on the USPTO’s website, and in FY 2017, three partner offices also deployed the descriptors.

The USPTO also continues to actively participate in the TM5’s efforts to combat the problem of bad faith trademark filings, a practice through which bad actors seek to register trademarks that belong to others. The USPTO’s work on this problem included hosting a panel during a TM5 session at the 2017 annual meeting of the International Trademark Association and contributing to a new TM5 report on bad faith filings, *Case Examples of Bad-Faith Trademark Filings*.

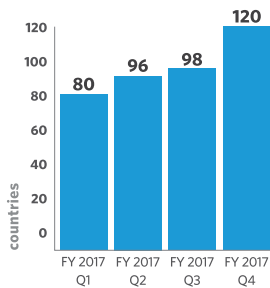
**Improve Enforcement and Provide Capacity Building and Technical Assistance to Key Countries and Regions**

In FY 2017, the USPTO continued to develop and provide capacity-building programs to help improve IP systems in key countries and regions for the benefit of U.S. stakeholders. The programs addressed a full range of IP protection and enforcement matters, including enforcement of IP rights at national borders, Internet piracy, piracy involving express mail deliveries, trade secrets, copyright policy, and patent and trademark examination. Participants included officials with IP-related responsibilities, such as judges, prosecutors, patent and trademark examiners, and IP office administrators.

In FY 2017, the USPTO trained over 7,000 participants, including more than 4,000 foreign government officials representing 120 countries (see Figure 7). While the USPTO was below its target with respect to the number of foreign officials trained, this was due to a decision to shift its focus toward training more U.S. small- and medium-sized enterprises on how to navigate foreign IP systems. A complete list of all countries represented at GIPA trainings in FY 2017, is available online at the [USPTO Data Visualization Center](#).

Table 15 shows the total number of foreign government officials trained through GIPA on best practices to protect and enforce IP in FY 2017. This is the fourth year in which this measure has been directly aligned with the USPTO’s performance progress in Goal III.

Figure 7.  
**CUMULATIVE NUMBER OF COUNTRIES TRAINED FOR THE FISCAL YEAR**



**TABLE 15**

Measure: Number of Foreign Government Officials Trained on Best Practices to Protect and Enforce Intellectual Property		
Fiscal Year	Target	Actual
2013	N/A	7,078
2014	4,300	4,960
2015	6,300	5,283
2016	5,000	4,975
2017	5,000	4,134
2018	5,000	
Target not met.		

**Provide Policy Advice and Expertise to Other U.S. Government Agencies**

Throughout FY 2017, the USPTO provided policy advice and technical expertise on domestic and international IP matters to multiple other federal agencies. These included the Office of the United States Trade Representative (USTR), the Office of the U.S. Intellectual Property Enforcement Coordinator, and other bureaus of the U.S. Department of Commerce.

The USPTO advised the USTR in the negotiation of trade agreements, on Trade Policy Reviews undertaken at the World Trade Organization (WTO), and on the proposed accessions of over 20 countries to the WTO.

In addition, the USPTO assisted the USTR in the preparation of its annual review of global developments on trade and IP, the Special 301 Report. This report identifies U.S. trading partners who have not provided appropriate IP protection and enforcement, or market access, for U.S. rights holders. The USPTO assisted in its preparation by providing extensive information on the state of IP protection and enforcement in many countries.

The USPTO likewise provided the USTR with information in connection with its compilation of the annual Notorious Markets List. The list highlights prominent online and physical marketplaces that reportedly engage in and facilitate substantial copyright piracy and trademark counterfeiting.

### Increase the Effectiveness of Intellectual Property Attachés in Prioritized Countries and Regions

In FY 2017, the USPTO continued its ongoing effort to enhance the effectiveness of the IP attachés posted in prioritized areas. It selected four new IP attachés for deployment to Kyiv, Ukraine; Bangkok, Thailand; Kuwait City, Kuwait; and Guangzhou, China, and ensured that all the attachés continued to promote U.S. policies and U.S. stakeholder interests overseas.

During FY 2017, the USPTO also worked to enhance interactions between attachés and stakeholders, including through roundtables and meetings with rights-holder groups in different parts of the country. The attachés also continued to lead the USPTO’s successful implementation of country-specific action plans in prioritized countries, as shown in Table 16.

**TABLE 16**

<b>Measure: Percentage of Prioritized Countries for Which Country Teams Have Made Progress on at Least 75% of Action Steps in the Country-Specific Action Plans*</b>		
<b>Fiscal Year</b>	<b>Target</b>	<b>Actual</b>
2013	75.0%	100.0%
2014	75.0%	100.0%
2015	75.0%	100.0%
2016	75.0%	100.0%
2017	75.0%	100.0%
2018	75.0%	
Target met.		
*Progress of action steps in the country-specific action plans were made along the following dimensions: (1) institutional improvements of IP office administration for advancing IP rights, (2) institutional improvements of IP-enforcement entities, (3) improvements in IP laws and regulations, and (4) establishment of government-to-government cooperative mechanisms.		



# MANAGEMENT GOAL

## **WHAT IS MANAGEMENT'S FOCUS ON MAXIMIZING THE USPTO'S MISSION PERFORMANCE?**

The USPTO's overarching management goal focuses on shared responsibility that is a prerequisite for achieving success as the USPTO grows and modernizes. This goal advances the USPTO's performance on its three core mission strategic goals through effective alignment and management of human capital, information resources, infrastructure and security management, and sustainable financial capital.



# MANAGEMENT GOAL:

## ACHIEVE ORGANIZATIONAL EXCELLENCE

### **OBJECTIVE 1: LEVERAGE INFORMATION TECHNOLOGY INVESTMENTS TO ACHIEVE BUSINESS RESULTS**

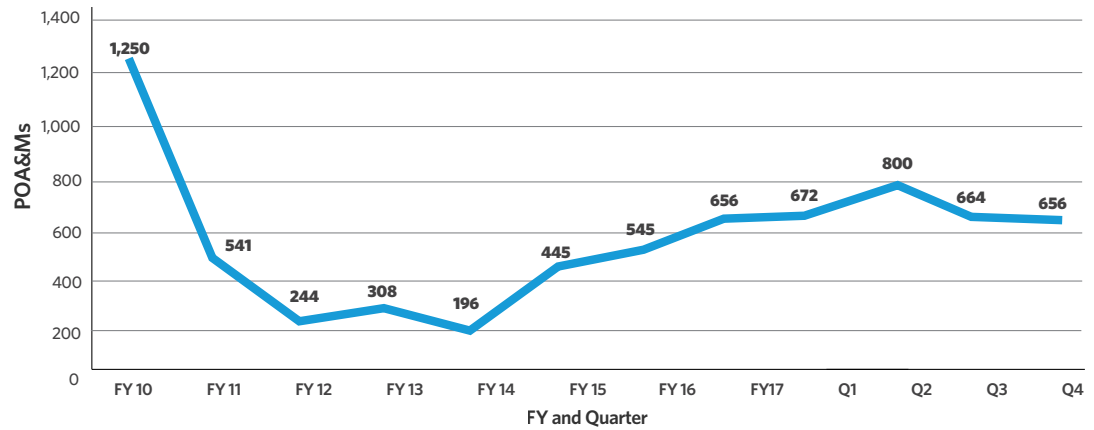
This first objective focuses on the USPTO's IT activities that are required to support and move the agency toward the next generation of tools and services for all mission-specific systems that are identified under the strategic goals. The USPTO will continue to provide cost-effective and transparent operations, processes, and information as it moves to accomplish its goals as stated in the USPTO's *2014–2018 Strategic Plan*. These efforts include:

- Enhancing the internal and external user experience through a new and enhanced website that provides a customer transactional portal and the ability to operate in a mobile environment;
- Leveraging IT to improve internal and external collaboration and information-sharing by developing the ability to conduct fully electronic dissemination interactions and by increasing Web-conferencing capabilities;
- Continuing to provide transparent operations, processes, and information, striving toward "24/7/365" operational capability to meet the business needs of customers and employees so that they can communicate, collaborate, and share information seamlessly and securely across the world;
- Evolving and improving the USPTO's IT infrastructure and services to be more modern, efficient, secure, and available through the use of virtual and cloud capabilities;
- Delivering cost-effective and seamless next-generation IT solutions apart from legacy systems, including integrations of PE2E, TMNG, and FPNG systems to meet the business needs of USPTO customers; and
- Providing advanced analytics using big data, machine learning, and artificial intelligence techniques on USPTO's very large and complex datasets to deliver insights that have the potential to benefit every operational level of the USPTO.

Figure 8 and Table 17 show the total number of open Plan of Actions and Milestones (POA&M) for the USPTO's operational systems at the end of FY 2016 and for every quarter of FY 2017. Any known security weaknesses requiring remediation are tracked using POA&M. The USPTO's goal is to decrease the number of POA&Ms by remediating security weaknesses in the systems.

Figure 8.

**FY 2010 TO FY 2017 POA&M SUMMARY**



**TABLE 17**

FY 2010 to FY 2017 Plan of Actions and Milestones (POA&M) Data					
	Created	Cancelled	Completed	Deleted	Total
FY 2010					1,250
FY 2011	508	755	462	-	541
FY 2012	455	189	563	-	244
FY 2013	357	81	212	-	308
FY 2014	316	51	338	39	196
FY 2015	635	13	289	84	445
FY 2016	1,013	39	787	87	545
FY 2017	1,029	58	710	150	656
Q1	297	3	129	38	672
Q2	297	6	136	27	800
Q3	179	44	202	69	664
Q4	256	5	243	16	656
<b>Totals</b>	<b>4,313</b>	<b>1,186</b>	<b>3,361</b>	<b>360</b>	<b>4,185</b>

In fulfilling responsibilities under 44 U.S.C. § 3504(h), the USPTO uses a capital planning and investment control process to select, prioritize, and control investments; and a budget formulation process to 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 OMB Circular A-11 Exhibit 53, Exhibit 300A, and 300B, and the USPTO’s IT investment portfolio.

The USPTO has made progress toward improved operations and services, as well as toward improving its next-generation systems, which are discussed in the following sections.



## Patent End-to-End (PE2E) System

PE2E made significant progress on patent prosecution tools for patent examiners, patent applicants, and international partners.

DAV is PE2E's patent examiner case management tool and was released in FY 2015. By the end of FY 2016, 100 percent of patent examiners were using DAV. The electronic desktop application navigator (eDAN) legacy system was retired in December 2016, as its full functionality was replaced by DAV.

The Office Correspondence tool is the authoring and workflow tool, which integrates with DAV by leveraging notes, references, and copy-paste capabilities. Significant functionality was developed in FY 2017, and its release to an initial pilot audience of patent examiners in December 2016 was successful. Additional patent staff were added to the pilot audience, and in late May 2017, patent examiner training began and will continue through the first quarter of FY 2018.

The Examiner Search tool is a modern, scalable enterprise search tool for patent examiners. The release to the pilot audience was completed in December 2016. Development is taking longer than expected due to the complexity of the search algorithms, performance, and scalability. As of June 2017, performance and quality improvements continue to be made and will continue through the first quarter of FY 2018. It is anticipated that training for patent examiners will commence at the end of the second quarter of FY 2018.

PE2E's Content Management System (CMS) combines multiple disparate patent document storage solutions into a single, highly available content hub. CMS was released to the patent examiners in FY 2016, and it experienced obstacles related to data storage. CMS encountered difficulties dispersing large numbers of files in a highly available, distributed system that also met the USPTO's disaster recovery requirements. As a result, CMS was rolled back, and based on lessons learned during the execution of the FY 2016 CMS solution, the USPTO is evaluating new solutions to avoid the pitfalls experienced by the previous CMS system. Performance and resilience testing of storage and storage service prototypes were completed in FY 2017 followed by establishing post-prototype milestones.

In FY 2016, eCommerce Modernization focused on (a) providing a cohesive login system by using the USPTO's Single Sign On platform and (b) receiving smart text (XML) versions of key patent application documents. The USPTO has developed prototypes for evaluation of smart text submissions by a group of patent applicant beta testers. Their feedback of the new patent application submission and management system provides input for additional product enhancements. In FY 2017, the number of patent applicants using the pilot system was expanded, and additional functionality is currently being developed.

The CPC system maintains a Patent Classification Scheme that is harmonized between the USPTO and the EPO. CPC was initially released in FY 2013 and has continued to make strides to automate collaboration between the USPTO and the EPO, dramatically reducing the time required for Patent Classification Schema revisions. Due to a change in priorities, the full functional parity attainment was deferred from FY 2017 to FY 2018; legacy system retirement is scheduled for FY 2019.

### **Trademarks Next Generation (TMNG) System**

TMNG encountered significant challenges in FY 2017. Although TMNG-Examination (which will ultimately replace FAST1) was deployed to the first Trademark law office in May of 2016 and has processed almost 23,000 office actions through June 2017, it did not fully meet the requirements and provide the capabilities necessary to deploy to additional law offices. The teams are working to resolve defects documented by the 70+ beta testers, enhance TMNG-Examination capabilities based on feedback from those same beta testers, and improve the predictability and consistency of TMNG-Examination based on a review and assessment of transactions, workflows, and requirements.

A “Path Forward” team comprised of representatives from OCIO, Trademarks, and the Office of the Under Secretary was initiated to resolve key issues TMNG is facing. Thus far, the team has identified critical success factors, analyzed commercial-off-the-shelf editors to potentially replace the TMNG custom editor, and defined the roll-out plan of TMNG-Examination to additional law offices. A third party conducted a thorough analysis of TMNG, and the Path Forward Team is working to implement their recommendations. Next, the CIO initiated a series of Technical Status Reviews (TechStats) to review and address TMNG issues. The TechStat meetings are attended by internal TMNG stakeholders from OCIO and the Trademark Business, oversight officials from the Department of Commerce, and OMB.

Although TMNG-Examination has faced significant challenges, there have been some successes. The new ID Manual (IDM) was fully deployed into production in January 2017. All legacy systems utilize the TMNG IDM, and several enhancements have been made since deployment to TMNG-IDM and TMNG-Electronic Official Gazette, resulting in the retirement of multiple legacy tools. In addition, the Trademark business made significant strides to address government staffing shortages by hiring much needed TMNG product owners and business analysts.

Due to the delays in deploying TMNG-Examination, Trademarks legacy systems continue to be enhanced to meet internal and external requirements. The OCIO is committed to keeping these aging legacy systems viable until they can be replaced by TMNG. This year, there have been several enhancements to TEAS, TEAS International (TEASi), Trademark Trial and Appeal Board Information System (TTABIS), and the Electronic System for Trademark Trial and Appeals (ESTTA).

### **Fee-Processing Next Generation (FPNG) System**

The USPTO continued efforts to fully replace its legacy fee-collection system with FPNG. In FY 2016, all externally facing components were replaced by FPNG. In FY 2017, all USPTO system integrations to the legacy collection system were moved to FPNG. In FY 2017, an FPNG pricing application was deployed for use by the Patent Center. This pricing application provides external customers with a list of fee codes previously paid, as well as a list of fee codes still payable based on the external customer entry of various attributes. In FY 2017, significant progress was made on the FPNG integrations with Treasury systems. In addition, the first internally facing components of FPNG were deployed to a pilot group of users. These components streamline the refund request workflow, ease access to data needed for refund decision-making, and provide improved external customer notifications. Based on this continued progress, retirement of the legacy Revenue Accounting and Management (RAM) system is planned in FY 2018.

## Digital Services & Big Data

The USPTO makes and distributes, both internally and externally, a vast amount of data each day. The USPTO has an enterprise data inventory that includes patent-, trademark-, and policy-related data that are used by independent inventors, companies (from startups to large corporations), law firms, strategic patent analytics companies (e.g., Bloomberg, LexisNexis, Thomson Reuters, etc.), academia, other government agencies, foreign IP offices (e.g., EPO, SIPO, KIPO, and JPO), and the public at large.

The goal of Digital Service & Big Data (DSBD) is two-fold. First, it is to deliver and operate enterprise IT capabilities to use data science, machine learning, and artificial intelligence (AI) to improve office performance. Second, it is to improve the discoverability, accessibility, and usability of the USPTO's valuable public patent and trademark information.

Notable work in the DSBD portfolio has focused on the creation and production of a unique infrastructure, called the Big Data Reservoir (BDR), which will contain data from multiple data sources in a way that will allow data scientists to perform advanced analytics using machine-learning and AI. The DSBD team is currently working to incorporate into the BDR textual information from patent applications, as well as subsequent office actions. With this data, data scientists hope to conduct analyses on the entire patent prosecution history—from initial filing all the way through post-grant.

Other notable work has focused on improving the USPTO's application programming interfaces (APIs) to provide the public with better access to the USPTO's data. This has included standardizing the use of APIs; expanding the USPTO's "API Catalog" to more than ten APIs, including one for PTAB; providing bulk search and download capabilities of patent documents; and growing the number of open-source visualizations.

For further information on other data efforts, please see "Improve Transparency of and Access to Intellectual Property-Related Data" in Strategic Goal III on page 77.

## **OBJECTIVE 2: CONTINUE TO BUILD AND MAINTAIN A FLEXIBLE, DIVERSE, AND ENGAGED WORKFORCE**

The USPTO understands the critical role that employee engagement plays in impacting the agency's ability to fulfill its mission and effectively and efficiently serve the public. As such, the agency routinely evaluates and adjusts its strategies and leverages the insights of the USPTO staff to ensure that the workforce remains engaged. The USPTO is pleased with the high engagement levels of its employees and continues to emphasize employee engagement as a key driver for mission achievement.

The USPTO's 2015–2018 *People Plan* is centered on three pillars that have a direct impact on organizational performance: Lead, Engage, and Enable. By leveraging these three pillars, the USPTO will continue to enhance the employee experience, drive higher performance, and positively impact USPTO mission accomplishment.

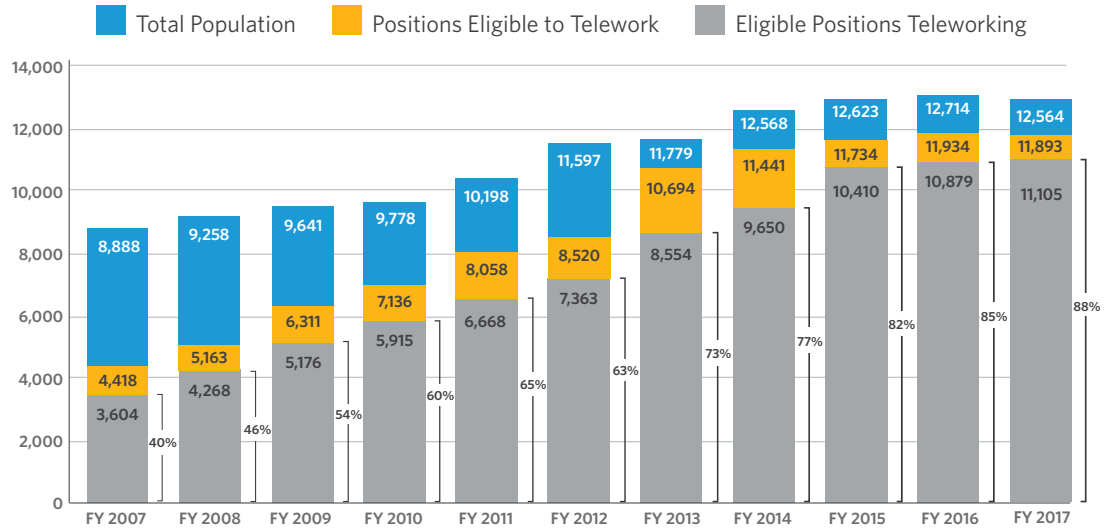
## **Continue to Enhance the USPTO Telework Environment by Expanding Telework Opportunities and Developing Skill Sets Specific to Managing in a Telework Environment**

Telework at the USPTO is a corporate business strategy, which supports mission achievement and goal fulfillment via a distributed workforce. At the end of the FY 2017, 11,105 employees agency-wide were working from home at least one day per week, translating to 88 percent of the USPTO workforce. This is an increase of 226 teleworking employees from last fiscal year.

Since its start 20 years ago with 18 trademark examining attorneys, telework has grown dramatically at the USPTO. Figure 9 shows the growth of the total population, positions eligible to telework, and eligible positions teleworking agency-wide. The graph represents the USPTO telework growth since FY 2007.

Figure 9.

**TELEWORK GROWTH**



Percentages represent % of total population teleworking.

Between FY 2016 and FY 2017, the percentage of positions eligible to telework increased from 93.87 percent to 94.66 percent. See Figure 10 for the state-by-state breakout of full-time teleworker participants in FY 2017. Figure 11 shows the percentage of eligible employee's teleworking by organization in FY 2017.

Figure 10.

**FULL-TIME TELEWORKERS BY STATE, FY 2017**

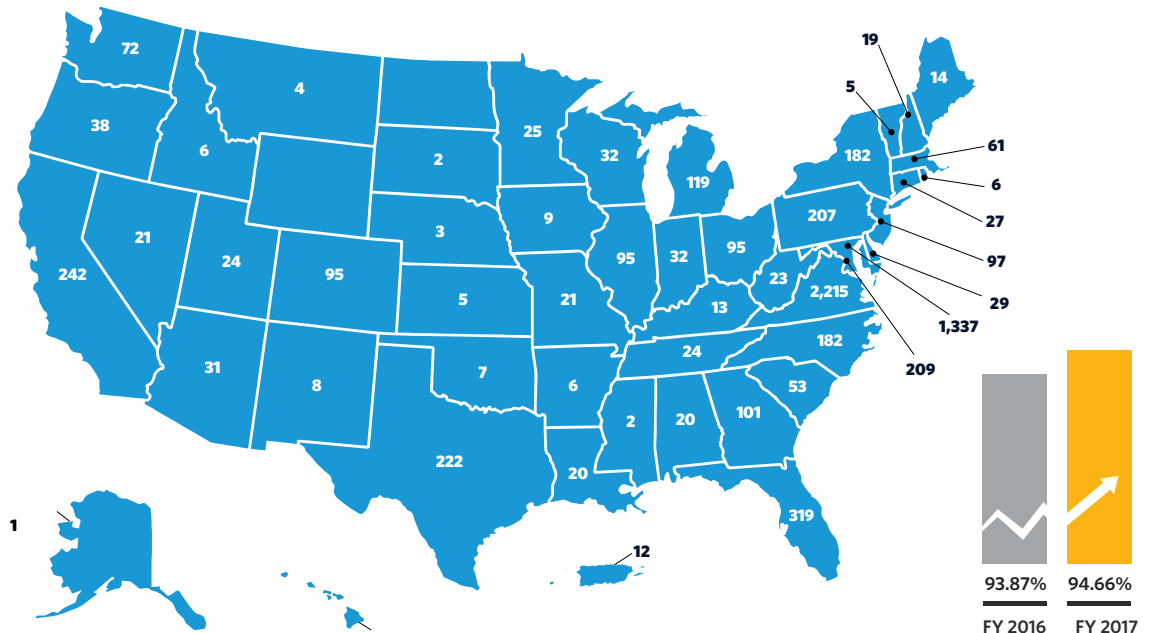
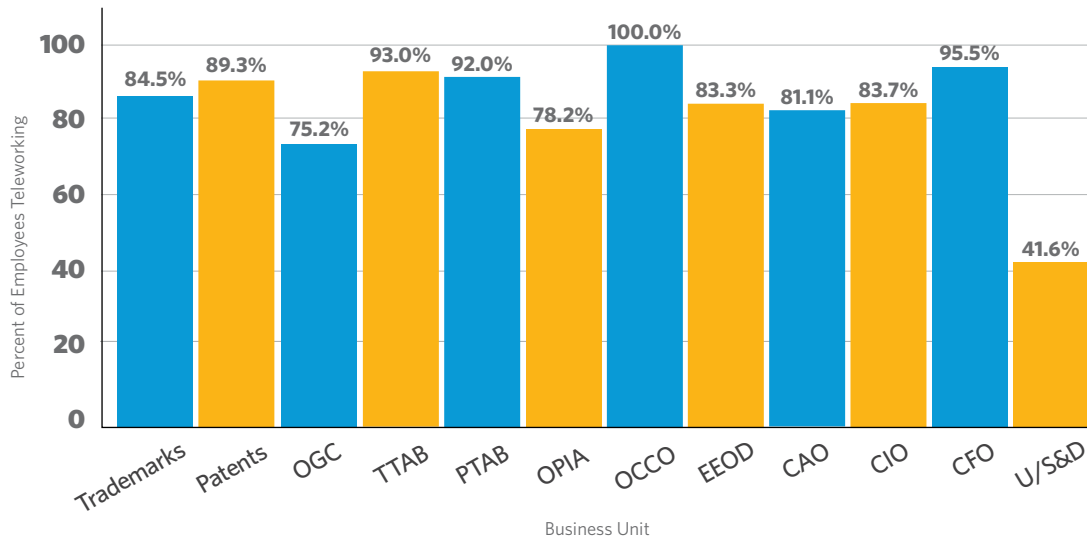


Figure 11.

**PERCENT OF EMPLOYEES TELEWORKING BY BUSINESS UNIT**



As part of the Telework Enhancement Act of 2010, the USPTO was granted legislative authority to conduct the federal government’s initial Telework Travel Expenses Test Program. The USPTO Telework Enhancement Act Pilot Program (TEAPP) allows hoteling (or full-time teleworking) employees to elect, voluntarily and for their own convenience, to live greater than 50 miles from the USPTO campus, thereby changing their official duty station. These employees waive their right to travel expenses for up to six annual mandatory trips back to the USPTO headquarters in Alexandria. In FY 2017, 2,668 employees were participating in the TEAPP, which is an increase of 13 percent from FY 2016.

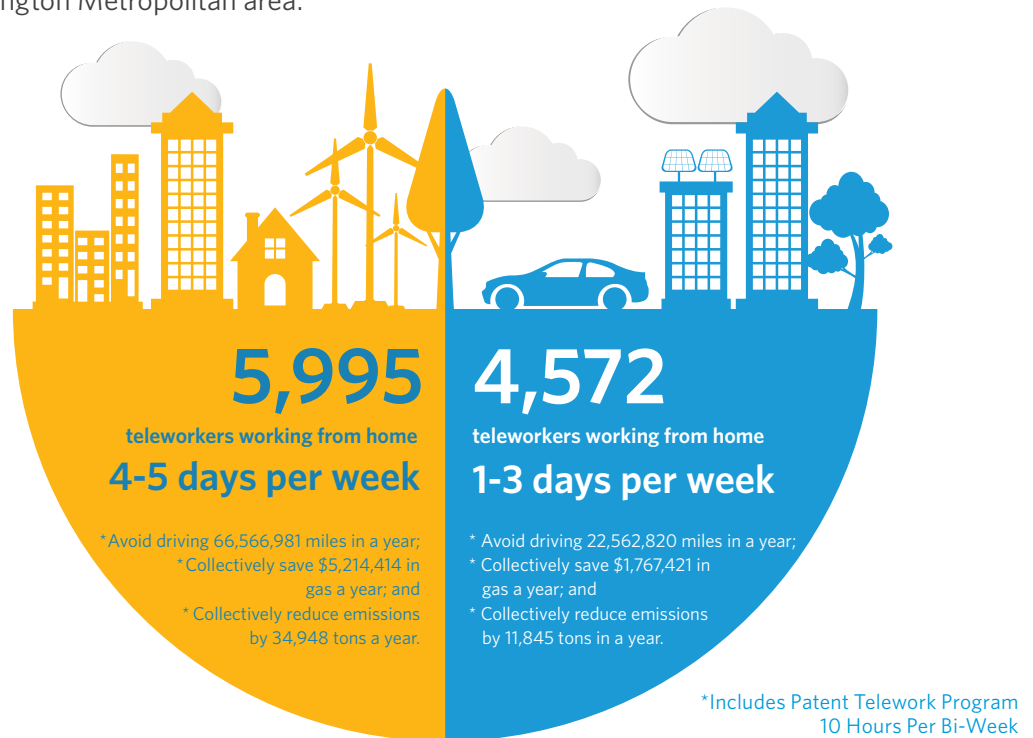
A structured telework program provides cost savings by reducing the need for additional office space, enhances recruitment and retention, fosters greater efficiency in production and management, and provides opportunities for expanded work flexibility and better work-life balance for participating employees. In addition, during federal inclement weather closures in the Washington, DC, metropolitan area, telework and hoteling employees remain productive. During the FY 2017 winter season, on average, patent examiners maintained a 97 percent production rate, and trademark examining attorneys maintained a 92 percent production rate compared with a non-inclement weather day.

USPTO’s teleworkers help to minimize the USPTO’s impact on the environment in the Washington, DC, metropolitan area, and in FY 2017, they spared the environment more than 48,932 tons in estimated CO<sub>2</sub> emissions. Figure 12 highlights the environmental impact of telework in FY 2017.

Figure 12.

## ENVIRONMENTAL IMPACT OF TELEWORK

Each year, USPTO's teleworkers have a dramatic impact on the environment in the Washington Metropolitan area.\*



To ensure the continued success of the USPTO's telework program, in FY 2017, the USPTO implemented a number of concrete steps to strengthen its support for managers and employees in areas of communication, collaboration, and training. Notably, the USPTO:

- Requires all current teleworkers to review and electronically certify their specific telework guidelines. The computer-based training also contains important information on telework duties and responsibilities and reiterated telework best practices;
- Provides and presents a telework overview at New Supervisor Orientation sessions;
- Convenes patent examiners who telework remotely or are on-site at the regional offices as part of the Patents Training at Headquarters (PaTH), including breakout sessions on effective collaboration and telework. In FY 2017, PTAB held a mandatory two-day all hands meeting at the Alexandria office;
- Holds, on a biennial basis, the Trademark Organization Reconnect and Collaboration Home (TORCH) training events, which include breakout sessions on effective collaboration and telework.

