

## **T A B L E O F C O N T E N T S**

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WEB ADDRESS FOR THE USPTO PERFORMANCE AND ACCOUNTABILITY REPORT

<http://www.uspto.gov/web/offices/com/annual/2003/index.html>



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

**A**s the Under Secretary of Intellectual Property and Director of the United States Patent and Trademark Office (USPTO), I have the privilege of serving at the helm of the agency that is the Federal Government's tangible expression of commitment to innovation and creativity. It is a commitment that goes back to the first days of our country. When the Founding Fathers created our new Republic, they carefully drafted our Constitution to be limited in scope and Federal authority. As they painstakingly crafted the institutions of our new government, the Founders also saw fit to include a clause anticipating the establishment of a patent system and the protection of intellectual property (IP). With their attention focused on the birth of a new Republic, why did they feel the need to deal with what appears to be, at first blush, an obscure area of law?

The answer is as important to our generation as it was to theirs. They understood that their agrarian colony would never grow to be an economic and technological giant unless there was an incentive for inventors to create, and for other inventors to study and improve upon those creations. From this foresight came the American systems of patents, trademarks, and copyright protection, which give inventors and authors the ability to enjoy, for a limited period of time, the exclusive economic benefits of their genius.

As the importance of patents, trademarks, and other forms of IP to our economy has grown, the USPTO workload has skyrocketed. For example, since 1992 the number of patent applications we receive has doubled. In addition, the complexity of the technology in these applications is increasing rapidly. As a result, processing times are increasing and the quality of examination is threatened.

As the clearinghouse for American innovation, the USPTO can ill afford to operate under these conditions. If we are to continue to serve as a catalyst for technological innovation, we must be equipped to meet the challenges of the 21st century. Our customers deserve - and the reality of trade and investment today demands - that we provide the highest quality services in the shortest possible timeframe.

Issuing a quality patent and registering a quality trademark is our primary goal. Issuing them in a timely manner is essential. Balancing quality and timeliness is our challenge.

Our *21st Century Strategic Plan*, which I unveiled last year, provides a detailed road map for transforming the agency into a quality-driven, highly productive, cost-effective organization. The key features of the plan will:

- Enhance the quality of patent and trademark examining operations;
- Accelerate processing time by transitioning from paper to electronic government (e-Gov) processing;
- Control patent and trademark pendency and reduce time to first Office actions;
- Concentrate office expertise as much as possible on core examination functions;
- Provide for the hiring of almost 3,000 new patent examiners over the next five years; and
- Expand our bilateral and multilateral discussions to strengthen IP rights globally and, through work sharing, reduce duplication of effort among offices.

In July 2003, the House Judiciary Committee passed the fee-restructuring component of the Strategic Plan unanimously. As we work to get this enacted, the USPTO continues to move forward aggressively on a number of quality and e-Gov initiatives.

I am committed to hiring the people who make the best patent and trademark examiners, certifying their knowledge and competencies throughout their careers, and focusing on quality in all aspects of the examination of patent and trademark applications. To that end, this year we initiated programs to certify the knowledge and abilities of patent examiners and trademark examining attorneys - before they are hired and throughout their career. We also hosted a number of customer partnership meetings in the biotechnology/pharmaceutical/organic chemistry, semiconductor, and business method areas. By sharing concerns and information, establishing cooperative training programs for examiners, identifying sources of prior art, and helping applicants better understand the patent examination process, these meetings help to improve patent quality.

In addition to these quality enhancement initiatives, shifting from outmoded paper processing to more efficient, customer friendly electronic processing has been a major priority. The USPTO continues to be a government-wide leader in implementing e-Gov services for our customers. Despite budgetary limitations, this year we accelerated implementation time frames for the Patent e-Gov program by adapting existing software developed by the European Patent Office (EPO). Using Patent e-Gov, all of our customers will be able to file their applications, monitor application status, and provide supplemental materials on-line via the USPTO web site ([www.uspto.gov](http://www.uspto.gov)).

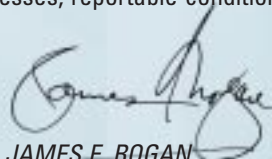
Our achievements on the operational front have also been matched this year on the international policy front, as we work to protect American IP abroad. We seek a harmonized system that will allow for uniform worldwide treatment of patents and trademarks, which will eventually provide faster, more affordable one-stop shopping for American businesses and entrepreneurs who wish to protect their inventions and products abroad.

This year, through our newly established Offices of International Relations and Enforcement, we provided technical assistance to foreign governments to improve their IP systems, trained foreign officials on IP enforcement, and worked with the United States Trade Representative (USTR) in drafting IP sections in bilateral investment treaties and trade agreements. For example, USPTO experts helped to successfully conclude negotiations on IP issues in free trade agreements with Singapore and Chile, which were approved by Congress in July 2003. We also played a lead role in the ongoing negotiations of IP chapters of Free Trade Agreements (FTA) with Australia, Morocco, Central American countries, and Latin America.

Our Nation possesses creative talents that make the world a better place. We rely on inventors to improve our lives, and we all share the responsibility to make sure that our Nation's inventive tradition continues to flourish. Unbridled invention is one hallmark of our legacy of freedom. If we foster this freedom and disseminate it around the world, there is no end to what we can accomplish for tomorrow.

This *Performance and Accountability Report* summarizes the USPTO's achievements and challenges for fiscal year 2003. I am pleased to certify, with reasonable assurance that, except for the one Federal Information Security Management Act (FISMA) material weakness regarding information technology (IT) security specifically identified in the management control section of this report, our agency's systems of management control, taken as a whole, comply with Section 2 of the Federal Managers' Financial Integrity Act (FMFIA) of 1982. Our agency is also in substantial compliance with applicable Federal accounting standards and the United States (U.S.) General Ledger at the transaction level and with Federal financial system requirements. Accordingly, our agency fully complies with Section 4 of the FMFIA, with no material nonconformances. In addition, we are confident that the USPTO's financial and performance data is reliable, accurate, and consistent, as we improve our ability to measure progress toward performance objectives.

For the 11th consecutive year, we received an unqualified audit opinion on our annual financial statements. In addition, the independent auditors' report did not identify any material weaknesses, reportable conditions, or instances of noncompliance.



**JAMES E. ROGAN**

*Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office  
December 1, 2003*

## MESSAGE FROM THE CHIEF FINANCIAL OFFICER

I am pleased to present the USPTO's Fiscal Year (FY) 2003 Performance and Accountability Report. This is my first report since becoming Chief Financial Officer and Chief Administrative Officer in February 2003. It was an honor to be selected for this role and I look forward to leading this fine organization.

This is our 11th consecutive year of unqualified audit opinions on our financial statements and the seventh year in which our auditors noted no material weaknesses in our control structure. In addition, this past year we received the prestigious Certificate in Excellence in Accountability Reporting from the Association of Government Accountants for our FY 2002 Performance and Accountability Report. This was the first time we applied for the award. It was a tribute to our hard-working staff that we earned it on our initial attempt and that we were the first sub-departmental agency to do so.

During the third quarter of FY 2003, the Office of the Inspector General (OIG) reviewed the USPTO Information Technology Security Program and reported substantial improvement over the previous year. In FY 2002, none of our critical information systems were certified and accredited (C&A). At that time, OIG recommended declaration of material weakness until the C&A had been completed for all mission critical and classified systems. By contrast, in FY 2003 we accomplished rigorous C&A in accordance with Government standards for all mission critical and classified systems. While the OIG reflected the progress made in its annual FISMA review for the U.S. Department of Commerce (Commerce), the report recommends that USPTO repeat its FISMA material weakness declaration in FY 2003 until all mission critical and classified systems receive full authority to operate. The corrective action plan for addressing this weakness in FY 2004 is discussed in the management controls section of this report.

Before I touch on some of the events that shaped this past year, I would like to reaffirm our organizational goals. These goals center on continued support for the enterprise-wide transformation envisioned in our *21st Century Strategic Plan* and include continuing our own emphasis on becoming a world-class financial and administrative operation.

Our primary goal is to continue serving our customers with high-quality services. We will support our program offices in meeting their *21st Century Strategic Plan* performance commitments by providing them with high-performing recruits; we will support our employees with superior services, including quality systems and effective training programs; we will serve our patent and trademark customers with responsive financial services; and we will ensure our vendors receive timely payment and courteous service. Finally, for everyone impacted by our move to the USPTO's new headquarters in Alexandria, Virginia, we will ensure an efficient transition with minimal disruption to normal operations.

A corollary to the above goal is to continue producing relevant and reliable information for analysis and decision support. This means continuing our successes in accountability reporting and taking every opportunity to participate in day-to-day decision-making in all program and administrative areas.

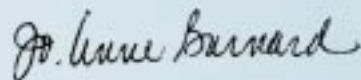
Our *21st Century Strategic Plan* reflects the goals of the President's Management Agenda, especially with regard to e-Gov, integrating budget, performance, and cost data, and the strategic management of human capital. It is our intention to provide the direction, advice, and resources to ensure that the Agenda goals are met.



This past year significant progress was made on the construction of our state-of-the-art facility in Alexandria. This complex will allow us to meet the logistical, operational, and security requirements included in our *21st Century Strategic Plan*. The first phase of occupancy began in December 2003.

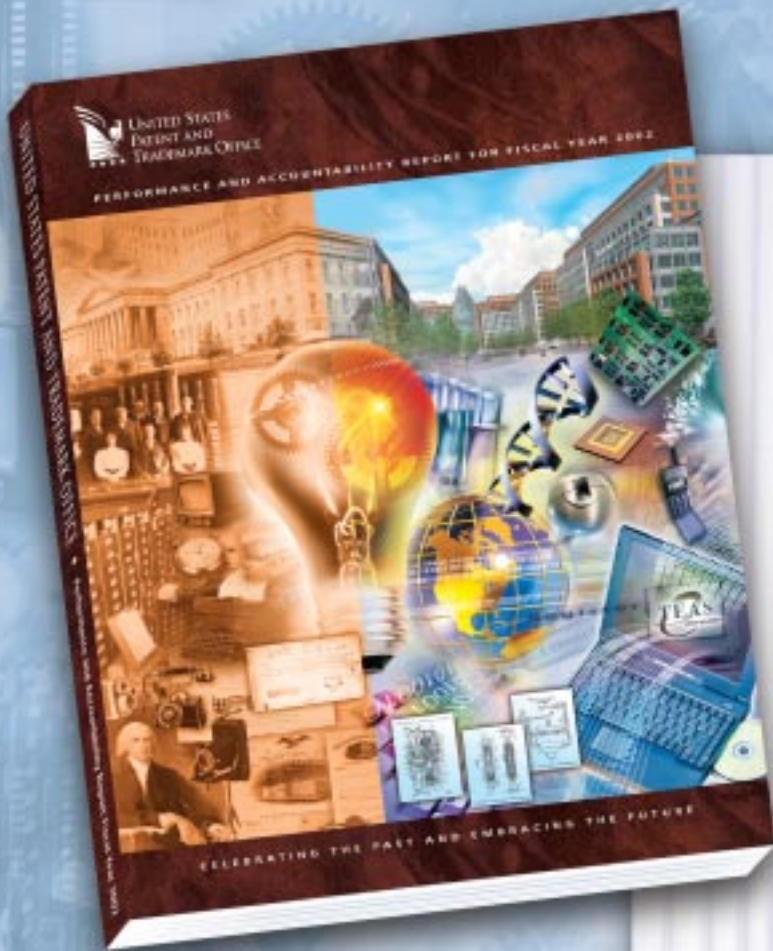
At the beginning of the year, we implemented a new core financial accounting and reporting system, *Momentum Financials*. I am pleased to say that all of our financial and procurement systems are certified and accredited in accordance with designated standards. We also made progress in a variety of other areas, including building more flexibility and security into our on-line transaction processing, creating innovative procurement strategies, and ensuring smooth implementation of recent international trademark standards.

As noted in so many Chief Financial Officer messages like this government-wide, past achievements and challenging goals can only be accomplished by the truly dedicated efforts of our workforce. I am privileged to be part of this fine community of individuals and to have the honor of leading them in their continuing efforts. I am also pleased to have the opportunity to contribute to the government-wide effort to accomplish the President's Management Agenda, and to restore respect and sound stewardship to government financial and administrative operations.



*Jo-Anne Barnard*  
*Chief Financial Officer*  
*December 1, 2003*

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by the Association of Government Accountants to federal government  
agencies whose annual Performance and Accountability Reports  
achieve the highest standards in presenting  
their programs and financial affairs.



*John Howard*  
John H. Howard, CGFM  
Chair, Certificate of Excellence  
in Accountability Reporting Board

*Julian Berthrong*  
Julian Berthrong, CGFM  
2002-2004 National President

# Management Discussion and Analysis







## MISSION AND ORGANIZATION OF THE USPTO

### USPTO VISION

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

### MISSION STATEMENT

**T**he USPTO mission is to ensure that the Intellectual Property system contributes to a strong global economy, encourages investment in innovation, and fosters entrepreneurial spirit. Intellectual Property is an invention or creation embodied in the form of a patent, trademark, trade secret, or copyright.

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

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

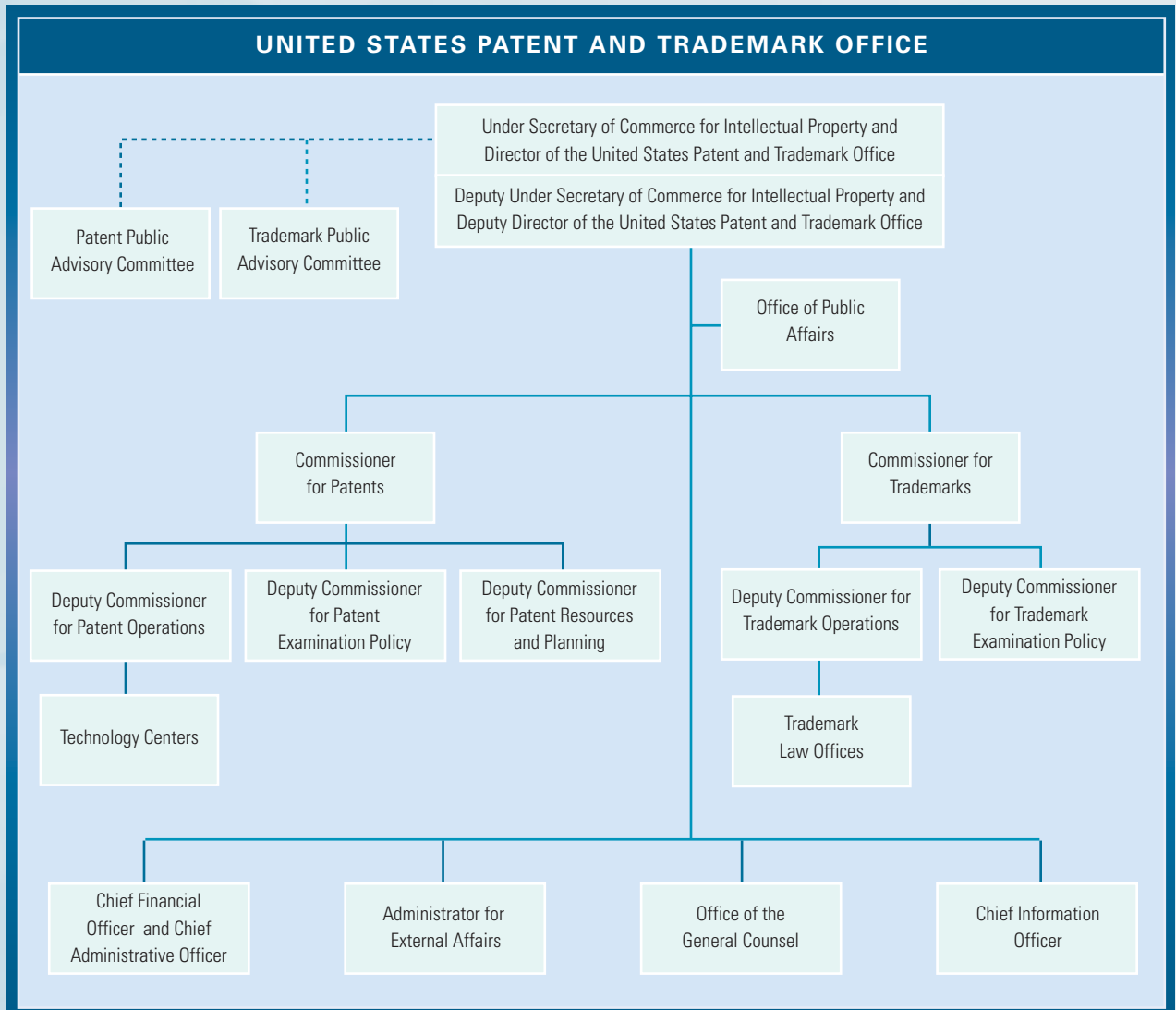


*Under Secretary Rogan congratulates former Senator John Glenn after presenting him with the Life-Time Achievement Award from the National Inventors Hall of Fame.*

## LOCATION, ORGANIZATIONAL STRUCTURE, AND WORKFORCE

The USPTO is a Federal agency in Commerce. During FY 2003, the office occupied a combined total of over 1,400,000 square feet in 18 buildings in the Crystal City neighborhood of Arlington, Virginia. In addition, the USPTO has two storage facilities in Springfield and Alexandria, Virginia and leased storage space in Boyers, Pennsylvania. On September 30, 2003, the USPTO workforce was comprised of 6,723 Federal employees, including 3,637 patent examiners and 355 trademark examining attorneys. In addition, USPTO has approximately 4,300 contract employees.

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



## PERFORMANCE GOALS AND RESULTS

### USPTO STRATEGIC PLAN

The Government Performance and Results Act (GPRA) requires that agencies plan and measure the performance of their programs. In carrying out GPRA, the USPTO prepares a Strategic Plan, an Annual Performance Plan, and an Annual Performance Report. The USPTO began FY 2003 guided by the Strategic Plan that was developed in FY 1994 and updated in FY 1999, which includes the period FY 1999 through 2004. While the mission, goals, and strategies have served us well, the environment in which the IP system operates worldwide has changed dramatically. There are an estimated 11.9 million pending patent applications in the world's examination pipeline. Technology has become increasingly complex, and customer demands for higher quality products and services have escalated. This dynamic, along with Congressional concerns about the USPTO's ability to continue to operate under a traditional



*Under Secretary Rogan confers with Subcommittee Chairman Lamar Smith prior to testifying before the House Judiciary Subcommittee on Courts, the Internet and Intellectual Property.*

business model, led to the development of the *21st Century Strategic Plan*. To deal with these concerns, the USPTO developed a response to the environmental challenges facing the USPTO and to address the issues raised by the Congress and our stakeholders. The *21st Century Strategic Plan* is a far-reaching and aggressive plan designed to transform the USPTO into an organization that is responsive to the global economy. After implementation of the plan, market forces will drive our business model, geography and time will be irrelevant when doing business with the USPTO, products and services will be tailored to customer needs, and examination will be our core expertise. The plan is centered around three long-term cross-cutting strategic goals:

- **Agility** – Address the 21st Century economy by becoming a more agile organization. We will create a flexible organization whose leadership and work processes can handle the increasing expectations of our markets, the growing complexity and volume of our work, and the globalization that characterizes the 21st Century economy. We will work with our partners, both bi-laterally and multi-laterally, to create a stronger, better-coordinated, and more streamlined framework for protecting IP around the world. We will transform the USPTO workplace by radically reducing labor-intensive paper processing.

- **Capability** – Enhance quality through workforce and process improvements. We will make patent and trademark quality our highest priority by emphasizing quality in every component of the plan. Through timely issuance of high-quality patents and trademarks, we will respond to market forces by promoting advances in technology, expanding business opportunities, and creating jobs.
- **Productivity** – Accelerate processing times through focused examination. We will reduce patent and trademark pendency, substantially cut the size of our backlog of work, and recover our investments in people, processes, and technology.

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

In FY 2003, the USPTO continued adopting the goals and objectives put forth in the plan, to the extent they were consistent with Congressional intent and supported by our stakeholders and applicants. The *21st Century Strategic Plan* was reissued in February 2003 and received support from organizations throughout the patent community. The *21st Century Strategic Plan* can be found on the USPTO web site: <http://www.uspto.gov/web/offices/com/strat21/index.htm>



*Under Secretary Rogan welcomes a group of newly hired patent examiners, part of the 308 examiners hired in FY 2003.*

## PERFORMANCE DATA VERIFICATION AND VALIDATION



*Jo-Anne Barnard, Chief Financial Officer and Chief Administrative Officer, Nick Godici, Commissioner of Patents, and Michelle Picard, Director, Office of Finance, (seated left to right) pose with members of the Annual Performance Review team. The team received the "Certificate of Excellence in Accountability Reporting Award," from the Association of Government Accountants for the USPTO Fiscal Year 2002 Performance and Accountability Report.*

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

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

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

- **Program evaluations** – Program evaluations are cyclical in nature. While no program evaluations were completed in FY 2003, one was completed in FY 2002. The OIG reviewed the USPTO's performance measures included in the Commerce's Annual Performance Plan (*Minor Improvements Needed in Reporting Performance Results, FSD-14429/March 2002*). The purpose of the review was to validate the measures and the data collection tools and methods.

The results of the audit showed that management controls were in place and operating effectively regarding the collection, validation, and reporting of performance measures. In addition, the report stated that the USPTO was committed to developing and producing quality performance measures. Several minor recommendations were reported and have subsequently been implemented by the USPTO in FY 2003. This report can be found at: [www.oig.doc.gov/reports/2002-3/20023-14429.01.pdf](http://www.oig.doc.gov/reports/2002-3/20023-14429.01.pdf).

- **Financial statement audit** – During the FY 2003 financial statement audit, various tests and reviews of the primary accounting system and internal controls were conducted as required by the Chief Financial Officers' Act. In their FY 2003 report, the auditors reported no material weaknesses in internal controls or material compliance violations. The auditors issued an unqualified opinion on USPTO's FY 2003 financial statements.

## USPTO PERFORMANCE GOALS

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**T**he USPTO Performance Plan, which is included in our annual budget submission, has three core goals and ten performance measures for FY 2003. Information on the goals and measures is contained in the next two sections: Patent Performance and Trademark Performance.

*Deputy Under Secretary Dudas swears in Rick D. Nydegger, the new Chairman of the Patent Public Advisory Committee.*



## PATENT PERFORMANCE

The core process of the Patent Organization is the examination of an inventor's application for a patent by comparing the claimed subject matter of the application to a large body of technological information to determine whether the claimed invention is new, useful, and non-obvious to someone knowledgeable in that subject matter. In the course of examining a patent application, a patent examiner makes a determination on the patentability of the claimed subject matter. Examiners are also responsible for preparing examiner's answers on appealed applications and preparing interference proceedings to determine priority of ownership.

Other phases of the examination process include: pre-examination, where the application receives an initial administrative review; post-examination, where the published application or issued patent is disseminated to the public; and a quality review function, which reviews a random sample of both in-process and allowed applications. Additionally, the Patent Cooperation Treaty (PCT) office administers the processing of international patent applications. The Search and Information Resources Administration is responsible for managing all Patent automation activities, implementing and maintaining classification schemes for organizing and retrieving technical information contained in patents and other documents in the search files, and acquiring, maintaining, and providing access to scientific and technical literature in support of the examination process. The Board of Patent Appeals and Interferences (BPAI) conducts interference proceedings, as well as decides appeals regarding issues of patentability.

In FY 2003, the Patent Organization received 333,452 Utility, Plant, and Reissue patent applications. Additionally, preliminary data indicates that 243,007 pending applications were published within 18 months after filing and 173,072 patents were granted.

The Patent Organization made significant strides towards achieving the e-Gov and quality goals of the *21st Century Strategic Plan* by implementation of the Image File Wrapper (IFW) and quality initiatives. The IFW is an electronic version of the paper patent application file wrapper, and is created by scanning all papers in the file wrapper using a modified version of the software initially developed by the EPO. The IFW provides instant and concurrent access to a patent application, eliminates examiner interruption for paper entry, and eliminates lost or damaged papers from paper patent applications. The IFW has already been deployed to the Office of Initial Patent Examination and portions of the Patent Examination Corps, with an expectation of full deployment by October 2004. As a result, over 225,000 electronic applications are now considered the official file, and all newly filed patent applications are now processed in an electronic environment.

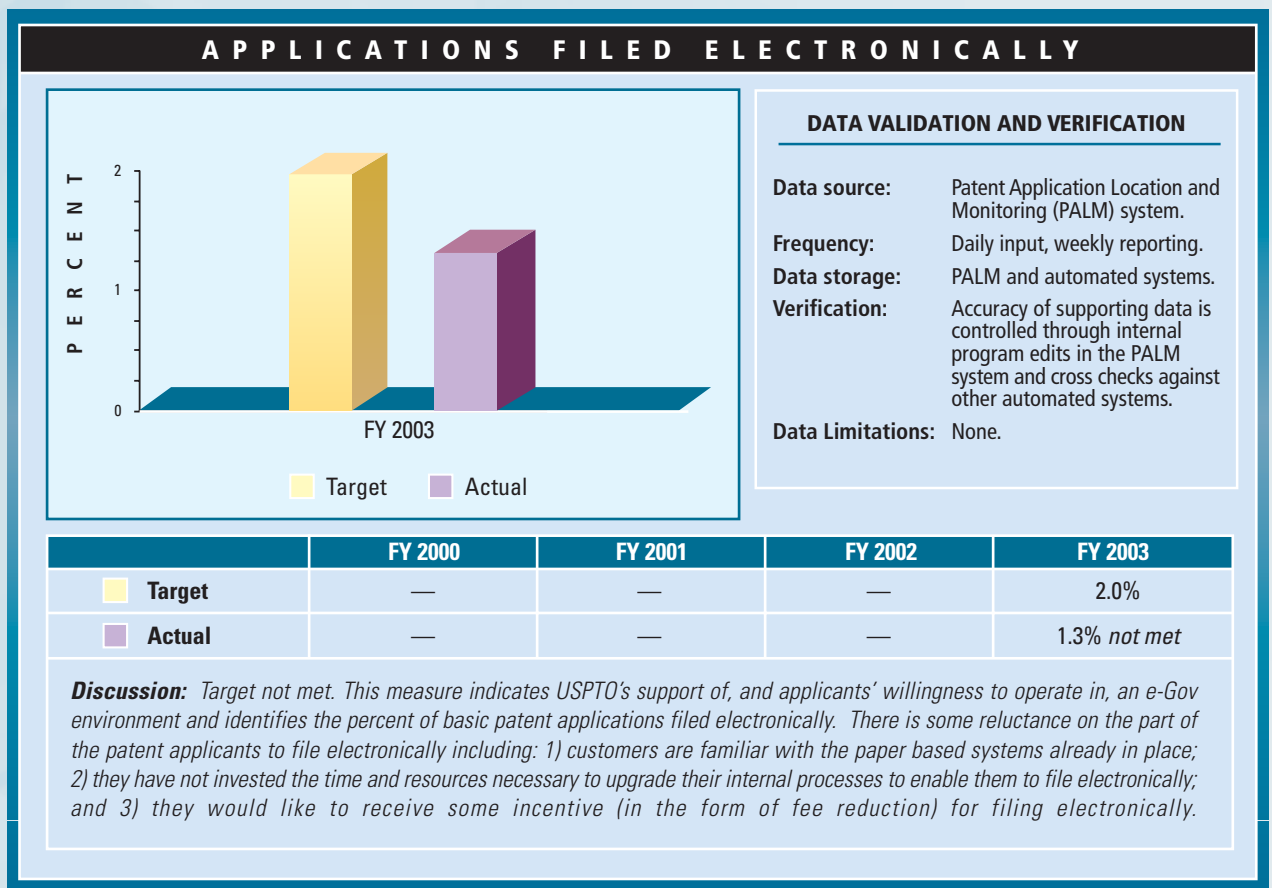
The quality initiatives implemented by the Patent Organization include: a pre-employment assessment of communication skills for new hires through oral interviews and writing samples, supervisory training for effective work product reviews, redesigning the quality review process by expanding in process reviews, pilot training programs in art units for new examiners, and finalizing the process for certifying the formal knowledge, skills, and abilities (KSA) required of examination staff at various stages of their careers. The Patent Organization quality initiatives will ensure the highest quality patent examination possible by certifying that patent examiners, supervisory patent examiners, and quality assurance specialists have the requisite skills by providing the most pertinent and up-to-date training and enhanced review processes.

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

**GOAL: AGILITY – Address the 21st Century Economy by Becoming a More Agile Organization**

Under the *21st Century Strategic Plan*, the USPTO will work with our IP partners to improve the efficiency of our processing systems by increasing the number of applications and communications received and processed electronically, create more coordinated and streamlined work processes, and best position the USPTO for the globalization that characterizes the 21st century economy. The following performance measure has been established to reflect the USPTO’s success and progress in meeting the *21st Century Strategic Plan* goals for agility.

**NEW MEASURE: Applications Filed Electronically**



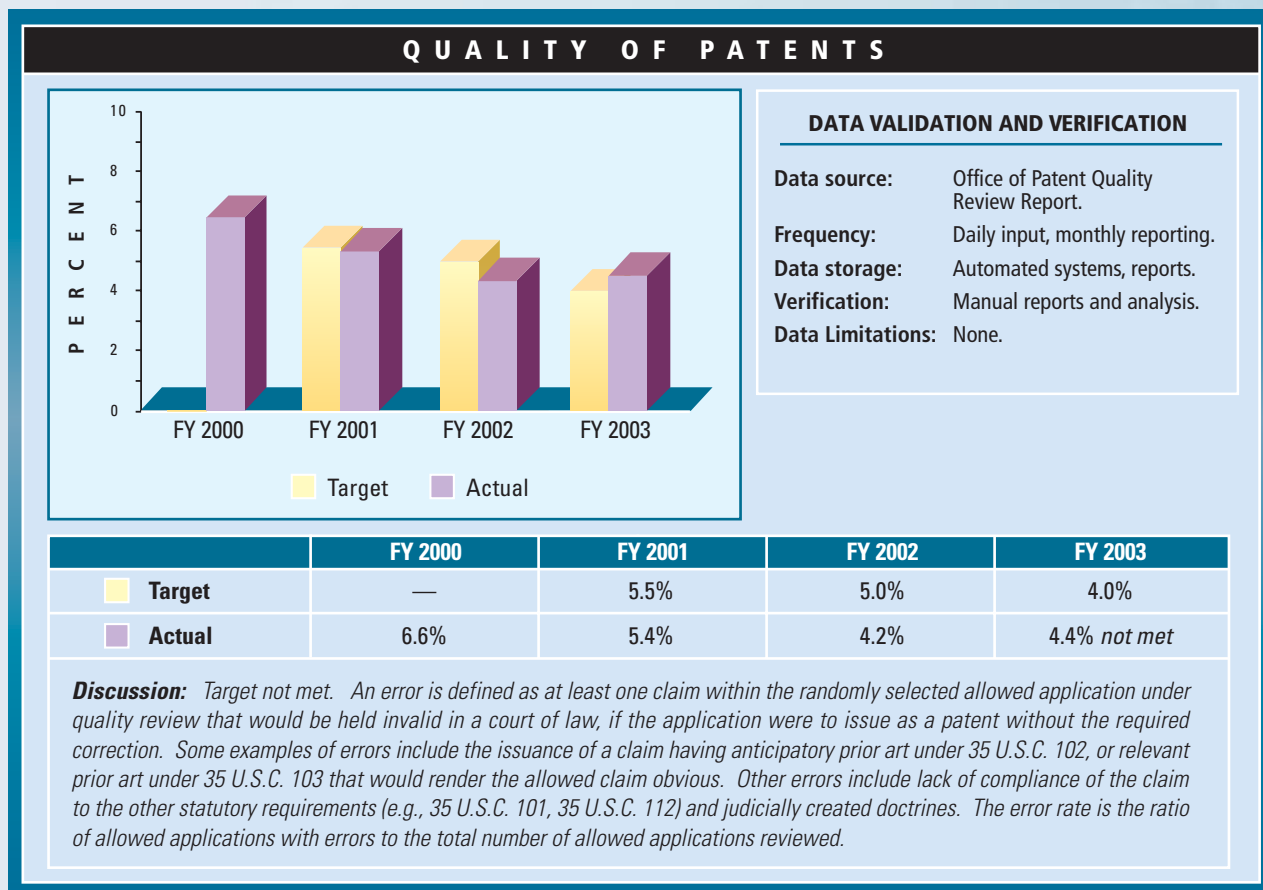


**GOAL: CAPABILITY – Enhance the Quality through Workforce and Process Improvements**

Under the *21st Century Strategic Plan*, Patents will enhance current quality assurance programs to include a more in-depth review of work in progress. This will include the implementation of in-process reviews, “second pair of eyes” reviews, and end-process reviews. In addition, the Patent Organization is creating new programs for certifying the KSAs of their employees.