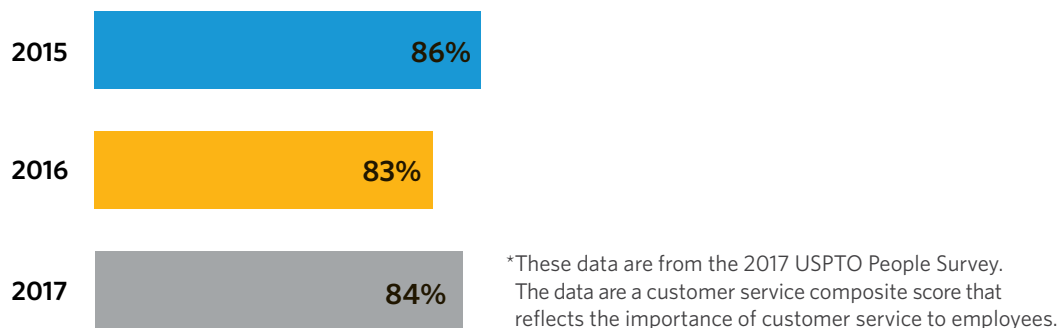
Further, the USPTO implemented a series of standard operating procedures to bolster the management of the telework program. As a result, these recommendations have made an impact on improving operations across the agency. The USPTO will continue to evaluate and implement other program management improvements and controls.

## Implement Programs Aimed at Enhancing Employee Engagement and Ensuring the Nationwide Workforce Stays Integrated with the Corporate Culture

In FY 2017, the USPTO continued its ongoing cycle of engagement efforts by inviting all employees to participate in the annual USPTO People Survey. The survey, in its third consecutive year, had a response rate of 67 percent. The USPTO FY 2017 engagement score was 76 percent, up 2 percentage points from FY 2016. Customer focus remains an integral part of USPTO culture and values and is a shared sentiment among USPTO employees. Survey results for the past three years have remained positive, with more than 84 percent of respondents engaged in this area (Figure 13). Responses also remain favorable in four other areas: immediate supervisor, careers, performance enablement, and efficiency and effectiveness. Overall, employees are satisfied with their careers and the opportunities offered at the USPTO.

Figure 13.

### CUSTOMER FOCUS



In response to feedback received on an earlier People Survey, on May 12, 2016, the agency launched the USPTO Innovation Challenge, an agency-wide ideation competition designed to engage employees through innovation and creativity. The Innovation Challenge leveraged employees as a source of creative and innovative solutions to help drive the agency mission and make the USPTO an even better place to work. Finalists in the Challenge developed and presented business cases to a panel of senior leaders from across the agency at an event called “The Showcase,” which attracted 4,985 online attendees and over 200 employees participating in person. After a rigorous competition process, a winner was selected in November 2016 and the agency developed its first Peer Recognition Program, which will allow employees to nominate their co-workers to be recognized for their outstanding contributions when going above and beyond the expectations of their job.

## Promote Learning and Job Opportunities for All Levels of Employees

The USPTO continues to leverage new and existing training and developmental programs, designed to increase employee knowledge, skills, and abilities. These programs help to ensure that the agency remains a high-performing organization in FY 2017.

### Career Enhancement Opportunities Program

Under its umbrella program, Career Enhancement Opportunities (CEO), the USPTO continues to provide training for employees who are in positions or occupational series that offer limited opportunities for advancement. Topics include job opportunities, professional development, resume writing and interviewing skills, and retirement options.



### ***After Work Education Program***

The continued funding for such programs as the After Work Education (AWE) Program reflects the value that the USPTO places on educational opportunities and career advancement for employees. A component of the CEO umbrella, AWE is a voluntary program available to eligible employees to develop and enhance work skills related to the agency's mission by taking classes at an accredited college or university. The courses under this program benefit both the employee and the USPTO by either improving an employee's current performance, allowing for expansion or enhancement of an employee's current job, or enabling an employee to develop skills and/or knowledge for other agency positions.

### ***Upward Mobility Program***

Another CEO component, the USPTO Upward Mobility Program (UMP) provides specific career-development opportunities for employees who are in positions or occupational series that offer limited opportunities for advancement. Under this program, eligible employees apply for available trainee positions in which an Individual Training Plan (ITP) is developed to assist with, and to track their growth in the position. Upon successful completion of an ITP, employees may be reassigned or non-competitively promoted to the corresponding target position's full promotion potential.

### ***Administrative Professionals Excellence Program***

The eight-month voluntary Administrative Professionals Excellence (APEX) Program includes a comprehensive curriculum for technical and administrative support staff employees at the GS-5 through GS-12 levels. The APEX Program is designed to provide meaningful learning opportunities to enhance professional career and personal growth. Learning activities include a blend of live classroom discussions, core and elective self-paced computer-based training modules, and a mid-year review, and concludes with a capstone project.

### ***Leadership Academy***

In FY 2017, steps were taken to build on the USPTO Leadership Academy Phase 1, which developed the vision for the academy, described the ideal leadership characteristics of USPTO executives, and extensively documented the curriculum design and concept of operations. Phase 2 development is in progress, which will operationalize the Phase 1 curriculum by developing learning content for all Academy modules.

### ***Supervisor Certificate Program***

The Supervisor Certificate Program (SCP) is part of the larger USPTO Leadership Development Program (LDP). The SCP's interactive curriculum addresses leadership competencies for supervisors (i.e., managing self, people, and projects) and is tailored to the unique needs of new USPTO supervisors. The Office of Personnel Management (OPM) requires all agencies to deliver training to all new supervisors during the first year of supervisory status. For USPTO, this includes eight full days of training on leadership competencies, as well as two full days of human capital-related training.

In FY 2017, the USPTO introduced a new vendor for the delivery of the SCP to three cohorts, including a virtual instructor-led training (vILT) cohort. The vILT cohort was developed to provide training for new supervisors and team leads who serve at one of the USPTO's regional offices (Detroit, Dallas, Denver, and San Jose).

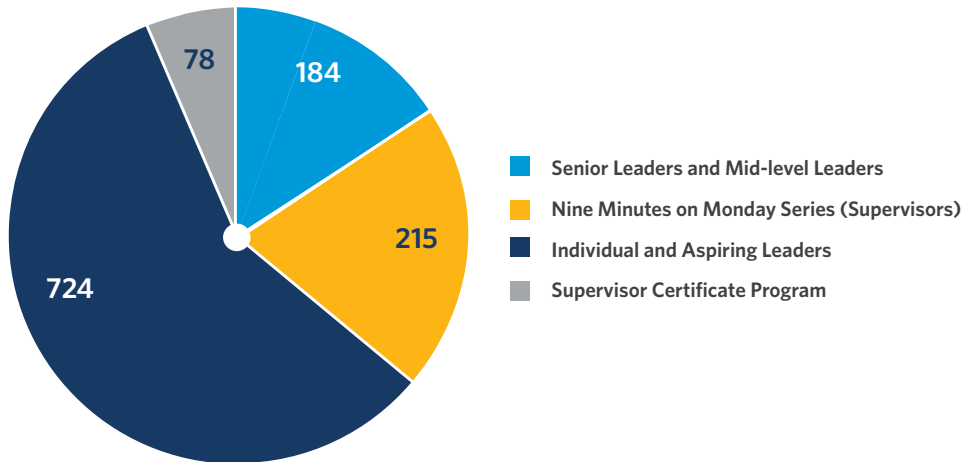
In addition to the SCP, the LDP provides non-technical leadership training to individual leaders (i.e., non-supervisory employees), aspiring leaders (i.e., employees who may want



to become a manager), and mid- and senior-level leaders (i.e., experienced managers, supervisors, and executives with more than three years of supervisory experience). Figure 14 provides an enrollment summary for the entire LDP in FY 2017, which includes the on-demand curriculum (Nine Minutes on Monday Series) available to all supervisors.

Figure 14.

**FY 2017 LEADERSHIP DEVELOPMENT PROGRAM ENROLLMENT SUMMARY**



**Enhance Recruitment and Hiring Efforts to Help Sustain and Develop a Highly Qualified and Diverse Workforce, Including the Senior Team**

By leveraging new and improved recruitment strategies, the USPTO continues to build awareness and engagement among key demographics, including (but not limited to) millennials, people with disabilities, veterans, African-Americans, Hispanics, and women. To support millennial hiring, the team planned recruiting activities at 25 colleges and universities, four of which were minority-serving institutions. The team also developed and introduced, for the first time, a college outreach digital strategy that creates the opportunity for the USPTO to remain in contact with students met on-campus throughout the academic year.

In FY 2017, the Veteran Hiring Program (VHP) sponsored or participated in 18 recruitment events, including Recruit Military, Military Officers Association of America, Military Officer Job Opportunities, and Service Academy Career Conference, and various events in conjunction with Fort Belvoir and Fort Myer and Operation Warfighter. The VHP team has focused on establishing a fruitful partnership with Operation Warfighter and the Department of Veterans Affairs Non-Paid Work Experience program.

In FY 2017, hiring included 265 mission-critical hires (i.e., patent examiners, administrative patent judges, trademark examining attorneys, information technology specialists, human resources specialists, contract specialists, and general attorneys). Veteran-hiring percentages were 9.8 percent for patent examiners and 21.5 percent for non-patent examiner hires.

**Content Development**

Based on industry best practices, storytelling and visualizations were used to attract active and passive candidates to positions and hiring events, to promote the USPTO’s brand story, and to champion the USPTO as a top employer. Employee profiles serve as testimonials of why the USPTO has been repeatedly voted one of the Best Places to Work in the Federal Government.®

### ***Social Media***

Integrated and interactive digital recruitment strategies launched through social media channels, like LinkedIn, Twitter, Facebook, and YouTube, help the USPTO continue to connect and stay connected with potential candidates. During FY 2017, the USPTO hosted a Twitter chat to promote patent examiner opportunities. The agency also launched a new premium content category on LinkedIn—“FAQ Friday”—that is posted each week to highlight key benefits of working for the USPTO. As of July 11, 2017, the USPTO exceeded 22,000 followers on this social network.

### ***SES Pipeline***

On July 25, 2017, USPTO’s Executive Resource Team, in conjunction with the OEEOD, hosted a Senior Executive Service (SES) Pipeline workshop for GS-14 and GS-15 employees. The workshop provided an open forum for employees to ask questions and to obtain first-hand knowledge about SES life and culture, as well as to learn about the Executive Core Qualifications writing process and the role of the Qualifications Review Board. This year’s workshop featured a panel discussion of USPTO SES members at various stages of their executive career, who discussed their leadership journey, provided guidance, and set expectations for those interested in joining the SES.

### **Continue to Foster and Enhance Strong Labor Management Relationships**

On March 1, 2017, the USPTO established the Workforce Relations Division to ensure collaboration, alignment, and seamless employee and labor relations services. Through this effort, the USPTO remains committed to enhancing strong labor-management working relationships and to promoting measurable improvements at the USPTO. The USPTO has successfully collaborated with labor unions on many policies and workplace enhancements. The USPTO has a number of active joint labor-management venues, including the agency-wide Labor Management Forum, National Treasury Employees Union 243 Labor Management Council; the Patent Office Professional Association (POPA) Patent Employee Engagement Council; the POPA Joint Labor Management Forum; and other ad hoc labor and management collaborations.

### **Continue to Build Collaborative Relationships with USPTO’s Affinity Groups**

The USPTO is proud to have an incredibly diverse workforce with many employees of various backgrounds and cultures. The USPTO has a network of 16 affinity groups, which are voluntary employee organizations that are based on a shared common background and/or special interest. Each group is led by a team of volunteers to host cultural, social, and career-development programs and events for their members and the wider USPTO community, including for the first time this year some of the regional offices.

OEEOD continues to work with the USPTO’s affinity groups to host programs that promote cultural understanding, such as the annual International Food Sample Festival. In addition, OEEOD partnered with various affinity groups to host events to celebrate special emphasis months, such as Black History Month, Women’s History Month, and Asian American and Pacific Islander Heritage Month.

OEEOD also works to support the events of affinity groups that are unique to the USPTO, for example, the Asian Pacific American Network’s annual Lunar New Year and Diwali Celebrations, the American Muslim and Arabic Cultural Association and Bangladeshi-American Intellectual Property Organization’s joint Eid al-Fitr luncheon to celebrate the end of Ramadan, the Intellectual Property Society of Iranian American’s Nowruz

lunch, and the USPTO Military Association’s annual “Walk of Thankful Recognition” to commemorate Memorial Day.

### **OBJECTIVE 3: ENHANCE INTERNAL AND EXTERNAL RELATIONS**

#### **Increase the Number of Individuals and Educators Reached by Intellectual Property-Related Programming**

In FY 2017, the USPTO continued its efforts to expand IP education and pro bono services through the USPTO Law School Clinic Certification Program and Patent Pro Bono Program.

The USPTO Law School Clinic Certification Program enables law school students enrolled in a participating law school’s clinic to acquire firsthand patent and trademark application preparation and prosecution experience under the guidance of an approved faculty clinic supervisor and guidelines established by the Office of Enrollment and Discipline (OED), while providing pro bono legal services to individuals and small businesses throughout the country. During the first three quarters of FY 2017, participating law schools reported filing 108 patent applications and 477 trademark applications, and the projected number of filings is expected to equal or surpass the number of filings in previous years. The Law School Clinic Certification Program has continued to expand throughout FY 2017 and currently includes 54 participating law schools. For more discussion on pro bono services, please see Goal II, “Providing Access to Pro Bono Trademark Legal Services Through Law School Clinics” on page 67.

During FY 2017, the USPTO also continued to expand the Patent Pro Bono Program to support nationwide availability of patent pro bono services. The Patent Pro Bono Program provides free legal assistance to under-resourced inventors and small businesses interested in securing patent protection for their inventions. In FY 2017, the USPTO, through OED, helped to establish programs in three additional states and currently has a network of over 1,800 attorneys and agents who have agreed to provide patent prosecution assistance. The USPTO assisted under-resourced inventors and small businesses in filing 201 patent applications during the first three quarters of FY 2017.

#### **Improve Information and Communication Channels**

The USPTO regional office system is critical to the USPTO’s efforts to increase access to and awareness of USPTO programs and initiatives. The regional offices support nationwide USPTO events and hold a variety of unique events to address the particular needs of their respective regions. These regional programs include IP basics for independent inventors, presentations for IP professionals, nationwide broadcasts of events from headquarters, and STEM activities.



Participants in the 2nd Annual International Patent Drafting Competition organized by the University of Detroit Mercy School of Law held at the Elijah J. McCoy Midwest Regional USPTO. (USPTO photo)

In FY 2017, the regional offices held over 1,000 events, reaching over 80,000 independent inventors and IP related stakeholders. In conjunction with the Office of Patent Training, the regional offices trained 189 patent practitioners as part of STEPP, a program that teaches new practitioners the basics of patent examination.

In addition to amplifying communications from headquarters to the rest of the country, the regional offices serve as incubators for new programming. For example, the Texas Regional Office presented Spanish and Mandarin Chinese programs to non-English speaking stakeholders around Texas. The Silicon Valley Regional Office worked with four government agencies in San Jose to warn businesses about predatory practices involving fraudulent invention-promotion firms. This effort raised awareness and highlighted resources that business can use to avoid falling prey to these practices. The Elijah J. McCoy Midwest Regional Office partnered with local incubators to deliver a series of ongoing IP talks. In addition, the Rocky Mountain Regional Office leveraged the region wide PTRC network to simultaneously present “Trademark Tuesday” content across 11 states. Executing these programs required close collaboration with business units at headquarters. The most successful events are being reproduced nationwide.

For a more in-depth discussion on how the USPTO regional offices are currently supporting the agency’s core mission to foster American innovation, please see Management Goal, Objective 5, “Establish Regional Offices and a Regional Presence” on page 103.

### **Support Government-Wide Efforts to Promote Science, Technology, Engineering, and Mathematics Education Initiatives**

Science, technology, engineering, and mathematics (STEM) education is critical to our country’s economic prosperity as STEM students are the innovators and inventors of the future. Recognizing this, the government has many initiatives to attract and retain K-12 students in STEM-based education. STEM education is also critical to the USPTO’s continued success because STEM students not only will create the IP that will form the basis of the USPTO’s future business, but also will become the USPTO’s future workforce. The USPTO fully supports government-wide STEM efforts, and the USPTO’s Office of Education and Outreach (OEO) leads the USPTO’s K-12 educational efforts. In 2017, the USPTO collaborated to put on over 100 student-focused IP and STEM program experiences for K-12 students.

OEO provides STEM-based educational and outreach programming for K-12 students, teachers, parents, and administrators with an emphasis on IP, innovation, and invention. For example, the USPTO offered half-day and full-day professional development workshops in over a dozen U.S. cities over the last fiscal year. In addition, OEO held its annual five-day professional development program, the National Summer Teacher Institute (NSTI). This program is designed to introduce concepts of IP protection, innovation, entrepreneurship, and STEM to K-12 educators. Teachers receive content and learn concepts that they are able to share when they return to their respective schools, school districts, and communities, and so act to amplify the USPTO’s efforts. The material is aimed to help teachers unleash the innovative potential of their students by encouraging them to think and act creatively. To date, teachers from 47 states; the District of Columbia; Puerto Rico; and the Department of Defense Education Activity, South Pacific region, have participated in the program.

For this year's fourth annual NSTI, which was held in Denver, Colo., the USPTO received over 500 applications from teachers across America. From these applications, OEO selected 50 teachers representing 32 states and multiple STEM disciplines for this year's program. These teachers listened to presenters from academia, industry, the IP bar, and the non-profit sector. They also had the opportunity to hear inspiring messages from three U.S. senators: Mike Enzi of Wyoming and Michael Bennet and Cory Gardner of Colorado. Overall the program was a great success, and teachers left feeling inspired to bring STEM and IP concepts back to their classrooms.

The USPTO regional offices, working closely with OEO, directly support STEM events that run the gamut, from Maker Faires® to Camp Invention® functions throughout the country. This year, the Silicon Valley Regional Office participated in the Maker Faire® in San Mateo, Calif. In addition, the Texas Regional Office participated in the STEM Day Extravaganza in San Antonio, Texas, by demonstrating the importance of IP in innovation to K-12 students. The Elijah J. McCoy Midwest Regional Office participated in the inaugural All About STEM! event that was held with the Detroit Public Library's Main Branch and was attended by over 300 families for a variety of hands-on learning activities. The Rocky Mountain Regional Office's outreach team created a lesson plan built around the life and research of Dr. Helen Murray Free, inventor of the "dipstick" blood sugar test, and brought it directly into science classrooms.

Besides putting on its own programs, OEO also enters into strategic partnerships, collaborations, and cooperative agreements with other federal agencies, non-profit organizations, and private sector organizations to reach diverse groups of students and educators.

One notable collaboration has been with the National Council for History Education (NCHE) and the Library of Congress to present a colloquium on technology's impact on American history using primary sources. Another ongoing collaboration is the USPTO's partnership with the Foundation for Inspiration and Recognition of Science and Technology (FIRST®) on its annual Global Innovation Award. This program involves an invention competition that was designed to encourage First Lego League (FLL) participants to take their invention ideas to the next level. The USPTO works in collaboration with FIRST® to increase student knowledge and 21st century skills in problem-solving and team-building. The USPTO has collaborated with FIRST® on this program from its inception seven years ago. During that time period, a number of FLL teams have gone on to apply for, and in some instances obtain, U.S. patents on their invention projects. The USPTO presented ceremonial copies of patents to three student invention teams in 2017.

#### **OBJECTIVE 4: SECURE SUSTAINABLE FUNDING TO DELIVER VALUE TO FEE-PAYING CUSTOMERS AND THE PUBLIC**

The USPTO operates like a business in that it fulfills requests for IP products and services that are paid for by users of those services. In many instances, these requests are received in one fiscal year and fulfilled in a subsequent year. Therefore, the USPTO engages in a complex multi-year planning and budgeting model. Through the sustainable funding objective, the USPTO continues its work to maintain a funding model that leverages innovative financial management practices and helps ensure secure funding streams that support mission operations.

The USPTO reviews the existing patent and trademark fee schedules on a biennial basis to ensure that fees are generating sufficient resources to support the USPTO's demand-driven operations, and to research, analyze, and recommend potential revisions and additions to the schedules. On October 21, 2016, the USPTO published a final rule in the *Federal Register* that set and adjusted trademark fees ([www.federalregister.gov/documents/2016/10/21/2016-25506/trademark-fee-adjustment](http://www.federalregister.gov/documents/2016/10/21/2016-25506/trademark-fee-adjustment)). The new trademark fees, which became effective on January 14, 2017, allow the USPTO to further its strategic objectives by:

- Better aligning fees with the full cost of the relevant products and services;
- Protecting the integrity of the trademark register by incentivizing timely filings and examination, as well as efficient trial and appeal resolutions; and
- Promoting the efficiency of the process, in large part through lower-cost electronic filing options.

The fee changes will also continue to recover the aggregate estimated cost of Trademark and TTAB operations, as well as USPTO administrative services that support Trademark business operations. The adjusted fees are having the intended effects.

The USPTO also published a notice of proposed rulemaking in the *Federal Register* on October 3, 2016, to adjust certain patent fees ([www.federalregister.gov/documents/2016/10/03/2016-23093/setting-and-adjusting-patent-fees-during-fiscal-year-2017](http://www.federalregister.gov/documents/2016/10/03/2016-23093/setting-and-adjusting-patent-fees-during-fiscal-year-2017)). This proposed rulemaking represents the second iteration of patent-fee rulemaking to set fees under the authority granted by the AIA (the first AIA patent fee-setting rule was published in January 2013). Following a biennial review of fees, costs, and revenues that began in 2015, the USPTO concluded that targeted fee adjustments were necessary to continue to fund patent operations, enhance patent quality, continue work toward patent pendency goals, support the PTAB's continued efforts to deliver high-quality and timely decisions, invest in strengthening the USPTO's IT capability and infrastructure, and achieve operating reserve targets. The USPTO has received and considered public comments, and a final rule setting and adjusting of patent fees is expected to publish in the first quarter of FY 2018.

Given the authorities entrusted to the USPTO through the AIA, the USPTO takes financial stewardship and accountability seriously. The USPTO takes a balanced approach to budget planning, striving to pursue improvements while operating responsibly within its means and making prudent fee adjustments only as required.

The USPTO's operating reserves have become a critical tool for mitigating the impact of financial disruptions on agency operations. The USPTO monitors the health of its operating reserve monthly through a series of reviews by the OCFO and the agency's Financial Advisory Board. Reserves for both the Patent and Trademark business lines are monitored to ensure that adequate resources remain available whenever operating requirements exceed current year fee collections or budget authority. This allows the USPTO to maintain critical operations and investments throughout the current fiscal year. The consistent review of operating reserves has allowed the USPTO to remain vigilant and blunt potential fiscal disruptions, and has been an effective financial planning tool. The USPTO remained well-positioned throughout FY 2017 to accommodate fiscal uncertainty, while maintaining a strong focus on continuity of operations and stable funding for FY 2018.



In addition to ensuring the sufficiency of available resources, the USPTO is taking concrete steps to enhance the value received for money spent. Throughout FY 2017, the USPTO implemented policy and process changes to improve its internal acquisition and procurement services. These improvements include updating training and policy on documentation requirements for awarding noncompetitive contracts, releasing updated procurement review and approval procedures, and issuing a price reasonableness desk guide to assist procurement personnel in determining fair and reasonable pricing. The Office of Procurement also established revised procurement action lead times to ensure that USPTO's contracting staff have the time they need to execute an appropriate acquisition strategy and get the best value for the USPTO. Finally, the USPTO continued design and pilot testing of eAcquisitions, a new IT suite that will increase transparency in the procurement process and improve reporting, communication, and workflow between procurement staff and the USPTO's business units. Each of these changes will strengthen the USPTO's use of its statutorily-granted procurement flexibilities and further ensure that fees are spent in accordance with industry best practices to better support the USPTO mission.

### **OBJECTIVE 5: ESTABLISH REGIONAL OFFICES AND A REGIONAL PRESENCE**

The AIA, which was signed into law on September 16, 2011, charged the USPTO with establishing regional offices,<sup>2</sup> and the USPTO has fulfilled this commitment. In line with the AIA's stated purposes, the USPTO uses the regional offices to engage more directly and meaningfully with the nation's inventors, entrepreneurs, IP practitioners, academics, and policymakers; to facilitate the hiring and retention of a highly qualified, diverse, nationwide workforce; to decrease the number of patent applications waiting for examination; and to improve the quality of examination.

The regional office system consists of the Elijah J. McCoy Midwest Regional Office in Detroit; the Rocky Mountain Regional Office in Denver; the Silicon Valley Regional Office in San Jose; and the Texas Regional Office in Dallas. Each regional office supports not only the employees who physically work in the regional office, but also the employees who telework in the region. This includes patent examiners who perform high-quality and timely examination of patent applications, PTAB judges who issue high-quality and timely decisions, and outreach experts who disseminate IP information across the country.

#### **Further Develop Regional Cooperative Opportunities**

The USPTO regional offices support the agency's core mission to foster American innovation and competitiveness by bringing services to entrepreneurs, inventors, small businesses, and educators where they live.

The regional office outreach teams work with innovation communities to provide programming that meets their particular needs, as well as the needs of the USPTO. This includes communicating and advancing IP policies; delivering IP education across all levels of sophistication, from first-time inventors to skilled patent practitioners; and getting K-12 students excited about a career in STEM. For a more in-depth discussion on how the USPTO regional offices are currently supporting STEM, please see Management Goal, Objective 3, "Enhance Internal and External Relations" on page 99.

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<sup>2</sup> Section 23 of the America Invents Act required the USPTO to "establish 3 or more satellite offices." These "satellite offices" are currently referred to as *regional offices* in the USPTO.



Regional Director Hope Shimabuku meeting with Congresswoman Eddie Bernice Johnson to support the Congressional App Challenge. (USPTO photo)

The regional offices communicate policy through active engagement with stakeholders across the country. They function as conduits for policy matters by participating in events such as PTAB Bar Association events, National Association of Patent Practitioners (NAPP) meetings, AIPLA meetings, and state bar association meetings. In addition, all of the regional offices host policy-related events throughout the year, such as events for World IP Day and Design Day, which bring together a broad range of stakeholders—patent prosecutors, litigators, inventors, academics, and patent examiners—for a public discussion on the state of IP law. These engagements provide IP stakeholders with a forum to discuss and share their perspectives on the IP ecosystem.

### **Increased Access to Resources**

The regional offices provide a setting for scientists, engineers, and other technology experts to educate examiners about emerging topics in their fields of study. Through the Patent Examiner Technical Training Program, the regional offices invited innovators from Adobe, Samsung, Mazda, and many others to share their research with examiners in the regional offices and across the country.

As part of the Site Experience Education program, some senior examiners had the opportunity to take part in visits to these companies' labs and industrial plants where innovation happens every day. Many of these trips were planned with the participation and coordination of the regional offices to take advantage of the networks built through their outreach efforts.

The PTAB in the regional offices adds a measure of transparency and accessibility to PTAB proceedings. In FY 2017, 471 judges in the regional offices participated in PTAB hearings, and 311 ex parte appeal or IPR hearings were held in regional offices.





The FBI, SBA, FTC, ITA, and USPTO discussing federal programs to assist startups and entrepreneurs. (USPTO photo)

Each regional office is equipped with several universal public workstations, which enable members of the public to work with tools nearly identical to those used by patent examiners and trademark examining attorneys. This can save potential applicants time and money by allowing them to perform a brief initial search for their invention or mark. The workstations are also used by professional practitioners and searchers. In FY 2017, the regional offices created over 600 new accounts and had over 800 visits to the universal public workstation rooms.

### Retaining a Nationwide Workforce

The regional offices play an important role in supporting the agency’s mission to maintain a diverse workforce by allowing the USPTO to attract talent that is unable or unwilling to relocate to the Washington, DC, metro area. The regional offices employ 219 examiners and 62 administrative patent judges on-site.

Furthermore, the regional offices have created unique opportunities for employees to participate in career development details as part of the outreach team. Dozens of supervisory patent examiners have taken temporary work assignments to train new examiners and participate in outreach and engagement programs in the regional offices. Ten SPEs have been selected to permanently relocate to the regional offices. In addition, multiple patent examiners have voluntarily relocated to regional offices to take advantage of career development details. The outreach detail program has recently expanded to also include trademark examining attorneys.



Regional Director Molly Kocalski encouraged young women to consider STEM careers at Denver’s first SheTech Explorer Day. (USPTO photo)



# FINANCIAL SECTION



Front row (left to right): John Ward, Jeff Isaacs, Veronica Augburn-Seaforth, Kevin Brown, Shana Willard, Ali Emgushov, and Tamika Beverly  
Back row (left to right): Cathy Sias, Troy Tyler, Walter Schlueter, Sarah Brown, Dennis Detar, Chris Gambill, and Patrick Washington

## MESSAGE FROM THE CHIEF FINANCIAL OFFICER

As another fiscal year comes to a close, USPTO's strong financial management practices served the agency well and allowed the Office of the Chief Financial Officer (OCFO) to play a pivotal role in supporting the agency's continued progress. We remain committed to leveraging the OCFO's resources and expertise to provide excellent service and foster strong relationships with our customers—both within and outside the USPTO—that enable us to resolve problems effectively and efficiently and to head off issues before they can impact USPTO operations.

Ensuring sustainable funding continues to be a priority for the Agency. We continue to strategically use our operating reserves as an effective risk mitigation tool to allow the USPTO to proactively minimize our financial and operational risks. For instance, in planning for FY 2017, we recognized that spending would continue to outpace projected fee collections. After carefully reviewing spending requirements, the agency determined that the operational benefits of continuing to utilize reserves to support ongoing investments outweighed the risks of driving reserve balances lower, given planned fee adjustments.

We continue to use the fee setting authority granted in the Leahy-Smith America Invents Act (AIA) to set fees at responsible rates that will generate sufficient revenue to allow us to recover our operating costs without placing an undue burden on our customers. In January, revised trademark fee rates went into effect. Early in FY 2017, the USPTO published a notice of proposed rulemaking to adjust certain patent fees. After carefully considering stakeholder feedback, the USPTO has revised its plans, and an adjusted fee setting package is expected to be finalized in early FY 2018. As the USPTO's needs and the economic and legal environment in which it operates constantly evolve, we regularly analyze our fee structure to ensure that the USPTO fee schedule both supports sound public policy and generates sufficient income to fund agency operations and investments. However, within the AIA, this fee setting authority is currently set to expire in FY 2018. We will continue to work with Congress to achieve permanent fee setting authority.

Our relative financial stability has enabled us to focus on innovation within the USPTO by investing in financial systems. These investments are providing USPTO's employees and customers with IT systems and tools that are more modern, efficient, and secure. We are in the final stretch of transitioning to our Fee Processing Next Generation system, with an expected retirement of the USPTO's legacy fee collection system planned for FY 2018. The OCFO continues to work closely with our internal customers to identify areas for improvement within the acquisition process to ensure we are receiving the best value for the money we spend on goods and services. In FY 2017, we conducted a pilot of eAcquisitions, the USPTO's new procurement management software solution, which is designed to provide end-to-end procurement lifecycle support and facilitate collaboration between program office and procurement personnel.