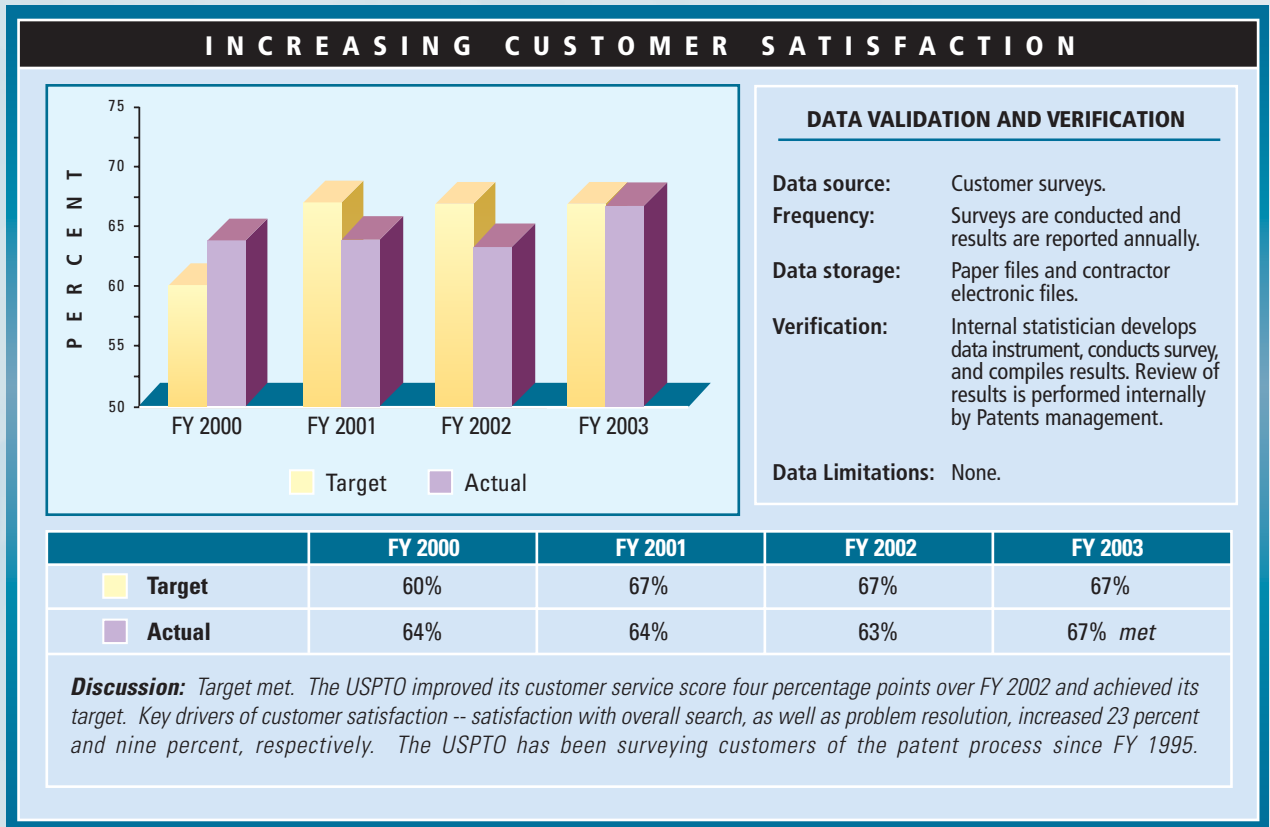
With the *21st Century Strategic Plan*, the USPTO developed a number of new measures to assess its achievement toward the capability goals. For those new measures, the USPTO will need to establish its baseline performance during FY 2004 before establishing its out-year targets and annual goals.

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



The USPTO fell short of its FY 2003 target; however, under the *21st Century Strategic Plan*, the Patents Organization is enhancing current quality assurance programs to include a more in-depth review of work in progress.

**DISCONTINUED MEASURE IN FY 2003: *Improve overall customer satisfaction***



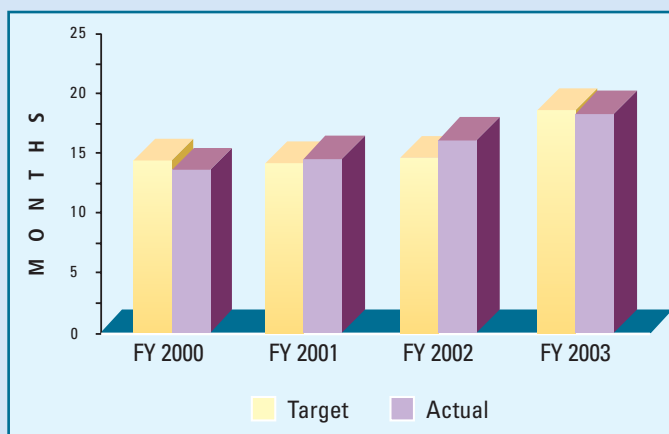
**GOAL: PRODUCTIVITY – *Accelerate Processing Times Through Focused Examination***

In support of the *21st Century Strategic Plan*, the USPTO will reduce patent pendency and substantially cut the size of the work backlog. This will be accomplished through a radical redesign of the entire patent search and examination system based upon multi-examination tracks, greater reliance on commercial service providers, and variable, incentive-driven fees. While the USPTO's long-term patent pendency goal remains 18 months, this goal will not be achieved in the near future because of the higher priority placed on quality and patent e-Gov initiatives. However, USPTO will produce, on average, a first Office action for first-filed U.S. non-provisional applications at the time of 18-month publication. In addition, a patent search report for other patent applications will be issued in the same time frame.

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

**MEASURE: Reduce average first action pendency (months)**

**FIRST ACTION PENDENCY**



**DATA VALIDATION AND VERIFICATION**

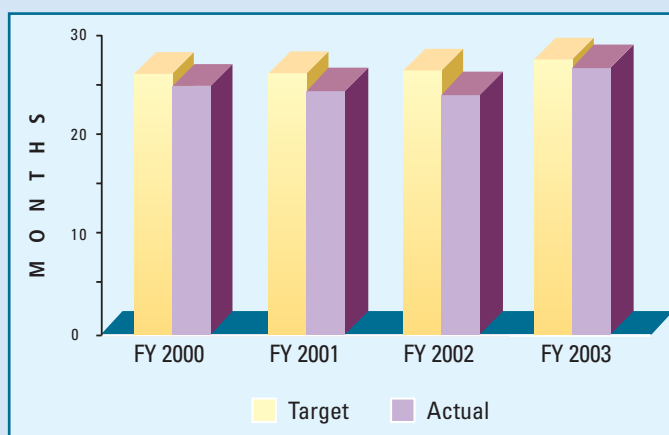
**Data source:** PALM system.  
**Frequency:** Daily input, monthly reporting.  
**Data storage:** PALM, automated systems, reports.  
**Verification:** Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by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

	FY 2000	FY 2001	FY 2002	FY 2003
<b>Target</b>	14.2	13.9	14.7	18.4
<b>Actual</b>	13.6	14.4	16.7	18.3 met

**Discussion:** Target met. The initiatives identified in the USPTO 21st Century Strategic Plan will continue to reduce patent pendency, substantially cut the size of the work backlog, and recover our investments in people, processes, and technology.

**MEASURE: Reduce average total pendency (months)**

**TOTAL PATENT PENDENCY**



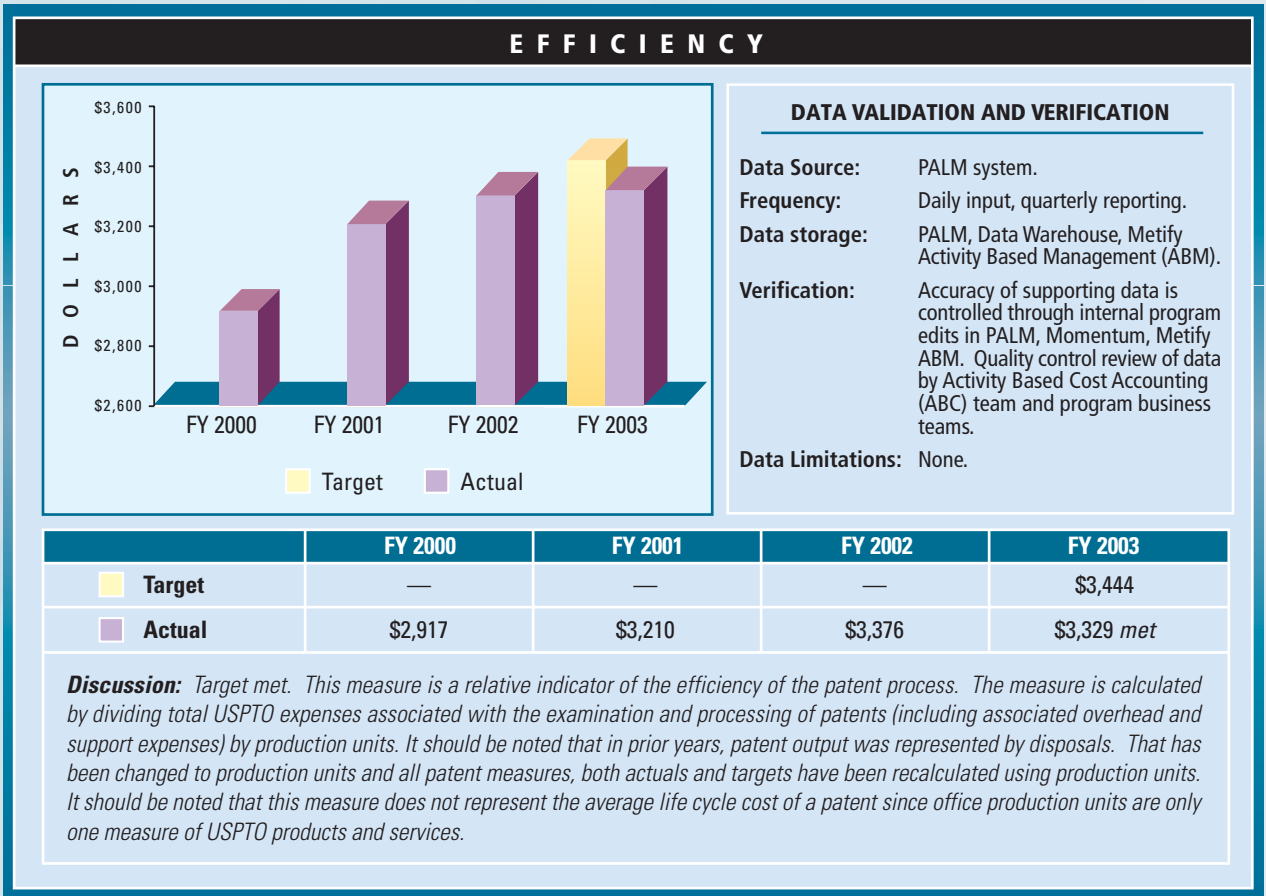
**DATA VALIDATION AND VERIFICATION**

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

	FY 2000	FY 2001	FY 2002	FY 2003
<b>Target</b>	26.2	26.2	26.5	27.7
<b>Actual</b>	25.0	24.7	24.0	26.7 met

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

**NEW MEASURE: Efficiency**



## PATENT COMMISSIONER'S PERFORMANCE FOR FY 2003

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

The Patent Organization goals form the foundation for the annual performance agreement between the Commissioner for Patents and the Secretary of Commerce, as required by AIPA. The performance agreement outlines measurable organizational goals and objectives for the Patent Organization based on the above goals and performance measures. These performance measures incorporated the milestones and objectives to achieve Patent goals: improving quality of examination, implementing e-Gov initiatives, and achieving the lowest possible pendency. At the time of publication, the performance bonus for the Commissioner of Patents had not been finalized.



*Deputy Under Secretary Dudas and Supervisory Patent Examiner Gary Kunz inspect a model of DNA strand on the 50th anniversary of its discovery.*

## THE PATENT ORGANIZATION – WHAT’S AHEAD

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**T**he USPTO challenges include managing a substantial workload and fully migrating to an electronic environment while reducing pendency and increasing quality. Patents will meet these challenges in the coming year by:

- Continuing to refine the system planned for October 1, 2004 implementation that will process patent applications electronically, including image capture of all incoming and outgoing paper documents;
- Recertifying the KSAs of one third of primary examiners;
- Proceeding with the plan to certify patent examiners before promotion to GS-13;
- Conducting a transactional customer service survey;
- Beginning the move to our new consolidated headquarters;
- Expanding training art units;
- Developing a program to improve the quality of Technical Support products and services in the Technology Centers;
- Making all applications published after 18 months electronically available to the public;
- Hiring additional patent examiners to meet our pendency goals; and
- Evaluating the pilot search results exchange program with the EPO and Japan Patent Office (JPO).

Patent applicants are concerned that the USPTO does not have full access to the fees applicants pay for their patent applications in the year the fees are collected. The USPTO's *21st Century Strategic Plan* will assist in addressing these challenges and will transform the USPTO into a quality-driven, highly-productive, and cost-effective organization that will promote expansion of business opportunities, stimulate research and development, and expand U.S. businesses globally. Full implementation of the USPTO's *21st Century Strategic Plan* is predicated on the passage of proposed legislation to restructure the patent and trademark fee system. Anything less would fall short of the expectations of Congress, the applicants for, and owners of, patents, the patent bar, and the public at large.

## BOARD OF PATENT APPEALS AND INTERFERENCES

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**B**y the end of FY 2003, the BPAI has met the goals of the five-year plan that it instituted in FY 1998. At the beginning of FY 1998, BPAI had 9,201 patent appeals and 448 interferences pending. The pending appeals represented an inventory of 39 months, and interferences took on average, over 36 months to complete. To reduce the appeal inventory backlog to six months and the average interference pendency to two years, the USPTO increased the number of Administrative Patent Judges (APJs), instituted an APJ incentive performance award program, re-instituted appeals conferences in the Patent examining corps, and made efficiency improvements at the Board. As of the end of FY 2003, BPAI had reduced the inventory of patent appeals to 1,968, or six months, and the average pendency of interferences to 22 months. The number of interferences pending at the end of the fiscal year was 107, the lowest number in 20 years. These numbers represent a 78 percent reduction in the inventory of patent appeals and a 76 percent reduction in the inventory of pending interferences since the beginning of FY 1998.

## TRADEMARK PERFORMANCE



*Jeffery M. Samuels, the new Chairman of the Trademark Public Advisory Committee, is sworn in by Anne H. Chasser, Commissioner for Trademarks.*

**T**he past year brought a number of new challenges and commitments to the Trademark Organization that required a dedicated redirection of talent and resources to prepare for significant changes in trademark operations going forward into FY 2004. The most urgent need was to prepare the rules and systems in accordance with legislation implementing the Madrid Protocol. Trademarks will deliver the first major commitments promised by this Administration as addressed in the *21st Century Strategic Plan*: complete electronic processing of trademarks and implementation of the Madrid Protocol.

During FY 2003, a record number of trademark applications were registered and disposed, and pending inventories were substantially reduced. The number of trademarks registered increased by more than seven percent to 143,424, including 185,182 classes, which increased by more than 12 percent. Total Trademark Office disposals were 238,759, including 305,040 classes. The Trademark Organization's inventory of total applications under examination was reduced by ten percent from 479,628 files with more than 654,533 classes at the start of the year, to 431,805 files, including 575,901 classes at year-end.

The USPTO received 218,596 trademark applications, including 267,218 classes for registration in FY 2003. Filings in FY 2003 were 3.2 percent higher than filings in FY 2002. The increase, however slight, followed two years of decline: 21 percent from FY 2000 to FY 2001 and nearly 13 percent from FY 2001 to FY 2002 that were preceded by two consecutive years with increases of 27 percent.

Given the continued uncertainty in new filings, our strategy was to prepare for the transition to an electronic process by focusing attention on reducing existing paper application inventories to be in a better position to implement electronic file management in FY 2004.

## TRADEMARK E-GOVERNMENT

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

*A few of the items displayed before the Agriculture Committee during hearings on the use of geographical indicators for food and drinks.*



In FY 2003, we received 57.5 percent of the initial applications for registration electronically, an increase of more than 50 percent over FY 2002. Electronic filings are continuing to increase, with 62.5 percent filed electronically in September 2003. Enhancements were made in a number of forms, which were designed to make electronic filing more attractive by encouraging greater use and acceptance among those who had not yet adopted electronic communications as their preferred way to transact business with the Trademark Organization.

Our customers have the ability to access the same data used internally in the processing and examination of trademarks and conduct nearly all their trademark-related business electronically on the USPTO website. Customers may conduct an electronic search to determine the status of pending and registered trademarks, conduct a preliminary search prior to filing an application, access general information, examination manuals, treaties, laws and regulations, obtain weekly information on marks published, registered and renewed, and file applications. Some of the systems available to our customers include the Trademark Electronic Search System, the Trademark Application Registration Retrieval System, and the Trademark Electronic Application System.



Customers can also obtain the weekly Trademark Official Gazette, Registration Certificates, and Updated Registration Certificates for the five most recent weekly issues electronically from the USPTO website as well as electronic access to the Trademark Manual of Examining Procedure. Internally, USPTO employees utilize the Trademark Information Capture and Retrieval System as the source of the electronic trademark file and the File Administration System for Trademarks, which allow trademark applications to be processed electronically from receipt through the first office action.

## PENDING INVENTORY

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Total trademark applications pending in the USPTO declined by ten percent in FY 2003 to 431,800 with 575,900 classes, which dropped by 12 percent. Twenty-seven percent of the pending file inventory is in a post Notice of Allowance status awaiting the filing of a statement of use. The inventory of applications available for examination by Trademark examining attorneys at the end of the year was 239,800 files containing 321,200 classes, essentially unchanged from the start of the fiscal year. The difference was in the composition of available work, which increased by 42 percent for applications that had not undergone initial examination. The number of applications pending following initial examination decreased by 15 percent due to the effort to complete work on applications already under examination pending approval for publication and registration. The rise of first action pendency was consistent with the increase in unexamined new applications. The decline in pending inventories was reflected in the record number of applications that were registered and disposed of.

## TELECOMMUTING

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The Trademark Organization continues to be recognized as a leader in telecommuting in the Federal Government. The Trademark telecommuting program was initially designed so that examining attorneys could perform the same work and access the same information technology systems from home as they do in the office. In FY 2002, the total number of employees who work from home was further expanded to include more employees who could perform some of their work without access to Office



*Anne H. Chasser, Commissioner for Trademarks, accepts the Best Organization for Teleworkers Award on behalf of the USPTO from Pam Tucker, President, Mid-Atlantic Telework Advisory Council.*

information systems. As of September 30, 2003, of the 239 Trademark employees who are considered eligible, 138, or 58 percent, are currently working at least one day a week from home.

Trademarks implemented "hoteling" for a portion of its work-at-home workforce. Under the terms of this program, examining attorneys may work from home for a majority of the workweek using an automated reservation system to assign office space on an as-needed basis. The program met its objective to greatly reduce office space requirements and their associated costs. All of its work-at-home examining attorneys work under the agreement, which has allowed the Trademark Organization to consolidate its workforce and reduce office space requirements.

The USPTO received the Telework Coalition Award for the Trademark Work-at-Home Program. The award is presented annually to leading businesses and government agencies that promote and successfully achieve excellence in their telework practices.

*Deputy Under  
Secretary Dudas  
testifying before the  
Agriculture Committee  
regarding  
geographical  
indications.*



## QUALITY

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**D**uring the past year, the Trademark Organization worked to establish more consistent quality measures that would better reflect the current quality of examination by setting better indicators to assess performance. The criterion expands on the issues to be considered and new standards were developed for determining the quality of in-process office actions as "excellent" or "deficient" to better reflect more meaningful and rigorous standards of quality. The information from these reviews has been used to identify training that is necessary to enhance overall product quality and to improve the consistency of examination. Three training modules and an exam guide were prepared to provide specific materials to address recurring problems that were determined based on analyses of the reviews.

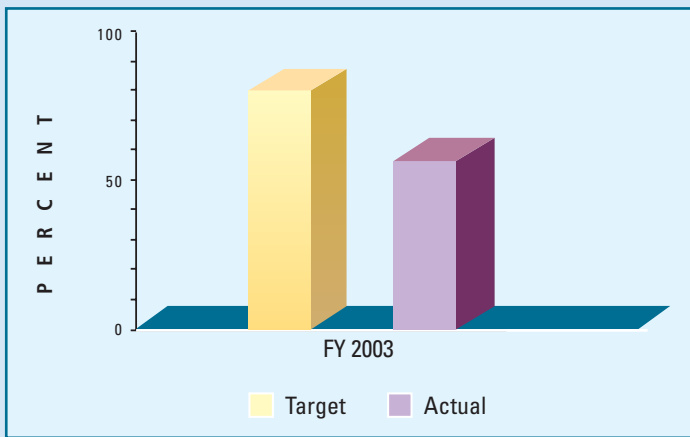
Specific performance results related to Trademark Organization goals and measures are as follows:

**GOAL: AGILITY – Address the 21st Century Economy by Becoming a More Agile Organization**

Under the *21st Century Strategic Plan*, the USPTO will work with our IP partners to improve the efficiency of our processing systems by increasing the number of applications and communications received and processed electronically, create more coordinated and streamlined work processes, and best position the USPTO for the globalization that characterizes the 21st century economy. The following performance measure has been established to reflect the USPTO’s success and progress in meeting the *21st Century Strategic Plan* goals for agility.

**NEW MEASURE: Applications Filed Electronically**

**APPLICATIONS FILED ELECTRONICALLY**



**DATA VALIDATION AND VERIFICATION**

**Data source:** Trademark Reporting and Monitoring (TRAM) system.  
**Frequency:** Daily input, weekly reporting.  
**Data storage:** TRAM and automated systems.  
**Verification:** Accuracy of supporting data is controlled through internal program edits in the TRAM system and cross checks against other automated systems.  
**Data Limitations:** None.

	FY 2000	FY 2001	FY 2002	FY 2003
<b>Target</b>	—	—	—	80.0%
<b>Actual</b>	—	—	—	57.5% <i>not met</i>

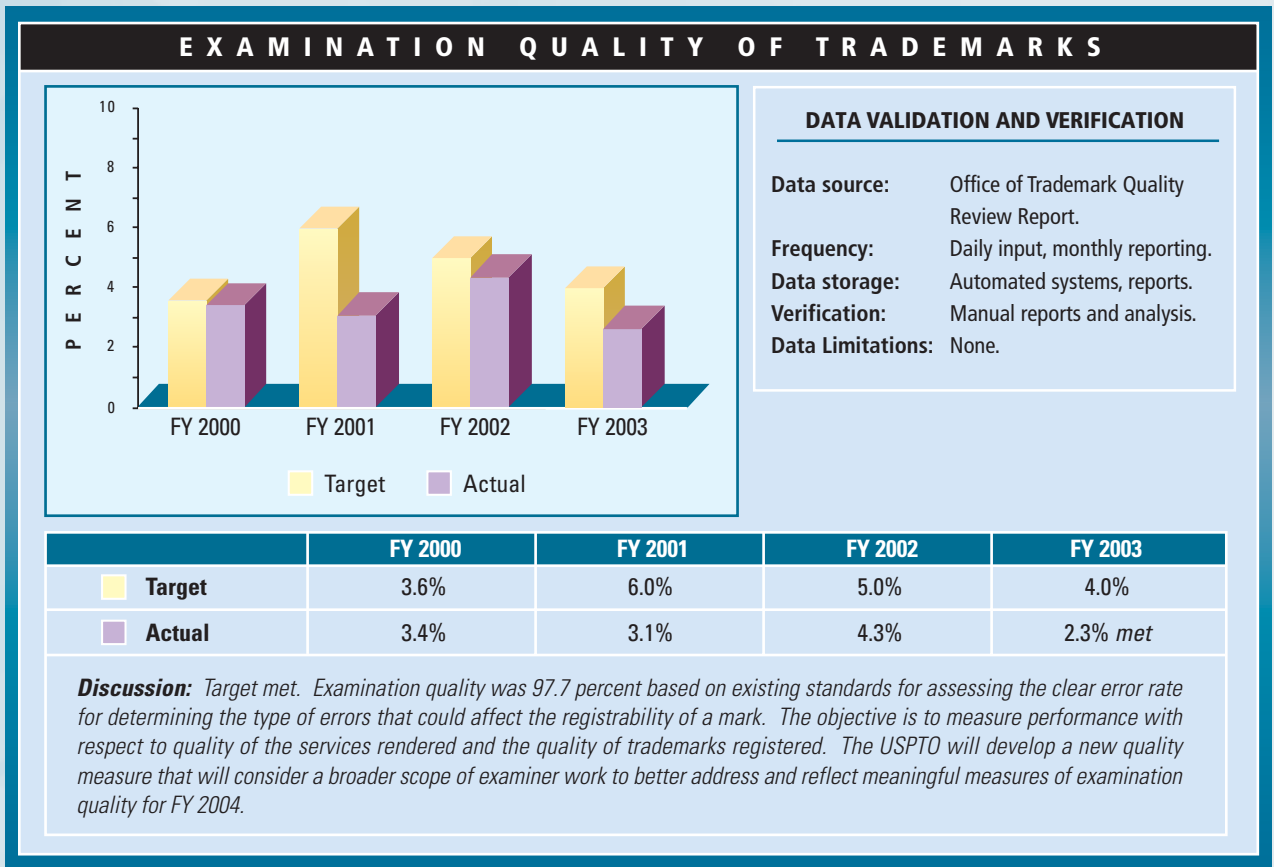
**Discussion:** *Target not met. The measure indicates USPTO’s support of, and applicants’ willingness to operate in an e-Gov environment and identifies the percent of basic trademark applications filed electronically. The goal is intentionally ambitious. The rate of filing trademark applications has progressed steadily over the past five years as a result of promotional events, improved functionality and enhancements that have been made to appeal to more customers, increasing to more than 62 percent of filings in September 2003.*

**GOAL: CAPABILITY – Enhance the Quality through Workforce and Process Improvements**

Under the *21st Century Strategic Plan*, the Trademark Organization will enhance current quality assurance programs to include a more-in-depth review of work in progress. This will include the implementation of in-process reviews, “second pair of eyes” reviews, and end-process reviews. In addition, the Trademark Organization is creating new programs for certifying the KSAs of their employees.

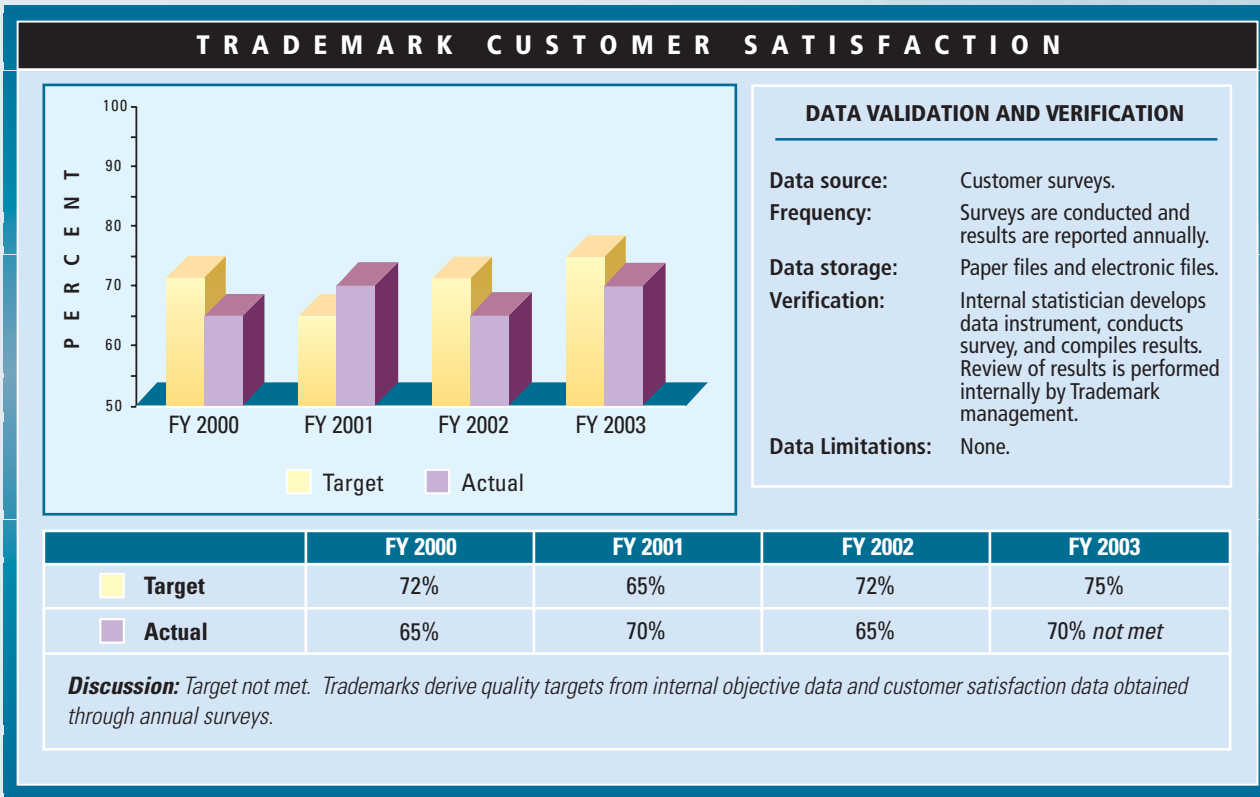
With the *21st Century Strategic Plan*, the USPTO has developed a number of new measures to assess its achievement toward the capability goals. For those new measures, the USPTO will need to establish its baseline performance during FY 2004 before establishing its out-year targets and annual goals.

**MEASURE: Improve the quality of trademarks by reducing errors**



Examination quality was 97.7 percent based on existing standards for assessing the clear error rate for determining the type of errors that could affect the registrability of a mark. The review of pending files by the Office of Trademark Quality Review determined the clear error rate to be 2.3 percent for the year. Errors related to marks that would be considered “confusing similar” under section 2(d) of the statute were determined in 3.6 percent of applications for a quality rating of 96.4 percent. The quality rate was 98.4 percent for findings on procedural errors alone.

**DISCONTINUED MEASURE IN FY 2003: Improve overall customer satisfaction**



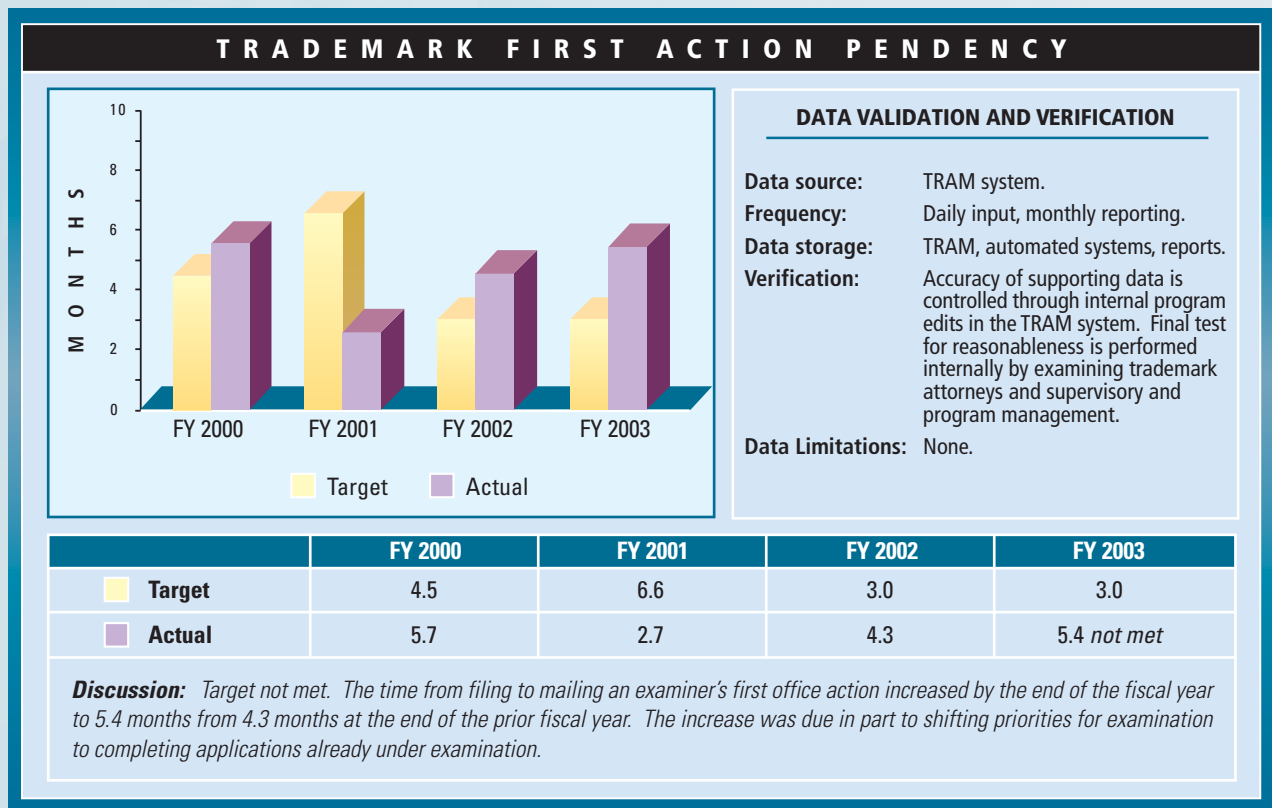
Results of the annual customer satisfaction survey indicate that considering all customer experiences with the Trademark process, 70 percent of our customers report satisfaction with our service, an increase of five percentage points from last year's results. Overall, the Trademark Organization received high marks for its quality improvement initiatives, and outstanding customer service and satisfaction with electronic filing.