As required by The Digital Accountability and Transparency Act of 2014 (DATA Act), financial reporting of procurement and other spending data began in FY 2017. The DATA Act's purpose allows for increased transparency of federal spending data by making it more accessible, searchable, and reliable so agencies and taxpayers have an opportunity to see how federal money is spent. In accordance with the specified data standards and the DATA Act requirements, the USPTO's FY 2017 procurement and financial data is complete, accurate, and available on [USASpending.gov](http://USASpending.gov).



Anthony P. Scardino

During the Administration transition and throughout FY 2017, the organizational strength and enterprise-wide viewpoint of the Office of the Chief Financial Officer (OCFO) has allowed our staff to support the agency by taking on new roles and responsibilities when needed, while still maintaining a high standard of financial service quality. The OCFO's willingness to step up and assume new responsibilities is grounded in our mission to be a strategic business partner for the USPTO's mission organizations. We continue to build relationships that foster shared knowledge and perspectives, and lead to the development of our team and advancement of the USPTO mission.

As we've taken on new challenges, we have maintained our outstanding reporting record:

- This fiscal year marks our 25th year of receiving an unmodified opinion on the Agency's financial statements; the auditors reported no material weaknesses in the design and operation of the USPTO's system of internal control over financial reporting;
- As part of the annual audit, it was determined that our financial system complies with federal financial systems requirements;
- The Association of Government Accountants (AGA) awarded the USPTO the Certificate of Excellence in Accountability Reporting for the 15th consecutive year for our FY 2016 Performance and Accountability Report; and
- The USPTO also received the Certificate of Excellence in Citizen-Centric Reporting for our 6th Citizen-Centric Report, awarded by AGA for 2016, again clearly demonstrating the USPTO's excellence in integrating performance and accountability reporting.

We continue to be committed to strategically advancing enterprise solutions for the USPTO. The OCFO will continue to identify issues that require collaborative solutions and participate fully in their resolution. We will continue to pursue opportunities to leverage our talents, while still providing timely and meaningful information and analysis to USPTO decision-makers. And, since leadership is independent of job title, we will continue to encourage every employee at every level to reflect a commitment to being individual leaders in all aspects of their work. We are proud to recruit and retain a team of colleagues that works hard to develop strategies that strengthen our cross-functional partnerships throughout the agency. We believe that this strength results in successful execution of OCFO objectives, and allows us to facilitate mission success by providing exceptional financial management information, services, and advice to the USPTO.



Anthony P. Scardino  
Chief Financial Officer  
November 9, 2017

**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Consolidated Balance Sheets**

As of September 30, 2017 and 2016

(Dollars in Thousands)

**ASSETS**

Intragovernmental:

Fund Balance with Treasury (Note 2)	\$ 2,259,911	\$ 2,358,227
Accounts Receivable (Note 3)	-	52
Other Assets—Advances and Prepayments (Note 6)	11,174	7,722
Total Intragovernmental	2,271,085	2,366,001

Cash (Note 4)	5,346	5,562
Accounts Receivable, Net (Note 3)	334	422
Property, Plant, and Equipment, Net (Note 5)	523,842	504,025
Other Assets—Advances and Prepayments (Note 6)	16,567	17,454
Total Assets	\$ 2,817,174	\$ 2,893,464

**LIABILITIES**

Intragovernmental:

Accounts Payable	\$ 13,451	\$ 8,265
Accrued Payroll and Benefits	16,037	15,542
Accrued Workers' and Unemployment Compensation	2,110	1,862
Customer Deposit Accounts (Note 7)	6,802	7,626
Total Intragovernmental	38,400	33,295

Accounts Payable	88,252	85,196
Accrued Payroll and Benefits	124,904	118,076
Accrued Leave	110,486	107,529
Customer Deposit Accounts (Note 7)	128,409	129,719
Deferred Revenue (Note 9)	936,854	960,398
Actuarial FECA Liability (Note 10)	12,017	11,729
Contingent Liability (Note 12)	300	-
Total Liabilities (Note 8)	\$ 1,439,622	\$ 1,445,942

**NET POSITION**

Cumulative Results of Operations—Funds from Dedicated Collections (Note 14)	\$ 1,377,552	\$ 1,447,522
Total Net Position	\$ 1,377,552	\$ 1,447,522
Total Liabilities and Net Position	\$ 2,817,174	\$ 2,893,464

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

**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Consolidated Statements of Net Cost**

For the years ended September 30, 2017 and 2016

(Dollars in Thousands)

	<b>2017</b>	<b>2016</b>
<b>Strategic Goal 1: Optimize Patent Quality and Timeliness</b>		
Total Program Cost	\$ 2,856,705	\$ 2,794,841
Total Program Earned Revenue	(2,804,098)	(2,855,973)
Net Program Cost/(Income)	52,607	(61,132)
<b>Strategic Goal 2: Optimize Trademark Quality and Timeliness</b>		
Total Program Cost	285,162	271,503
Total Program Earned Revenue	(301,248)	(277,397)
Net Program Income	(16,086)	(5,894)
<b>Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide</b>		
Total Program Cost	51,544	53,240
Net Cost/(Income) from Operations (Notes 14 and 15)	\$ 88,065	\$ (13,786)
<b>TOTAL ENTITY</b>		
Total Program Cost (Notes 16 and 17)	\$ 3,193,411	\$ 3,119,584
Total Earned Revenue	(3,105,346)	(3,133,370)
Net Cost/(Income) from Operations (Notes 14 and 15)	\$ 88,065	\$ (13,786)

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

**UNITED STATES PATENT AND TRADEMARK OFFICE**

**Consolidated Statements of Changes in Net Position**

For the years ended September 30, 2017 and 2016

(Dollars in Thousands)

	<b>2017</b>	<b>2016</b>
	<b>Funds from Dedicated Collections</b>	<b>Funds from Dedicated Collections</b>
<b>Cumulative Results of Operations</b>		
Beginning Balances	\$ 1,447,522	\$ 1,401,157
Budgetary Financing Sources:		
Transfers Out Without Reimbursement	(2,000)	(2,100)
Other Financing Sources:		
Imputed Financing	20,095	34,679
Total Financing Sources	18,095	32,579
Net (Cost)/Income from Operations	(88,065)	13,786
Net Change	(69,970)	46,365
Cumulative Results of Operations	<u>\$ 1,377,552</u>	<u>\$ 1,447,522</u>
Net Position, End of Year	<u>\$ 1,377,552</u>	<u>\$ 1,447,522</u>

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

**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Combined Statements of Budgetary Resources**

For the years ended September 30, 2017 and 2016

(Dollars in Thousands)

	<b>2017</b>	<b>2016</b>
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance: Brought Forward, October 1	\$ 461,238	\$ 504,353
Recoveries of Prior Year Unpaid Obligations	33,163	36,266
Recoveries of Prior Year Paid Obligations	340	332
Spending Authority from Offsetting Collections (discretionary)	3,082,829	3,066,894
Total Budgetary Resources	<u>\$ 3,577,570</u>	<u>\$ 3,607,845</u>
<b>STATUS OF BUDGETARY RESOURCES</b>		
Obligations Incurred	\$ 3,203,995	\$ 3,146,607
Unobligated Balance, End of Year:		
Apportioned	373,575	461,238
Total Status of Budgetary Resources	<u>\$ 3,577,570</u>	<u>\$ 3,607,845</u>
<b>CHANGE IN OBLIGATED BALANCE</b>		
Unpaid Obligations:		
Unpaid Obligations, Brought Forward, October 1	\$ 590,099	\$ 671,341
Obligations Incurred	3,203,995	3,146,607
Gross Outlays	(3,179,846)	(3,191,583)
Recoveries of Prior Year Unpaid Obligations	(33,163)	(36,266)
Unpaid Obligations, End of Year	<u>\$ 581,085</u>	<u>\$ 590,099</u>
Uncollected Payments:		
Uncollected Customer Payments from Federal Sources, Brought Forward, October 1	\$ (52)	\$ (56)
Change in Uncollected Customer Payments from Federal Sources	52	4
Uncollected Customer Payments from Federal Sources, End of Year	<u>\$ -</u>	<u>\$ (52)</u>
Memorandum (non-add) entries:		
Obligated Balance, Net, Start of Year	<u>\$ 590,047</u>	<u>\$ 671,285</u>
Obligated Balance, Net, End of Year	<u>\$ 581,085</u>	<u>\$ 590,047</u>
<b>BUDGET AUTHORITY AND NET OUTLAYS</b>		
Budget Authority, Gross (discretionary)	\$ 3,082,829	\$ 3,066,894
Actual Offsetting Collections (discretionary)	(3,085,221)	(3,069,330)
Change in Uncollected Customer Payments from Federal Sources (discretionary)	52	4
Recoveries of Prior Year Paid Obligations (discretionary)	340	332
Budget Authority, Net (discretionary)	<u>\$ (2,000)</u>	<u>\$ (2,100)</u>
Gross Outlays (discretionary)	\$ 3,179,846	\$ 3,191,583
Actual Offsetting Collections (discretionary)	(3,085,221)	(3,069,330)
Net Outlays (discretionary)	<u>\$ 94,625</u>	<u>\$ 122,253</u>

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



**UNITED STATES PATENT AND TRADEMARK OFFICE**

**Consolidated Statements of Cash Flows (Indirect Method)**

For the years ended September 30, 2017 and 2016

(Dollars in Thousands)

	<b>2017</b>	<b>2016</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net (Cost)/Income from Operations	\$ (88,065)	\$ 13,786
Adjustments to Reconcile Net (Cost)/Income from Operations to Net Cash provided by Operating Activities:		
Imputed Financing from Cost Absorbed by Others	20,095	34,679
Depreciation, Amortization, and Loss on Asset Dispositions	182,735	138,984
Changes in Operating Assets and Liabilities:		
Decrease/(Increase) in Accounts Receivable	140	(176)
Increase in Advances and Prepayments	(2,565)	(5,566)
Increase/(Decrease) in Accounts Payable	6,703	(14,376)
Increase in Accrued Payroll and Benefits	7,323	17,592
Increase in Accrued Leave and Workers' and Unemployment Compensation	3,205	5,821
Decrease in Customer Deposit Accounts	(2,134)	(10,581)
Decrease in Deferred Revenue	(23,544)	(67,062)
Increase/(Decrease) in Contingent Liability	300	(570)
Increase in Actuarial Liability	288	726
Total Adjustments	192,546	99,471
Net Cash Provided by Operating Activities	104,481	113,257
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchases of Property and Equipment	(201,013)	(245,643)
Net Cash Used in Investing Activities	(201,013)	(245,643)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Transfers Out Without Reimbursement	(2,000)	(2,100)
Net Cash Used in Financing Activities	(2,000)	(2,100)
Net Decrease in Fund Balance with Treasury and Cash	(98,532)	(134,486)
Fund Balance with Treasury and Cash, Beginning of Year	2,363,789	2,498,275
Fund Balance with Treasury and Cash, End of Year	\$ 2,265,257	\$ 2,363,789

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

## Notes to Financial Statements

*As of and for the years ended September 30, 2017 and 2016*

### **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 financial information for the USPTO's three goals – granting patents, registering trademarks, and intellectual property policy, 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 federal budget classifies the USPTO under the Other Advancement of Commerce (376) budget function. The USPTO does not have lending or borrowing authority. The USPTO does not transact business among its own operating units, and therefore, no intra-entity eliminations are necessary.

The USPTO is not subject to federal, state, or local income taxes. Accordingly, no provision for income taxes is recorded.

#### **Basis of Presentation**

As required by the Chief Financial Officers Act of 1990 and 31 United States Code (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 goals. 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 No. 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. GAAP for federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board, 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.

## **NOTE 1. Summary of Significant Accounting Policies** *(continued)*

Allocation transfers are legal delegations by one department of its authority to obligate budget authority and outlay funds to another department. The USPTO does not receive any allocation transfers.

### **Basis of Accounting**

These financial statements reflect both accrual and budgetary accounting transactions. Under the accrual method of accounting, revenues are recognized when earned and expenses are recognized when incurred, without regard to the receipt or payment of cash. Budgetary accounting is designed to recognize the obligation of funds according to legal requirements, which in many cases is made prior to the occurrence of an accrual-based transaction. Budgetary accounting is essential for compliance with legal constraints and controls over the use of federal funds.

### **Funds from Dedicated Collections**

Funds from dedicated collections 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, funds from dedicated collections include the salaries and expenses fund (013X1006), fee reserve fund (013X1008), and the special fund receipts (0135127). Additional details are provided in Note 14.

### **Fiduciary Activities**

Fiduciary activities are not recognized on the financial statements, but reported on schedules in the notes to the financial statements. Fiduciary balances 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 (013X6538) and the Madrid Protocol fund (013X6554). Additional details are provided in Note 20.

### **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 estimates.

### **Revenue and Other Financing Sources**

**Exchange Revenue:** The USPTO has fee setting authority under section 10 of the Leahy-Smith America Invents Act (AIA). Section 10(a) of the AIA authorizes the Director of the USPTO to set or adjust by rule all patent and trademark fees to recover the aggregate estimated cost to the USPTO. Provided that the fees in the aggregate achieve overall aggregate cost recovery, the Director of USPTO may set individual fees under section 10, at, below, or above their respective cost. 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

## **NOTE 1. Summary of Significant Accounting Policies** *(continued)*

remitted by customers without a request for service are recorded as liabilities in customer deposit accounts until services are ordered.

The USPTO also receives 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 reflected in the USPTO's financial statements. Most gifts-in-kind are used for official travel to further attain the USPTO mission and objectives.

### ***Imputed Financing Sources from Cost Absorbed by Others (and Related Imputed Costs):***

In certain cases, operating costs of the USPTO are paid for in full or in part by funds appropriated to other federal entities. For example, Civil Service Retirement System (CSRS) pension benefits for applicable USPTO employees are paid for in part by the U.S. Office of Personnel Management (OPM), and certain legal judgments against the USPTO are paid for in full from the Judgment Fund maintained by Treasury. Also, the cost of collecting fees electronically for the USPTO are paid for in full by Treasury. The USPTO includes applicable Imputed Costs on the Consolidated Statements of Net Cost. In addition, an Imputed Financing Source from Cost Absorbed by Others is recognized on the Consolidated Statements of Changes in Net Position.

**Transfers Out:** Intragovernmental transfers of budget authority without reimbursement are recorded at book value.

### **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. Additional details are provided in Note 7.

### **Fund Balance with Treasury**

The USPTO deposits fees collected in commercial bank accounts maintained by the Treasury's Bureau of the Fiscal Service (BFS). 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 BFS. Treasury processes all disbursements. Additional details are provided in Note 2.

### **Accounts Receivable**

Accounts receivable balances are established for amounts owed to the USPTO from its employees and governmental entities that do business with the USPTO. 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 goals. The USPTO's accounts receivable balances are comprised of amounts due from current and 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. Additional details are provided in Note 3.

## **NOTE 1. Summary of Significant Accounting Policies** *(continued)*

The USPTO has established an allowance for certain accounts receivables that are considered not collectible. 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 USPTO regards all of the intergovernmental receivables balances as fully collectable.

### **Advances and Prepayments**

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. Additional details are provided in Note 6.

### **Cash**

The USPTO's cash balance primarily 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. 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. Cash is also held outside the Treasury to be used as imprest funds. Additional details are provided in Note 4.

### **Property, Plant, and Equipment, Net**

The USPTO's capitalization policies are summarized below:

<b>Classes of Property, Plant, and Equipment</b>	<b>Capitalization Threshold for Individual Purchases</b>	<b>Capitalization Threshold for Bulk Purchases</b>
IT Equipment	\$50 thousand or greater	\$250 thousand or greater
Software	\$50 thousand or greater	\$250 thousand or greater
Software in Development	\$50 thousand or greater	\$250 thousand or greater
Furniture	\$50 thousand or greater	\$50 thousand or greater
Equipment	\$50 thousand or greater	\$250 thousand or greater
Leasehold Improvements	\$50 thousand or greater	Not applicable

Costs capitalized are recorded at actual historical cost. Depreciation is expensed on a straight-line basis over the estimated useful life of the asset with the exception of leasehold improvements, which are depreciated over the remaining life of the lease or over the useful life of the improvement, whichever is shorter. As needed, useful lives of assets are updated to reflect current estimates; the estimated useful life is used on a prospective basis. Additional details are provided in Note 5.

Employee and contractor costs for developing custom internal use software are capitalized when incurred for the design, coding, and testing of the software. Software in development is not amortized until placed in service.

Property, plant, and equipment acquisitions that do not meet the capitalization criteria are expensed upon receipt.

## **NOTE 1. Summary of Significant Accounting Policies** (continued)

### **Workers' Compensation**

The Federal Employees' Compensation Act (FECA) provides compensation 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 Department of Labor (DOL) and are paid ultimately by the USPTO.

*Accrued Liability:* The DOL bills the USPTO annually as its claims are paid, but payment on these bills is deferred approximately two years to allow for funding through the budget process.

*Actuarial Liability:* The DOL estimates 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.

### **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.

### **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.

### **Employee Retirement Systems and Post-Employment Benefits**

USPTO employees participate in either the CSRS or the Federal Employees Retirement System (FERS). The FERS was established by the enactment of Pub. L. No. 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 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 OPM who administers these programs. The USPTO financial statements recognize a funded expense for 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. In addition to the funded expense, the USPTO financial statements also recognize an imputed cost for the OPM's share of the costs to the federal government

**NOTE 1. Summary of Significant Accounting Policies** *(continued)*

of providing pension, post-retirement health, and post-retirement life insurance benefits to all eligible USPTO employees. The USPTO's appropriation requires full funding of the present costs, as determined by the OPM, of post-retirement benefits for the Federal Employees Health Benefit Program (FEHB), the Federal Employees Group Life Insurance Program (FGLI), and pensions under the CSRS. While ultimate administration of any post-retirement benefits or retirement system payments will continue to be administered by the OPM, the USPTO is responsible for the payment of the present value associated with these costs calculated using the OPM factors. Any difference between the OPM factors for funding purposes and the OPM factors for reporting purposes is recognized as an imputed cost. Additional details are provided in Note 13.

For the years ended September 30, 2017 and 2016, the USPTO made current year contributions through agency payroll contributions and quarterly supplemental payments to OPM equivalent to approximately 22.1 percent and 22.3 percent of the employee's basic pay for those employees covered by CSRS, based on OPM cost factors. For the years ended September 30, 2017 and 2016, the USPTO made current year contributions through agency payroll contributions equivalent to approximately 13.5 percent and 13.5 percent of the employee's basic pay for those employees covered by FERS, based on OPM cost factors. As contribution funding increases, imputed costs will correspondingly decrease.

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 balance is estimated by analyzing the process for completing each service that the USPTO provides. The percent incomplete based on the inventory of pending work and completion status is applied to fee collections to estimate the amount for deferred revenue. 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. Increases in patent and trademark filings, first action pendency rates, and fee rates result in increases in deferred revenue. The components of the liability are provided in Note 9.

**NOTE 1. Summary of Significant Accounting Policies** *(continued)*

**Net Position**

Net Position is the residual difference between assets and liabilities, and is composed of Cumulative Results of Operations.

Cumulative Results of Operations is the net result of the USPTO's operations since inception.

**Environmental Cleanup**

The USPTO does not have any known liabilities for environmental cleanup.



## NOTE 2. Fund Balance with Treasury

As of September 30, 2017 and 2016, Fund Balance with Treasury consisted of the following:

<i>(Dollars in Thousands)</i>	<u>2017</u>	<u>2016</u>
Fund Balances by Treasury Fund Type:		
Special Funds	\$ 233,529	\$ 233,529
General Funds	1,892,478	1,989,103
Deposit Funds	<u>133,904</u>	<u>135,595</u>
Total Fund Balance with Treasury	<u>\$ 2,259,911</u>	<u>\$ 2,358,227</u>
Status of Fund Balance with Treasury:		
Obligated Balance Not Yet Disbursed	\$ 581,085	\$ 590,047
Unobligated Balance Available	373,575	461,238
Temporarily Not Available Pursuant to Public Law	937,818	937,818
Non-Budgetary Fund Balance with Treasury	<u>367,433</u>	<u>369,124</u>
Total Fund Balance with Treasury	<u>\$ 2,259,911</u>	<u>\$ 2,358,227</u>

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

To help smooth the impact of economic downturns on operations and to help mitigate funding uncertainty, the USPTO has reserved a portion of the amount Congress makes available annually through appropriations to the USPTO Salaries and Expense general fund as a designated operating reserve that will be carried over for use in future years. As of September 30, 2017, the total Patent reserve was \$252,920 thousand and the total Trademark reserve was \$120,655 thousand. As of September 30, 2016, the total Patent reserve was \$354,239 thousand and the total Trademark reserve was \$106,999 thousand.

As of September 30, 2017 and 2016, the USPTO collected less fees than appropriated for the fiscal year. As a result, there were no funds deposited into the Patent and Trademark Fee Reserve Fund (general fund). Additional details are provided in Note 14.

As of September 30, 2017 and 2016, the Non-Budgetary Fund Balance with Treasury includes surcharge receipts held in a special fund of \$233,529 thousand for each year presented and non-entity customer deposit accounts held in deposit funds of \$133,904 thousand and \$135,595 thousand, respectively.

**NOTE 3. Accounts Receivable, Net**

As of September 30, 2017, USPTO entity accounts receivables consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Accounts Receivable, Gross</b>	<b>Allowance for Uncollectible Accounts</b>	<b>Accounts Receivable, Net</b>
Intragovernmental	\$ -	\$ -	\$ -
With the Public	\$ 478	\$ (144)	\$ 334

As of September 30, 2016, USPTO entity accounts receivables consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Accounts Receivable, Gross</b>	<b>Allowance for Uncollectible Accounts</b>	<b>Accounts Receivable, Net</b>
Intragovernmental	\$ 52	\$ -	\$ 52
With the Public	\$ 565	\$ (143)	\$ 422

**NOTE 4. Cash**

As of September 30, 2017 and 2016, cash consisted of the following:

<i>(Dollars in Thousands)</i>	<b>2017</b>	<b>2016</b>
Deposits in Transit	\$ 5,299	\$ 5,450
Undeposited Collections	47	112
Total	\$ 5,346	\$ 5,562

## NOTE 5. Property, Plant, and Equipment, Net

As of September 30, 2017, property, plant, and equipment, net, consisted of the following:

*(Dollars in Thousands)*

<b>Classes of Property, Plant, and Equipment</b>	<b>Useful Life (Years)</b>	<b>Acquisition Value</b>	<b>Accumulated Depreciation/ Amortization</b>	<b>Net Book Value</b>
IT Equipment	3-5	\$ 315,537	\$ 229,258	\$ 86,279
Software	3-5	764,305	522,126	242,179
Software in Development	-	114,418	-	114,418
Furniture	5-7	17,449	5,357	12,092
Equipment	3-8	9,558	7,069	2,489
Leasehold Improvements	5-20	137,432	71,047	66,385
Total Property, Plant, and Equipment		<u>\$ 1,358,699</u>	<u>\$ 834,857</u>	<u>\$ 523,842</u>

As of September 30, 2016, property, plant, and equipment, net, consisted of the following:

*(Dollars in Thousands)*

<b>Classes of Property, Plant, and Equipment</b>	<b>Useful Life (Years)</b>	<b>Acquisition Value</b>	<b>Accumulated Depreciation/ Amortization</b>	<b>Net Book Value</b>
IT Equipment	3-5	\$ 358,537	\$ 263,565	\$ 94,972
Software	3-5	650,408	423,911	226,497
Software in Development	-	103,312	-	103,312
Furniture	5-7	14,726	3,157	11,569
Equipment	3-8	9,966	7,768	2,198
Leasehold Improvements	5-20	132,627	67,150	65,477
Total Property, Plant, and Equipment		<u>\$ 1,269,576</u>	<u>\$ 765,551</u>	<u>\$ 504,025</u>

The USPTO does not have any restrictions on the use or convertibility of the property, plant, and equipment balances.

## NOTE 6. Other Assets—Advances and Prepayments

As of September 30, 2017 and 2016, other assets consisted of the following:

<i>(Dollars in Thousands)</i>	<u>2017</u>	<u>2016</u>
Intragovernmental		
Advances and Prepayments	\$ 11,174	\$ 7,722
With the Public		
Advances and Prepayments	\$ 16,567	\$ 17,454
Total	<u>\$ 27,741</u>	<u>\$ 25,176</u>

The largest governmental prepayments include the USPTO deposit accounts held with the U.S. Government Publishing Office to facilitate recurring transactions, the U.S. Postal Service for postage, and the Department of Commerce for centralized services.

The largest prepayments with the public as of September 30, 2017 and 2016 were \$13,097 thousand and \$14,128 thousand, respectively, for various hardware and software maintenance agreements and \$3,470 thousand and \$3,323 thousand, respectively, for various library and online database subscriptions.

## NOTE 7. Entity and Non-Entity Assets

Non-entity assets are amounts held on deposit for the convenience of the USPTO's customers.

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.

As of September 30, 2017 and 2016, entity and non-entity assets consisted of the following:

<i>(Dollars in Thousands)</i>	<u>2017</u>	<u>2016</u>
Fund Balance with Treasury:		
Intragovernmental Customer Deposit Accounts	\$ 6,802	\$ 7,626
Customer Deposit Accounts with the Public	127,102	127,969
Total Fund Balance with Treasury	133,904	135,595
Cash:		
Customer Deposit Accounts with the Public	1,307	1,750
Total Non-Entity Assets	135,211	137,345
Total Entity Assets (Note 14)	2,681,963	2,756,119
Total Assets	<u>\$ 2,817,174</u>	<u>\$ 2,893,464</u>

## NOTE 8. Liabilities Covered and Not Covered by Budgetary Resources

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 (operating reserve) as of September 30, 2017. Unrealized budgetary resources are amounts that were not available for spending through September 30, 2017, but become available for spending on October 1, 2017 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, and undeposited collections.

Liabilities not covered by budgetary resources include Accrued Workers' Compensation, Accrued Payroll and Benefits, Accrued Leave, Deferred Revenue, Actuarial FECA 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, 2017 and 2016, liabilities covered and not covered by budgetary resources were as follows:

<i>(Dollars in Thousands)</i>	<u>2017</u>	<u>2016</u>
Liabilities Covered by Resources		
Intragovernmental:		
Accounts Payable	\$ 13,451	\$ 8,265
Accrued Payroll and Benefits	16,037	15,542
Accrued Unemployment Compensation	247	90
Customer Deposit Accounts	6,802	7,626
Total Intragovernmental	<u>36,537</u>	<u>31,523</u>
Accounts Payable	88,252	85,196
Accrued Payroll and Benefits	61,698	60,541
Customer Deposit Accounts	128,409	129,719
Deferred Revenue	<u>373,373</u>	<u>461,202</u>
Total Liabilities Covered by Resources	<u>\$ 688,269</u>	<u>\$ 768,181</u>
Liabilities Not Covered by Resources		
Intragovernmental:		
Accrued Workers' Compensation	<u>\$ 1,863</u>	<u>\$ 1,772</u>
Total Intragovernmental	1,863	1,772
Accrued Payroll and Benefits	63,206	57,535
Accrued Leave	110,486	107,529
Deferred Revenue	563,481	499,196
Actuarial FECA Liability	12,017	11,729
Contingent Liability	<u>300</u>	<u>-</u>
Total Liabilities Not Covered by Resources	<u>\$ 751,353</u>	<u>\$ 677,761</u>
Total Liabilities	<u>\$ 1,439,622</u>	<u>\$ 1,445,942</u>

## NOTE 9. Deferred Revenue

As of September 30, 2017, deferred revenue consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Patent</b>	<b>Trademark</b>	<b>Total</b>
Unearned Fees	\$ 861,720	\$ 75,087	\$ 936,807
Undeposited Checks	42	5	47
Total Deferred Revenue	<u>\$ 861,762</u>	<u>\$ 75,092</u>	<u>\$ 936,854</u>

As of September 30, 2016, deferred revenue consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Patent</b>	<b>Trademark</b>	<b>Total</b>
Unearned Fees	\$ 888,367	\$ 71,919	\$ 960,286
Undeposited Checks	102	10	112
Total Deferred Revenue	<u>\$ 888,469</u>	<u>\$ 71,929</u>	<u>\$ 960,398</u>

## NOTE 10. Actuarial FECA Liability

The FECA actuarial liability is calculated annually, as of September 30th by the DOL. For FY 2017 and 2016, projected annual payments were discounted to the present value based on averaging the Treasury's Yield Curve for Treasury Nominal Coupon (TNC) issues for the current and prior four years to reflect the average duration in years for income and medical payments, respectively. Interest rate assumptions utilized for discounting were as follows:

<b>2017</b>	<b>2016</b>
<b>For wage benefits:</b>	<b>For wage benefits:</b>
2.68% in year 1, and thereafter	2.78% in year 1, and thereafter
<b>For medical benefits:</b>	<b>For medical benefits:</b>
2.22% in year 1, and thereafter	2.26% in year 1, and thereafter

Based on information provided by the DOL, the U.S. Department of Commerce estimated the USPTO's liability as of September 30, 2017 and 2016 was \$12,017 thousand and \$11,729 thousand, respectively.

## NOTE 11. 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 are cancelable with appropriate notification and expire at various dates between FY 2018 and FY 2026. While most of USPTO's facilities are rented from GSA, the operating lease in San Jose, California is a non-GSA lease. During the years ended September 30, 2017 and 2016, the USPTO paid \$96,266 thousand and \$93,417 thousand, respectively, to the GSA for rent. In addition, during the years ended September 30, 2017 and 2016, the USPTO paid \$967 thousand and \$914 thousand, respectively, to the City of San Jose for rent.

Under existing commitments, the future minimum lease payments as of September 30, 2017 are as follows:

(Dollars in Thousands)

<b>Fiscal Year</b>	<b>GSA Real Property</b>	<b>Non-GSA Real Property</b>	<b>Total Real Property</b>
2018	\$ 63,763	\$ 997	\$ 64,760
2019	60,294	1,026	61,320
2020	57,270	1,056	58,326
2021	56,919	543	57,462
2022	56,820	559	57,379
Thereafter	110,010	1,776	111,786
Total Future Minimum Lease Payments	<u>\$ 405,076</u>	<u>\$ 5,957</u>	<u>\$ 411,033</u>

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 2026. The operating lease commitments for the USPTO offices in Shirlington, Virginia and the regional offices are also included above. The operating leases in Shirlington, Virginia and Detroit, Michigan will expire in FY 2019 and FY 2022, respectively. The operating lease in Denver, Colorado began in FY 2014 and will expire in FY 2024. The operating lease in San Jose, California began in FY 2015 and will expire in FY 2025. The operating lease in Dallas, Texas began in FY 2016 and will expire in FY 2026.