The Trademark Assistance Center continued to expand the number of services offered, both internally and externally in the past year, in an effort to improve handling of customer complaints and focus more attention on problem resolution. Service level, a measure indicating the percent of phone calls responded to within 20 seconds, declined slightly from the past year to 73 percent. Improvements that focus on identifying the source of customer complaints with the objective of preventing future occurrences were implemented during the year.

**GOAL: PRODUCTIVITY – Accelerate Processing Times Through Focused Examination**

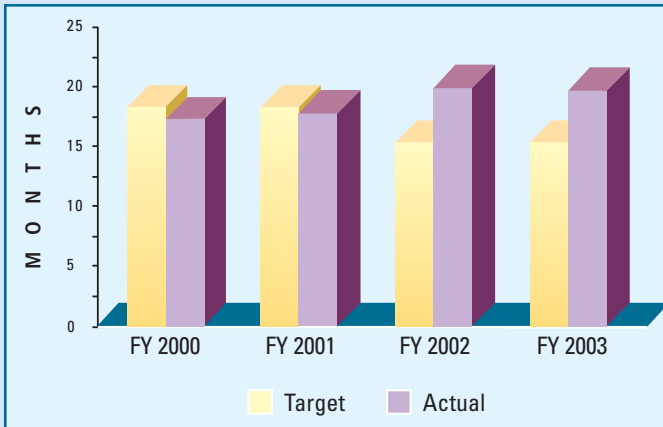
In support of the *21st Century Strategic Plan*, the USPTO will reduce trademark pendency and substantially cut the size of the work backlog. Trademarks will restructure the way it does business to be compatible with an e-Gov environment. The timely registering of trademarks supports innovation, technology, employment, business investment, and economic growth.

**MEASURE: Reduce average first action pendency (months)**



**MEASURE: Reduce average total pendency (months)**

**TOTAL TRADEMARK PENDENCY**



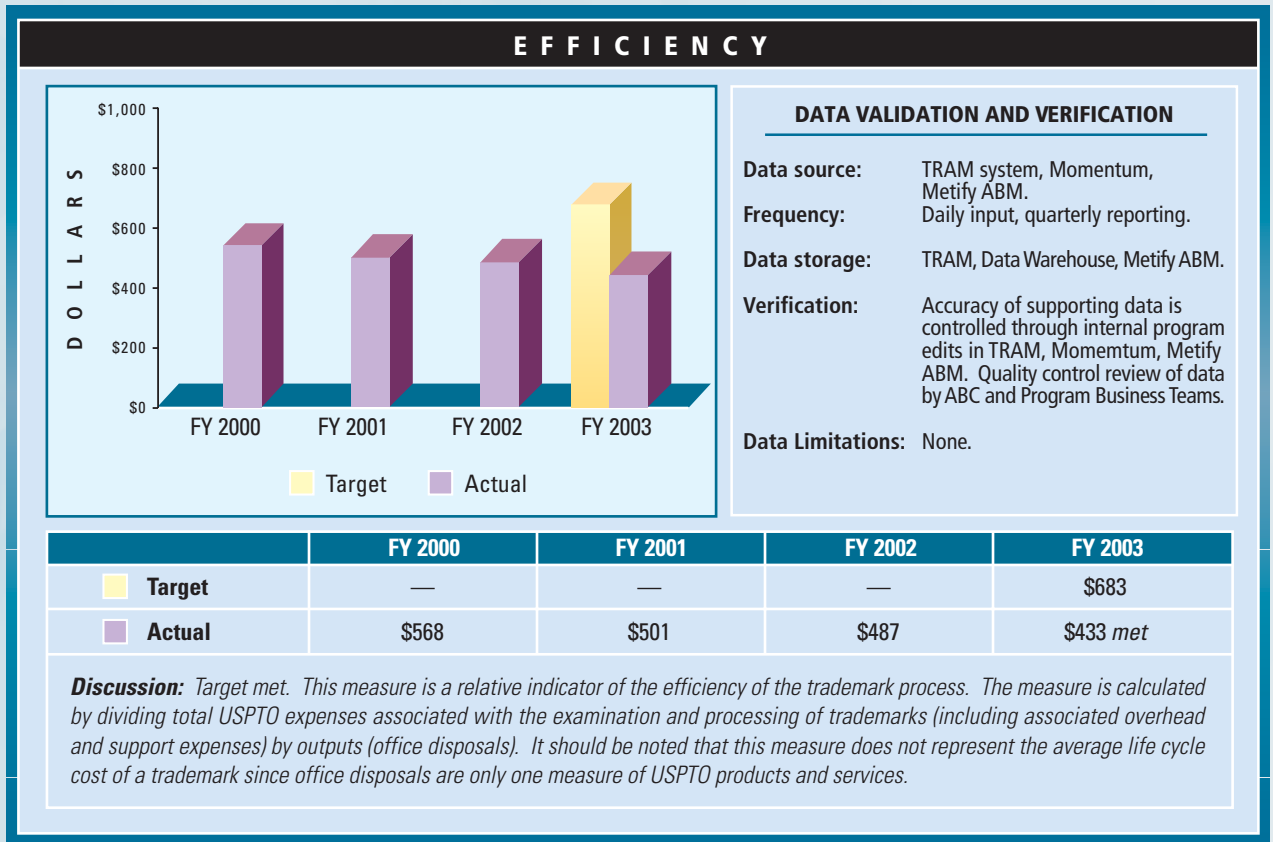
**DATA VALIDATION AND VERIFICATION**

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

	FY 2000	FY 2001	FY 2002	FY 2003
<b>Target</b>	18.0	18.0	15.5	15.5
<b>Actual</b>	17.3	17.8	19.9	19.8 <i>not met</i>

**Discussion:** Target not met. High levels of applications under examination from prior years kept overall pendency to registration, notice of allowance, or abandonment above the 13-month goal at 19.8 months. As the total number of applications under examination continues to be reduced and first action pendency declines once again to the three-month goal, overall pendency to registration will decrease.

**NEW MEASURE: Efficiency**



**TRADEMARK COMMISSIONER'S PERFORMANCE FOR FY 2003**

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

The Trademark Organization goals form the foundation for the annual performance agreement between the Commissioner for Trademarks and the Secretary of Commerce, as required by the AIPA. The performance agreement outlines measurable organizational goals and objectives for the Trademark Organization based on the above goals and performance measures. At the time of publication, the performance bonus for the Commissioner of Trademarks had not been finalized.



## THE TRADEMARK ORGANIZATION – WHAT'S AHEAD

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**T**rademarks will continue to move aggressively in the next year to implement the objectives of the *21st Century Strategic Plan* by completing the redesign of its operations to implement e-Gov as the primary means of doing business with applicants and registrants, and as the sole means for processing work inside the examining operation.

The Trademark Organization will complete a ten-year business process-reengineering plan to move Trademarks from primarily doing business with paper to doing business in an electronic environment with the implementation of electronic processing in FY 2004. Implementing an electronic file management system, in addition to our currently available electronic filing and information systems, permits:

- Reduction in cycle times by consolidating separate processes and eliminating the potential for lost or missing papers that create additional delays and poor service;
- The capture and creation of electronic documents that can be tracked and forwarded to appropriate employees for further action; and
- The ability to offer a totally electronic filing and receiving process to handle applications from U.S. applicants seeking protection of their mark in foreign countries, and requests for protection of marks from foreign countries in the U.S.

As the reliance on paper disappears from internal processes, the cost for handling applications and related materials, along with the reliance on increasing numbers of employees or contractors to handle increases in filings, will be substantially reduced. Applicants will see improved quality as Trademarks moves to using data submitted or captured electronically to support examination and to publish documents and registrations. Electronic file management presents an opportunity for the USPTO to offer multiple options for filing that allow applicants to select the method of filing that best suits their business needs. The trademark user community will benefit from the introduction of the multi-track examination, included in pending fee legislation, which will provide trademark owners options for filing at lower fees than are available today.

As described in the *21st Century Strategic Plan*, the USPTO plans to implement the following programs in FY 2004 to focus on improving the quality of trademark examination:

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

The USPTO implemented the terms of the Madrid Protocol in FY 2004. The Protocol is a trademark filing treaty that currently includes 61 member countries. Under terms of the treaty, U.S. trademark owners will be able to file a single application with the USPTO in English, pay in U.S. dollars, and potentially have their mark protected in any or all of the countries that are members of the Protocol. Non-U.S. trademark owners of member countries may elect to seek an extension of protection of their international registration in the U.S. by filing through the International Bureau.

## TRADEMARK TRIAL AND APPEAL BOARD

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**T**he Trademark Trial and Appeal Board (TTAB) met its two primary pendency goals in FY 2003. The first goal was to issue final decisions on appeals and trial cases, on average, within ten weeks of the time they were ready for decision. At the end of FY 2003, the TTAB was issuing final decisions, on average, in less than nine weeks, down from 41.5 weeks as recently as March 1999. The second primary pendency goal was to continue to reduce the time it takes to issue decisions on contested trial motions once they are fully briefed. At the end of FY 2003, the TTAB was issuing decisions on contested motions, on average, in just over ten weeks, down from 19.2 weeks as recently as March 2001.

The TTAB has developed a suite of systems that allow almost complete electronic processing of cases before the Board. In FY 2003, the TTAB fully installed its electronic case processing system, in which new filings are either received electronically or scanned to create an electronic image, and files are routed within the Board automatically. TTAB also implemented its electronic filing system in FY 2003. That system provides forms for the electronic filing of requests for extensions of time to oppose, notices of opposition, and motions and other documents in interpartes cases, and will be expanded to cover other TTAB filings in FY 2004. Finally, the TTAB deployed its TTABVue system to the Trademark Public Search Room in FY 2003, anticipating deployment to the Internet in early FY 2004. TTABVue allows public access to the image records and prosecution history data for filings in proceedings filed since January 2003, and a significant percentage of those filed after June 2001.

## INTELLECTUAL PROPERTY POLICY AND LEADERSHIP PERFORMANCE



*As U.S. Ambassador to Italy Melvin Sembler looks on, Under Secretary Rogan signs a joint declaration committing Italy and the U.S. to jointly pursue a compatible electronic filing system for trademarks.*

In addition to the examination and issuance of patents and trademarks, USPTO works to promote protection of the intellectual property of American innovators and creators on both the domestic and international levels. As the largest IP office in the world, the USPTO is leading efforts to develop and strengthen domestic and international IP protection.

Under the AIPA of 1999 (Public Law 106-113), the USPTO is directed to advise the President, through the Secretary of Commerce, and all Federal agencies, on national and international IP policy issues including IP protection in other countries. USPTO is also authorized by the AIPA to provide guidance, conduct programs and studies, and otherwise interact with foreign IP offices and international intergovernmental organizations on matters involving the protection of IP.

The growing importance of IP rights and the globalization of economic activity has led to new cooperative initiatives between the USPTO, international bodies, and other IP offices, including the EPO, the JPO, the European Union's Office for Harmonization in the Internal Market (OHIM) for trademarks and designs, the World Intellectual Property Organization (WIPO), and the World Trade Organization (WTO). International negotiations, consultations, and information-sharing efforts led by USPTO leaders and international specialists are geared to providing simpler, more cost-effective means of protecting the IP rights of U.S. nationals throughout the world.

In FY 2003, IP activities included:

### IP TREATIES/AGREEMENTS

- **Madrid Protocol:** The U.S. deposited its instrument of ratification on August 2, 2003, and the USPTO began receiving applications under the Madrid Protocol on November 2, 2003. The Madrid Protocol is a treaty that facilitates the protection of U.S. trademark rights throughout the world. U.S. trademark owners are now able to file a single on-line application with the USPTO in English, pay the fees in U.S. dollars, and potentially obtain protection for their marks in any or all of the 61 member countries that are members of the Madrid Protocol.
- **Patent Cooperation Treaty Reform:** The USPTO continued to participate in WIPO's Committee on Reform of the Patent Cooperation Treaty (PCT) in an effort to achieve a more simple, cost-effective system. Major treaty reforms, based on a U.S. initiative, will go into effect on January 1, 2004. The Meeting of the International Authorities (MIA) mechanism was reconvened in FY 2003 to revise and refine the PCT search and examination guidelines to reflect changes to the PCT

Regulations adopted by the Assembly in September 2002. The USPTO took the lead in revising the now-completed PCT search and examination guidelines. These guidelines are expected to facilitate the recognition of work among the PCT authorities and national offices.

- **Standing Committee on Law of Patents:** The USPTO participated in WIPO's Standing Committee of the Law of Patents in an effort to agree to a harmonized set of substantive patent laws. If successful, a final substantive patent law treaty would help control workloads and enable applicants to use a single application to obtain patent protection in a number of different countries.
- **WIPO Internet Treaties:** Under the Digital Millennium Copyright Act (DMCA), the USPTO is required to prepare an annual report to Congress on the international status of ratification, implementation, and enforcement of the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). These treaties, commonly known as the WIPO Internet Treaties, are designed to ensure international protection of copyrighted works, performances, and sound recordings in the digital environment. Over the last five years, USPTO has worked to ensure the ratification and full implementation of the Treaties, which entered into force in FY 2002. In its final report to Congress regarding the treaties, USPTO reported that 42 States had acceded to or ratified the WCT and the WPPT, respectively. Currently 41 countries are members of each Treaty, helping to create a seamless web of protection for copyright works on-line.
- **Standing Committee on the Law of Trademarks, Industrial Designs, and Geographical Indications:** The USPTO succeeded in promoting Trademark Law Treaty (TLT) reform as the primary focus of work by the Standing Committee. The TLT presently requires Members to accept certain trademark filings on paper. Reform of the TLT would give the USPTO flexibility to convert to complete electronic processing for trademarks. The USPTO also continued its educational work aimed at raising awareness of the need for fair treatment of trademarks and geographical indications. Geographical indications are signs or names used to indicate the regional origin of particular goods or services (e.g., "IDAHO" for potatoes).
- **Standing Committee on Copyright and Related Rights (SCCRR):** The USPTO continued to participate in the work of the SCCRR to develop its proposal on treaty language for a new WIPO treaty for the Protection of the Rights of Broadcasting, Cablecasting, and Webcasting Organizations. The SCCRR also monitored national developments in the legal protection of databases and reported on related developments in U.S. legislation.
- **Free Trade Agreements:** The USPTO advised the Office of the USTR on IP issues in successful negotiations with Singapore and Chile on FTAs. USPTO also began advising USTR on FTAs with Australia, Morocco, and five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua). The USPTO also continued advising USTR on the multi-year negotiations on the Free Trade Area of the Americas (FTAA). In these negotiations, USPTO worked with USTR and delegations from each country to assure that standards are created that build on the foundation established in the Trade Related Aspects of Intellectual Property (TRIPS) Agreement and other international agreements to protect IP.
- **WTO/TRIPS:** The USPTO actively participated in U.S. delegations to the Council for TRIPS of the WTO over the past year. The TRIPS Council continued to review the IP regimes of numerous countries and continued its discussions relating to compulsory licensing of patents in the pharmaceutical sector, technology transfer, the protection of geographical indications, and other issues. With the continuation of the ongoing round of multilateral trade negotiations in the WTO that was launched at Doha, Qatar, in November 2001, the USPTO has remained actively involved in WTO IP property issues.
- **International Science and Technology Agreements:** The USPTO continued working closely with the U.S. Department of State in the negotiation of cooperative Science and Technology (S&T) agreements with other countries, including provisions of the IP annex to S&T agreements that ensures equitable allocation of rights to IP created in the course of cooperative research.



*Over 30 Chinese judges visited the USPTO to learn more about civil and criminal intellectual property enforcement.*

## ENFORCEMENT

- **Technical Assistance & Training:** The USPTO was engaged on a number of fronts to strengthen IP administration and enforcement abroad. For example, in July 2003, the USPTO hosted the “USPTO/WIPO Asia and Pacific Program for the Judiciary on Intellectual Property Rights (IPR) Enforcement” in Washington, D.C., for members of the appellate and supreme court judiciary from Asia and the Pacific region on IPR protection and enforcement. In August 2003, the USPTO organized a program with the Jordan IP Association, the International Intellectual Property Institute, the Court of Appeals for the Federal Circuit, and George Washington University Law School in Amman, Jordan, to celebrate IP Week. More than 300 lawyers, government officials, and other interested Jordanians attended this four-day program. The USPTO also hosted several delegations of prosecutors, judges, and lawyers from China, and worked with Commerce and other officials to provide outreach to U.S. businesses handling challenged IPR issues overseas, including a pilot project to provide assistance to small and medium-sized businesses throughout the U.S. encountering IPR problems in China.
- **Bilateral and Plurilateral Negotiations:** The USPTO advised many U.S. Government agencies on issues involving IPR protection and enforcement involving countries, regions, and international organizations throughout the world. For the second year, a USPTO official served on temporary assignment to the U.S. Embassy in Beijing to assist the embassy and U.S. rights holders on IPR issues in the People’s Republic of China. USPTO officials have also supported negotiations undertaken by Commerce, USTR, and other officials on IP matters in various countries. By working closely with USTR, the U.S. Department of Justice, and Commerce’s International Trade Administration, USPTO officials have also worked to provide for proportionate, deterrent penalties for commercial scale counterfeiting and piracy in East Asia, South Asia, and other regions.
- **Special 301:** The USPTO advised USTR in the administration of the Special 301 provisions in U.S. trade law, which requires USTR to identify those countries that do not provide adequate and effective protection for IPR or lack of market access for products relying on IP protection. The USPTO provided analyses of IP laws of numerous countries, and participated in several bilateral consultations and negotiations conducted by USTR under Special 301 and in the context of the U.S. trade agenda.

*Under Secretary Rogan poses with Jorge Amigo, Director General of the Mexican Intellectual Property Office and other Mexican officials after discussing cooperation efforts between the two offices.*



## TRILATERAL

- **Patent Trilateral Offices:** The USPTO prepared for the 21st Annual Trilateral Conference to be held in Tokyo, Japan, in November 2003. The meeting focused on issues that will assist in carrying out the USPTO's *21st Century Strategic Plan*. The main focal points were supporting the objectives of workload sharing, harmonization of practices, and collaborating on automation developments in electronic filing and electronic file wrapper systems.
- **Trademark Trilateral Cooperation Meeting:** At the May 2003 meeting, the USPTO, together with the JPO and OHIM, agreed to a trademark identification project that will produce a list of identifications of goods and services acceptable to all three Offices for users of any of the three systems.

## GEOGRAPHICAL INDICATIONS

- **Worldwide Symposium on Geographical Indications:** In July 2003, the USPTO and WIPO organized and hosted a three-day "Worldwide Symposium on Geographical Indications." The Symposium was held in anticipation of the WTO's 5<sup>th</sup> Ministerial Conference in Cancun, Mexico, and provided a forum for the exchange of information and views on geographical indications at the national, regional, and international levels and on future trends in that area. Presentations were made by experts in the field of protection of geographical indications representing international organizations, non-governmental organizations, producers, and administrators from WIPO Member States from around the world.

## DIGITAL RIGHTS MANAGEMENT

- **Technology Education and Copyright Harmonization Act Report:** On May 14, 2003, USPTO released its report to Congress on technology designed to protect digitized copyrighted works from infringement, as required under the Technology Education and Copyright Harmonization Act of 2002, which was signed into law in November 2002. The study identified over 100 commercial firms that have developed, are proposing to develop, or are currently offering such technological protection systems. The report also contains information on selected products that are currently available in the marketplace, along with industry-led initiatives, including standard-setting activities, to develop new products.

## MISCELLANEOUS

- **WIPO Intergovernmental Committee:** The USPTO headed the U.S. delegation to the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge, and Folklore. The focus of U.S. efforts is to encourage developing countries to meet stated concerns about protecting genetic resources, traditional knowledge, and folklore either through current IP regimes or through non-IP laws, and to strongly discourage the creation of new legal regimes.

## INTELLECTUAL PROPERTY POLICY DEVELOPMENTS IN DOMESTIC LITIGATION



Former Senator Birch Bayh of Indiana and Deputy Under Secretary Dudas pose with Italian patent officials. Former Senator Bayh spoke to the group regarding the Bayh-Dole Act. The 1980 legislation has successfully stimulated the commercialization of technology created by universities and small business firms who receive funding from the U.S. government.

### LITIGATION

Under 35 United States Code (U.S.C.) § 2, the Under Secretary of Commerce for Intellectual Property and Director of the USPTO advises the President and other agencies on IP policy, both domestic and international. For example, in domestic litigation, in addition to defending cases in which the Office is sued for decisions it has rendered, the USPTO advises the Solicitor General of the United States on IP matters before the U.S. Supreme Court. In FY 2003, the Office was requested by the Solicitor General to assist in formulating the United States' position in six cases before the Supreme Court.

In *Moseley v. V. Secret Catalogue*, 537 U.S. 418 (2003), the Supreme Court addressed for the first time the Federal Trademark Dilution Act of 1995, in particular the standard of proof required to show that a "famous" trademark is being diluted by a trademark being used by another. Upon the Court's granting certiorari, the U.S. filed an amicus brief supporting the petitioner in-part. The USPTO had a direct interest in the case because under the Act, the TTAB is also charged with resolving issues concerning whether a proposed trademark dilutes a famous trademark. Adopting a position not taken by either party, the U.S. proposed that, in a court case alleging use of a mark in violation of the Act, a plaintiff must show actual dilution, but may do so without necessarily establishing economic harm. The Supreme Court "largely adopted an approach proposed by Solicitor General Theodore B. Olson on behalf of the Patent and Trademark Office." N.Y. Times, March 5, 2003.

In five other IP cases on which private parties sought certiorari to the Supreme Court, the Court invited the Solicitor General to address the question of whether the petition should be granted. The Solicitor General accepted the Supreme Court's invitation in all five cases and enlisted the assistance of the Solicitor's Office in each case. The United States recommended against certiorari in each of these cases for different reasons and the Supreme Court agreed, leaving intact the circuit court decision. Thus, the Court let stand the following:

- The Federal Circuit's reliance on the Uniform Commercial Code in holding the patent not invalid based on allegations that the invention was "on sale" more than one year before the inventor filed his patent application (*Micrel v. Linear Tech.*, 123 S.Ct. 2129 (2003));

- The holding that the USPTO had improperly initiated a reissue proceeding contrary to a rule that the agency has since amended (*Dethmers Mfg. v. Automatic Equip.*, 123 S.Ct. 2637 (2003));
- The holding that it was an error to rely simply on a university's nature as a non-profit, research institution as sufficient to establish its entitlement to an experimental use defense to patent infringement (*Duke Univ. v. Madey*, 123 S.Ct. 2639 (2003));
- The decision that a sublicense of a fraudulently obtained patent license did not provide the asserted sublicensee a defense for patent infringement (*Monsanto v. Bayer CropScience*, 123 S.Ct. 2668 (2003)); and
- The finding that plaintiff had no enforceable copyright in a building code that, at its urging, municipalities had enacted into law (*Southern Bldg. Code v. Veeck*, 123 S.Ct. 2636 (2003)).

In addition, the USPTO participated as amicus curiae in cases before the Federal Circuit that raised issues of significant patent policy even when it was not a party. Thus, in *Eli Lilly v. Bd. of Reg. of the Univ. of Wash.*, 334 F.3d 1264 (Fed. Cir. 2003), the USPTO filed an amicus brief in support of the decision entered by the USPTO's BPAI. In agreeing with the USPTO, the Court held that the patent interference statute, 35 U.S.C. § 135, gives the USPTO Director discretion to declare interferences by applying a "two-way" test for determining whether two parties are claiming the same patentable invention. Significant policy issues also arose among the 48 court of appeals cases and 22 district court cases resolved in the fiscal year in which the USPTO was a party. For example, in *In re Boulevard Entm't*, 334 F.3d 1336 (Fed. Cir. 2003), the Court held that a showing of vulgarity suffices to establish scandalousness, and that the USPTO satisfied its burden of proof based on dictionary evidence of the term's vulgarity. In *Star Fruits v. United States*, 03-463-A (E.D. Va.), the Court held that the USPTO did not act arbitrarily in declaring a patent application abandoned when applicant, claiming that the requested information could not be the basis for a rejection of its application, failed to comply with the examiner's requirement for information under 37 C.F.R. § 1.105.



## MANAGEMENT CHALLENGES



*Chief of Staff Wayne Paugh, Under Secretary Rogan, President of Portugal's National Institute of Intellectual Property Jaime Andres, and Brad Huther, Senior Advisor to the Under Secretary, pose following discussions regarding key initiatives of the USPTO's 21st Century Strategic Plan.*

## THE 21ST CENTURY STRATEGIC PLAN

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

- **Multilateral and Bilateral Agreements** – To streamline the IP system and protections, the USPTO must consult with, and receive the support of, other IP offices in structuring new bilateral and multilateral initiatives and agreements. This includes accelerating PCT reform efforts, focusing on the USPTO's proposal for simplified processing; developing a universal electronic application by leveraging the USPTO's experience with trademark applications and the EPO's experience with patent filings; and promoting harmonization to strengthen the rights of American IP holders making it easier to obtain international protection for their inventions and creations. Reaching agreements on these aspects will require all sides to openly communicate and compromise toward a more global convergence of patent and trademark standards.

- Legislation/Rules – The USPTO will propose legislative and regulatory changes to current patent and trademark laws. The fee restructuring aspects will generate additional fee collections to be used to fund the critical investments in resources and technology in support of *21st Century Strategic Plan* goals. Additional changes, including the establishment of corresponding fees, are also being proposed to provide customer choice and streamline the patent and trademark examination processes. The passage of these changes, including new fees and fee restructuring, is essential and critical to accomplishing the *21st Century Strategic Plan*.
- Labor Relations – The *21st Century Strategic Plan* introduces a large number of changes to current work processes and procedures. The USPTO will notify the three bargaining units representing USPTO employees of the proposed changes and negotiate, where necessary, on any changes in working conditions. The USPTO must be able to implement these changes in work processes in a timely manner in order to meet *21st Century Strategic Plan* goals and objectives. This must be done in light of labor requirements for coordination, communication, and negotiation.
- Funding – Sufficient and sustained funding over the five-year life cycle of the *21st Century Strategic Plan* is essential. Without this, the USPTO will not be able to make critical investments in resources and technology necessary for enhancing quality, developing and/or acquiring automated systems to move to a fully electronic operating environment, and improving pendency.

## **SPACE CONSOLIDATION – MOVE TO USPTO HEADQUARTERS IN ALEXANDRIA, VIRGINIA**

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

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

In FY 2003, the interior space for the entire campus was planned, designed, put out for subcontractor bids, and awarded. With the aid of an exceptional government and developer team, most phases of construction are currently either on or ahead of schedule. The USPTO began occupying the first two buildings (Remsen and Jefferson) and the east garage in December 2003. Full occupancy is scheduled by mid-FY 2005, but may occur sooner.

## THE PRESIDENT'S MANAGEMENT AGENDA

### STRENGTHENING MANAGEMENT

**T**he President has established a bold strategy to improve the Federal Government's management and performance by calling on Federal agencies to focus on and solve the most critical problems. The information below provides the USPTO's assessment of the five government-wide initiatives described in the President's Management Agenda. An assessment by OMB and Commerce has not been performed for the USPTO PMA initiatives.

**Human Capital:** The *USPTO 21st Century Strategic Plan* supports the human capital elements. We are providing the tools and the resources to ensure that the USPTO has a highly qualified, certified, knowledge-based, and accountable workforce. The *21st Century Strategic Plan*, together with the *USPTO Strategic Workforce/Restructure Plan* lay out an explicit workforce planning strategy that is linked to the Agency's strategic and program planning efforts. The Agency has projected its current and future human capital needs, including: the size of the workforce; deployment across the organization; and key competencies needed to fulfill its mission and strategic goals. The *21st Century Strategic Plan* and the *USPTO Strategic Workforce/Restructure Plan* demonstrate that the USPTO is focused on building competencies in response to customer demands for enhanced quality, leveraging competitive sourcing and e-Gov to better manage time devoted to examination of patent and trademark applications. The *21st Century Strategic Plan* also views workforce planning from an international perspective, as well as how work sharing can have an impact on human capital planning and management. In addition, the USPTO's current organizational structure supports decision-making at the lowest appropriate level. In the primary examination units - the Patent Organization and the Trademark Organization - only one layer of management exists between the Senior Executive Service level and the patent examiner or trademark examining attorney. Primary patent examiners and trademark attorneys have full signatory authority to grant patents and register trademarks on behalf of the U.S. without further supervisory review.

**Competitive Sourcing:** The USPTO is committed to achieving performance enhancements and cost-savings through competitive sourcing. In this regard, we have already outsourced many administrative functions, such as payroll, mail processing/handling, clerical support, data transcription, systems maintenance and development, and help desk support. In particular, service contracts have presented an excellent opportunity to help us deal with fluctuating workloads and minimize the impact on our employees as the USPTO transitions to a fully electronic workplace. The *21st Century Strategic Plan* offers new approaches for performing work that is currently accomplished by Federal employees. While preserving the inherently governmental responsibilities for examination, the USPTO is committed to increasing patent examiner output by relying on commercial entities for conducting prior art searches, classifying patent documents, and performing administrative reviews associated with the examination process. All decisions regarding patentability will remain the responsibility of patent examiners who are USPTO employees.

**Improved Financial Management:** The USPTO is in compliance with all Federal accounting principles and standards and has reported no instances of material weaknesses in internal controls or non-compliance with financial related laws and regulations. The USPTO will continue to maintain and strengthen its internal controls and improve the timeliness and usefulness of its financial management information. FY 2003 marked the eleventh consecutive year of an unqualified audit opinion and seventh consecutive year with no material weaknesses. The USPTO has a strong, fully integrated financial management system and uses a data warehouse to accommodate both financial and operational data. The data warehouse is used by managers for analyzing financial results and performance and by Supervisory Patent Examiners for managing patent processing timeframes. The USPTO also operates a mature ABC system that captures costs of core mission activities and both direct and indirect costs for the entire USPTO. Managers use data from the ABC system to analyze the cost of operations when making decisions regarding improving processes, setting fees, or developing budget requirements.

**E-Government:** The USPTO is accelerating deployment of critical automated information systems, particularly the electronic end-to-end processing of patent and trademark applications in conjunction with the e-Gov initiative. In addition, the USPTO is currently working on ways to improve delivery schedules, reliability, performance, security, and monitoring the cost of its automated information systems. In FY 2004, the USPTO will implement the Madrid Protocol along with the Trademark Information System, a trademark electronic file management system. The USPTO is also on target to deliver an operating pipeline to process patent applications electronically by October 1, 2004. At the center of the patent e-Gov strategy is the EPO ePHOENIX system. This collaboration will help to achieve common goals and share systems already in use or in development. The system implemented in October 2004 will be an IFW that includes an electronic image of all incoming and outgoing paper documents.

The USPTO chooses IT projects that best support its mission and comply with its enterprise architecture. Individual projects are evaluated in the broader context of technical alignment with other IT systems, as well as the investment's impact to the USPTO IT portfolio's performance, as measured by cost, benefit, and risk. As part of the Capital Planning and Investment Control process, the USPTO prioritizes each investment and decides which projects will be funded in subsequent fiscal years. Once selected, each project is managed and monitored consistently throughout its life cycle. At key milestone dates, progress reviews are conducted to compare the project's status to planned benefit, cost, schedule, and technical efficiency and effectiveness measures.

**Budget/Performance Integration:** The USPTO develops an annual corporate plan that integrates the performance plan and budget so that program activities and new initiatives are aligned with outputs and targeted results. Budget resources are allocated to the programs based on the requirements identified for achieving organizational goals and forecasted incoming workload. Resource allocations are modified as workload projections and fee income change. The *21st Century Strategic Plan* is a five-year plan with identified critical tasks designed to provide the USPTO and external organizations (e.g., Administration, Office of Management and Budget (OMB), Congress, other stakeholders) with a long-term vision of Agency goals, potential funding levels, and planned outcomes. The USPTO allocates budget resources to the programs consistently, adhering to the concept of linking resources to achieving both enterprise-wide strategic goals and individual unit performance targets.

*Commissioner of Trademark Anne H. Chasser poses with members of the The Trademark Postal Team. The team received the General Services Administration's coveted Interagency Resources Management Conference Team Award. The award was presented for developing a fully automated e-government system that generates and sends bulk mail to the U.S. Postal Service's NetPOST Web site for printing, stamping and mailing.*



## MANAGEMENT CONTROLS AND COMPLIANCE

### WITH LAWS AND REGULATIONS

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

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

#### FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT

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

During the third quarter of FY 2003, the OIG reviewed the USPTO IT Security Program and reported substantial improvement over the previous year. In FY 2002, none of our critical information systems were certified and accredited. At that time, OIG recommended declaration of a FISMA material weakness until the C&A had been completed for all mission critical and classified systems.