## NOTE 12. Commitments and 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, 2017, management expects it is reasonably possible that approximately \$1,500 thousand may be owed for awards or damages involving labor relations claims. As of September 30, 2016, management expects it is reasonably possible that approximately \$2,400 thousand may be owed for awards or damages involving labor relations claims. Also, it is reasonably possible that an adverse outcome will result from an additional claim with no stated amount and a range of loss cannot be determined.

As of September 30, 2017, the USPTO was subject to a suit where an adverse outcome was probable and the claim was \$300 thousand. As of September 30, 2016, the USPTO was not subject to any suits where adverse outcomes were probable.

For the years ended September 30, 2017 and 2016, the USPTO was not required to make any payments to the Judgment Fund.

As of September 30, 2017 and 2016, the USPTO did not have any major long-term commitments.

## NOTE 13. Post-employment Benefits

For the years ended September 30, 2017 and 2016, the post-employment benefit expenses were as follows:

<i>(Dollars in Thousands)</i>	2017			2016		
	Funded	Imputed	Total	Funded	Imputed	Total
CSRS	\$ 8,039	\$ 1,190	\$ 9,229	\$ 9,146	\$ 1,655	\$ 10,801
FERS	192,266	1,270	193,536	186,445	6,965	193,410
FEHB	60,842	-	60,842	60,181	9,855	70,036
FEGLI	243	-	243	238	-	238
FICA	105,791	-	105,791	102,241	-	102,241
<b>Total Cost</b>	<b>\$ 367,181</b>	<b>\$ 2,460</b>	<b>\$ 369,641</b>	<b>\$ 358,251</b>	<b>\$ 18,475</b>	<b>\$ 376,726</b>



## NOTE 14. Funds from Dedicated Collections

Funds from dedicated collections 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, funds from dedicated collections include the salaries and expenses fund, the fee reserve fund, and the special fund receipts. There were no funds deposited in the fee reserve fund as of September 30, 2017 and 2016, respectively. Non-entity funds, as disclosed in Note 7, are not funds from dedicated collections and are therefore excluded from the below amounts.

As of September 30, 2017, the salaries and expenses fund includes the Patent operating reserve of \$252,920 thousand and the Trademark operating reserve of \$120,655 thousand. As of September 30, 2016, the salaries and expenses fund includes the Patent operating reserve of \$354,239 thousand and the Trademark operating reserve of \$106,999 thousand.

<i>(Dollars in Thousands)</i>	<b>Salaries and Expenses Fund</b>	<b>Fee Reserve Fund</b>	<b>Surcharge Fund</b>	<b>Total Funds from Dedicated Collections</b>
<b>Balance Sheet as of September 30, 2017</b>				
Fund Balance with Treasury	\$ 1,892,478	\$ -	\$ 233,529	\$ 2,126,007
Cash	4,039	-	-	4,039
Accounts Receivable, Net	334	-	-	334
Other Assets	551,583	-	-	551,583
Total Assets	<u>\$ 2,448,434</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,681,963</u>
Total Liabilities	<u>\$ 1,304,411</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,304,411</u>
Cumulative Results of Operations	1,144,023	-	233,529	1,377,552
Total Liabilities and Net Position	<u>\$ 2,448,434</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,681,963</u>
<b>Statement of Net Cost For the Year Ended September 30, 2017</b>				
Total Program Cost	\$ 3,193,411	\$ -	\$ -	\$ 3,193,411
Less Program Earned Revenue	(3,105,346)	-	-	(3,105,346)
Net Cost from Operations	<u>\$ 88,065</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 88,065</u>
<b>Statement of Changes in Net Position For the Year Ended September 30, 2017</b>				
Net Position, Beginning of Year	\$ 1,213,993	\$ -	\$ 233,529	\$ 1,447,522
Budgetary Financing Sources:				
Transfers Out Without Reimbursement	(2,000)	-	-	(2,000)
Other Financing Sources:				
Imputed Financing	20,095	-	-	20,095
Net Cost from Operations	(88,065)	-	-	(88,065)
Change in Net Position	(69,970)	-	-	(69,970)
Net Position, End of Year	<u>\$ 1,144,023</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 1,377,552</u>

**NOTE 14. Funds from Dedicated Collections** (continued)

<i>(Dollars in Thousands)</i>	<b>Salaries and Expenses Fund</b>	<b>Fee Reserve Fund</b>	<b>Surcharge Fund</b>	<b>Total Funds from Dedicated Collections</b>
<b>Balance Sheet as of September 30, 2016</b>				
Fund Balance with Treasury	\$ 1,989,103	\$ -	\$ 233,529	\$ 2,222,632
Cash	3,812	-	-	3,812
Accounts Receivable, Net	474	-	-	474
Other Assets	529,201	-	-	529,201
Total Assets	<u>\$ 2,522,590</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,756,119</u>
Total Liabilities	<u>\$ 1,308,597</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,308,597</u>
Cumulative Results of Operations	<u>1,213,993</u>	<u>-</u>	<u>233,529</u>	<u>1,447,522</u>
Total Liabilities and Net Position	<u>\$ 2,522,590</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,756,119</u>
<b>Statement of Net Cost For the Year Ended September 30, 2016</b>				
Total Program Cost	\$ 3,119,584	\$ -	\$ -	\$ 3,119,584
Less Program Earned Revenue	(3,133,370)	-	-	(3,133,370)
Net Income from Operations	<u>\$ (13,786)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (13,786)</u>
<b>Statement of Changes in Net Position For the Year Ended September 30, 2016</b>				
Net Position, Beginning of Year	<u>\$ 1,167,628</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 1,401,157</u>
Budgetary Financing Sources:				
Transfers Out Without Reimbursement	(2,100)	-	-	(2,100)
Other Financing Sources:				
Imputed Financing	34,679	-	-	34,679
Net Income from Operations	<u>13,786</u>	<u>-</u>	<u>-</u>	<u>13,786</u>
Change in Net Position	<u>46,365</u>	<u>-</u>	<u>-</u>	<u>46,365</u>
Net Position, End of Year	<u>\$ 1,213,993</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 1,447,522</u>

**NOTE 14. Funds from Dedicated Collections** *(continued)*

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 goals – granting patents, registering trademarks, and intellectual property policy, 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 **Patent and Trademark Fee Reserve Fund** was created through the Leahy-Smith America Invents Act legislation enacted on September 16, 2011 (Pub. L. No. 112-29) modifying 35 U.S.C § 42(c). This established a statutory provision allowing the USPTO to collect and deposit in this fund fees collected in excess of the appropriated levels for each fiscal year. Annual appropriations provide further the authorization for the USPTO to spend those fees and are available without fiscal limitation until expended.

The **Surcharge Fund** was created through the Patent and Trademark Office Surcharge provision in the Omnibus Budget Reconciliation Act (OBRA) of 1990 (Section 10101, Pub. L. No. 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 Treasury. Due to a lack of Congressional reauthorization, this surcharge expired at the end of FY 1998. 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. The USPTO may use moneys from this account only as authorized by Congress via appropriations.

## NOTE 15. Intragovernmental Costs and Exchange Revenue

Total intragovernmental costs and exchange revenue, by Strategic Goal, for the years ended September 30, 2017 and 2016 were as follows:

	2017			
	Patent	Trademark	Intellectual Property Protection	Total
<i>(Dollars in Thousands)</i>				
<b>Strategic Goal 1: Optimize Patent Quality and Timeliness</b>				
Intragovernmental Gross Cost	\$ 574,031	\$ -	\$ -	\$ 574,031
Gross Cost with the Public	2,282,674	-	-	2,282,674
Total Program Cost	2,856,705	-	-	2,856,705
Intragovernmental Earned Revenue	(9,111)	-	-	(9,111)
Earned Revenue from the Public	(2,794,987)	-	-	(2,794,987)
Total Program Earned Revenue	(2,804,098)	-	-	(2,804,098)
Net Program Cost	\$ 52,607	\$ -	\$ -	\$ 52,607
<b>Strategic Goal 2: Optimize Trademark Quality and Timeliness</b>				
Intragovernmental Gross Cost	\$ -	\$ 57,301	\$ -	\$ 57,301
Gross Cost with the Public	-	227,861	-	227,861
Total Program Cost	-	285,162	-	285,162
Intragovernmental Earned Revenue	-	(477)	-	(424)
Earned Revenue from the Public	-	(300,771)	-	(300,771)
Total Program Earned Revenue	-	(301,248)	-	(301,248)
Net Program Income	\$ -	\$ (16,086)	\$ -	\$ (16,086)
<b>Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide</b>				
Intragovernmental Gross Cost	\$ -	\$ -	\$ 10,357	\$ 10,357
Gross Cost with the Public	-	-	41,187	41,187
Total Program Cost	-	-	51,544	51,544
Net Cost/(Income) from Operations	\$ 52,607	\$ (16,086)	\$ 51,544	\$ 88,065
<b>Total Entity</b>				
Total Program Cost (Notes 16 and 17)	\$ 2,856,705	\$ 285,162	\$ 51,544	\$ 3,193,411
Total Program Earned Revenue	(2,804,098)	(301,248)	-	(3,105,346)
Net Cost/(Income) from Operations	\$ 52,607	\$ (16,086)	\$ 51,544	\$ 88,065

**NOTE 15. Intragovernmental Costs and Exchange Revenue** (continued)

	2016			
	Patent	Trademark	Intellectual Property Protection	Total
<i>(Dollars in Thousands)</i>				
<b>Strategic Goal 1: Optimize Patent Quality and Timeliness</b>				
Intragovernmental Gross Cost	\$ 569,287	\$ -	\$ -	\$ 569,287
Gross Cost with the Public	2,225,554	-	-	2,225,554
Total Program Cost	2,794,841	-	-	2,794,841
Intragovernmental Earned Revenue	(8,533)	-	-	(8,533)
Earned Revenue from the Public	(2,847,440)	-	-	(2,847,440)
Total Program Earned Revenue	(2,855,973)	-	-	(2,855,973)
Net Program Income	\$ (61,132)	\$ -	\$ -	\$ (61,132)
<b>Strategic Goal 2: Optimize Trademark Quality and Timeliness</b>				
Intragovernmental Gross Cost	\$ -	\$ 55,303	\$ -	\$ 55,303
Gross Cost with the Public	-	216,200	-	216,200
Total Program Cost	-	271,503	-	271,503
Intragovernmental Earned Revenue	-	(424)	-	(424)
Earned Revenue from the Public	-	(276,973)	-	(276,973)
Total Program Earned Revenue	-	(277,397)	-	(277,397)
Net Program Income	\$ -	\$ (5,894)	\$ -	\$ (5,894)
<b>Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide</b>				
Intragovernmental Gross Cost	\$ -	\$ -	\$ 10,845	\$ 10,845
Gross Cost with the Public	-	-	42,395	42,395
Total Program Cost	-	-	53,240	53,240
Net (Income)/Cost from Operations	\$ (61,132)	\$ (5,894)	\$ 53,240	\$ (13,786)
<b>Total Entity</b>				
Total Program Cost (Notes 16 and 17)	\$ 2,794,841	\$ 271,503	\$ 53,240	\$ 3,119,584
Total Program Earned Revenue	(2,855,973)	(277,397)	-	(3,133,370)
Net (Income)/Cost from Operations	\$ (61,132)	\$ (5,894)	\$ 53,240	\$ (13,786)

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

## NOTE 16. 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, 2017 and 2016 by cost category were as follows:

<i>(Dollars in Thousands)</i>	<b>2017</b>		
	<b>Direct</b>	<b>Allocated</b>	<b>Total</b>
Personnel Services and Benefits	\$ 1,994,928	\$ 160,095	\$ 2,155,023
Travel and Transportation	3,430	533	3,963
Rent, Communications, and Utilities	91,689	35,323	127,012
Printing and Reproduction	139,976	201	140,177
Contractual Services	196,597	251,544	448,141
Training	2,506	1,985	4,491
Maintenance and Repairs	3,060	65,652	68,712
Supplies and Materials	39,371	1,012	40,383
Equipment not Capitalized	5,718	16,615	22,333
Insurance Claims and Indemnities	167	274	441
Depreciation, Amortization, and Loss on Asset Dispositions	122,637	60,098	182,735
<b>Total Program Costs</b>	<b>\$ 2,600,079</b>	<b>\$ 593,332</b>	<b>\$ 3,193,411</b>

<i>(Dollars in Thousands)</i>	<b>2016</b>		
	<b>Direct</b>	<b>Allocated</b>	<b>Total</b>
Personnel Services and Benefits	\$ 1,964,754	\$ 164,656	\$ 2,129,410
Travel and Transportation	3,190	1,154	4,344
Rent, Communications, and Utilities	90,629	33,650	124,279
Printing and Reproduction	135,365	220	135,585
Contractual Services	213,222	254,026	467,248
Training	3,002	2,601	5,603
Maintenance and Repairs	4,916	45,715	50,631
Supplies and Materials	40,923	1,200	42,123
Equipment not Capitalized	6,407	14,702	21,109
Insurance Claims and Indemnities	92	176	268
Depreciation, Amortization, and Loss on Asset Dispositions	81,258	57,726	138,984
<b>Total Program Costs</b>	<b>\$ 2,543,758</b>	<b>\$ 575,826</b>	<b>\$ 3,119,584</b>

**NOTE 17. Program Costs by Category and Responsibility Segment**

The program costs for the years ended September 30, 2017 and 2016 by cost category and business line were as follows:

<i>(Dollars in Thousands)</i>	<b>2017</b>			<b>Total</b>
	<b>Patent</b>	<b>Trademark</b>	<b>Intellectual Property Protection</b>	
Direct Costs				
Personnel Services and Benefits	\$ 1,809,088	\$ 161,002	\$ 24,838	\$ 1,994,928
Travel and Transportation	1,780	156	1,494	3,430
Rent, Communications, and Utilities	81,016	7,819	2,854	91,689
Printing and Reproduction	139,925	49	2	139,976
Contractual Services	173,743	10,500	12,354	196,597
Training	2,220	197	89	2,506
Maintenance and Repairs	2,783	209	68	3,060
Supplies and Materials	37,097	1,423	851	39,371
Equipment not Capitalized	4,515	1,056	147	5,718
Insurance Claims and Indemnities	167	-	-	167
Depreciation, Amortization, and Loss on Asset Dispositions	95,157	27,249	231	122,637
Subtotal Direct Costs	<u>\$ 2,347,491</u>	<u>\$ 209,660</u>	<u>\$ 42,928</u>	<u>\$ 2,600,079</u>
Allocated Costs				
Automation	\$ 271,909	\$ 37,574	\$ 2,921	\$ 312,404
Resource Management	237,305	37,928	5,695	280,928
Subtotal Allocated Costs	<u>\$ 509,214</u>	<u>\$ 75,502</u>	<u>\$ 8,616</u>	<u>\$ 593,332</u>
Total Program Costs	<u><u>\$ 2,856,705</u></u>	<u><u>\$ 285,162</u></u>	<u><u>\$ 51,544</u></u>	<u><u>\$ 3,193,411</u></u>

**NOTE 17. Program Costs by Category and Responsibility Segment** (continued)

(Dollars in Thousands)	2016			
	Patent	Trademark	Intellectual Property Protection	Total
Direct Costs				
Personnel Services and Benefits	\$ 1,788,949	\$ 148,897	\$ 26,908	\$ 1,964,754
Travel and Transportation	1,722	85	1,383	3,190
Rent, Communications, and Utilities	80,661	7,012	2,956	90,629
Printing and Reproduction	135,331	16	18	135,365
Contractual Services	181,428	20,585	11,209	213,222
Training	2,736	178	88	3,002
Maintenance and Repairs	3,607	1,216	93	4,916
Supplies and Materials	38,986	1,413	524	40,923
Equipment not Capitalized	5,520	685	202	6,407
Insurance Claims and Indemnities	79	12	1	92
Depreciation, Amortization, and Loss on Asset Dispositions	58,875	22,001	382	81,258
Subtotal Direct Costs	<u>\$ 2,297,894</u>	<u>\$ 202,100</u>	<u>\$ 43,764</u>	<u>\$ 2,543,758</u>
Allocated Costs				
Automation	\$ 268,328	\$ 33,595	\$ 4,031	\$ 305,954
Resource Management	228,619	35,808	5,445	269,872
Subtotal Allocated Costs	<u>\$ 496,947</u>	<u>\$ 69,403</u>	<u>\$ 9,476</u>	<u>\$ 575,826</u>
Total Program Costs	<u>\$ 2,794,841</u>	<u>\$ 271,503</u>	<u>\$ 53,240</u>	<u>\$ 3,119,584</u>



## **NOTE 18. Budgetary Resources**

Total budgetary resources are primarily comprised of Congressional authority to spend current year fee collections. 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. For FY 2017, the USPTO was appropriated up to \$3,230,000 thousand for fees collected during the fiscal year. For FY 2016, the USPTO was appropriated up to \$3,272,000 thousand for fees collected during the fiscal year. For the year ended September 30, 2017, the USPTO collected \$149,918 thousand less than the amount apportioned through September 30, 2017 (under-collections of fees of \$149,113 thousand and under-collections of other budgetary resources of \$805 thousand). For the year ended September 30, 2016, the USPTO collected \$218,559 thousand less than the amount apportioned through September 30, 2016 (under-collections of fees of \$206,653 thousand and under-collections of other budgetary resources of \$11,906 thousand).

Total budgetary resources also include carryover of prior year budgetary resources (operating reserve). Carryover is derived from year-end budgetary resources that have not been obligated. Usage of the fees in the following fiscal year is for compensation and operational requirements on a first-in, first-out basis. For FY 2017, the carryover amount that was brought into the fiscal year from FY 2016 was \$461,238 thousand. For FY 2016, the carryover amount that was brought into the fiscal year from FY 2015 was \$504,353 thousand.

As of September 30, 2017 and 2016, reimbursable obligations incurred were \$3,203,995 thousand and \$3,146,607 thousand, respectively.

### **Funding Limitations**

Pursuant to the *Leahy-Smith America Invents Act* (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.

Pursuant to the *Leahy-Smith America Invents Act* (35 U.S.C. § 42(c)), all fees available to the Director under sections 41, 42, and 376 of 35 U.S.C. are used only for the processing of patent applications and for other activities, services, and materials relating to patents, as well as to cover a proportionate share of the administrative costs of the USPTO.

Since FY 1992, the USPTO has not always been appropriated all of the fees that have been collected. The total temporarily unavailable fee collections pursuant to Public Law as of September 30, 2017 are \$1,171,347 thousand. Of this amount, certain USPTO collections of \$233,529 thousand were withheld in accordance with the OBRA of 1990, and deposited in a special fund receipt account at Treasury.

Pursuant to the *Consolidated and Further Continuing Appropriations Act, 2013* (Pub. L. No. 113-6), the USPTO has sequestered funds of \$147,733 thousand (8.6 percent of fees collected starting March 1, 2013 through the end of the fiscal year). The sequestered funds, while included in the USPTO Salaries and Expenses Fund, are not available for spending without further Congressional action.

### Undelivered Orders

In addition to the future lease commitments discussed in Note 11, the USPTO is obligated for the purchase of goods and services that have been ordered, but not yet received. Total reimbursable undelivered orders for all of the USPTO's activities were \$429,389 thousand and \$445,791 thousand as of September 30, 2017 and 2016, respectively. Of these amounts, \$401,648 thousand and \$420,615 thousand, respectively, were unpaid.

### NOTE 19. Incidental Custodial Collections

Custodial collections represent miscellaneous general fund receipts, such as non-electronic patent filing fees, gains on foreign exchange rates, and employee debt finance charges. Custodial collection activities are considered immaterial and incidental to the mission of the USPTO.

*(Dollars in Thousands)*

	<u>2017</u>	<u>2016</u>
<b>Revenue Activity:</b>		
Sources of Collections:		
Miscellaneous	\$ 394	\$ 887
Total Cash Collections	394	887
Accrual Adjustments	-	-
Total Custodial Revenue	<u>394</u>	<u>887</u>
<b>Disposition of Collections:</b>		
Transferred to Others:		
Treasury	(394)	(887)
(Increase)/Decrease in Amounts Yet to be Transferred	-	-
Net Custodial Activity	<u>\$ -</u>	<u>\$ -</u>

## NOTE 20. 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 World Intellectual Property Organization (WIPO), European Patent Office, Korean Intellectual Property Office, Russian Intellectual Property Organization, Australian Patent Office, Israeli Patent Office, Japanese Patent Office, and Intellectual Property Office of Singapore 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.

	<b>2017</b>		
	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<i>(Dollars in Thousands)</i>			
<b>Schedule of Fiduciary Activity For the Year Ended September 30, 2017</b>			
Fiduciary Net Assets, Beginning of Year	\$ 14,459	\$ 451	\$ 14,910
Contributions	151,264	22,812	174,076
Disbursements to and on Behalf of Beneficiaries	(151,892)	(22,721)	(174,613)
(Decrease)/Increase in Fiduciary Net Assets	(628)	91	(537)
Fiduciary Net Assets, End of Year	<u>\$ 13,831</u>	<u>\$ 542</u>	<u>\$ 14,373</u>

	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
	<i>(Dollars in Thousands)</i>		
<b>Fiduciary Net Assets As of September 30, 2017</b>			
Cash and Cash Equivalents	\$ 13,831	\$ 542	\$ 14,373
Total Fiduciary Net Assets	<u>\$ 13,831</u>	<u>\$ 542</u>	<u>\$ 14,373</u>

**NOTE 20. Fiduciary Activities** *(continued)*

<i>(Dollars in Thousands)</i>	2016		
	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<b>Schedule of Fiduciary Activity For the Year Ended September 30, 2016</b>			
Fiduciary Net Assets, Beginning of Year	\$ 16,168	\$ 615	\$ 16,783
Contributions	154,474	22,572	177,046
Disbursements to and on Behalf of Beneficiaries	(156,183)	(22,736)	(178,919)
Decrease in Fiduciary Net Assets	(1,709)	(164)	(1,873)
Fiduciary Net Assets, End of Year	<u>\$ 14,459</u>	<u>\$ 451</u>	<u>\$ 14,910</u>

<i>(Dollars in Thousands)</i>	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<b>Fiduciary Net Assets As of September 30, 2016</b>			
Cash and Cash Equivalents	\$ 14,459	\$ 451	\$ 14,910
Total Fiduciary Net Assets	<u>\$ 14,459</u>	<u>\$ 451</u>	<u>\$ 14,910</u>

## NOTE 21. Reconciliation of Net Cost of Operations to Budget

Most entity transactions are recorded in both budgetary and proprietary accounts. However, because different accounting guidelines 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, 2017 and 2016 is as follows:

(Dollars in Thousands)

	<b>2017</b>	<b>2016</b>
<b>RESOURCES USED TO FINANCE ACTIVITIES</b>		
Budgetary Resources Obligated:		
Obligations Incurred	\$ 3,203,995	\$ 3,146,607
Spending Authority from Offsetting Collections and Recoveries	(3,116,332)	(3,103,492)
Net Obligations	87,663	43,115
Other Resources		
Imputed Financing from Cost Absorbed by Others	20,095	34,679
Total Resources Generated to Finance Activities	107,758	77,794
<b>RESOURCES USED TO FINANCE ITEMS NOT PART OF THE NET COST OF OPERATIONS</b>		
Change in Budgetary Resources Obligated for Goods, Services, and Benefits Ordered but not yet Provided	16,403	71,123
Resources that Fund Costs Recognized in Prior Periods	(148)	(1,243)
Budgetary Offsetting Collections that do not Affect Net Cost of Operations	(25,771)	(69,610)
Resources that Finance the Acquisition of Assets Capitalized on the Balance Sheet	(202,552)	(237,269)
Total Resources Used to Finance Items not Part of the Net Cost of Operations	(212,068)	(236,999)
<b>COMPONENTS OF NET COST OF OPERATIONS THAT WILL NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD</b>		
Components Requiring or Generating Resources in Future Periods:		
Costs that will be Funded by Resources in Future Periods	9,554	6,615
Net Increase in Revenue Receivables not Generating Resources until Collected	13	-
Total Components of Net Cost of Operations that will Require or Generate Resources in Future Periods	9,567	6,615
Components not Requiring or Generating Resources:		
Depreciation, Amortization, and Loss on Asset Dispositions	182,735	138,984
Other Costs that will not Require Resources	73	(180)
Total Components of Net Cost of Operations that will not Require or Generate Resources	182,808	138,804
Total Components of Net Cost of Operations that will not Require or Generate Resources in the Current Period	192,375	145,419
Net Cost/(Income) from Operations	\$ 88,065	\$ (13,786)



## REQUIRED SUPPLEMENTARY INFORMATION

### **DEFERRED MAINTENANCE AND REPAIRS**

Deferred maintenance and repairs (DM&R) are maintenance and repairs that were not performed when they should have been, that were scheduled and not performed, or that were delayed for a future period. Maintenance and repairs are activities directed towards keeping Property, Plant, and Equipment (PP&E) in acceptable operating condition. These activities include preventive maintenance, normal repairs, replacement of parts and structural components, and other activities needed to preserve the asset so that it can deliver acceptable performance and achieve its expected life. Maintenance and repairs exclude activities aimed at expanding the capacity of an asset or otherwise upgrading it to serve needs different from, or significantly greater, than those originally intended.

PP&E at the USPTO consist of furniture and fixtures, information technology equipment, office and telecommunication equipment, leasehold improvements, and software. It is entity policy to ensure that all PP&E, regardless of recorded value, is maintained, preserved, and managed in a safe and effective manner. The USPTO conducts periodic user feedback meetings to evaluate the effectiveness of training, operations, maintenance, facilities, continuity of operations, and supporting documentation of automated systems. The USPTO prioritizes maintenance and repair projects to sustain its PP&E in good operating condition, including maintaining warranties. Funds are used to replace equipment on a regular cycle in order to keep operations and maintenance costs stable and low. Accordingly, DM&R do not arise for PP&E at the USPTO and no periodic assessment is performed.

A decorative graphic consisting of five orange squares in a horizontal row, with a single blue square positioned below the first orange square.

**INDEPENDENT  
AUDITORS'  
REPORT**







November 13, 2017

**MEMORANDUM FOR:** Joseph Matal  
Performing the Functions and Duties of the Under Secretary  
of Commerce for Intellectual Property and Director  
of the U.S. Patent and Trademark Office

**FROM:** Peggy E. Gustafson  
Inspector General

A handwritten signature in black ink, appearing to read "Peggy E. Gustafson".

**SUBJECT:** *U.S. Patent and Trademark Office FY 2017 Financial Statements*  
Final Report No. OIG-18-006-A

I am pleased to provide you with the attached audit report, which presents an unmodified opinion on the U.S. Patent and Trademark Office's (USPTO's) fiscal year (FY) 2017 financial statements.

KPMG LLP, an independent public accounting firm, performed the audit in accordance with U.S. generally accepted auditing standards, standards applicable to financial audits contained in *Government Auditing Standards*, and Office of Management and Budget Bulletin 17-03, *Audit Requirements for Federal Financial Statements*.

In its audit of USPTO, KPMG

- determined that the financial statements were fairly presented, in all material respects, and in conformity with U.S. generally accepted accounting principles;
- identified a significant deficiency in internal control over financial reporting related to weaknesses surrounding information technology general controls in the area of access controls; and
- identified no instances of reportable noncompliance with applicable laws, regulations, and contracts.

My office oversaw the audit performance. 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, as differentiated from an audit in accordance with these standards, 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 control, or conclusions on compliance with applicable laws, regulations, and contracts. KPMG is solely responsible for the attached audit report and the conclusions expressed in it.

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

Attachment



KPMG LLP  
Suite 12000  
1801 K Street, NW  
Washington, DC 20006

## 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:

### Report on the Financial Statements

We have audited the accompanying consolidated financial statements of the United States Patent and Trademark Office (USPTO), which comprise the consolidated balance sheets as of September 30, 2017 and 2016, and the related consolidated statements of net cost, changes in net position, and cash flows, and combined statements of budgetary resources for the years then ended, and the related notes to the consolidated financial statements.

### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

### Auditors' Responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America, in accordance with the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and in accordance with Office of Management and Budget (OMB) Bulletin No. 17-03, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 17-03 require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Opinion on the Financial Statements

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the United States Patent and Trademark Office as of September 30, 2017 and 2016,

KPMG LLP is a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity.



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and its net costs, changes in net position, cash flows, and budgetary resources for the years then ended in accordance with U.S. generally accepted accounting principles.

### **Other Matters**

#### *Interactive Data*

Management has elected to reference to information on websites or other forms of interactive data outside the *Performance and Accountability Report* to provide additional information for the users of its financial statements. Such information is not a required part of the basic consolidated financial statements or supplementary information required by the Federal Accounting Standards Advisory Board. The information on these websites or the other interactive data has not been subjected to any of our auditing procedures, and accordingly we do not express an opinion or provide any assurance on it.

#### *Required Supplementary Information*

U.S. generally accepted accounting principles require that the information in the Management's Discussion and Analysis and Required Supplementary Information sections be presented to supplement the basic consolidated financial statements. Such information, although not a part of the basic consolidated financial statements, is required by the Federal Accounting Standards Advisory Board who considers it to be an essential part of financial reporting for placing the basic consolidated financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic consolidated financial statements, and other knowledge we obtained during our audits of the basic consolidated financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

#### *Other Information*

Our audits were conducted for the purpose of forming an opinion on the basic consolidated financial statements as a whole. The Message, Introduction, Performance Information, Message from the Chief Financial Officer, Other Information, Glossary of Acronyms and Abbreviations, and the Index of URLs, as listed in the Table of Contents, are presented for purposes of additional analysis and are not a required part of the basic consolidated financial statements. Such information has not been subjected to the auditing procedures applied in the audits of the basic consolidated financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

### **Other Reporting Required by Government Auditing Standards**

#### ***Internal Control Over Financial Reporting***

In planning and performing our audit of the consolidated financial statements as of and for the year ended September 30, 2017, we considered the USPTO's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the consolidated financial statements, but not for the purpose of expressing an opinion on the effectiveness of the USPTO's internal control. Accordingly, we do not express an opinion on the effectiveness of the USPTO's internal control. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*.



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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 material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, 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.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that have not been identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. We did identify certain deficiencies in internal control, described in Exhibit I, that we considered collectively to be a significant deficiency.

#### ***Compliance and Other Matters***

As part of obtaining reasonable assurance about whether the USPTO's consolidated financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 17-03.

#### ***USPTO's Response to Findings***

The USPTO's response to the findings identified in our audit is described in Exhibit I. The USPTO's response was not subjected to the auditing procedures applied in the audit of the consolidated financial statements and, accordingly, we express no opinion on the response.

#### ***Purpose of the Other Reporting Required by Government Auditing Standards***

The purpose of the communication described in the Other Reporting Required by *Government Auditing Standards* section is solely to describe the scope of our testing of internal control and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the USPTO's internal control or compliance. Accordingly, this communication is not suitable for any other purpose.

KPMG LLP

Washington, DC  
November 9, 2017

## **Exhibit I – Significant Deficiency**

### **Information Technology Access Controls Need Improvement**

During fiscal year (FY) 2017, we noted certain deficiencies surrounding information technology (IT) general controls associated with the USPTO's financial management systems and supporting infrastructure that we considered collectively to be a significant deficiency under the standards issued by the American Institute of Certified Public Accountants. The U.S. Government Accountability Office's (GAO's) *Standards for Internal Control in the Federal Government* defines general controls as “the policies and procedures that apply to all or a large segment of an entity's information systems” and which “include security management, logical and physical access, configuration management segregation of duties, and contingency planning.” Specifically, the USPTO needs to make improvements in its access controls, described below, to support management's ability to provide assurance that transactions are complete, accurate, and valid.

The objectives of limiting access are to ensure that users have only the access needed to perform their duties; that access to sensitive resources, such as security software programs, is limited to few individuals; and that employees are restricted from performing incompatible functions or duties beyond their responsibility. During FY 2017, we noted deficiencies in the areas of (1) operating system password controls, and (2) access administration controls over the financial and human resources applications and supporting databases and operating systems.

When performing our procedures, we considered the Department of Commerce and USPTO policies and various Federal standards and guidance such as (1) GAO's *Standards for Internal Control in the Federal Government*, dated September 2014, (2) GAO's *Federal Information System Controls Audit Manual*, dated February 2009, (3) NIST SP 800-53 Rev. 4, *Security and Privacy Controls for Federal Information Systems and Organizations*, and (4) NIST Special Publication 800-34 Rev. 1, *Contingency Planning Guide for Federal Information Systems*.

Due to the nature of IT general controls, certain information has been omitted from this report. We provided the USPTO management with a separate limited distribution IT report that includes specific information about our findings, the criteria used, our understanding of the cause of the findings, and our recommendations. We recognize that the USPTO has certain compensating controls in place to help reduce the risk of the identified deficiencies, and we have considered such compensating controls as part of our USPTO consolidated financial statement audit.

### **Management's Response**

In general, we agreed with the auditors' 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.



## **OTHER INFORMATION**

*Unaudited. Please see the accompanying auditors' report.*



# SUMMARY OF FINANCIAL STATEMENT AUDIT & MANAGEMENT ASSURANCES

**TABLE 1. SUMMARY OF FINANCIAL STATEMENT AUDIT**

<b>Audit Opinion</b>	<b>Unmodified</b>				
Restatement	No				
<b>Material Weaknesses</b>	<b>Beginning Balance</b>	<b>New</b>	<b>Resolved</b>	<b>Consolidated</b>	<b>Ending Balance</b>
NONE	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0

**TABLE 2. SUMMARY OF MANAGEMENT ASSURANCES**

<b>Effectiveness of Internal Control over Financial Reporting (FMFIA § 2)</b>						
Statement of Assurance	Unmodified					
<b>Material Weaknesses</b>	<b>Beginning Balance</b>	<b>New</b>	<b>Resolved</b>	<b>Consolidated</b>	<b>Reassessed</b>	<b>Ending Balance</b>
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
<b>Effectiveness of Internal Control over Operations (FMFIA § 2)</b>						
Statement of Assurance	Unmodified					
<b>Material Weaknesses</b>	<b>Beginning Balance</b>	<b>New</b>	<b>Resolved</b>	<b>Consolidated</b>	<b>Reassessed</b>	<b>Ending Balance</b>
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
<b>Conformance with Financial Management System Requirements (FMFIA § 4)</b>						
Statement of Assurance	Systems conform to financial management system requirements					
<b>Non-Conformances</b>	<b>Beginning Balance</b>	<b>New</b>	<b>Resolved</b>	<b>Consolidated</b>	<b>Reassessed</b>	<b>Ending Balance</b>
NONE	0	0	0	0	0	0
Total Non-Conformances	0	0	0	0	0	0
<b>Compliance with Federal Financial Management Improvement Act (FFMIA)</b>						
	<b>Agency</b>			<b>Auditor</b>		
1. System Requirements	No lack of compliance noted			No lack of compliance noted		
2. Accounting Standards	No lack of compliance noted			No lack of compliance noted		
3. USSGL at Transaction Level	No lack of compliance noted			No lack of compliance noted		

# INSPECTOR GENERAL'S TOP MANAGEMENT CHALLENGES FACING THE USPTO



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

## OIG's Assessment of the Top Management and Performance Challenges Facing the U.S. Patent and Trademark Office in FY 2018

The Office of Inspector General is required by statute<sup>1</sup> to report annually the most serious management and performance challenges facing the Department of Commerce. The top management and performance challenges we reported on last year remain critical issues facing the Department. However, we have revised our discussion to reflect the Department's progress, changing priorities, and emerging risks. The full report can be found at [www.oig.doc.gov](http://www.oig.doc.gov).

Two chapters of our report—**Challenge 3: Securing Department Systems and Information** and **Challenge 6: Modernizing the Department's Legacy IT Systems and Improving Data Quality**—discuss challenges that include those facing the U.S. Patent and Trademark Office (USPTO):

- **Challenge 3: Securing Department Systems and Information**

*Securing cloud-based systems*

The use of commercial cloud services allows the Department to leverage a vast pool of computing resources. However, when leveraging a cloud service, the customer retains a level of responsibility to implement security measures for the cloud-based system. We have found that the Department has misunderstood security responsibilities for cloud-based systems—leading operating units to incorrectly rely on the cloud service provider (CSP) to implement security and leaving the security for these systems deficient. During a recent audit,<sup>2</sup> we found that USPTO misplaced reliance on the CSP and thus failed to implement the required security controls for cloud-based systems.

- **Challenge 6: Modernizing the Department's Legacy IT Systems and Improving Data Quality**

*Transitioning USPTO from legacy to next-generation IT systems*

USPTO operations personnel rely on IT services to examine applications, manage rights, and collect revenue for business operations. However, several major systems are behind their original implementation schedule and over budget. For example, USPTO's Trademark Next Generation system implementation is 5 years behind schedule—and the original estimated completion costs of \$53 million in 2011 have increased to over \$200 million (a nearly 300 percent increase). USPTO expects work will continue until at least FY 2019. Additionally, since 2011, USPTO has been developing and modernizing its IT systems used to support patent operations through a new Patent End-to End (PE2E)

<sup>1</sup> 31 U.S.C. § 3516(d).

<sup>2</sup> U.S. Department of Commerce Office of Inspector General, March 24, 2017. *Inadequate Security Practices, Including Impaired Security of Cloud Services, Undermine USPTO's IT Security Posture*, OIG-17-021-A. Washington DC: DOC OIG.



processing system. While USPTO has made progress, additional improvements are still needed.

USPTO still needs to deploy a number of applications within its IT portfolio and, in the interim, must rely on more than 65 legacy systems to support nearly every aspect of patent and trademark operations. USPTO's goal is to retire the legacy systems as quickly as possible, but the replacement of these IT systems is a multi-year effort and poses a challenge to USPTO's timely deployment of all next-generation IT projects. For example, USPTO's Patent Application Location and Monitoring system, used to record and track actions related to patent applications as well as examiner search systems used by examiners for searching patents, were designed in the 1980s for mainframe computers. Until the legacy systems are replaced, USPTO must ensure their stability to meet both internal and external user needs, improve their scalability to support a growing user base and data requirements, provide upgrades, and develop system retirement plans.

USPTO continues to bear the high cost of maintaining a number of legacy systems at the same time that it funds projects that will ultimately replace these systems. For FY 2018, USPTO requested \$696.8 million for its IT portfolio, which is a 6.8 percent increase from FY 2017. Of the \$696.8 million, 53 percent is associated with maintaining operational activities and 47 percent is associated with project and improvement activities.



## PAYMENT INTEGRITY

The IPIA of 2002, as amended by the Improper Payments Elimination and Recovery Act (IPERA) of 2010 and Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012, requires agencies to periodically review all programs and activities and identify those that may be susceptible to significant improper payments, take multiple actions when programs and activities are identified as susceptible to significant improper payments, and annually report information on their improper payments monitoring and minimization efforts. OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control, Appendix C, Requirements for Effective Measurement and Remediation of Improper Payments*, provides guidance to agencies to comply with IPIA, as amended, and for agency improper payments efforts. The USPTO has not identified any programs or activities susceptible to significant improper payments or any significant problems with improper payments.

The USPTO recognizes the importance of maintaining adequate internal controls to ensure the accuracy and integrity of payments made by the agency, and the USPTO maintains a strong commitment to continuous improvement in the overall disbursement management process. For FY 2017 and beyond, the USPTO will continue its efforts to ensure the integrity of its disbursements.

### **RISK ASSESSMENT**

A review of all programs and activities that the USPTO administers is performed annually to assist in identifying, reporting, and/or preventing erroneous or improper payments. This review was completed in FY 2017.

The USPTO annually conducts an assessment of the effectiveness of internal control over financial reporting, in compliance with OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*. Furthermore, every three years, the assessment includes a review of internal controls over disbursement processes. The most recent review performed in FY 2016 indicated that current internal controls over disbursement processes were sound.

The USPTO completes an annual improper payments risk assessment covering all of its programs/activities as required by OMB Circular A-123, Appendix C. These improper payments risk assessments of the entity's programs/activities also include assessments of the control and procurement environment. The improper payments program/activity risk assessment has revealed no risk-susceptible programs.

The results of the USPTO assessments revealed no risk-susceptible programs, and demonstrated that, overall, the USPTO has strong internal controls over disbursement processes, the amount of improper payments by the USPTO is immaterial, and the risk of improper payments is low.

### **STATISTICAL SAMPLING**

As the USPTO does not have any programs or activities that are susceptible to significant improper payments, a statistical sampling process has not been conducted to estimate the improper payment rate for USPTO programs and activities.

## IMPROPER PAYMENTS REPORTING, ROOT CAUSES, AND CORRECTIVE ACTIONS

During FY 2017, the improper payments for all USPTO programs and activities amounted to \$0.3 million, or .009 percent of total outlays. As the USPTO does not have any programs or activities that are susceptible to significant improper payments, an improper payment reduction outlook, root cause analyses, and corrective actions are not presented for USPTO programs and activities.

## ACCOUNTABILITY

The USPTO has not identified any significant problems with improper payments. During FY 2017, the improper payments for all USPTO programs and activities did not exceed the statutory thresholds for increased reporting. The USPTO recognizes the importance of maintaining adequate internal controls to ensure proper payments, and its commitment to continuous improvement in disbursement management processes remains very strong. The USPTO's CFO has responsibility for establishing policies and procedures for assessing USPTO and program risks of improper payments, taking actions to reduce improper payments, and reporting the results of the actions to management for oversight and other actions as deemed appropriate. The CFO has designated the Deputy CFO to oversee initiatives related to reducing improper payments within the USPTO.

## RECAPTURES OF IMPROPER PAYMENTS

### Payment Recapture Audits

The USPTO does not currently conduct recapture audits, as prior recapture audit activity did not yield any meaningful results. As recapture audits were deemed not cost effective for the USPTO, payment recapture rates, disposition of recaptured funds, and aging of outstanding overpayments are not presented for USPTO programs and activities.

### Overpayments Recaptured Outside of Payment Recapture Audits

The following table summarizes the USPTO's overpayments identified, and overpayments verified as recaptured through sources other than payment recapture audits that are reportable in the current fiscal year and that was reported in prior fiscal years. Prior fiscal years' amounts represent amounts reported for FY 2011 through FY 2016, as FY 2011 was the first fiscal year for this reporting requirement. Amounts recaptured for current year reporting includes payment recaptures during FY 2017 of both improper payments reported in FY 2017 and improper payments previously reported in prior fiscal years.

Overpayments Recaptured Outside of Recapture Audits (Dollars in Millions)						
Source of Overpayments	Current Year (CY)		Prior Years (PY)		Cumulative (CY + PY)	
	Amounts Identified for Payment Recapture	Amounts Recaptured	Amounts Identified for Payment Recapture	Amounts Recaptured	Cumulative Amounts Identified for Recapture	Cumulative Amounts Recaptured
Post-payment reviews	\$ 0.27	\$ 0.26	\$ 1.61	\$ 1.50	\$ 1.88	\$ 1.76
Audits and other reviews	-	-	0.03	-	0.03	-
Reported by recipients	0.02	0.02	4.76	4.76	4.78	4.77
<b>Total</b>	<b>\$ 0.29</b>	<b>\$ 0.28</b>	<b>\$ 6.40</b>	<b>\$ 6.26</b>	<b>\$ 6.69</b>	<b>\$ 6.53</b>

The USPTO continues to enhance its processes and identify and implement additional procedures to prevent and detect improper payments. In FY 2017, the USPTO continued its reporting procedures to senior management and to the Department of Commerce on improper payments and payment recaptures data, 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. The USPTO's analysis of the data reported reflects that improper payments were below one-fifth of one percent in FY 2017 and FY 2016. The USPTO has additionally reviewed all financial statement audit comments and results of other payment reviews for indications of breaches of disbursement controls. None of these audit comments or reviews have uncovered any significant problems with improper payments or the internal controls applied to disbursements.

The USPTO has improper payments monitoring and minimization efforts in place, including the identification of improper payments through post-payment reviews and contract closeout reviews. The USPTO 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. The USPTO also inquires monthly with business units if they, through the contract oversight process, identified any improper payments that occurred. In addition, the USPTO has implemented process improvements to minimize erroneous payments resulting from vendor payment assignments, which has historically been the source of the larger improper payments. A master file is now being kept for all assignments, which is available to all payment technicians and approvers. Technicians and approvers are also reminded periodically to monitor assignments.

#### **AGENCY REDUCTION OF IMPROPER PAYMENTS WITH THE DO NOT PAY INITIATIVE**

During FY 2013, the USPTO implemented a periodic vendor record eligibility validation process using Do Not Pay Initiative databases to prevent improper payments. This process is ongoing with no significant impact. In addition, the USPTO has incorporated the following IPERIA listed Do Not Pay databases into existing business processes and programs:

1. The Death Master File of the Social Security Administration, and
2. GSA's Excluded Parties List System/System for Award Management.

The USPTO has implemented a monthly batch process post-payment screening of an applicable subset of payments to identify any improper payments and to take any appropriate recovery or corrective and preventative actions. The USPTO has also implemented continuous monitoring of an applicable subset of active vendor records to ensure that vendors are not subject to payment and procurement restrictions. Results are used to better maintain our vendor records to reduce or prevent improper payments and awards. During FY 2017, the validation processes using the Do Not Pay Initiative databases have not resulted in the identification or reduction of any improper payments or awards.

**Results of the Do Not Pay Initiative in Preventing Improper Payments (\$ in millions)**

	<b>Number (#) of payments reviewed for possible improper payments</b>	<b>Dollars (\$) of payments reviewed for possible improper payments</b>	<b>Number (#) of payments stopped</b>	<b>Dollars (\$) of payments stopped</b>	<b>Number (#) of potential improper payments reviewed and determined accurate</b>	<b>Dollars (\$) of potential improper payments reviewed and determined accurate</b>
Reviews with the IPERIA specified databases	22,319	\$850	0	\$0	0	\$0
Reviews with databases not listed in IPERIA	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable



## FRAUD REDUCTION REPORT

The Fraud Reduction and Data Analytics Act of 2015 (Pub. L. No. 114-186) was enacted to improve Federal agency financial and administrative controls and procedures to assess and mitigate fraud risks, and to improve Federal agencies' development and use of data analytics for the purpose of identifying, preventing, and responding to fraud, including improper payments.

The USPTO considers the risk of fraudulent financial reporting and misappropriation of assets via internal controls and subsequent reviews. Procedures are in place to monitor internal controls on a consistent basis, including approvals, authorizations, verifications, reconciliations, performance reviews, security activities, and the production of records and documentation. Account access and restricted access to financial management systems and account access rights help to reduce the opportunity for fraudulent financial activities. In addition, segregation of duties ensure that roles are separated appropriately to prevent the likelihood of waste, abuse, fraudulent financial reporting and misappropriation of assets.

Control activities occur at all levels of the organization and are reviewed annually to assess the risk of errors or irregularities due to fraud. The reviews performed for OMB Circular A-123 Appendix A tests internal controls over financial reporting related to the reliability of financial statements, including a risk assessment performed at the beginning of the review and the use of a risk-based approach to test financial controls. Throughout the year, variance analyses are performed to identify trends and possible discrepancies that could indicate fraud or waste in order to investigate and correct the identified controls before the potential errors are included in the financial statements.

Within the Federal government, payroll, large contracts, and purchase and travel cards have been identified as having an increased risk and vulnerability of fraud. Whistleblower and fraud, waste, and abuse complaints are received and reviewed by the OIG.

The USPTO does not tolerate time and attendance abuse or other types of misconduct and will continue to take appropriate steps to avoid and address any such misconduct. Valuable suggestions received from inside and outside the USPTO have been used to develop new policies and strengthen existing policies to increase time and attendance accountability. The USPTO has recently invested significant time and effort to improve the already extensive workforce measures aimed at preventing time and attendance abuse and to continue the USPTO's focus on accountability. During FY 2017, all USPTO employees received training on time and attendance requirements, as well as work schedules and leave policies, and will continue to receive similar training on an on-going basis. The USPTO launched a new policy on time and attendance tools, communication, and collaboration. It gives employees clear guidance on time and attendance policies and automated tools that provide transparency to both managers and employees. While the OIG has previously highlighted the need for improved controls surrounding the time and attendance process, the OIG is no longer reporting this as a USPTO-specific concern in the OIG's FY 2018 Top Management and Performance Challenges Report.

The USPTO has the authority to use any contract type that it deems to be in the best interest of meeting the agency's mission. Although the USPTO is not statutorily required to provide a written justification when using high risk contract types, as a matter of good business practice, the USPTO Office of Procurement (OP) has established the requirement for Contracting Officers (COs) to provide a rationale in the Acquisition File Documentation when a high risk contract type has been selected. As part of the rationale, COs must establish why it is in the best interest of the USPTO to use the high risk contract type, the planned risk mitigation for using a high risk contract vehicle, and what steps are being taken to avoid use of high risk contract types in the future. The risk mitigation included for in the contract includes various mechanisms for frequent contract surveillance.

The USPTO OP continuously monitors and updates internal control measures and processes to manage the USPTO's Purchase Card Program, as does the Office of Finance for the USPTO Travel Card Program. This includes certifying that the appropriate policies and controls are in place and corrective actions have been taken to mitigate the risk of fraud and inappropriate charge card practices. In addition, the Office of Finance collaborated with the OHR Employee Relations Division to establish new monthly procedures to monitor, report, and manage travel card delinquencies and potential card misuse.



## REDUCE THE FOOTPRINT

The USPTO has worked to reduce the real property footprint and employee counts have remained relatively constant since the FY 2015 baseline. However, FY 2018 employee growth is estimated to be over 13,000. The USPTO is in the process of restacking and reconfiguring spaces within the existing square footage to accommodate employees. Further, the Leahy-Smith America Invents Act (AIA), signed on September 16, 2011, required the USPTO to establish at least three satellite offices. The first permanent office opened in Detroit in FY 2012. The second permanent office opened in Denver in FY 2014. The permanent California and Texas offices opened in FY 2016. In FY 2016, the USPTO was able to release two independent leases in Virginia, resulting in a reduction of office space by 64,560 square feet. Currently the USPTO is working with the National Archives and Records Administration (NARA) to relocate or eliminate the files presently stored at the Springfield, Virginia warehouse facility. This consolidation and relocation effort is scheduled for completion in September 2018, and at the conclusion, USPTO will release 270,695 square feet of office and warehouse space effective FY 2019.

<b>Reduce the Footprint Policy Baseline Comparison</b>			
	<b>FY 2015 Baseline</b>	<b>FY 2016 (Change from FY 2015 Baseline)</b>	<b>FY 2017 (Change from FY 2015 Baseline)</b>
(Square footage (SF) in millions)	3.1	3.1 (0.0 RSF increase from FY 2015)	3.1 (0.0 RSF increase from FY 2015)

<b>Reporting of Operations and Maintenance Costs — Direct Lease Buildings</b>			
	<b>FY 2015 Reported Cost</b>	<b>FY 2016 (Change from FY 2015 Baseline)</b>	<b>FY 2017 (Change from FY 2015 Baseline)</b>
Operation and Maintenance Costs (dollars in millions)	\$1.9	\$1.9 (\$0.0 million increase from FY 2015)	\$1.9 (\$0.0 million increase from FY 2015)



## CIVIL MONETARY PENALTY ADJUSTMENT FOR INFLATION

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, requires agencies to make regular and consistent inflationary adjustments of civil monetary penalties to maintain their deterrent effect. There were no civil monetary penalties assessed by the USPTO during FY 2017.





## BIENNIAL REVIEW OF USER 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. The USPTO uses Activity Based Costing (ABC) to calculate the cost of activities performed for each fee, and uses this information to evaluate and inform when setting fees. When appropriate, fees are adjusted to be consistent with legislative requirements to recover full cost of the goods or services provided to the public.

Consistent with the provisions of the AIA, the USPTO will continue to assess fees on at least a biennial basis. On October 21, 2016, the USPTO issued a final rule to set or increase certain trademark fees, as authorized by the AIA. The final fee schedule is responsive to stakeholder concerns as expressed during the public comment period while still allowing the Office to recover the aggregate estimated cost of Trademark and Trademark Trial and Appeal Board (TTAB) operations and USPTO administrative services that support Trademark operations. A final rule to set or increase certain patent fees as authorized by the AIA is under final administrative review, and is anticipated to be published in the Federal Register by the end of calendar year 2017. The USPTO also initiated the FY 2017 comprehensive fee review. The fee review process incorporates a thorough evaluation of the existing fee schedule, as well as significant research and analysis on potential revisions to the schedule.



## THE NATURE OF THE TRAINING PROVIDED TO USPTO EXAMINERS AND ATTORNEYS

Achieving organizational excellence demands a high-performing 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 IT systems training in FY 2017. The USPTO has a comprehensive training program for new patent examiners and trademark examining attorneys, with a well-established curriculum that includes initial legal training, systems training, and training in examination practice and procedure. Systems training is provided to all examiners as new IT 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 focused on practices particular to a technology or was developed to address training needs identified through patent and trademark examination reviews, focus group feedback, or staff requests.

The USPTO training staff works with the Patent and Trademark organizations to address specific training concerns and to 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 that it is up-to-date and that coursework reflects developments and changes that have taken place in the industry.

## PATENT EXAMINER TRAINING

### U.S. Patent Training Academy

- Mandatory training for first year patent examiners

#### ▪ **Entry Level Two-Phased 12-Month New Examiner Training Curriculum**

The legal and procedural training of this curriculum includes enhanced instruction in areas such as: USPC and CPC Classification Systems, Searching (classification, text), Claim Interpretation, Advanced Text Searching, Writing an Effective Examiner's Answer, Appeal Procedure, and Practice (Appeal Conference and Pre-Conference; Prevent Administrative Remand).

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

Automation training includes classes in more than a dozen specialized applications used in patent examination, multiple search systems, databases, and commonly-used office applications.

Life skills training includes: time management, ethics training, stress management, balancing quality and production, professionalism, benefits and financial planning basics, balancing work and personal life, diversity training, and negotiating conflict.

#### ▪ **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 12 months of employment. When the examiner graduates from the Academy, and is transferred to a TC, 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

### Programs for all Patent Examiners

#### Legal Practice and Procedure Training

- **Patent Examiner Refresher Training**

Courses developed to enhance patent examiners' knowledge and skills in procedural and legal topics pertaining to patent examination. Participants may enroll in one or more courses in consultation with their supervisor.

- **Master Class Patent Examiner Training**

This is a program for examiners who have several years of patent examining experience. The program provides training in specific legal areas such as AIA declarations of attribution or prior public disclosure, pre-AIA attribution declarations, and unexpected results.

- **Patent Corps Examination Training**

Patent Corps Examination Training is training on patent examination policy, practice, and procedures, including legal lectures, for examiners at any grade or level of experience.

- **In-House Patent Law and Evidence Course**

Training for patent examiners on authoritative court decisions on statutory issues under 35 U.S.C. §§ 101, 102, 103, and 112 and the handling of evidence during the examination of applications.

- **Patent Examiner Technical Training Program (PETTP)**

PETTP is one of seven executive actions and is aimed at encouraging innovation and strengthening the quality and accessibility of the patent system. Scientists, engineers, professors, industrial designers, and other technology experts volunteer to share their expertise with patent examiners within a learning environment. Presentations discuss advances in state of the art, emerging trends, and recent innovations in their fields. Courses offered in the past by participants from companies and institutions such as Boeing, Duke University, and Toyota have covered topics such as cloud computing, green technologies, and nanotechnologies. Technology experts from outside the USPTO, who have value-added expertise, teach these courses.

- **Site Experience Education (SEE) Program**

Experience technology at its source. This unique program provides opportunities for groups of examiners to visit sites of innovation within the continental United States to get updates on current and emerging technologies and to see technology first-hand. Past visits have included Boeing, Google, IBM, Intel, NASA, Samsung, Syngenta Biotechnology, University of Texas at Austin, and Yahoo. Visits are bundled so examiners can compare and contrast experiences at multiple sites.

## TRADEMARK EXAMINING ATTORNEY TRAINING

Trademarks trains newly hired examining attorneys in a classroom setting during their first seven to eight weeks at the USPTO. The classroom trainers are from the USPTO's Office of Trademark Quality Review and Training. At the end of classroom training, each examining attorney is integrated into their assigned law office where s/he is mentored by the senior attorney of that law office, who also has other management responsibilities, or is paired with an experienced examining attorney. Each law office typically receives one to three new attorneys at a time. Law offices consist of about 25 attorneys at various grade levels (GS 11-14) with the majority of GS-13 and GS-14 attorneys working full-time at home and all of the GS-11s and GS-12s working the majority of time at headquarters. In the past fiscal year, a total of 66 examining attorneys were hired in three groups, with the first and third groups assigned to a new law office made up of all new hires and the second group to several existing law offices.

In FY 2017 the Trademark organization prepared, by using data gathered from the results of quality reviews that were analyzed, the content of online 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:

- TMEP Update Overview – Digitally-Altered/Mock-Up Specimens
- Form Paragraph Updates – Digitally-Altered/Mock-Up Specimens
- ID Manual Updates
- Nice 11th Edition Training
- ID Manual and ID Checker Training
- Updated Excellent ID Writing Guide
- TEAS Changes and Reformatted Declarations
- TTAB Rules Changes
- Recent Developments in Trademark Law
- TEALE-New Examining Attorney Training
- INTA – Wine Industry: Overview and Issues Related to Trademark Examination
- INTA – Fashion Industry: Overview and Issues Related to Trademark Examination
- U.S. Military: Overview and Issues Related to Trademark Examination
- Madrid Protocol Tips for Examination
- Disciplinary Procedures, Unauthorized Practice of Law and Other Ethical Issues
- Merely Informational Matter Exam Guide Training

Four Exam Guides released:

- Post Matal v. Tam re: Disparagement Clause of Section 2(a)
- Merely Informational Matter
- Petitions/Reinstatement Rule
- Surname Combined with Wording

One Exam Note released: Note 1-17 – Notes to the File

One Exam TIP released: Digitally Created or Altered Specimens

## TRADEMARK TRAINING LAW OFFICE PILOT

Trademarks continued to pilot a new way to on-board and train new examining attorneys. Since FY 2015, Trademarks has hired many of its attorneys in training law offices, which are retained permanently after the new examining attorneys are fully trained. The USPTO's objectives were to provide a new employee experience that promotes engagement, camaraderie, more consistent training among the class, and more real examination experience and a deeper understanding of examination and Trademark law earlier in the process. The new law offices were established with experienced managers and outstanding examining attorney volunteers to act as mentors, spending most of their time in that capacity. The initial results are promising. Two training law offices were added in FY 2017 and another will be added in FY 2018 to continue to study the impact of this new approach.