By contrast, in FY 2003 we accomplished rigorous C&A in accordance with Government standards for all mission critical and classified systems. Beginning with the Network Perimeter, eleven aggregate systems, comprising approximately 65 percent of processing equipment, were inspected and deficiencies were noted. Each inspected system had deficiencies that required remediation prior to the USPTO Designated Approving Authority granting full Authority To Operate. The Network Perimeter completed interim authority to operate in February 2003 and subsequent remediation of risks by June 2003, allowing full Authority to Operate. Remaining mission critical and classified systems were granted interim authority to operate in September 2003 with remediation plans scheduled for completion by January 2004.

We have demonstrated the ability to execute C&A remediation in compliance with Government standards with the Network Perimeter System. The rigor of inspection and demonstrated ability to resolve deficiencies provides substantial results in addressing the FY 2002 material weakness. While the OIG reflected this progress in its annual FISMA review for the Department (Independent Evaluation of the Department of Commerce's Information Security Program Under the Federal Information Security Management Act, Final Inspection Report No. OSE-16146, Sep 2003), the report recommends that USPTO repeat its FISMA material weakness declaration in FY 2003 until all mission critical and classified systems receive full authority to operate.

All remaining business essential systems are scheduled for completed C&A by September 2004.

## INSPECTOR GENERAL ACT AMENDMENTS

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

The USPTO's follow-up actions on audit findings and recommendations are essential to improving the effectiveness and efficiency of our programs and operations. As of September 30, 2003, while actions were being taken to address the findings, management still had four recommendations outstanding on reports issued in FY 2002 and prior. No new reports had been issued during FY 2003. For a summary of audit findings and recommendations, see below.

STATUS OF IG ACT AMENDMENTS AUDIT RECOMMENDATIONS <i>as of September 30, 2003</i>				
Report for Fiscal Year	Status	Recommendation	Action Plan	Completion Date
FY 2001	Open	To improve overall personnel operations regarding the clearing of backlogged personnel actions forms and to strengthen internal controls over the Official Personnel Files (OPF).	A quarterly review began 10/1/02. All missing SF-50s have been printed for all on-site OPFs. OPFs that are currently signed out by others in the USPTO organization will be audited as they are returned over the next fiscal year.	Estimated September 2004
FY 2001	Open	Coordinate training in international intellectual property law enforcement and provide clarification of the Council's role to the other agencies involved.	One additional full-time equivalent was hired in August 2003. When the action plan was developed several years ago, it was envisioned that the enforcement staff levels would increase significantly.	Estimated January 2004
FY 2002	Open	Reexamine the recruiting process to determine whether recruiting techniques can be developed to better identify those applicants most suited, and those not suited, for the patent examination process.	The partnership with the OPM to conduct a study to determine if we can develop patent examiner candidate characteristics along with a series of questions for use as a recruiting tool has been delayed due to budget constraints. USPTO has developed and completed an in-house survey to determine the need for pre-employment testing of applicants for oral and written communication skills. The results are being evaluated to determine the need for pre-employment testing.	Estimated September 2004
FY 2002	Open	Reexamine the recruiting process to better inform patent examiner applicants about the nature of USPTO's production-oriented work environment.	A number of revisions and updates to the Recruitment CD were placed on hold because of the new USPTO logo that was official as of October 1, 2003. A sound/video byte with current examiners will be included in the next update.	Estimated September 2004

## FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT

The FFMIA requires Federal agencies to report on agency compliance with Federal financial management system requirements, Federal accounting standards, and the U.S. Government Standard General Ledger. The USPTO substantially complied with all three aspects of the FFMIA for FY 2003.

## OMB FINANCIAL MANAGEMENT INDICATORS

The OMB prescribes the use of quantitative indicators to monitor improvements in financial management. The USPTO tracks other financial performance measures as well. The table below shows the USPTO's performance during FY 2003 against performance targets established internally and by the OMB:

Financial Performance Measure	FY 2003 Target	FY 2003 Performance
Percentage of Timely Vendor Payments	95%	97%
Percentage of Payroll by Electronic Transfer	90%	99%
Percentage of Treasury Agency Locations Fully Reconciled	95%	100%
Timely Posting of Inter-Agency Charges	30 days	21 days
Timely Reports to Central Agencies	95%	100%
Average Processing Time for Travel Payments	8 days	6 days
Audit Opinion on FY 2003 Financial Statements	Unqualified	Unqualified
Material Weaknesses Reported for FY 2003	None	None

## 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 2003, the USPTO did not pay interest penalties on 97.1 percent of the 9,168 vendor invoices processed, representing payments of approximately \$418.5 million. Of the 565 invoices that were not processed in a timely manner, the USPTO was required to pay interest penalties on 270 invoices, and was not required to pay interest penalties on 295 invoices, where the interest was calculated at less than \$1. The USPTO paid only \$86 in interest penalties for every million dollars disbursed in FY 2003. Virtually all recurring payments were processed by EFT in accordance with the EFT provisions of the Debt Collection Improvement Act of 1996.

## **CIVIL MONETARY PENALTY ACT**

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**T**here were no Civil Monetary Penalties assessed by the USPTO during FY 2003.

## **DEBT COLLECTION IMPROVEMENT ACT**

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

## **BIENNIAL REVIEW OF FEES**

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**T**he Chief Financial Officers' Act of 1990 requires a biennial review of agency fees, rents, and other charges imposed for services and things of value it provides to specific beneficiaries, as opposed to the American public in general. The objective of the review is to identify such activities and to begin charging fees, where permitted by law, and to periodically adjust existing fees to reflect current costs or market value so as to minimize general taxpayer subsidy of specialized services or things of value (such as rights or privileges) provided directly to identifiable non-Federal beneficiaries. The USPTO is a fully fee-funded agency without subsidy of general taxpayer revenue. For non-legislative fees, it uses ABC to evaluate the costs of activities and to determine if fees are set appropriately. When necessary, fees are adjusted to be consistent with the program and with the legislative requirement to recover full cost of the goods or services provided to the public.

## **IMPROPER PAYMENTS INFORMATION ACT**

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**D**uring FY 2003, USPTO had controls in place to identify erroneous payments. In FY 2004, we have initiated procedures to formally monitor all erroneous payments, such as inadvertent errors. However, we do not anticipate having any erroneous payments during FY 2004 that exceed the ten million dollar threshold.



## FINANCIAL HIGHLIGHTS

The independent auditing firm of KPMG LLP issued an unqualified audit opinion on USPTO's FY 2003 financial statements, provided on pages 63 to 84. This is the eleventh consecutive year the USPTO has received an unqualified audit opinion. The unqualified audit opinion provides independent assurance to the public that the information presented in USPTO's financial statements is accurate and reliable. Preparing these statements is part of the USPTO's goal to continually improve financial management.

## FINANCIAL CONDITION

### Net Position

The following table depicts the USPTO's financial condition for the past four fiscal years. Net position was \$403.2 million as of September 30, 2003, a decrease of \$7.5 million, or 1.8 percent, from the FY 2002 balance of \$410.7 million.

Composition of USPTO Assets and Liabilities (Dollars in Millions)	FY 2003	FY 2002	FY 2001	FY 2000
Cash	\$ 11.4	\$ 9.3	\$ 11.5	\$ 20.0
Fund Balance with Treasury	985.6	926.1	923.4	810.4
Property and Equipment, Net	117.4	119.2	128.6	124.8
Accounts Receivable and Prepayments	37.1	40.9	9.1	7.3
Total Assets	<u>\$ 1,151.5</u>	<u>\$1,095.5</u>	<u>\$1,072.6</u>	<u>\$ 962.5</u>
Percentage Change in Total Assets	5.1%	2.1%	11.4%	17.6%
Deferred Revenue	\$ 504.2	\$ 466.0	\$ 375.0	\$ 338.8
Accounts Payable	80.1	74.7	60.2	52.1
Accrued Payroll, Leave, and Benefits	75.4	68.0	80.7	69.0
Customer Deposit Accounts	74.4	64.8	57.5	55.1
Other Liabilities	14.2	11.3	20.6	18.0
Total Liabilities	<u>\$ 748.3</u>	<u>\$ 684.8</u>	<u>\$ 594.0</u>	<u>\$ 533.0</u>
Percentage Change in Total Liabilities	9.3%	15.3%	11.4%	17.5%
Net Position	<u>\$ 403.2</u>	<u>\$ 410.7</u>	<u>\$ 478.6</u>	<u>\$ 429.5</u>
Percentage Change in Net Position	(1.8%)	(14.2%)	11.4%	17.8%

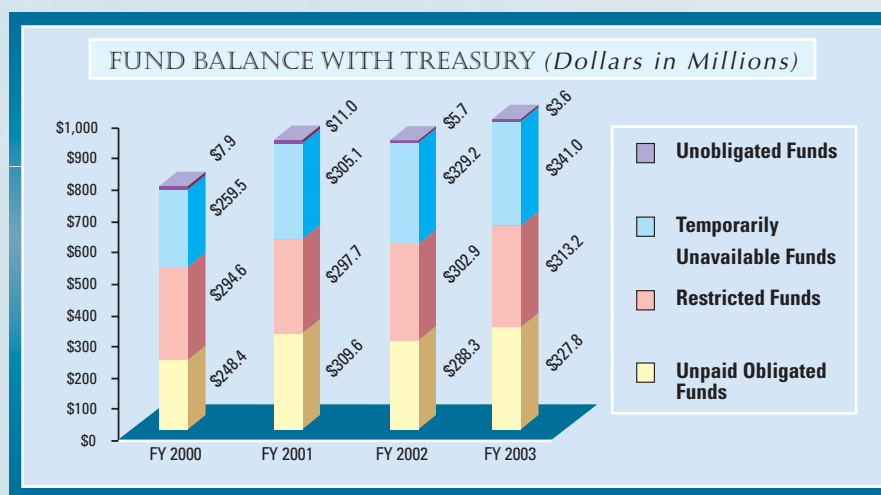
The FY 2003 net position consisted of:

- Surcharge revenue withheld from FY 1992 through FY 1998 of \$233.5 million, which is segregated and restricted as to its availability pursuant to the Omnibus Budget and Reconciliation Act (OBRA) of 1990, as amended;
- Unexpended appropriations of less than \$0.1 million; and
- Cumulative results of operations of \$169.6 million.

Adjusting cumulative results of operation for net property and equipment, accounts receivable, and prepayments, the cash and Fund Balance with Treasury portion of net position is \$15.1 million. The \$15.1 million is calculated on a financial accounting basis and does not reflect the impact of obligations of \$230.1 million in unpaid undelivered orders (goods and services ordered, but not yet received). Therefore, after considering these items, future funding in the amount of \$215.0 million will have to be earned to liquidate unfunded liabilities as of September 30, 2003.

### Cash and Fund Balance with Treasury

Cash and Fund Balance with Treasury was \$997.0 million as of September 30, 2003, an increase of \$61.6 million, or 6.6 percent, over the FY 2002 balance of \$935.4 million.



Of the \$997.0 million, only \$2.1 million, or 0.2 percent, was available to meet FY 2004 needs. The other 99.8 percent was earmarked or set aside as follows:

- \$11.4 million represented cash or checks in transit;
- \$327.8 million was set aside for the payment of existing obligations as of September 30, 2003;
- \$233.5 million was restricted under OBRA;
- \$5.3 million represented funds held on behalf of the WIPO;
- \$74.4 million represented funds held on deposit in trust for customers;
- \$341.0 million was restricted for use until subsequent fiscal years; and
- \$1.5 million represented unobligated funds that were not apportioned for use at the end of FY 2003.

During FY 2003, the USPTO generated net cash of \$61.6 million from patent and trademark fees and other activities, an increase of \$61.1 million from the \$0.5 million generated during FY 2002, summarized as follows.

USPTO Cash Flows (Dollars in Millions)	FY 2003	FY 2002	FY 2001	FY 2000
Operating Activities	\$ 122.7	\$ 59.8	\$ 173.6	\$ 208.8
Investing Activities	(61.1)	(60.2)	(69.1)	(59.3)
Financing Activities	-	0.9	-	(3.0)
Net Cash Provided/(Used)	\$ 61.6	\$ 0.5	\$ 104.5	\$ 146.5

Of the \$122.7 million generated from operating activities during FY 2003, \$61.1 million was invested in new property and equipment. This amount represented an increase of \$0.9 million, or 1.5 percent, from the \$60.2 million of net cash invested in property and equipment during FY 2002.

### Property and Equipment

Net property and equipment was \$117.4 million as of September 30, 2003, which consisted of the original acquisition value of \$427.3 million less accumulated depreciation of \$309.9 million. The acquisition values for property and equipment at the end of each fiscal year, for the past four fiscal years, are presented in the table below:

Property and Equipment Acquisition Values (Dollars in Millions)	FY 2003	FY 2002	FY 2001	FY 2000
IT Equipment	\$ 226.5	\$ 211.3	\$ 192.3	\$ 167.7
Software	152.1	123.1	108.3	92.8
Software in Progress	15.5	19.6	18.7	19.6
Furniture	13.6	14.5	16.0	17.1
Non-IT Equipment	10.7	10.1	9.1	8.7
Construction in Progress	8.9	-	-	-
Total Property and Equipment Acquisition Values	<u>\$ 427.3</u>	<u>\$ 378.6</u>	<u>\$ 344.4</u>	<u>\$ 305.9</u>

The \$48.7 million increase in acquisition value from FY 2002 to FY 2003 was the result of \$61.1 million of assets purchased during the fiscal year, less the acquisition cost of \$12.4 million related to assets disposed of during the fiscal year in the normal asset life cycle process.

The increase in IT equipment acquisitions during FY 2003 was mainly comprised of network servers, computers, printers, and scanners, while the increase in software acquisitions was primarily an increase in contractor-developed internal use software. These IT acquisitions, both hardware and software, reflected a continuing emphasis on reducing labor-intensive paper processing, enhancing the quality of patent issuances and registered trademarks, and controlling patent and trademark pendency.

The acquisition value for construction in progress was recorded due to leasehold improvements made on the new headquarters in Alexandria, Virginia. At the point in time that we begin to occupy the buildings, this investment will move from construction in progress to leasehold improvements.

### Deferred Revenue

Deferred revenue was \$504.2 million as of September 30, 2003, an increase of \$38.2 million, or 8.2 percent, over the FY 2002 balance of \$466.0 million. The deferred revenue liability included unearned patent and trademark fees and undeposited checks at the end of the fiscal year, for the past four years, as summarized on the following page:

Deferred Revenue (Dollars in Millions)	FY 2003	FY 2002	FY 2001	FY 2000
Patent Unearned Fees	\$ 445.1	\$ 413.1	\$ 325.9	\$ 259.9
Trademark Unearned Fees	48.4	43.9	38.4	59.7
Undeposited Checks	10.7	9.0	10.7	19.2
Total Liability	\$ 504.2	\$ 466.0	\$ 375.0	\$ 338.8
Percentage Change in Deferred Revenue	8.2%	24.3%	10.7%	21.3%

Deferred revenue at the USPTO was impacted by two principal factors:

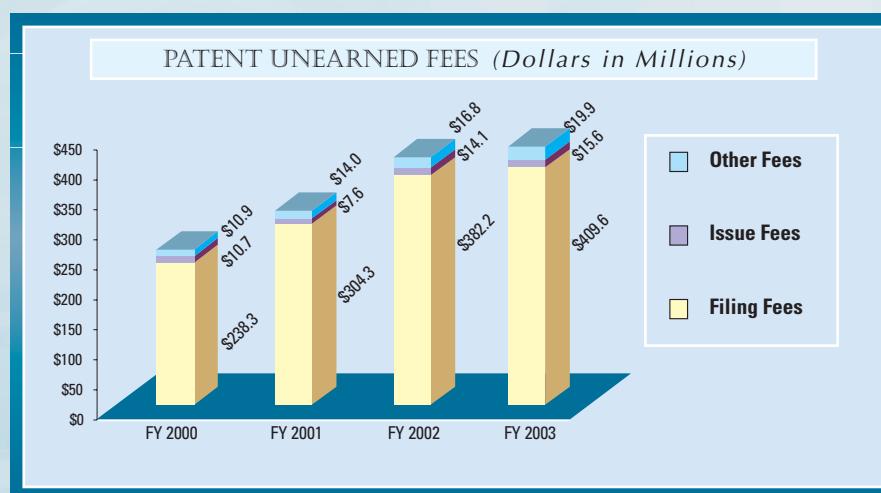
- Increases in patent and trademark application filings; and
- Changes in patent and trademark pendency rates.

The tables below track the changes in these two principal factors and relate to the percentage change in the deferred revenue liability noted in the table above.