### Manager/mentor participation in TEALE

- Immediate feedback/correction for presentations
- Ongoing, real-time evaluation of employees
- Unified message regarding how examination should be performed
- Stronger manager/employee engagement

### Elimination of tests/studying/fake files

- Shorter classroom training
- Teach to the job, not the test

### Shortened presentations

- Less stress on attention spans
- Wider variety of activities over course of a day

### Daily real-file examination

- Increased sense of responsibility
- Less classroom burnout
- Better chance of immediately applying lessons learned
- Wider variety of topics covered

### Daily case chats

- Deeper understanding of how presentations apply to real-life topics
- Mental "warm up" for day's activities
- Provides sense of how managers approach different situations
- Introduction to gray areas of decision-making
- Discussion with peers builds a sense of community

# FY 2017 USPTO WORKLOAD TABLES

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**TABLE 1: Summary of Patent Examining Activities (FY 2013-FY 2017)** (Preliminary for FY 2017)<sup>1</sup>

Patent Examining Activity	2013	2014	2015	2016	2017
<b>Applications filed, total<sup>1,2</sup></b>	<b>601,464</b>	<b>618,457</b>	<b>618,062</b>	<b>650,411</b>	<b>647,388</b>
Utility <sup>3</sup>	564,007	579,873	578,121	607,753	602,354
Reissue	1,074	1,207	1,087	1,072	706
Plant	1,318	1,123	1,119	1,180	1,056
Design	35,065	36,254	37,735	40,406	43,272
<b>Provisional Applications Filed<sup>2,4</sup></b>	<b>177,942</b>	<b>169,173</b>	<b>170,676</b>	<b>167,390</b>	<b>166,744</b>
<b>First actions</b>					
Design	27,669	28,341	33,549	36,550	20,489
Utility, Plant, and Reissue	595,110	578,352	632,337	609,612	611,280
PCT/Chapter	15,060	19,787	22,193	20,485	20,353
<b>Patent application disposals, total</b>	<b>605,994</b>	<b>637,263</b>	<b>641,665</b>	<b>681,363</b>	<b>627,973</b>
<b>Allowed Patent Applications, total</b>	<b>334,560</b>	<b>346,909</b>	<b>353,700</b>	<b>363,022</b>	<b>373,093</b>
Design	24,967	24,695	28,663	30,741	32,705
Utility, Plant, and Reissue	309,593	322,214	325,037	332,281	340,388
<b>Abandoned, total</b>	<b>271,424</b>	<b>290,354</b>	<b>287,965</b>	<b>318,341</b>	<b>302,466</b>
Design	2,705	2,828	3,725	4,715	5,894
Utility, Plant, and Reissue	268,719	287,526	284,240	313,626	296,572
<b>Statutory invention registration disposals, total</b>	<b>10</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>PCT/Chapter II examinations completed</b>	<b>2,016</b>	<b>1,450</b>	<b>1,655</b>	<b>1,234</b>	<b>1,010</b>
<b>Applications Published<sup>5</sup></b>	<b>339,775</b>	<b>382,056</b>	<b>362,536</b>	<b>397,190</b>	<b>373,155</b>
<b>Patents issued<sup>2,6</sup></b>	<b>290,083</b>	<b>329,612</b>	<b>322,448</b>	<b>334,107</b>	<b>347,243</b>
Utility	265,979	303,930	295,459	304,568	315,366
Reissue	809	661	531	459	360
Plant	842	1,013	1,020	1,250	1,247
Design	22,453	24,008	25,438	27,830	30,270
Pendency time of average patent application <sup>7</sup>	29.1	27.4	26.6	25.3	24.2
Reexamination certificates issued	819	790	764	499	406
PCT international applications received by USPTO as receiving office	56,226	62,697	56,480	56,339	56,840
National requirements received by USPTO as designated/elected office	73,488	78,213	85,387	85,988	86,955
Patents renewed under Public Law (Pub. L. No.) 102-204 <sup>8</sup>	348,658	419,563	401,647	430,935	424,646
Patents expired under (Pub. L. No.) 102-204 <sup>8</sup>	79,689	89,523	98,283	108,627	108,212

- Represents zero.

<sup>1</sup> FY 2017 filing data are preliminary and will be finalized in the FY 2018 PAR.

<sup>2</sup> FY 2016 application data has been updated with final end of year numbers.

<sup>3</sup> Utility patents include chemical, electrical and mechanical applications.

<sup>4</sup> Provisional applications provided for in (Pub. L. No.) 103-465.

<sup>5</sup> Eighteen-month publication of patent applications provided for the American Inventors Protection Act of 1999, (Pub. L. No.) 106-113.

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

<sup>7</sup> Average time (in months) between filing and issuance or abandonment of utility, plant, and reissue applications.

This average does not include design patents.

<sup>8</sup> The provisions of (Pub. L. No.) 102-204 regarding the renewal of patents superceded (Pub. L. No.) 96-517 and (Pub. L. No.) 97-247.



**TABLE 2: Patent Applications Filed (FY 1997-FY 2017)** (Preliminary for FY 2017)<sup>1</sup>

Year	Utility	Design	Plant	Reissue	Total
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	466,258	28,217	1,331	1,080	496,886
2009	458,901	25,575	988	1,035	486,499
2010	479,332	28,577	1,013	1,138	510,060
2011	504,663	30,247	1,103	1,158	537,171
2012	530,915	32,258	1,181	1,212	565,566
2013	564,007	35,065	1,318	1,074	601,464
2014	579,873	36,254	1,123	1,207	618,457
2015	578,121	37,735	1,119	1,087	618,062
2016	607,753	40,406	1,180	1,072	650,411
<b>2017</b>	<b>602,354</b>	<b>43,272</b>	<b>1,056</b>	<b>706</b>	<b>647,388</b>

<sup>1</sup> FY 2017 data are preliminary and will be finalized in the FY 2018 PAR.

**TABLE 3: Patent Applications Pending Prior to Allowance<sup>1</sup> (FY 1997–FY 2017)**

Year	Awaiting Action by Examiner	Total Applications Pending <sup>2</sup>
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
2010	726,331	1,163,751
2011	690,967	1,168,928
2012	633,812	1,157,147
2013	616,409	1,148,823
2014	642,949	1,127,701
2015	592,417	1,099,468
2016	579,074	1,070,163
<b>2017</b>	<b>569,088</b>	<b>1,082,661</b>

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

<sup>2</sup>Applications under examination, including those in preexamination processing.

**TABLE 4: Patent Pendency Statistics (FY 2017)**

UPR Pendency Statistics by Technology Center (in months)	Average First Action Pendency	Total Average Pendency
<b>Total UPR Pendency</b>	<b>16.3</b>	<b>24.2</b>
Tech Center 1600—Biotechnology and Organic Chemistry	12.1	23.2
Tech Center 1700—Chemical and Materials Engineering	18.5	27.5
Tech Center 2100—Computer Architecture, Software and Information Security	21.3	28.5
Tech Center 2400—Networks, Multiplexing, Cable and Security	16.7	25.6
Tech Center 2600—Communications	12.0	21.7
Tech Center 2800—Semiconductor, Electrical, Optical Systems and Components	13.6	22.3
Tech Center 3600—Transportation, Construction, Agriculture and Electronic Commerce	18.2	25.5
Tech Center 3700—Mechanical Engineering, Manufacturing and Products	19.7	28.9

**TABLE 5: Summary of Total Pending Patent Applications (FY 2017)**

Stage of Processing	Utility, Plant, and Reissue Applications	Design Applications	Total Patent Applications
<b>Pending patent applications, total</b>	<b>1,081,289</b>	<b>63,015</b>	<b>1,144,304</b>
<b>In preexamination processing, total</b>	<b>83,080</b>	<b>2,169</b>	<b>85,249</b>
<b>Under examination, total</b>	<b>898,115</b>	<b>52,038</b>	<b>950,153</b>
Undocketed	45,365	8,463	
Awaiting first action by examiner	403,872	31,905	
<i>Subtotal applications awaiting first action by examiner<sup>1</sup></i>	<i>532,317</i>	<i>42,537</i>	
RCE Awaiting First Action	24,897	-	
Rejected, awaiting response by applicant	307,887	9,369	
Amended, awaiting action by examiner	87,681	2,096	
In interference	49	-	
On appeal, and other <sup>2</sup>	28,364	205	
<b>In postexamination processing, total</b>	<b>100,094</b>	<b>8,808</b>	<b>108,902</b>
Awaiting issue fee	79,011	6,838	
Awaiting printing <sup>3</sup>	17,638	1,964	
D-10s (secret cases in condition for allowance)	3,445	6	

- Represents zero.

<sup>1</sup> Subtotal is not included in pending patent applications total.

<sup>2</sup> Includes cases on appeal and undergoing petitions.

<sup>3</sup> Includes withdrawn cases.

**TABLE 6: Patents Issued (FY 1997-FY 2017)<sup>1</sup>**

Year	Utility <sup>2</sup>	Design	Plant	Reissue	Total
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
2009	165,213	23,415	1,096	398	190,122
2010	207,915	23,373	978	861	233,127
2011	221,350	21,295	816	969	244,430
2012	246,464	21,953	920	921	270,258
2013	265,979	22,453	842	809	290,083
2014	303,930	24,008	1,013	661	329,612
2015	295,460	25,438	1,020	531	322,449
2016	304,568	27,830	1,250	459	334,107
<b>2017</b>	<b>315,367</b>	<b>30,637</b>	<b>1,246</b>	<b>392</b>	<b>347,642</b>

<sup>1</sup> Past year's data may have been revised from prior year reports.

<sup>2</sup> Includes chemical, electrical, and mechanical applications.

**TABLE 7: Patent Applications Filed by Residents of the United States<sup>1</sup> (FY 2013–FY 2017)<sup>2</sup>**

State/Territory	2013	2014	2015	2016	2017 <sup>3</sup>
<b>Total</b>	<b>306,413</b>	<b>307,985</b>	<b>304,651</b>	<b>318,701</b>	<b>N/A</b>
Alabama	1,016	1,089	1,042	1,026	N/A
Alaska	90	99	118	115	N/A
Arizona	5,023	5,039	5,047	5,134	N/A
Arkansas	633	601	596	750	N/A
California	85,932	87,709	83,861	90,050	N/A
Colorado	6,472	6,280	6,266	5,840	N/A
Connecticut	4,584	4,506	5,557	5,270	N/A
Delaware	930	833	727	836	N/A
District of Columbia	469	465	459	482	N/A
Florida	9,972	10,422	9,962	9,618	N/A
Georgia	6,097	6,066	5,870	5,879	N/A
Hawaii	294	344	328	265	N/A
Idaho	1,412	1,497	1,337	1,217	N/A
Illinois	11,155	11,540	11,218	12,136	N/A
Indiana	4,275	4,373	4,230	4,158	N/A
Iowa	1,749	1,771	1,870	1,722	N/A
Kansas	1,861	1,802	1,577	1,554	N/A
Kentucky	1,369	1,393	1,455	1,388	N/A
Louisiana	926	951	915	895	N/A
Maine	383	402	434	422	N/A
Maryland	4,118	4,108	4,218	4,278	N/A
Massachusetts	14,635	15,183	15,172	15,249	N/A
Michigan	9,808	10,295	10,481	11,363	N/A
Minnesota	9,051	8,317	8,382	8,686	N/A
Mississippi	330	337	366	337	N/A
Missouri	2,620	2,793	2,625	3,046	N/A
Montana	335	326	342	361	N/A
Nebraska	669	686	705	655	N/A
Nevada	1,963	1,868	1,669	1,818	N/A
New Hampshire	1,693	1,895	1,843	1,766	N/A
New Jersey	10,271	10,206	9,783	10,340	N/A
New Mexico	929	984	982	951	N/A
New York	18,257	17,564	17,984	19,559	N/A
North Carolina	7,494	7,550	7,472	8,099	N/A
North Dakota	224	186	213	217	N/A
Ohio	8,611	8,394	8,696	9,182	N/A
Oklahoma	1,204	1,173	1,210	1,121	N/A
Oregon	5,721	4,907	5,692	6,453	N/A
Pennsylvania	8,729	8,883	8,732	8,633	N/A
Rhode Island	855	770	834	686	N/A
South Carolina	2,043	2,004	2,026	2,098	N/A
South Dakota	275	304	293	313	N/A
Tennessee	2,396	2,396	2,291	2,433	N/A
Texas	20,236	20,088	20,198	21,671	N/A
Utah	3,201	3,409	3,333	3,379	N/A
Vermont	810	683	645	678	N/A
Virginia	4,522	4,545	4,518	4,446	N/A
Washington	15,577	15,716	15,870	17,044	N/A
West Virginia	284	247	286	238	N/A
Wisconsin	4,558	4,615	4,562	4,498	N/A
Wyoming	248	244	238	212	N/A
Puerto Rico	83	93	100	100	N/A
Virgin Islands	13	14	14	12	N/A
U.S. Pacific Islands <sup>4</sup>	6	14	2	18	N/A
United States <sup>5</sup>	2	6	5	4	N/A
Other <sup>5</sup>	-	-	-	-	N/A

- Represents zero.

<sup>1</sup> Data include utility, plant, design, and reissue applications.

<sup>2</sup> Finalized data for FY 2013 to FY 2016 provided.

<sup>3</sup> FY 2017 preliminary data should be available January 2018 at [www.uspto.gov](http://www.uspto.gov), and finalized in the FY 2018 PAR.

<sup>4</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>5</sup> State/Territory information not available.

**TABLE 8: Patents Issued to Residents of the United States<sup>1</sup> (FY 2016-FY 2017)<sup>4</sup>**

State/Territory	2016	2017	State/Territory	2016	2017
<b>Total</b>	<b>160,457</b>	<b>167,367</b>	Nebraska	341	382
Alabama	557	562	Nevada	866	881
Alaska	58	60	New Hampshire	984	1,060
Arizona	2,912	3,076	New Jersey	4,918	5,095
Arkansas	317	312	New Mexico	507	563
California	45,155	45,683	New York	9,737	10,387
Colorado	3,481	3,496	North Carolina	3,834	3,962
Connecticut	2,436	2,633	North Dakota	109	129
Delaware	354	342	Ohio	4,161	4,406
District of Columbia	176	199	Oklahoma	591	631
Florida	5,102	5,218	Oregon	3,228	3,926
Georgia	2,852	3,096	Pennsylvania	4,331	4,774
Hawaii	186	161	Rhode Island	436	412
Idaho	878	752	South Carolina	1,137	1,180
Illinois	5,858	6,010	South Dakota	152	156
Indiana	2,346	2,500	Tennessee	1,206	1,287
Iowa	1,008	1,121	Texas	10,650	11,351
Kansas	975	906	Utah	1,587	1,747
Kentucky	777	806	Vermont	476	449
Louisiana	504	522	Virginia	2,213	2,336
Maine	189	178	Washington	7,500	7,836
Maryland	2,083	2,148	West Virginia	102	130
Massachusetts	7,340	7,921	Wisconsin	2,655	2,703
Michigan	6,511	7,015	Wyoming	116	110
Minnesota	4,803	4,878	Puerto Rico	50	39
Mississippi	191	211	Virgin Islands	5	10
Missouri	1,331	1,428	U.S. Pacific Islands <sup>2</sup>	2	13
Montana	181	175	United States <sup>3</sup>	2	3

- Represents zero.

<sup>1</sup> Data include utility, design, plant, and reissue patents.

<sup>2</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>3</sup> No State indicated in database.

<sup>4</sup> Past year's data may have been revised from prior year reports.

**TABLE 9: United States Patent Applications Filed by Residents of Foreign Countries<sup>1</sup> (FY 2013–FY 2017)<sup>2</sup>**

Residence	2013	2014	2015	2016	2017 <sup>3</sup>
<b>Total</b>	<b>295,051</b>	<b>310,472</b>	<b>313,411</b>	<b>331,710</b>	<b>N/A</b>
Afghanistan	1	-	-	1	N/A
Albania	-	1	1	2	N/A
Algeria	2	3	2	1	N/A
Andorra	4	11	1	4	N/A
Angola	-	1	1	2	N/A
Anguilla	-	-	1	1	N/A
Antigua and Barbuda	2	-	-	1	N/A
Argentina	170	149	154	177	N/A
Armenia	14	18	17	25	N/A
Aruba	-	1	-	-	N/A
Australia	4,115	4,029	3,909	4,013	N/A
Austria	2,242	2,586	2,502	2,771	N/A
Azerbaijan	3	2	-	5	N/A
Bahamas	8	26	10	14	N/A
Bahrain	6	7	4	9	N/A
Bangladesh	9	6	13	18	N/A
Barbados	7	6	7	9	N/A
Belarus	35	47	16	20	N/A
Belgium	2,455	2,660	2,456	2,614	N/A
Belize	-	-	1	1	N/A
Benin	-	-	-	-	N/A
Bermuda	3	3	9	16	N/A
Bolivia	4	1	3	3	N/A
Bonaire, Sint Eustatius, and Saba	-	1	-	-	N/A
Bosnia and Herzegovina	2	3	3	3	N/A
Botswana	2	-	-	-	N/A
Brazil	829	901	893	968	N/A
British Virgin Islands	12	6	4	22	N/A
Brunei Darussalam	1	6	-	3	N/A
Bulgaria	88	89	87	63	N/A
Burkina Faso	-	-	-	-	N/A
Burundi	-	-	-	-	N/A
Cambodia	-	1	-	2	N/A
Cameroon	-	9	1	1	N/A
Canada	14,730	14,074	13,877	14,328	N/A
Cayman Islands	31	24	26	59	N/A
Chad	-	1	-	1	N/A
Chile	143	156	125	130	N/A
China (Hong Kong)	1,465	1,500	1,453	1,325	N/A
China (Macau)	20	43	40	42	N/A
China (People's Republic)	15,496	19,006	22,374	27,935	N/A
Colombia	62	86	109	88	N/A
Costa Rica	35	44	39	36	N/A
Cote D'Ivoire	-	8	2	-	N/A
Croatia	39	38	32	36	N/A
Cuba	18	23	17	18	N/A

Residence	2013	2014	2015	2016	2017 <sup>3</sup>
Curacao	1	-	-	1	N/A
Cyprus	18	17	22	45	N/A
Czech Republic	403	481	480	402	N/A
Denmark	2,276	2,443	2,383	2,505	N/A
Dominican Republic	8	7	4	6	N/A
Ecuador	9	5	9	4	N/A
Egypt	72	93	70	85	N/A
El Salvador	2	3	4	1	N/A
Eritrea <sup>4</sup>	-	-	-	3	N/A
Estonia	95	70	61	78	N/A
Ethiopia	-	-	-	-	N/A
Faroe Islands	1	-	2	-	N/A
Fiji	-	-	-	-	N/A
Finland	3,037	3,167	3,325	3,358	N/A
French Polynesia	-	1	1	-	N/A
France	11,972	12,423	12,715	13,489	N/A
Gabon	-	-	1	2	N/A
Georgia	3	7	2	8	N/A
Germany	31,531	31,997	31,132	33,254	N/A
Ghana	4	2	2	1	N/A
Gibraltar	4	14	15	3	N/A
Greece	154	171	234	223	N/A
Greenland	-	-	-	-	N/A
Guadeloupe	-	2	-	1	N/A
Guatemala	5	2	5	-	N/A
Guernsey	4	1	4	4	N/A
Guinea	-	-	-	1	N/A
Guyana	-	-	1	-	N/A
Haiti	-	-	-	-	N/A
Honduras	1	2	2	-	N/A
Hungary	303	327	302	304	N/A
Iceland	79	105	103	88	N/A
India	6,411	7,082	7,835	7,676	N/A
Indonesia	43	41	49	35	N/A
Iran	39	58	64	78	N/A
Iraq	1	3	2	1	N/A
Ireland	1,088	1,087	1,245	1,408	N/A
Isle of Man	21	22	12	5	N/A
Israel	7,320	7,543	7,876	8,251	N/A
Italy	5,139	5,374	5,353	5,871	N/A
Jamaica	9	10	15	13	N/A
Japan	87,369	89,255	89,028	91,383	N/A
Jersey	13	11	11	9	N/A
Jordan	26	22	29	27	N/A
Kazakhstan	15	6	13	7	N/A
Kenya	19	6	16	31	N/A
Korea, Dem. Republic of	-	-	-	-	N/A
Korea, Republic of	34,795	39,535	39,941	41,823	N/A

**TABLE 9: United States Patent Applications Filed by Residents of Foreign Countries<sup>1</sup> (FY 2013–FY 2017)<sup>2</sup> (continued)**

Residence	2013	2014	2015	2016	2017 <sup>3</sup>	Residence	2013	2014	2015	2016	2017 <sup>3</sup>
Kuwait	132	89	71	105	N/A	Samoa	-	-	1	3	N/A
Kyrgyzstan	1	-	-	-	N/A	San Marino	-	-	3	1	N/A
Latvia	13	16	19	19	N/A	Saudi Arabia	648	622	747	1,029	N/A
Lebanon	21	28	22	25	N/A	Senegal	-	-	-	1	N/A
Lesotho	-	1	-	-	N/A	Serbia	26	33	44	40	N/A
Liberia	-	2	-	1	N/A	Seychelles	9	8	4	10	N/A
Libya	-	-	1	-	N/A	Singapore	1,812	1,931	1,879	1,972	N/A
Liechtenstein	48	59	46	75	N/A	Sint Maartin	1	-	-	-	N/A
Lithuania	27	30	43	40	N/A	Slovakia	45	67	54	64	N/A
Luxembourg	110	108	116	137	N/A	Slovenia	97	113	104	104	N/A
Madagascar	-	-	2	-	N/A	South Africa	463	416	385	382	N/A
Macedonia	3	3	-	4	N/A	Spain	1,820	1,765	1,840	1,902	N/A
Malawi	1	-	-	-	N/A	Sri Lanka	16	16	16	17	N/A
Malaysia	485	545	514	462	N/A	Sudan	-	-	1	1	N/A
Mali	-	-	1	1	N/A	Swaziland	-	1	-	-	N/A
Malta	19	25	20	30	N/A	Sweden	4,641	5,170	5,510	5,699	N/A
Martinique	-	1	-	-	N/A	Switzerland	4,840	5,362	5,315	5,862	N/A
Mauritius	-	1	1	2	N/A	Syria Arab Republic	-	1	3	3	N/A
Mexico	430	494	613	686	N/A	Taiwan	21,949	21,915	20,561	20,875	N/A
Moldova	1	2	4	6	N/A	Tajikistan	1	-	-	-	N/A
Monaco	36	44	27	39	N/A	Tanzania	-	2	1	-	N/A
Mongolia	2	-	1	3	N/A	Thailand	242	172	193	148	N/A
Montenegro	-	3	-	1	N/A	Trinidad and Tobago	14	8	6	14	N/A
Morocco	3	2	8	10	N/A	Tunisia	15	10	13	13	N/A
Namibia	7	4	4	3	N/A	Turkey	253	317	315	396	N/A
Nepal	1	1	1	-	N/A	Turkmenistan	-	1	-	1	N/A
Netherlands	4,764	5,328	5,443	6,676	N/A	Turks and Caicos Islands	1	2	1	2	N/A
Netherlands Antilles	-	-	-	-	N/A	Uganda	1	-	-	-	N/A
New Caledonia	-	1	-	1	N/A	Ukraine	131	152	150	157	N/A
New Zealand	707	744	771	759	N/A	United Arab Emirates	122	151	172	215	N/A
Nicaragua	1	2	1	2	N/A	United Kingdom	13,680	14,304	14,290	14,824	N/A
Niger	-	-	-	2	N/A	Uruguay	20	22	20	18	N/A
Nigeria	4	12	4	8	N/A	Uzbekistan	1	3	3	3	N/A
Norway	1,166	1,282	1,202	1,202	N/A	Vanuatu (New Hebrides)	1	1	-	1	N/A
Oman	5	5	8	6	N/A	Venezuela	35	33	33	31	N/A
Pakistan	42	35	47	53	N/A	Vietnam	17	24	42	36	N/A
Panama	6	11	15	21	N/A	West Bank/Gaza	-	3	2	1	N/A
Paraguay	3	-	1	4	N/A	Yemen	-	-	1	1	N/A
Peru	11	12	16	19	N/A	Zimbabwe	1	1	-	-	N/A
Philippines	87	120	116	119	N/A	Other <sup>5</sup>	-	-	-	-	N/A
Poland	397	481	535	570	N/A						
Portugal	134	183	184	249	N/A						
Qatar	20	36	57	52	N/A						
Romania	117	140	166	139	N/A						
Russian Federation	1,001	1,025	1,064	1,102	N/A						
Saint Kitts and Nevis	1	-	-	-	N/A						
Saint Lucia	-	-	1	-	N/A						

- Represents zero.

<sup>1</sup> Data include utility, design, plant, and reissue applications. Country listings include possessions and territories of that country unless listed separately in the table. Data are subject to minor revisions.<sup>2</sup> Finalized data for FY 2013 to FY 2016 provided.<sup>3</sup> FY 2017 preliminary data should be available in January 2018 at [www.uspto.gov](http://www.uspto.gov), and finalized in the FY 2018 PAR.<sup>4</sup> Countries/Territories not previously reported.<sup>5</sup> Country of origin information not available.

**TABLE 10: Patents Issued by the United States to Residents of Foreign Countries<sup>1,3</sup> (FY 2013–FY 2017)<sup>2</sup>**

Residence	2013	2014	2015	2016	2017
<b>Total</b>	<b>150,014</b>	<b>167,937</b>	<b>168,050</b>	<b>173,650</b>	<b>180,275</b>
Afghanistan	1	1	-	-	-
Albania	1	-	-	-	1
Algeria	-	-	1	-	-
Andorra	1	2	8	3	2
Angola	1	-	1	1	-
Anguilla	-	-	-	-	1
Antigua and Barbuda	1	1	-	1	-
Argentina	76	84	74	89	93
Armenia	4	5	8	5	15
Aruba	2	-	-	-	-
Australia	1,878	2,062	1,937	1,888	1,964
Austria	1,065	1,296	1,248	1,416	1,613
Azerbaijan	1	2	1	1	2
Bahamas	5	4	15	6	5
Bahrain	1	4	1	3	2
Bangladesh	2	3	2	1	7
Barbados	-	3	5	2	3
Belarus	10	7	16	30	16
Belgium	1,111	1,267	1,234	1,315	1,359
Belize	-	-	-	-	-
Bermuda	2	4	3	-	2
Bolivia	-	3	-	2	2
Bosnia and Herzegovina	1	-	-	2	2
Brazil	265	352	372	399	396
British Virgin Islands	2	1	3	1	5
Brunei Darussalam	-	-	1	4	1
Bulgaria	23	52	37	52	42
Burkina Faso	-	-	-	-	-
Cambodia	-	-	-	1	-
Cameroon	5	1	1	1	2
Canada	6,915	7,922	7,487	7,258	7,532
Cayman Islands	18	7	18	8	12
Chad	-	-	-	-	-
Chile	55	57	85	47	59
China (Hong Kong)	734	828	805	825	892
China (Macau)	7	14	15	26	31
China (Mainland)	6,181	7,715	8,598	10,988	14,147
Colombia	22	22	37	39	31
Costa Rica	14	17	17	27	12
Cote d'Ivoire	-	-	-	10	-
Croatia	17	30	16	14	20
Cuba	12	19	11	9	12
Curacao	-	1	-	-	-
Cyprus	10	10	11	14	8
Czech Republic	174	196	197	219	264
Denmark	1,009	1,309	1,186	1,221	1,248
Dominican Republic	6	3	2	2	3
Ecuador	9	4	1	3	3
Egypt	32	40	32	41	40
El Salvador	2	-	1	2	1
Eritrea <sup>4</sup>	-	-	-	-	1
Estonia	37	38	37	51	29
Ethiopia	-	1	-	-	-
Faroe Islands	1	-	1	1	1
Finland	1,205	1,499	1,437	1,604	1,727
France	6,245	7,144	7,034	6,907	7,365
French Polynesia	-	-	1	-	-
Gabon	-	1	-	-	-
Georgia	3	5	2	2	2
Germany	15,798	17,926	17,485	17,568	17,998
Ghana	2	1	1	-	-
Gibraltar	4	2	2	1	8
Greece	81	70	66	87	117
Greenland	-	1	-	-	-
Guadeloupe	-	-	-	1	-
Guatemala	-	1	4	1	1
Guernsey	3	2	2	-	1
Guinea	-	1	-	-	-
Haiti	1	-	-	-	-
Honduras	1	-	-	-	2
Hungary	135	167	146	193	183
Iceland	17	39	67	42	61
India	2,222	2,937	3,328	3,685	4,206
Indonesia	15	10	25	24	21
Iran	37	33	26	32	33
Iraq	-	-	1	-	1
Ireland	435	486	523	570	612
Isle of Man	14	9	15	12	9
Israel	2,948	3,561	3,839	3,820	4,306
Italy	2,834	3,043	3,060	3,158	3,212
Jamaica	4	4	9	5	8
Japan	53,359	56,639	54,487	53,046	51,743
Jersey	8	4	10	7	7
Jordan	3	8	9	7	11
Kazakhstan	2	3	5	2	2
Kenya	2	7	2	5	5
Korea, Democratic People's Republic of	-	-	-	-	-
Korea, Republic of	15,058	17,815	19,615	21,865	22,687
Kuwait	72	97	78	54	48
Kyrgyzstan	-	-	-	-	-
Latvia	4	6	9	8	7
Lebanon	8	10	14	19	13



**TABLE 10: Patents Issued by the United States to Residents of Foreign Countries<sup>1,3</sup> (FY 2013-FY 2017)<sup>2</sup> (continued)**

Residence	2013	2014	2015	2016	2017
Liechtenstein	22	36	37	27	30
Lithuania	7	7	10	20	22
Luxembourg	56	60	63	62	64
Macedonia	-	1	2	1	1
Madagascar	-	-	1	-	-
Malawi	-	-	1	-	-
Malaysia	247	242	266	301	270
Mali	-	-	-	1	-
Malta	9	8	17	13	14
Mauritius	-	-	-	1	1
Mexico	190	227	215	246	315
Moldova	-	1	-	1	1
Monaco	11	23	19	17	17
Mongolia	1	-	1	1	-
Montenegro	-	-	1	-	-
Morocco	2	1	3	1	2
Namibia	-	-	-	1	5
Nepal, Fed. Dem. Republic of	-	2	1	-	-
Netherlands	2,391	2,883	2,732	2,941	3,133
Netherlands Antilles	-	-	-	-	-
New Caledonia	-	-	-	1	-
New Zealand	285	308	342	349	374
Nicaragua	1	1	1	-	2
Nigeria	3	-	-	1	2
Norway	510	601	625	720	628
Oman	5	3	5	1	4
Pakistan	14	8	17	19	18
Panama	3	1	2	5	9
Paraguay	2	-	1	-	-
Peru	1	4	4	9	7
Philippines	35	45	43	46	66
Poland	101	172	201	265	281
Portugal	58	52	68	83	115
Qatar	6	7	8	9	20
Romania	52	68	72	82	110
Russian Federation	409	438	457	542	570
Saint Barthelemy	-	-	1	-	-
Saint Kitts and Nevis	-	1	-	1	-
Samoa	-	-	-	-	4
San Marino	1	1	-	-	2
Saudi Arabia	206	273	339	442	541
Senegal	-	1	-	-	-
Serbia	8	12	7	15	20
Seychelles	1	4	2	2	5
Singapore	840	963	1,074	1,018	1,043
Sint Maarten	-	-	-	1	-

Residence	2013	2014	2015	2016	2017
Slovakia	14	26	25	26	42
Slovenia	47	50	40	65	57
South Africa	179	179	198	208	216
Spain	739	862	857	940	927
Sri Lanka	5	6	6	6	6
Sudan <sup>4</sup>	-	-	-	-	1
Sweden	2,309	2,905	2,828	3,044	3,328
Switzerland	2,278	2,660	2,745	2,905	3,022
Syrian Arab Republic	1	1	2	-	-
Taiwan	12,168	12,271	12,317	12,738	12,540
Tanzania	-	-	-	1	1
Thailand	87	121	129	106	113
Trinidad and Tobago	9	7	6	7	2
Tunisia	2	8	4	3	4
Turkey	78	103	128	149	190
Turkmenistan	-	-	1	-	-
Turks and Caicos Islands	2	-	-	-	2
Ukraine	35	42	62	64	82
United Arab Emirates	20	53	57	60	95
United Kingdom	6,292	7,232	7,143	7,289	7,633
Uruguay	9	10	4	8	12
Uzbekistan	-	-	1	-	1
Vanuatu	-	-	-	-	-
Venezuela	16	21	24	15	7
Vietnam	11	8	6	18	21
West Bank/Gaza	-	-	1	-	-
Zimbabwe	3	-	1	-	-

- Represents zero.

<sup>1</sup> Data include utility, design, plant, and reissue patents.

<sup>2</sup> 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.

<sup>3</sup> Each patent grant is listed under only one country of residence. Country listings include possessions and territories of that country unless separately listed in the table.

<sup>4</sup> Countries/Territories not previously reported.

**TABLE 11: Utility Patents Issued to Small Entities (FY 2013-FY 2017)**

<b>Fiscal Year of Grant</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
<b>Percentage Micro Entity*</b>	<b>0.53%</b>	<b>1.54%</b>	<b>1.80%</b>	<b>2.16%</b>	<b>2.33%</b>
US origin**	0.98%	2.82%	3.26%	3.81%	4.06%
Foreign origin**	0.12%	0.34%	0.49%	0.68%	0.77%
<b>Percentage Small Entity</b>	<b>20.54%</b>	<b>19.47%</b>	<b>19.40%</b>	<b>19.24%</b>	<b>19.54%</b>
US origin**	28.03%	25.84%	25.79%	25.45%	25.68%
Foreign origin**	13.75%	13.47%	13.66%	13.65%	14.02%
<b>Percentage Large Entity</b>	<b>78.93%</b>	<b>78.99%</b>	<b>78.80%</b>	<b>78.60%</b>	<b>78.13%</b>
US origin**	70.99%	71.37%	70.96%	70.74%	70.26%
Foreign origin**	86.13%	86.19%	85.85%	85.67%	85.21%

- Represents zero.

\*The Micro Entity Status category was introduced March 19, 2013.

\*\*Patent origin is based on residence of the first-named inventor.

**TABLE 12: United States Government Agency Patents<sup>1</sup> (FY 2013- FY 2017)<sup>3</sup>**

Agency	2013	2014	2015	2016	2017	Total
Agriculture	54	66	59	43	53	<b>275</b>
Air Force	44	72	53	55	48	<b>272</b>
Army	155	166	161	144	139	<b>765</b>
Attorney General	-	-	-	-	-	<b>-</b>
Commerce	12	14	13	12	28	<b>79</b>
DHS	-	3	4	3	2	<b>12</b>
Energy	41	33	29	24	23	<b>150</b>
EPA	17	5	7	3	3	<b>35</b>
HEW/HHS	131	182	147	161	135	<b>756</b>
Interior	2	2	3	2	3	<b>12</b>
NASA	95	108	114	107	117	<b>541</b>
Navy	383	357	395	320	345	<b>1,800</b>
NSA	11	4	2	3	1	<b>21</b>
NSF	2	1	1	3	6	<b>13</b>
Postal Service	27	32	20	20	20	<b>119</b>
State Department	-	-	-	-	-	<b>-</b>
Transportation	-	1	-	1	-	<b>2</b>
TVA	-	-	-	-	1	<b>1</b>
USA <sup>2</sup>	7	5	3	2	3	<b>20</b>
VA	8	7	18	13	13	<b>59</b>
<b>Total</b>	<b>989</b>	<b>1,058</b>	<b>1,029</b>	<b>916</b>	<b>940</b>	<b>4,932</b>

- Represents zero.

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

<sup>2</sup> United States of America—no agency indicated in database.

<sup>3</sup> 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 2013–FY 2017)**

	2013	2014	2015	2016	2017
<b>Requests filed, total</b>	<b>305</b>	<b>356</b>	<b>243</b>	<b>219</b>	<b>188</b>
By patent owner	19	23	14	8	25
By third party	286	324	229	211	163
Commissioner ordered	-	9	-	-	-
<b>Determinations on requests, total</b>	<b>302</b>	<b>344</b>	<b>245</b>	<b>218</b>	<b>173</b>
Requests granted:					
By examiner	283	322	230	201	161
By petition	-	3	2	4	4
Requests denied	19	19	13	13	8
<b>Requests known to have related litigation</b>	<b>169</b>	<b>183</b>	<b>135</b>	<b>100</b>	<b>83</b>
<b>Filings by discipline, total</b>	<b>305</b>	<b>355</b>	<b>243</b>	<b>219</b>	<b>188</b>
Chemical	57	77	55	40	37
Electrical	183	169	105	98	62
Mechanical	56	96	80	77	74
Design	9	13	3	4	15

- Represents zero.

**TABLE 13B: Supplemental Examination (SE) (FY 2014–FY 2017)**

	2014	2015	2016	2017
<b>SEs filed, total</b>	<b>43</b>	<b>53</b>	45	57
<b>SEs granted a filing date, total</b>	<b>33</b>	<b>35</b>	38	54
<b>Determinations on SE granted a filing date, total</b>	<b>33</b>	<b>38</b>	<b>46</b>	<b>61</b>
SNQ found:	22	26	31	46
SNQ not found:	11	12	15	15
<b>Requests known to have related litigation</b>	<b>1</b>	-	1	5
<b>Filings by discipline, total</b>	<b>44</b>	<b>53</b>	<b>45</b>	<b>57</b>
Chemical	13	7	14	17
Electrical	22	34	18	31
Mechanical	7	12	13	7
Design	2	-	-	2

- Represents zero.

Late-filed Requests may not have had a determination by the end of the fiscal year. Numbers will be revised in the following year's PAR, where necessary. While the transition to Inter Partes Reexams began in FY 2011, no measurable caseload activity began until FY 2013. FY 2013 is the earliest date of activity for this Workload Table.

**TABLE 14: Summary of Contested Patent Cases (Within the USPTO, as of September 30, 2017)**

<b>Item</b>	<b>Total</b>
<b>Ex parte cases</b>	
Appeals	
Cases pending as of 9/30/16 (as audited by PTAB during FY2017)	15,449
Cases filed during FY 2017	11,650
<b>Disposals during FY 2017, total</b>	
Decided	14,118
<b>Cases pending as of 9/30/17</b>	<b>12,981</b>
<b>Rehearings</b>	
Cases pending as of 9/30/17	34
<b>Interference cases</b>	
Cases pending as of 9/30/16	27
Cases declared during FY 2017	16
<b>Interference cases, FY 2017 total</b>	<b>43</b>
Cases terminated during FY 2017	22
<b>Cases pending as of 9/30/17</b>	<b>21</b>
<b>Ex Parte Reexamination Appeal cases*</b>	
Cases pending as of 9/30/16	35
Cases filed during FY 2017	45
<b>Ex Parte Reexamination cases, FY 2017 total</b>	<b>80</b>
Cases terminated during FY 2017	60
<b>Cases pending as of 9/30/17</b>	<b>20</b>
<b>Inter Partes Reexamination Appeal cases*</b>	
Cases pending as of 9/30/16	45
Cases filed during FY 2017	52
<b>Inter Parte Reexamination cases, FY 2017 total</b>	<b>97</b>
Cases terminated during FY 2017	75
<b>Cases pending as of 9/30/17</b>	<b>22</b>
<b>Supplemental Examination cases*</b>	
Cases pending as of 9/30/16	2
Cases filed during FY 2017	6
<b>Supplemental Examination cases, FY 2017 total</b>	<b>8</b>
Cases terminated during FY 2017	6
<b>Cases pending as of 9/30/17</b>	<b>2</b>
<b>Reissue Appeals cases*</b>	
Cases pending as of 9/30/16	2
Cases filed during FY 2017	23
<b>Reissue Appeals cases, FY 2017 total</b>	<b>25</b>
Cases terminated during FY 2017	16
<b>Cases pending as of 9/30/17</b>	<b>9</b>
<b>Inter Partes Review cases</b>	
Cases pending as of 9/30/16	1,491
Cases filed during FY 2017	1,809
Cases reinstated during FY 2017	3
<b>Inter partes review cases, FY 2017 total</b>	<b>3,303</b>
Cases not instituted, terminated, decided during FY 2017	1,572
<b>Cases pending as of 9/30/17</b>	<b>1,731</b>

**TABLE 14: Summary of Contested Patent Cases (Within the USPTO, as of September 30, 2017) (continued)**

Item	Total
<b>Transitional Program for Covered Business Method cases</b>	
Cases pending as of 9/30/16	80
Cases filed during FY 2017	48
Cases reinstated during FY 2017	-
<b>Transitional Program for Covered Business Method cases, FY 2017 Total</b>	<b>128</b>
Cases not instituted, terminated, decided during FY 2017	95
<b>Cases pending as of 9/30/17</b>	<b>33</b>
<b>Post Grant Review cases</b>	
Cases pending as of 9/30/16	28
Cases filed during FY 2017	38
Cases reinstated during FY 2017	-
<b>Post Grant Review cases, FY 2017 total</b>	<b>66</b>
Cases not instituted, terminated, decided during FY 2017	30
<b>Cases pending as of 9/30/17</b>	<b>36</b>
<b>Derivation Proceeding cases</b>	
Cases pending as of 9/30/16	19
Cases filed during FY 2017	7
Cases reinstated during FY 2017	-
<b>Derivation Proceeding cases, FY 2017 total</b>	<b>26</b>
Cases not instituted, terminated, decided during FY 2017	4
<b>Cases pending as of 9/30/17</b>	<b>22</b>

- Represents zero.

\* New measures added to include appeals arising from the Central Reexamination Unit (CRU).

**TABLE 15: Summary of Trademark Examining Activities (FY 2013–FY 2017)**

Item	2013	2014	2015	2016	2017
<b>Applications for Registration:</b>					
Applications including Additional Classes	433,654	455,017	503,889	530,270	594,107
Applications Filed	321,055	336,275	369,877	391,837	435,384
<b>Disposal of Trademark Applications:</b>					
Registrations including Additional Classes	259,681	279,282	282,091	309,188	327,314
Abandonments including Additional Classes	145,731	150,587	156,929	170,469	187,693
Trademark First Actions including Additional Classes	441,615	458,162	500,368	536,830	596,678
Applications Approved for Publication including Additional Classes	360,958	374,870	403,750	432,454	464,806
<b>Certificates of Registration Issued:<sup>1</sup></b>					
1946 Act Principal Register	116,420	123,086	126,359	142,300	153,195
Principal Register					
ITU–Statements of Use Registered	67,952	73,914	72,594	74,796	79,276
1946 Act Supplemental Register	8,749	9,555	9,707	10,311	10,238
Total Certificates of Registration	193,121	206,555	208,660	227,407	242,709
<b>Renewal of Registration:<sup>*</sup></b>					
Section 9 Applications Filed	74,280	67,865	63,981	72,744	79,557
Section 8 Applications Filed <sup>**</sup>	74,283	67,869	64,010	72,708	79,580
Registrations Renewed	63,709	56,166	58,284	62,604	84,727
Affidavits, Sec. 8/15:					
Affidavits Filed	93,174	107,823	88,486	87,447	92,138
Affidavits Disposed	76,731	93,711	80,593	77,105	95,613
Amendments to Allege Use Filed	7,721	7,927	8,241	8,167	8,113
Statements of Use Filed	85,004	71,685	75,461	76,943	83,394
Notice of Allowance Issued	183,030	192,609	198,349	215,764	215,944
<b>Total Active Certificates of Registration</b>	<b>1,903,849</b>	<b>2,013,462</b>	<b>2,074,702</b>	<b>2,138,546</b>	<b>2,202,390</b>
Pendency—Average Months:					
Between Filing and Examiner’s First Action	3.1	3.0	2.9	3.1	2.7
Between Filing, Registration (Use Applications) Abandonments, and NOAs—including suspended and inter partes proceedings	11.7	11.5	11.5	11.3	10.9
Between Filing, Registration (Use Applications) Abandonments, and NOAs—excluding suspended and inter partes proceedings	10.0	9.8	10.1	9.8	9.5

<sup>1</sup> 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.

<sup>\*</sup>Renewal of registration is required beginning 10 years following registration concurrent with 20-year renewals coming due.

<sup>\*\*</sup>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 1997-FY 2017)**

Year	For Registration	For Renewal <sup>1</sup>	Section 8 Affidavit
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
2010	368,939	48,214	61,499
2011	398,667	49,000	65,771
2012	415,026	63,636	76,646
2013	433,654	74,280	93,174
2014	455,017	67,865	107,823
2015	503,889	63,981	88,486
2016	530,270	72,744	87,447
<b>2017</b>	<b>594,107</b>	<b>79,557</b>	<b>92,138</b>

<sup>1</sup> Renewal of registration term changed with implementation of the Trademark Law Reform Act (Pub. L. No. 100-667) beginning November 16, 1989 (FY 1990).

**TABLE 17: Summary of Pending Trademark Applications (FY 2017)**

Stage of processing	Application Files	Classes
<b>Pending applications, total</b>	<b>538,605</b>	<b>771,004</b>
<b>In preexamination processing</b>	<b>93,799</b>	<b>119,315</b>
<b>Under examination, total</b>	<b>343,296</b>	<b>511,115</b>
<b>Applications under initial examination</b>	<b>118,211</b>	<b>179,500</b>
Amended, awaiting action by Examiner	112,939	172,248
Awaiting first action by Examiner	5,272	7,252
<b>Intent-To-Use applications pending Use</b>	<b>172,146</b>	<b>251,711</b>
<b>Applications under second examination</b>	<b>11,634</b>	<b>16,407</b>
Administrative processing of Statements of Use	54	63
Undergoing second examination	3,547	4,736
Amended, awaiting action by Examiner	8,033	11,608
<b>Other pending applications<sup>1</sup></b>	<b>41,305</b>	<b>63,497</b>
<b>In postexamination processing</b> (Includes all applications in all phases of publication and issue and registration)	<b>101,510</b>	<b>140,574</b>

<sup>1</sup> Includes applications pending before the Trademark Trial and Appeal Board, and suspended cases.



**TABLE 18: Trademarks Registered, Renewed, and Published Under Section 12(C)<sup>1</sup> (FY 1997-FY 2017)**

<b>Year</b>	<b>Certificates of Registration Issued</b>	<b>Renewed<sup>2</sup></b>	<b>Registrations (Incl. Classes)</b>
1997	97,294	7,389	112,509
1998	89,634	6,504	106,279
1999	87,774	6,280	104,324
2000	106,383	8,821	127,794
2001	102,314	31,477	124,502
2002	133,225	29,957	164,457
2003	143,424	34,370	185,182
2004	120,056	34,735	155,991
2005	112,495	32,279	143,396
2006	147,118	37,305	188,899
2007	150,064	47,336	194,327
2008	209,904	42,159	274,250
2009	180,520	42,282	241,637
2010	164,330	46,734	221,090
2011	177,661	44,873	237,586
2012	182,761	59,871	243,459
2013	193,121	63,709	259,681
2014	206,555	56,166	279,282
2015	208,660	58,284	282,091
2016	227,407	62,604	309,188
<b>2017</b>	<b>242,709</b>	<b>84,727</b>	<b>327,314</b>

<sup>1</sup>Includes withdrawn numbers.<sup>2</sup>Includes Renewal of registration term changed with implementation of the Trademark Law Reform Act (Pub. L. No. 100-667) beginning November 16, 1989 (FY 1990).

**TABLE 19: Trademark Applications Filed by Residents of the United States (FY 2017)**

State/Territory	2017	State/Territory	2017	State/Territory	2017
<b>Total</b>	<b>413,620</b>	Kentucky	2,406	Oklahoma	1,909
		Louisiana	2,227	Oregon	4,619
Alabama	2,291	Maine	921	Pennsylvania	11,395
Alaska	336	Maryland	6,808	Rhode Island	1,361
Arizona	7,572	Massachusetts	10,469	South Carolina	3,345
Arkansas	1,798	Michigan	8,355	South Dakota	477
California	90,128	Minnesota	8,006	Tennessee	5,803
Colorado	9,476	Mississippi	884	Texas	28,009
Connecticut	5,107	Missouri	4,633	Utah	5,499
Delaware	4,904	Montana	926	Vermont	812
District of Columbia	3,391	Nebraska	1,226	Virginia	8,917
Florida	30,748	Nevada	6,520	Washington	9,733
Georgia	12,005	New Hampshire	1,223	West Virginia	420
Hawaii	1,216	New Jersey	14,662	Wisconsin	5,170
Idaho	1,327	New Mexico	1,038	Wyoming	1,096
Illinois	15,265	New York	41,232	Puerto Rico	633
Indiana	4,563	North Carolina	8,723	Virgin Islands	50
Iowa	1,691	North Dakota	404	U.S. Pacific Islands <sup>1</sup>	106
Kansas	1,927	Ohio	9,666	United States <sup>2</sup>	192

<sup>1</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>2</sup> No State indicated in database, includes Army Post Office filings.

**TABLE 20: Trademarks Registered to Residents of the United States<sup>1</sup> (FY 2017)**

State/Territory	2017	State/Territory	2017	State/Territory	2017
<b>Total</b>	<b>177,074</b>	Kentucky	1,027	Oklahoma	877
		Louisiana	1,004	Oregon	2,082
Alabama	1,053	Maine	457	Pennsylvania	5,071
Alaska	155	Maryland	3,055	Rhode Island	643
Arizona	3,344	Massachusetts	4,448	South Carolina	1,489
Arkansas	622	Michigan	3,793	South Dakota	249
California	36,514	Minnesota	3,174	Tennessee	2,778
Colorado	2,346	Mississippi	394	Texas	12,169
Connecticut	4,372	Missouri	2,398	Utah	2,136
Delaware	1,513	Montana	434	Vermont	4,339
District of Columbia	1,670	Nebraska	659	Virginia	349
Florida	13,171	Nevada	2,600	Washington	3,870
Georgia	5,121	New Hampshire	638	West Virginia	2,414
Hawaii	530	New Jersey	6,030	Wisconsin	169
Idaho	661	New Mexico	487	Wyoming	304
Illinois	6,839	New York	16,982	Puerto Rico	346
Indiana	1,865	North Carolina	3,747	Virgin Islands	16
Iowa	1,015	North Dakota	172	U.S. Pacific Islands <sup>2</sup>	26
Kansas	893	Ohio	4,513	United States <sup>3</sup>	51

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

<sup>2</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>3</sup> No State indicated in database, includes APO filings.

**TABLE 21: Trademark Applications Filed by Residents of Foreign Countries (FY 2013-FY 2017)**

Residence	2013	2014	2015	2016	2017	Residence	2013	2014	2015	2016	2017
<b>Total</b>	<b>99,949</b>	<b>99,913</b>	<b>125,461</b>	<b>141,249</b>	<b>180,487</b>	Cyprus	333	375	393	354	480
Afghanistan	8	6	4	1	1	Czech Republic	307	274	315	332	413
Albania	2	5	6	8	2	Denmark	1,120	1,095	1,387	1,399	1,510
Algeria	-	1	1	-	2	Dominica	6	12	1	3	1
Andorra	3	13	3	17	17	Dominican Republic	63	86	84	113	104
Angola	3	4	4	9	-	Ecuador	35	36	36	56	57
Anguilla	22	22	4	7	14	Egypt	58	32	33	31	15
Antarctica	-	-	-	-	-	El Salvador	56	34	44	68	48
Antigua and Barbuda	-	2	2	2	7	Estonia	86	114	73	142	144
Argentina	266	217	280	263	277	Ethiopia	3	5	1	2	-
Armenia	32	47	25	19	38	Faroe Islands	4	3	-	-	3
Aruba	4	5	18	9	18	Fiji	26	2	7	9	10
Australia	3,960	4,011	5,144	5,482	6,600	Finland	1,117	797	959	1,191	1,468
Austria	1,292	1,281	1,328	1,351	1,495	France	6,575	5,959	6,983	7,157	7,953
Azerbaijan	1	4	6	17	1	French Polynesia	4	7	2	9	6
Bahamas	191	138	132	146	149	Gabon	-	-	-	1	-
Bahrain	10	9	12	9	11	Georgia	18	25	24	26	32
Bangladesh	1	3	1	6	10	Germany	11,504	10,042	12,310	12,792	14,617
Barbados	116	162	122	105	110	Ghana	4	13	2	1	-
Belarus	30	20	29	71	70	Gibraltar	49	89	57	41	45
Belgium	1,093	976	944	1,063	2,069	Greece	203	173	188	166	252
Belize	32	47	34	40	54	Grenada	3	-	-	4	-
Benin	-	-	-	-	-	Guadeloupe	1	2	-	-	-
Bermuda	253	353	245	278	199	Guatemala	44	31	55	43	53
Bolivia	1	2	6	12	7	Guernsey	-	51	67	40	33
Bosnia and Herzegovina	1	5	5	5	1	Guinea	-	-	-	-	-
Botswana	-	7	-	-	-	Guyana	4	5	10	4	4
Brazil	676	779	856	870	864	Haiti	3	2	-	2	-
British Virgin Islands	1,087	985	908	886	899	Honduras	7	9	7	8	13
Brunei Darussalam	8	1	3	11	6	Hungary	161	147	112	114	178
Bulgaria	178	218	150	163	297	Iceland	100	84	156	98	92
Burkina Faso	-	-	-	-	-	India	684	824	963	983	1,100
Cambodia	-	2	2	4	1	Indonesia	70	99	65	80	90
Cameroon	-	-	-	-	4	Iran	31	69	41	59	41
Canada	9,984	10,268	11,585	12,431	13,855	Iraq	1	1	12	4	-
Cayman Islands	351	504	836	920	1,008	Ireland	699	1,036	1,117	942	1,141
Channel Islands	-	-	-	-	-	Isle of Man	113	53	79	75	54
Chile	170	205	300	312	288	Israel	1,025	1,133	1,287	1,231	1,698
China (Hong Kong)	1,785	2,430	2,926	3,463	4,123	Italy	4,382	4,502	5,200	4,764	5,759
China (Macau)	-	23	-	-	-	Jamaica	46	27	43	43	32
China (mainland)	4,756	6,323	14,144	28,770	50,942	Japan	6,110	5,786	6,521	6,199	7,340
Colombia	296	272	344	256	316	Jordan	32	42	89	77	35
Cook Islands	-	5	-	11	8	Kazakhstan	12	10	49	15	39
Costa Rica	44	36	31	52	95	Kenya	2	8	18	5	7
Cote D'Ivoire	-	11	-	2	3	Korea, Dem. Republic of	-	-	1	1	-
Croatia	64	62	65	75	72	Korea, Republic of	3,160	2,729	4,111	4,462	4,529
Cuba	2	2	15	28	18	Kuwait	21	32	23	49	37
Curacao	41	63	170	74	89	Kyrgyzstan	2	2	1	-	2

**TABLE 21: Trademark Applications Filed by Residents of Foreign Countries (FY 2013-FY 2017) (continued)**

Residence	2013	2014	2015	2016	2017
Lao, People's Dem. Republic of	-	1	-	-	-
Latvia	45	33	72	86	81
Lebanon	57	57	84	89	63
Liberia	1	2	21	3	1
Liechtenstein	105	106	178	105	129
Lithuania	41	51	65	76	131
Luxembourg	1,044	887	945	1,168	1,374
Macao	126	-	66	32	21
Macedonia	11	14	9	18	34
Madagascar	-	-	2	-	4
Malaysia	131	148	201	183	195
Malta	424	519	283	308	311
Marshall Island	3	3	21	8	31
Martinique	-	1	-	-	-
Mauritania	-	3	-	-	2
Mauritius	74	45	46	58	78
Mexico	1,898	2,124	2,285	2,437	2,014
Micronesia	-	-	-	-	-
Monaco	144	178	283	94	208
Mongolia	1	11	6	4	6
Montserrat	-	-	2	2	-
Morocco	43	66	74	52	93
Myanmar	-	-	-	2	-
Namibia	-	-	5	48	272
N. Marianas Island	4	5	-	-	-
Nepal	1	5	1	-	1
Netherlands	2,419	2,418	2,851	2,823	3,320
Netherlands Antilles	-	1	-	-	-
New Zealand	520	674	733	922	1,016
Nicaragua	6	8	13	20	11
Nigeria	11	4	6	22	8
Norway	813	629	733	568	815
Oman	-	8	-	9	3
Pakistan	31	79	87	36	58
Palau	-	1	-	1	-
Panama	159	193	261	222	156
Papua New Guinea	3	-	-	-	-
Paraguay	18	14	11	5	7
Peru	84	42	92	78	86
Philippines	88	85	78	80	111
Poland	381	354	563	463	723
Portugal	301	384	373	369	428
Qatar	56	89	77	73	24
Republic Moldova	15	24	36	19	25
Romania	94	73	129	153	290
Russian Federation	1,025	799	850	674	1,020
Rwanda	-	-	-	1	-
Saint Christ-Nevis	-	-	-	-	-
Saint Kitts & Nevis	22	30	15	17	8
Saint Lucia	15	26	48	28	25
Saint Marten	5	3	-	-	4

Residence	2013	2014	2015	2016	2017
Saint Vincent/Grenadines	5	5	1	2	6
Samoa	10	17	21	35	28
San Marino	16	2	18	26	14
Sao Tome/Principe	-	-	-	-	-
Saudi Arabia	71	141	109	105	104
Scotland	46	48	76	45	41
Senegal, Republic of	-	-	3	-	-
Serbia/Montenegro	30	40	58	55	105
Seychelles	37	72	77	60	44
Singapore	880	769	1,132	1,077	1,442
Slovakia	90	227	115	117	148
Slovenia	98	68	123	101	148
South Africa	294	278	268	243	218
Spain	1,881	2,133	2,326	2,276	2,723
Sri Lanka	13	45	44	40	29
Suriname	-	1	-	1	1
Swaziland	-	-	1	-	2
Sweden	1,804	1,760	2,168	2,073	2,694
Switzerland	5,613	4,836	5,561	5,285	5,741
Syria Arab Republic	-	2	1	5	45
Taiwan	1,464	1,673	1,782	1,610	1,734
Tanzania	3	-	-	2	4
Thailand	167	134	146	147	238
Timor-Leste	-	-	-	-	-
Togo	14	2	-	-	-
Trinidad & Tobago	10	23	64	49	32
Tunisia	30	1	19	3	26
Turkey	868	570	1,052	967	1,059
Turkmenistan	-	-	-	-	-
Turks and Caicos Islands	34	24	23	29	40
Uganda	1	1	-	9	-
Ukraine	155	171	194	147	376
United Arab Emirates	192	254	517	422	461
United Kingdom	10,629	10,779	14,061	14,249	15,953
Uruguay	53	59	38	72	58
Uzbekistan	3	1	4	-	-
Vanuatu (New Hebrides)	9	1	-	-	2
Venezuela	52	94	100	64	59
Vietnam	108	98	126	124	220
West Bank/Gaza	-	-	-	2	-
Yemen	2	1	-	-	2
Yugoslavia	-	-	-	-	-
Zambia	1	-	3	-	-
Zimbabwe	-	-	-	1	2
Other <sup>1</sup>	-	-	9	7	26

- Represents zero.

<sup>1</sup> 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 2013-FY 2017)**

Residence	2013	2014	2015	2016	2017
<b>Total</b>	<b>36,916</b>	<b>38,498</b>	<b>40,864</b>	<b>50,980</b>	<b>65,636</b>
Afghanistan	8	3	-	1	1
Albania	-	3	1	3	2
Algeria	2	2	-	1	-
Andorra	4	-	-	4	9
Angola, Republic of	1	-	1	1	-
Anguilla	17	8	16	1	5
Antigua and Barbuda	5	1	-	1	1
Argentina	158	126	140	135	101
Armenia	12	20	1	7	13
Aruba	-	1	-	5	2
Australia	1,385	1,564	1,445	1,940	2,016
Austria	361	369	305	406	467
Azerbaijan	1	1	-	-	3
Bahamas	60	56	63	56	51
Bahrain	9	4	10	6	7
Bangladesh	1	1	3	1	2
Barbados	51	51	82	48	38
Belarus	18	15	3	12	13
Belgium	362	408	161	372	398
Belize	25	16	20	16	18
Benelux Convention	12	-	-	-	-
Benin	1	-	-	-	-
Bermuda	128	171	194	76	100
Bhutan	-	-	-	-	-
Bolivia	2	4	1	1	2
Bosnia and Herzegovina	1	-	1	2	3
Botswana	1	2	2	-	-
Brazil	242	236	346	257	301
British Virgin Islands	396	295	445	286	426
Brunei Darussalam	3	3	5	2	5
Bulgaria	45	59	23	67	55
Burkina Faso	-	-	-	-	-
Burundi	-	-	-	-	-
Cambodia	-	2	1	2	1
Cameroon	4	-	-	-	-
Canada	3,944	4,010	6,420	4,288	4,739
Cape Verde	-	-	-	-	-
Cayman Islands	155	123	250	169	202
Channel Islands	-	-	-	-	-
Chile	92	92	128	111	109
China (Hong Kong)	775	883	1,472	1,268	1,504
China (Macau)	1	9	2	6	-
China (mainland)	2,444	2,901	4,016	10,582	23,893
Colombia	132	94	118	128	142
Congo	-	-	-	-	-
Cook Islands	2	-	-	1	1
Costa Rica	51	16	36	21	22
Cote D'Ivoire	1	-	2	1	3
Croatia	16	11	4	18	17
Cuba	8	1	2	11	11
Curacao	18	8	56	28	16
Cyprus	135	159	67	117	114
Czech Republic	107	80	85	115	129
Denmark	377	393	275	472	442
Djibouti	-	-	-	-	-
Dominica	1	2	3	3	2
Dominican Republic	24	26	29	44	56
East Timor	-	-	-	-	-
Ecuador	14	23	20	16	17
Egypt	16	12	14	18	6
El Salvador	17	26	20	28	30
Estonia	33	28	30	36	40
Ethiopia	1	1	-	-	-
Faroe Islands	1	-	3	-	-
Fiji	1	4	1	1	3
Finland	217	263	190	292	330
France	2,390	2,338	1,488	2,358	2,455
French Guiana	-	-	-	-	-
French Polynesia	2	-	4	3	2
Gabon	1	-	-	-	-
Georgia	8	10	9	17	9
Germany	3,641	3,702	2,478	3,875	3,978
Ghana	5	4	3	-	-
Gibraltar	43	45	39	33	28
Greece	55	55	63	79	54
Greenland	-	-	-	-	-
Grenada	1	-	4	1	-
Guatemala	-	-	-	-	15
Guernsey	-	12	23	13	13
Guinea	-	-	-	-	-
Guinea (Equatorial)	-	-	-	-	-
Guinea-Bissau	1	-	-	-	-
Guyana	3	4	3	4	1
Haiti	3	3	-	3	1
Honduras	5	1	8	5	3
Hungary	52	42	50	41	41
Iceland	37	26	9	36	29
India	294	249	364	315	386
Indonesia	34	40	37	28	28
Iran	8	1	-	9	13
Iraq	-	-	-	5	-
Ireland	257	275	464	365	346
Isle of Man	25	31	58	-	17
Israel	462	443	470	596	574
Italy	1,821	1,843	730	1,994	1,928
Jamaica	27	19	12	24	21
Japan	2,568	2,770	2,433	2,982	2,763
Jordan	14	21	20	41	25
Kazakhstan	3	1	-	4	8
Kenya	4	5	-	11	7
Korea, Dem. Republic of	7	-	6	-	-
Korea, Republic of	1,153	1,272	1,997	1,724	2,316

**TABLE 22: Trademarks Registered to Residents of Foreign Countries (FY 2013-FY 2017) (continued)**

Residence	2013	2014	2015	2016	2017
Kuwait	0.0556	12	5	12	6
Kyrgyzstan	2	-	-	2	-
Laos	-	-	1	-	-
Latvia	18	20	8	20	26
Lebanon	16	17	33	40	29
Liberia	4	-	1	4	1
Liechtenstein	56	60	23	68	35
Lithuania	15	25	2	28	38
Luxembourg	271	312	343	375	388
Macao	-	-	-	-	14
Macedonia	3	8	-	1	4
Madagascar	1	-	-	-	-
Malawi	-	-	-	-	-
Malaysia	45	60	53	54	61
Mali	-	-	-	-	-
Malta	28	55	368	122	107
Martinique	2	-	1	-	-
Marshall Islands	3	10	2	12	6
Mauritius	15	31	26	20	20
Mexico	1,040	921	1,123	1,005	982
Micronesia	-	-	-	-	-
Monaco	29	37	14	55	33
Mongolia	1	-	1	-	1
Montenegro	2	16	43	19	1
Montserrat	-	-	-	-	-
Morocco	10	4	3	12	13
Mozambique	-	-	-	-	-
Myanmar	-	-	-	-	-
N. Mariana Island	2	1	2	-	-
Namibia	3	1	-	1	1
Nauru	1	-	-	-	-
Nepal	1	1	3	-	-
Netherlands	810	891	582	1,017	951
Netherlands Antilles	8	1	-	-	-
New Zealand	219	283	299	375	353
Nicaragua	7	4	8	5	15
Nigeria	14	5	2	3	3
Niue	-	-	-	-	-
Norway	167	197	122	217	182
Oman	-	-	2	1	1
Pakistan	12	4	31	24	20
Palestinian Authority	2	-	-	-	-
Panama	92	79	107	82	66
Papua New Guinea	-	1	-	-	-
Paraguay	3	3	5	1	2
Peru	32	33	37	32	33
Philippines	37	54	51	43	47
Poland	102	124	100	150	167
Portugal	106	135	136	194	172
Qatar	9	10	36	19	23
Republic Moldova	6	3	3	7	7
Romania	28	35	23	45	64
Rwanda	-	-	-	-	-
Russian Federation	281	246	122	251	215

Residence	2013	2014	2015	2016	2017
Saint Christ & Nevis	0.0556	15	16	12	-
Saint Lucia	10	9	16	9	29
Saint Martin	1	1	-	1	-
Saint Vincent/ Grenadines	2	4	1	-	2
San Marino	1	6	-	8	12
Saudi Arabia	22	23	58	46	31
Scotland	16	19	23	-	-
Senegal	1	-	6	-	-
Serbia	7	6	6	10	7
Serbia/Montenegro	2	-	-	-	-
Seychelles	17	14	31	17	23
Sierra Leone	1	-	-	-	-
Singapore	324	277	311	385	431
Slovakia	17	29	6	33	45
Slovenia	30	18	11	32	38
South Africa	138	119	189	94	97
Spain	965	914	786	1,151	1,086
Sri Lanka	15	8	33	14	7
St Kitts & Nevis	36	-	-	-	8
Sudan	-	-	-	-	-
Swaziland	1	-	-	1	-
Sweden	661	636	604	744	749
Switzerland	1,623	1,735	1,268	2,060	1,775
Syria Arab Republic	1	1	1	-	5
Taiwan	957	926	1,172	902	921
Tajikistan	-	-	-	-	-
Tanzania	1	3	-	-	-
Thailand	74	91	92	70	73
Timor-Leste	-	-	-	-	-
Togo	1	-	11	-	-
Trinidad & Tobago	7	2	12	5	8
Tunisia	2	3	-	4	2
Turkey	250	294	99	369	350
Turks and Caicos Islands	11	20	15	17	21
Uganda	2	-	2	-	-
Ukraine	38	46	12	80	70
United Arab Emirates	90	75	121	137	134
United Kingdom	3,092	3,607	4,836	4,299	4,552
Uruguay	16	22	22	13	25
Uzbekistan	1	-	-	1	-
Vanuatu (New Hebrides)	2	1	-	-	-
Vatican City	-	-	3	-	-
Venezuela	37	19	51	26	41
Vietnam	52	49	23	60	68
Western Samoa/ Samoa	1	7	17	13	8
Yemen	1	1	-	-	-
Yugoslavia	-	-	-	-	-
Zambia	-	-	1	-	-
Zimbabwe	1	-	-	-	1
Other <sup>1</sup>	20	1	4	2	1

- Represents zero.

<sup>1</sup> Country of Origin information not available.

**TABLE 23: Summary of Contested Trademark Cases (Within the USPTO, as of September 30, 2017)**

<b>Activity</b>	<b>Ex parte</b>	<b>Opposition</b>	<b>Cancellations</b>	<b>Concurrent Use</b>	<b>Interference</b>	<b>Total</b>
<b>Cases pending as of 9/30/16, total</b>	<b>1,316</b>	<b>5,236</b>	<b>1,694</b>	<b>36</b>	-	<b>8,282</b>
<b>Cases filed during FY 2017</b>	<b>3,158</b>	<b>6,156</b>	<b>2,101</b>	<b>30</b>	-	<b>11,445</b>
<b>Disposals during FY 2017, total</b>	<b>3,182</b>	<b>5,989</b>	<b>1,940</b>	<b>24</b>	-	<b>11,135</b>
Before oral hearing or briefing	2,693	5,874	1,895	24	-	10,486
After briefing (no oral hearing)	423	99	25	-	-	547
After oral hearing	66	16	20	-	-	102
<b>Cases pending as of 9/30/17, total</b>	<b>1,292</b>	<b>5,403</b>	<b>1,855</b>	<b>42</b>	-	<b>8,592</b>
Awaiting decision	65	18	10	-	-	93
In process before hearing or final briefing <sup>1</sup>	1,227	5,385	1,845	42	-	8,499
<b>Requests for extension of time to oppose FY 2017</b>	-	18,490	-	-	-	-

- Represents zero.

<sup>1</sup> Includes suspended cases.

**TABLE 24: Actions on Petitions to the Director of the U.S. Patent and Trademark Office (FY 2013-FY 2017)**

Nature of petition	2013	2014	2015	2016	2017
<b>Patent matters</b>					
<b>Actions on patent petitions, total</b>	<b>48,109</b>	<b>48,204</b>	<b>45,381</b>	<b>49,467</b>	<b>47,678</b>
Acceptance of:					
Late assignments	804	698	631	846	735
Late issue fees	1,765	1,500	1,498	2,242	2,702
Late priority papers	5	74	75	289	371
Access	3	1	1	12	4
Certificates of correction	24,738	25,088	26,443	26,319	22,765
Deferment of issue	9	8	13	14	20
Entity Status Change	2,874	2,831	2,425	2,813	2,542
Filing date	432	276	104	222	117
Maintenance fees	1,702	2,154	1,976	2,359	2,343
Revivals	8,660	6,701	5,330	7,621	7,811
Rule 47 (37 CFR 1.47)	1,648	977	354	131	94
Supervisory authority	461	404	708	360	440
Suspend rules	120	214	126	117	146
Withdrawal from issue	3,363	4,417	4,859	4,783	5,605
Withdrawals of holding of aband.	1,525	2,861	838	1,339	1,983
Late Claim for Priority	1,254	1,755	2,139	4,051	5,095
Withdraw as Attorney	3,846	5,344	2,390	3,440	3,286
Matters Not Provided For (37 CFR 1.182)	1,338	1,100	1,012	1,601	2,376
To Make Special	17,805	20,283	19,026	23,672	20,906
Patent Term Adjustment/Extension	964	9,957	4,900	688	507
<b>Trademark matters</b>					
<b>Actions on trademark petitions, total</b>	<b>23,962</b>	<b>26,686</b>	<b>26,768</b>	<b>28,194</b>	<b>31,277</b>
Filing date restorations <sup>1</sup>	8	4	3	4	6
Inadvertently issued registrations	118	192	76	54	96
Letters of Protest	1,595	1,776	2,161	2,258	2,726
Madrid Petitions	61	79	87	68	88
Make special	244	371	343	391	539
Reinstatements <sup>2</sup>	319	366	150	564	215
Revive (reviewed on paper)	324	623	713	629	881
Revive (granted electronically) <sup>3</sup>	18,165	19,900	19,857	20,432	22,610
Waive fees/refunds	7	8	15	13	14
Miscellaneous Petitions to the Director	1,223	1,208	1,271	1,143	1,335
Board Matters	25	51	37	27	24
Post Registration Matters	179	309	145	270	315
Post Publication Amendments <sup>4</sup>	1,694	1,799	1,910	2,341	2,428
<b>Petitions awaiting action as of 9/30</b>					
Trademark petitions awaiting response	29	41	36	46	42
Trademark petitions awaiting action	17	-	8	-	49
Trademark pending filing date issues	-	-	-	-	-

- Represents zero.

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

<sup>2</sup> Trademark Applications restored to pendency; inadvertently abandoned by the Trademark organization.

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

<sup>4</sup> These are new data as of FY 2016 with prior year data added.



**TABLE 25: Cases in Litigation (Selected Courts of the United States, as of September 30, 2017)**

	Patents	Trademarks	OED	Total
<b>United States District Courts</b>				
<b>Civil actions pending as of 9/30/16, total</b>	54	3	4	61
<b>Filed during FY 2017</b>	10	1	2	13
<b>Disposals, total</b>	<b>16</b>	<b>2</b>	<b>6</b>	24
Affirmed	-	-	3	3
Reversed	<b>1</b>	-	-	1
Remanded	-	-	-	-
Dismissed	9	1	3	13
SJ Granted—USPTO	6	-	-	6
SJ Granted—Opposing Party	-	1	-	1
Transfer	-	-	-	-
<b>Civil actions pending as of 9/30/17, total</b>	<b>48</b>	<b>2</b>	<b>-</b>	<b>50</b>
<b>United States Courts of Appeals<sup>1</sup></b>				
<b>Ex parte cases</b>				
<b>Cases pending as of 9/30/16</b>	48	21	4	<b>73</b>
<b>Cases filed during FY 2017</b>	86	14	7	107
<b>Disposals, total</b>	<b>65</b>	<b>21</b>	<b>6</b>	<b>92</b>
USPTO Affirmed	26	13	1	40
Affirmed-In-Part	1	-	-	1
District Court Affirmed	1	-	3	4
Reversed	4	1	-	5
Remanded	6	-	-	6
Dismissed	22	7	1	30
Transfer	1	-	1	2
Mandamus Denied	4	-	-	4
Mandamus Granted	-	-	-	-
<b>Total ex parte cases pending as of 9/30/17</b>	<b>69</b>	<b>14</b>	<b>5</b>	<b>88</b>
<b>United States Courts of Appeals</b>				
<b>Inter partes cases Intervened</b>				
<b>Cases pending as of 9/30/16</b>	46	2	-	<b>48</b>
<b>Cases filed during FY 2017</b>	42	-	-	42
<b>Disposals, total<sup>2</sup></b>	<b>53</b>	<b>1</b>	<b>-</b>	<b>54</b>
USPTO Affirmed	23	-	-	23
Affirmed-In-Part	5	-	-	5
Reversed	1	-	-	1
Remanded	11	1	-	12
Dismissed	13	-	-	13
<b>Total inter partes cases intervened pending as of 9/30/17</b>	<b>35</b>	<b>1</b>	<b>-</b>	<b>36</b>
<b>Inter partes cases</b>				
<b>Cases pending as of 9/30/16</b>	381	12	-	<b>393</b>
<b>Cases filed during FY 2017</b>	436	10	-	<b>446</b>
<b>Disposals, total<sup>3</sup></b>	<b>394</b>	<b>18</b>	<b>-</b>	<b>412</b>
<b>Total inter partes cases pending as of 9/30/17</b>	<b>423</b>	<b>4</b>	<b>-</b>	<b>427</b>
<b>Total United States Courts of Appeals cases pending as of 9/30/17</b>	<b>527</b>	<b>19</b>	<b>5</b>	<b>551</b>
<b>Supreme Court</b>				
<b>Ex parte cases</b>				
<b>Cases pending as of 9/30/16</b>	5	2	-	7
<b>Cases filed during FY 2017</b>	8	1	-	9
<b>Disposals, total</b>	7	3	-	10
<b>Cases pending as of 9/30/17, total</b>	<b>6</b>	<b>-</b>	<b>-</b>	<b>6</b>

- Represents zero.

<sup>1</sup> Includes Federal Circuit and Other Appellate Courts.<sup>2</sup> New Case Type Reported—Previously Reported Under Ex Parte Appeals.<sup>3</sup> Breakouts Not Shown—Incompatible Reporting Methods.

**TABLE 26: Patent Classification Activity (FY 2013-FY 2017)**

Activity	2013	2014	2015	2016	2017
Subgroups established in CPC	-	-	1,297	1,883	1,336
Subclasses established in USPC	349	137	-	-	-
<b>Reclassification of CPF families</b>	<b>-</b>	<b>-</b>	<b>67,947</b>	<b>58,357</b>	<b>68,579</b>
<b>Reclassification of USPC documents</b>	<b>40,007</b>	<b>10,812</b>	<b>-</b>	<b>-</b>	<b>-</b>

- Represents zero.

**TABLE 27: Scientific and Technical Information Center Activity (FY 2017)**

Activity	Quantity
<b>Prior Art Search Services Provided</b>	
Genetic Sequence Searches Requested	6,576
Number of Genetic Sequence IDs Completed	30,914
CRF Submissions Reviewed	20,242
PLUS Searches Completed	40,274
Foreign Patent Searches Completed	4,127
Commercial Database Searches Completed	27,410
<b>Document Delivery Services Provided</b>	
Document Delivery/Interlibrary Loan Requests Processed	13,233
Copies of Foreign Patents Provided	11,600
<b>Information Assistance and Automation Services</b>	
One-on-One Examiner Information Assistance	26,192
One-on-One Examiner Automation Assistance	26,598
Patents Employee Attendance at Automation Classes	22,528
Patents Employee Attendance for PTA Classes and Customized Training Classes Coordinated via STIC	22,803
Patent Employee Attendance for Examiner Training on STIC Information Sources and Services	10,674
Foreign Patents Assistance for Examiners and Public	5,255
<b>Translation Services Provided for Examiners</b>	
Written Translations of Documents	1,865
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Number of Words Translated (Written)	6,897,417
<b>Total Number of Examiner Service Contacts</b>	<b>260,260</b>
<b>Collection Usage and Growth</b>	
Print/Electronic (NPL) Collection Usage	1,940,866
Print Books/Subscriptions Purchased	264
Full Text Electronic Journal Titles Available	74,141
Full Text Electronic Book Titles Available	400,232
NPL Databases Available for Searching (est.)	1,585

\* Includes orally translated requests for Trademarks.

**TABLE 28: End of Year Personnel<sup>1</sup> (FY 2013–FY 2017)**

Activity	2013	2014	2015	2016	2017
Patent Business Line	10,847	11,484	11,855	11,654	11,453
Trademark Business Line	926	966	812	1,071	1,135
<b>Total USPTO</b>	<u>11,773</u>	<u>12,450</u>	<u>12,667</u>	<u>12,725</u>	<u>12,588</u>
<b>Examination Staff</b>					
<b>Patent Examiners</b>					
UPR Examiners	7,928	8,466	8,255	8,160	7,961
Design Examiners	123	145	171	191	186
<b>Total UPR and Design Examiners</b>	<u>8,051</u>	<u>8,611</u>	<u>8,426</u>	<u>8,351</u>	<u>8,147</u>
Patent Examiner Attrition Rate	4.23%	3.40%	4.32%	3.02%	3.00%
<b>Trademark Examining Attorneys</b>	409	429	456	505	549
Trademark Examining Attorneys Attrition Rate	1.92%	2.40%	3.51%	2.10%	2.36%

<sup>1</sup> Number of positions.

**TABLE 29A: Top 50 Trademark Applicants (FY 2017)**

Name of Applicant	Classes <sup>1</sup>
CKL Holdings N.V.	846
Target Brands, Inc.	667
Lidl Stiftung & Co. KG	510
GXI, LLC	473
Samsung Electronics Co., Ltd.	386
Wal-Mart Stores, Inc.	339
King Show Games, Inc.	318
MATTEL, INC.	306
Amazon Technologies, Inc.	294
Aristocrat Technologies Australia Pty Lt	284
Lazar, Steven S.	281
Alibaba Group Holding Limited	260
Hotel Lotte Co., Ltd.	259
Johnson & Johnson	246
NOVARTIS AG	231
Bereber, Brian	230
Bristol-Myers Squibb Company	222
Koninklijke Philips N.V.	212
Essential Products, Inc	207
Bayerische Motoren Werke Aktiengesellsch	205
BALLY GAMING, INC.	197
LG ELECTRONICS INC.	197
Eli Lilly and Company	188
E. & J. Gallo Winery	180
Microsoft Corporation	169
Hasbro, Inc.	168
Google Inc.	164
Wayfair LLC	154
Huawei Technologies Co., Ltd.	151
The Procter & Gamble Company	151
DAIMLER AG	149
ALDI Inc.	148
THE WINE GROUP LLC	146
AINSWORTH GAME TECHNOLOGY LIMITED	141
IGT	141
SCA Hygiene Products AB	140
Société des Produits Nestlé S.A.	139
602652 Licensing LLC	138
Home Depot Product Authority, LLC	137
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Abercrombie & Fitch Trading Co.	135
Ashley Diana Black International Holding	135
Philips Lighting Holding B.V.	134
Rovio Animation Ltd	133
Shopko Stores Operating Co., LLC	131
Genius Inc.	130
Golden Bell Entertainment, LLC.	126
Ivoclar Vivadent, Inc.	126
Magic Leap, Inc.	123
Playtika Ltd.	123

<sup>1</sup> Applications with Additional Classes.

**TABLE 29B: Top 50 Trademark Registrants (FY 2017)**

Name of Registrant	Registrations
LG ELECTRONICS INC.	568
Glaxo Group Limited	251
MATTEL, INC.	161
NOVARTIS AG	140
BALLY GAMING, INC.	130
SAMSUNG ELECTRONICS CO., LTD.	117
Disney Enterprises, Inc.	110
L'Oreal USA Creative, Inc.	99
Lidl Stiftung & Co. KG	98
Universal City Studios LLC	90
Societe des Produits Nestle S.A.	86
EVERI GAMES INC.	81
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L'Oreal	77
Bayerische Motoren Werke Aktiengesellsch	75
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Twentieth Century Fox Film Corporation	74
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Spring Meadow Nursery, Inc.	67
Koninklijke Philips N.V.	66
The Procter & Gamble Company	65
Aristocrat Technologies Australia Pty Lt	63
Dr. Seuss Enterprises, L.P.	61
Innvictis Crop Care, LLC	60
Konami Gaming, Inc.	60
Marvel Characters, Inc.	60
JOHNSON & JOHNSON	59
Boehringer Ingelheim International GmbH	58
Abercrombie & Fitch Trading Co.	55
Nissan Jidosha Kabushiki Kaisha	55
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HIGH 5 GAMES, LLC	53
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ALDI Inc.	51
Columbia Insurance Company	51
Spin Master Ltd.	50
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Apple Inc.	42



# **GLOSSARY OF ACRONYMS AND ABBREVIATIONS**

*Unaudited. Please see the accompanying auditors' report.*

For more information about these acronyms and abbreviations, please consult the agency's limited glossary containing some USPTO-specific definitions:

[www.uspto.gov/learning-and-resources/glossary](http://www.uspto.gov/learning-and-resources/glossary)

<b>ABC</b>	Activity Based Costing	<b>EFS</b>	Electronic Filing System
<b>ACR</b>	Accelerated Case Resolution	<b>EL4FMS</b>	Electronic Library for Financial Management Systems
<b>AFCP 2.0</b>	After Final Consideration Program 2.0	<b>EPO</b>	European Patent Office
<b>AGA</b>	Association of Government Accountants	<b>ESSTA</b>	Electronic System for Trademark Trial and Appeals
<b>AI</b>	Artificial Intelligence	<b>ETA</b>	Examination Time Analysis
<b>AIA</b>	Leahy-Smith America Invents Act	<b>EUIPO</b>	European Union Intellectual Property Office
<b>AIPA</b>	American Inventors Protection Act	<b>FECA</b>	Federal Employees' Compensation Act
<b>APEX</b>	Administrative Professionals Excellence (Program)	<b>FEGLI</b>	Federal Employees Group Life Insurance Program
<b>API</b>	Application Programming Interface	<b>FEHB</b>	Federal Employees Health Benefit Program
<b>AWE</b>	After Work Education (Program)	<b>FERS</b>	Federal Employees Retirement System
<b>BDR</b>	Big Data Reservoir	<b>FFMIA</b>	Federal Financial Management Improvement Act
<b>BFS</b>	Bureau of the Fiscal Service	<b>FICA</b>	Federal Insurance Contributions Act
<b>CCD</b>	Common Citation Document	<b>FIRST®</b>	Foundation for Inspiration and Recognition of Science and Technology
<b>CEO</b>	Career Enhancement Opportunities	<b>FISMA</b>	Federal Information Security Management Act
<b>CFO</b>	Chief Financial Officer	<b>FLL</b>	First Lego League
<b>CFS</b>	Consolidated Financial System	<b>FMFIA</b>	Federal Managers' Financial Integrity Act
<b>CIO</b>	Chief Information Officer	<b>FPNG</b>	Fee-Processing Next Generation
<b>CMS</b>	Content Management System	<b>FTC</b>	Federal Trade Commission
<b>CO</b>	Contracting Officer	<b>FY</b>	Fiscal Year
<b>COTS</b>	Commercial-Off-the-Shelf	<b>GAAP</b>	Generally Accepted Accounting Principles
<b>CPC</b>	Cooperative Patent Classification	<b>GIPA</b>	Global Intellectual Property Academy
<b>CSP</b>	Collaborative Search Pilot	<b>GIs</b>	Geographical Indications
<b>CSRS</b>	Civil Service Retirement System	<b>GOET</b>	Government Officials Education and Training
<b>DAS</b>	(WIPO's) Digital Access Service	<b>GOTS</b>	Government-Off-the-Shelf
<b>DATA</b>	Digital Accountability and Transparency Act	<b>GPSN</b>	Global Patent Search Network
<b>DAV</b>	Docket and Application Viewer	<b>GSA</b>	General Services Administration
<b>DM&amp;R</b>	Deferred Maintenance and Repairs	<b>GUI</b>	Graphical User Interface
<b>DOC</b>	U.S. Department of Commerce	<b>ICR</b>	Improving Clarity and Reasoning in Office Actions
<b>DOL</b>	U.S. Department of Labor	<b>ID</b>	Identification
<b>DSBD</b>	Digital Service and Big Data	<b>ID5</b>	Industrial Design Five (Five Largest Design Patent Offices Worldwide)
<b>E2E</b>	End-to-End		
<b>eDAN</b>	Electronic Desktop Application Navigator		

<b>IDM</b>	Identification Manual	<b>OFIS</b>	Office of Finance Imaging System
<b>IDP</b>	Individual Development Plan	<b>OGC</b>	Office of the General Counsel
<b>IG</b>	Inspector General	<b>OHR</b>	Office of Human Resources
<b>INTA</b>	International Trademark Association	<b>OIG</b>	Office of Inspector General
<b>IP</b>	Intellectual Property	<b>OIPC</b>	Office of International Patent Cooperation
<b>IP5</b>	Five Largest Intellectual Property Offices Worldwide	<b>OMB</b>	Office of Management and Budget
<b>IPEAs</b>	International Preliminary Examination Authorities	<b>OP</b>	Office of Procurement
<b>IPERA</b>	Improper Payments Elimination and Recovery Act	<b>OPD</b>	One Portal Dossier
<b>IPERIA</b>	Improper Payments Elimination and Recovery Improvement Act	<b>OPIA</b>	Office of Policy and International Affairs
<b>IPTF</b>	Internet Policy Task Force	<b>OPM</b>	Office of Personnel Management
<b>ISA</b>	International Searching Authorities	<b>OPQA</b>	Office of Patent Quality Assurance
<b>IT</b>	Information Technology	<b>P3</b>	Post Prosecution Pilot
<b>ITP</b>	Individual Training Plan	<b>PALM</b>	Patent Application Location Monitoring
<b>JPO</b>	Japan Patent Office	<b>PAR</b>	Performance and Accountability Report
<b>KIPO</b>	Korean Intellectual Property Office	<b>PaTH</b>	Patents Training at Headquarters
<b>LDP</b>	Leadership Development Program	<b>PCT</b>	Patent Cooperation Treaty
<b>MRF</b>	Master Review Form	<b>PE2E</b>	Patent End-to-End
<b>NAFTA</b>	North American Free Trade Agreement	<b>PETTP</b>	Patent Examiner Technical Training Program
<b>NARA</b>	National Archives and Records Administration	<b>POA&amp;M</b>	Plan of Actions and Milestones
<b>NPRM</b>	Notice of Proposed Rulemaking	<b>POPA</b>	Patent Office Professional Association
<b>NSTI</b>	National Summer Teacher Institute	<b>PP&amp;E</b>	Property, Plant, and Equipment
<b>NTIA</b>	National Telecommunications and Information Administration	<b>PPAC</b>	Patent Public Advisory Committee
<b>OBRA</b>	Omnibus Budget Reconciliation Act	<b>PPH</b>	Patent Prosecution Highway
<b>OCAO</b>	Office of the Chief Administrative Officer	<b>PRPS</b>	Patent Review Processing System
<b>OCCO</b>	Office of the Chief Communications Officer	<b>PTA</b>	Patent Term Adjustment
<b>OCE</b>	Office of Chief Economist	<b>PTAB</b>	Patent Trial and Appeal Board
<b>OCFO</b>	Office of the Chief Financial Officer	<b>PTFRF</b>	Patent and Trademark Fee Reserve Fund
<b>OCIO</b>	Office of the Chief Information Officer	<b>PTRC</b>	Patent and Trademark Resource Centers
<b>OEEOD</b>	Office of Equal Employment Opportunity and Diversity	<b>PU</b>	Production Units
<b>OEO</b>	Office of Education and Outreach	<b>QPIDS</b>	Quick Path Information Disclosure Statement
		<b>RAM</b>	Revenue Accounting and Management
		<b>RCE</b>	Request for Continued Examination
		<b>SAIC</b>	State Administration for Industry and Commerce of the People's Republic of China
		<b>SBIR-STTR</b>	Small Business Innovation Research and Small Business Technology Transfer

<b>SCP</b>	Supervisor Certificate Program	<b>USSGL</b>	United States Standard General Ledger
<b>SEE</b>	Site Experience Education	<b>USTR</b>	Office of the United States Trade Representative
<b>SES</b>	Senior Executive Service	<b>VHP</b>	Veterans Hiring Program
<b>SIPO</b>	State Intellectual Property Office of the People's Republic of China	<b>vILT</b>	Virtual Instructor-Led Training
<b>SMEs</b>	Small- and Medium-Sized Enterprises	<b>WIPO</b>	World Intellectual Property Organization
<b>STEM</b>	Science, Technology, Engineering, and Mathematics	<b>WTO</b>	World Trade Organization
<b>STEPP</b>	Stakeholder Training on Examination Practice and Procedure	<b>XML</b>	Extensible Markup Language
<b>TBMP</b>	Trademark Board Manual of Procedure		
<b>TC</b>	Technology Center		
<b>TEALE</b>	New Examining Attorney Training		
<b>TEAPP</b>	Telework Enhancement Act Pilot Program		
<b>TEAS</b>	Trademark Electronic Application System		
<b>TEASi</b>	Trademark Electronic Application System International		
<b>TIFA</b>	Trade and Investment Framework Agreements		
<b>TMS</b>	Five Largest Trademark Offices Worldwide		
<b>TMEP</b>	Trademark Manual of Examining Procedure		
<b>TMNG</b>	Trademark Next Generation		
<b>TNC</b>	Treasury's Yield Curve for Treasury Nominal Coupon		
<b>TORCH</b>	Trademark Organization Reconnect and Collaboration Home		
<b>TPAC</b>	Trademark Public Advisory Committee		
<b>TSDR</b>	Trademark Status and Document Retrieval		
<b>TTAB</b>	Trademark Trial and Appeal Board		
<b>TTABIS</b>	Trademark Trial and Appeal Board Information System		
<b>UMP</b>	Upward Mobility Program		
<b>UPOV</b>	Union for the Protection of New Varieties of Plants		
<b>URL</b>	Uniform Resource Locator		
<b>U.S.C.</b>	United States Code		
<b>USPC</b>	U.S. Patent Classification		
<b>USPTO</b>	U.S. Patent and Trademark Office		



A decorative graphic consisting of five orange squares arranged in a horizontal row, with a single blue square positioned below the first orange square on the left.

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*Unaudited. Please see the accompanying auditors' report.*

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