Filings and Pendencies	FY 2003	FY 2002	FY 2001	FY 2000
Patent Filings	355,418	353,394	344,717	311,807
Percentage Change in Patent Filings	0.6%	2.5%	10.6%	12.1%
Patent First Action Pendency (months)	18.3	16.7	14.4	13.6
Total Patent Pendency (months)	26.7	24.0	24.7	25.0
Trademark Filings	267,218	258,873	296,388	375,428
Percentage Change in Trademark Filings	3.2%	(12.7%)	(21.1%)	27.2%
Trademark First Action Pendency (months)	5.4	4.3	2.7	5.7
Total Trademark Pendency (months)	19.8	19.9	17.8	17.3

## Patents

The following chart summarizes unearned patent fees for the past four fiscal years:

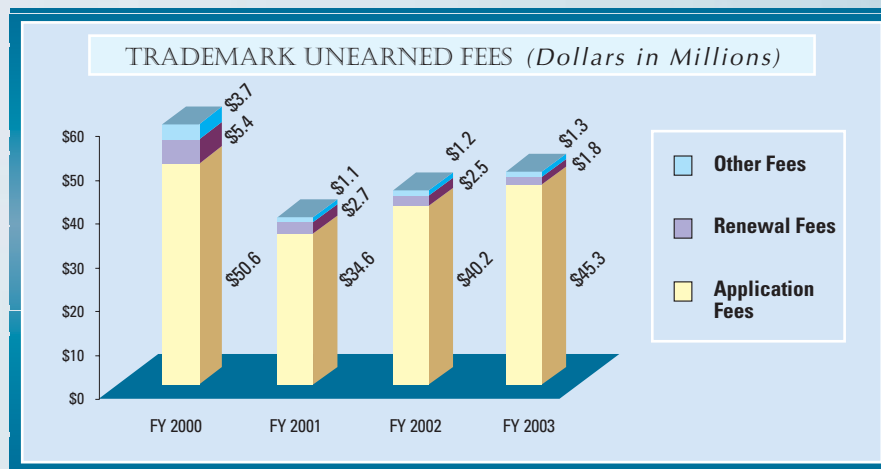


Unearned patent fees at the end of FY 2003 were \$445.1 million, an increase of \$32.0 million, or 7.7 percent, over the prior year balance of \$413.1 million. This was primarily due to an increase of \$27.4 million in unearned fees for patent application filing fees (7.2 percent) and an increase in first action pendency for utility and plant patents from 16.7 months at the end of FY 2002 to 18.3 months at the end of FY 2003. The remaining increase of \$4.6 million was related to the percentage of work completed in the other patent processing areas.

The undeposited checks component of patent deferred revenue increased \$2.1 million, or 28.0 percent, from \$7.5 million at the end of FY 2002 to \$9.6 million at the end of FY 2003.

## Trademarks

The following chart summarizes unearned trademark fees for the past four fiscal years:



Unearned trademark fees at the end of FY 2003 were \$48.4 million, an increase of \$4.5 million, or 10.3 percent, over the prior year balance of \$43.9 million. An increase in new applications and an increase of trademark pendency to first action of 1.1 months resulted in an increase in unearned trademark application fees of \$5.1 million. The increases were offset by a \$1.1 million decrease in unearned trademark renewal and affidavit fees. This resulted from a decrease in inventory from the prior fiscal year.

The undeposited checks component of trademark's deferred revenue decreased \$0.5 million, or 33.3 percent, from \$1.5 million at the end of FY 2002 to \$1.0 million at the end of FY 2003.

## RESULTS OF OPERATIONS

### Net Income/Cost

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

Components of Net Income/Cost (Dollars in Millions)	FY 2003	FY 2002	FY 2001	FY 2000
<b>Earned Revenue</b>				
Patents	\$1,004.5	\$ 910.1	\$ 859.0	\$ 817.4
Trademarks	157.8	151.3	181.2	139.1
Total Earned Revenue	<u>\$1,162.3</u>	<u>\$1,061.4</u>	<u>\$1,040.2</u>	<u>\$ 956.5</u>
Percentage Change in Earned Revenue	9.5%	2.0%	8.8%	5.2%
<b>Program Cost</b>				
Patents	\$1,074.1	\$1,022.3	\$ 882.5	\$ 781.3
Trademarks	132.0	138.7	134.1	130.0
Total Program Cost	<u>\$1,206.1</u>	<u>\$1,161.0</u>	<u>\$1,016.6</u>	<u>\$ 911.3</u>
Percentage Change in Program Cost	3.9%	14.2%	11.6%	5.7%
Net (Cost)/Income	<u>\$ (43.8)</u>	<u>\$ (99.6)</u>	<u>\$ 23.6</u>	<u>\$ 45.2</u>

The USPTO incurred a net cost of \$43.8 million for FY 2003, a decrease in net cost of \$55.8 million, or 56.0 percent, from the net cost of \$99.6 million for FY 2002.

The net cost for the patent business line was \$69.6 million in FY 2003, a decrease in net cost of \$42.6 million, or 38.0 percent, from the FY 2002 net cost of \$112.2 million. This is primarily due to an increase in maintenance fees of \$26.3 million and an increase in patent issue fees of \$33.4 million. Deferred revenue for patents increased by \$32.0 million in FY 2003. However, this increase was less than the \$87.2 million increase in FY 2002 because the first action pendency increased at a lower rate.

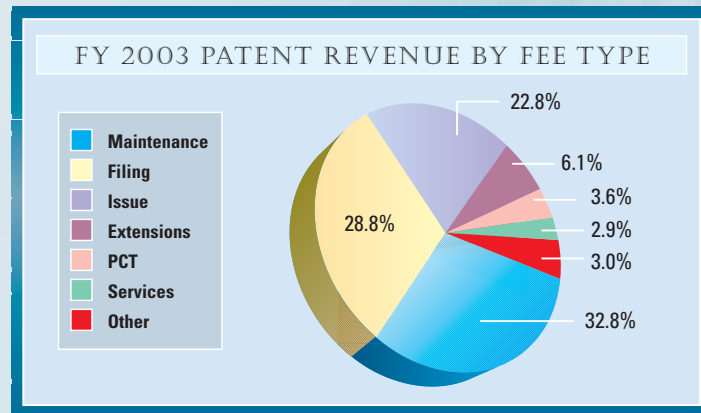
The trademark business line generated net income of \$25.8 million in FY 2003, an increase of \$13.2 million, or 104.8 percent, as compared to the FY 2002 net income of \$12.6 million. This was due to an increase in revenue from various trademark fees and a decrease in trademark program costs of \$6.7 million, offset by an increase in trademark deferred revenue of \$4.5 million.

### Earned Revenue

Earned revenue totaled \$1,162.3 million for FY 2003, an increase of \$100.9 million, or 9.5 percent, over FY 2002 earned revenue of \$1,061.4 million. Of revenue earned during FY 2003, \$296.6 million related to revenue deferred in prior fiscal years, \$338.5 million related to maintenance fees collected during FY 2003, which were considered earned immediately, and \$527.2 million related to work performed for fees collected during FY 2003. Patent and Trademark operating results are discussed in greater detail on the following page.

## Patents

Patent operations earned \$1,004.5 million in revenue for FY 2003, a \$94.4 million, or 10.4 percent, increase over \$910.1 million of revenue earned in FY 2002. The accompanying chart depicts the relationship among the most significant patent fee types.



Traditionally, patent maintenance fees are the largest category of patent fees. Therefore, fluctuations in rates of renewal affect patent revenue significantly. However, there can be no assurance that the USPTO will be able to sustain or improve on historic or current renewal rates in future years. For FY 2003, \$338.5 million was collected in this category, a \$14.9 million, or 4.6 percent, increase over the \$323.6 million collected in maintenance fees for FY 2002. As seen below, the renewal rates for all three stages of maintenance fees have been increasing modestly over the last four years, indicating continued revenue growth from this source.

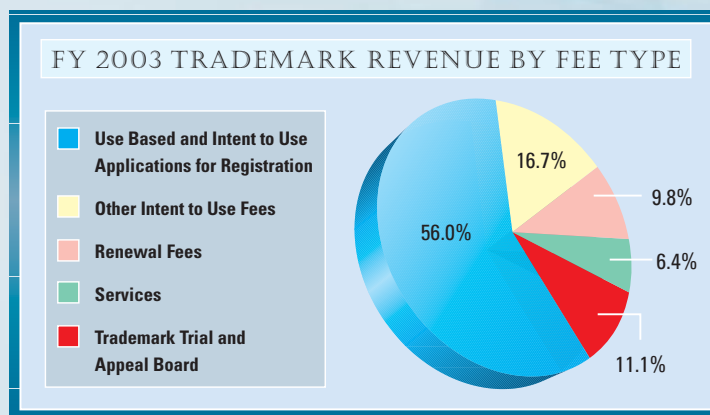
Patent Renewal Rates *	FY 2003	FY 2002	FY 2001	FY 2000
First Stage	86.8%	85.1%	84.5%	84.3%
Second Stage	61.1%	59.5%	59.9%	59.4%
Third Stage	42.9%	38.4%	39.1%	38.8%

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

## Trademarks

Trademark operations earned \$157.8 million in revenue for FY 2003, a 4.3 percent increase from \$151.3 million in FY 2002 earned revenue. This was due to an increase in revenue from various trademark fees, offset by an increase in trademark deferred revenue of \$4.5 million.

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



Trademark renewals are required only if continued protection is requested. To some extent, renewals subsidize costs incurred during the initial registration process. As seen below, the renewal rates for trademarks have been increasing modestly over the last four years, indicating continued revenue growth from this source.

Trademark Renewal Rates *	FY 2003	FY 2002	FY 2001	FY 2000
Renewals	28.3%	25.2%	21.2%	19.2%

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

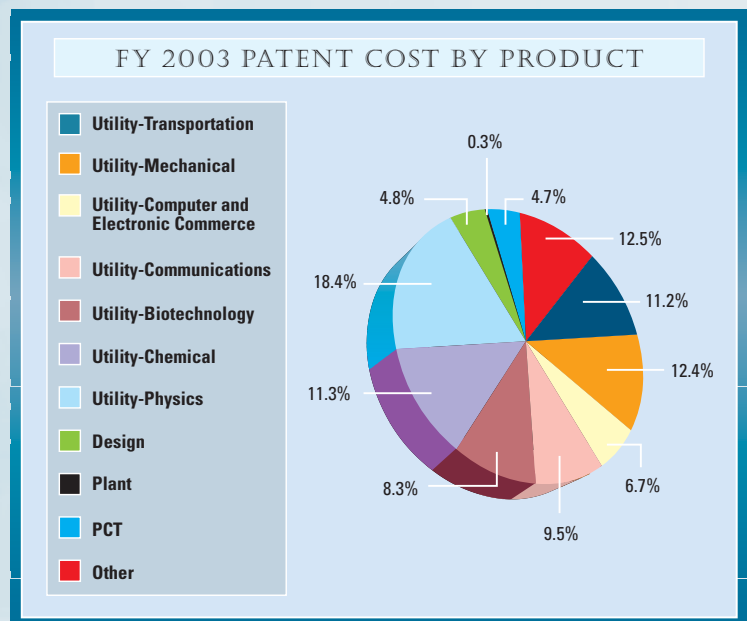
**Program Costs**

Program costs totaled \$1,206.1 million for the year ended September 30, 2003, an increase of \$45.1 million, or 3.9 percent, over FY 2002 program costs of \$1,161.0 million. The USPTO’s most significant program costs related to personnel services and benefits costs. These personnel costs traditionally comprise over 50 percent of USPTO’s total program costs. Any significant change or fluctuation in staffing or pay rate patterns directly impacts the change in total program costs from year to year. Total personnel services and benefits costs for the year ended September 30, 2003, were \$656.6 million, an increase of \$26.3 million, or 4.2 percent, over FY 2002 personnel services and benefits costs of \$630.3 million. This change is significantly lower than the FY 2002 change of 16.1 percent. This reduction was the result of a 4.3 percent increase in the Federal pay scale, offset by a net decrease of 216 personnel, from 6,939 at the end of FY 2002 to 6,723 at the end of FY 2003 (3.1 percent decrease).

Rent, communications, utilities, contractual services, and depreciation costs traditionally comprise one-third of USPTO’s total program costs each year. Contractual services directly attributable to business lines for the year ended September 30, 2003, were \$147.1 million, an increase of \$3.7 million, or 2.6 percent, over FY 2002 contractual service costs of \$143.4 million. Increases were largely in the patent business line due to increases in printing costs and IT maintenance and development costs, as well as general costs related to the preparation for the move to the new USPTO headquarters in Alexandria, Virginia.

**Patents**

Program costs attributable to patent operations totaled \$1,074.1 million for FY 2003, an increase of \$51.8 million, or 5.1 percent, over a total patents program cost of \$1,022.3 million in FY 2002. Patent costs were spread over four main patent products: utility patents, design patents, plant patents, and PCT. The cost percentages presented were based on direct and indirect costs allocated to patent operations and are a function of the volume of applications processed in each product area.

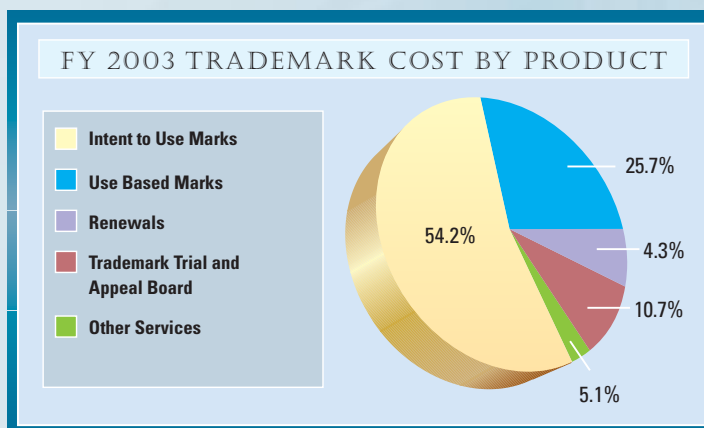




### Trademarks

Program costs attributable to trademark operations totaled \$132.0 million in FY 2003, a decrease of \$6.7 million, or 4.8 percent, from the total trademarks program cost of \$138.7 million in FY 2002. Trademark costs were comprised of three main products: Intent to Use marks, Use Based marks, and renewals after registration, which involve processing affidavits, corrections, and amendments. While contractual service costs directly attributable to the trademark business increased 9.1 percent, several other cost categories decreased in FY 2003 compared to FY 2002, including personnel services and benefits, rent, communication, and utilities, supplies and materials, and travel and transportation costs.

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



## BUDGETARY RESOURCES AND REQUIREMENTS

For FY 2003, budgetary resources available for spending totaled \$1,193.0 million, a 4.0 percent increase over the FY 2002 total of \$1,146.7 million. Financially, the USPTO is a self-sufficient Federal Government agency that funds the cost of its operations from user fees rather than appropriations from taxes paid into the general fund of the Treasury. As a Government agency, the USPTO's goal is to balance budgetary resources provided through the collection of user fees with budgetary spending incurred to fill customer orders, rather than generating net income. Major fees are set by statute and activity-based cost accounting techniques assist in approximating fee amounts necessary to recover the cost of non-statutory fees. The USPTO is refining these cost accounting techniques continually and furthering its fee analyses to improve its assessment of fee requirements.

The below chart illustrates the declining growth in the budgetary resources available for spending at the USPTO.

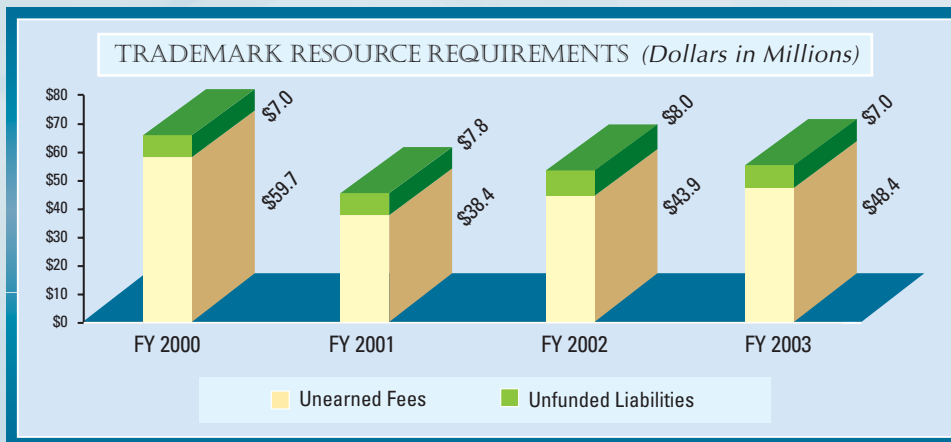
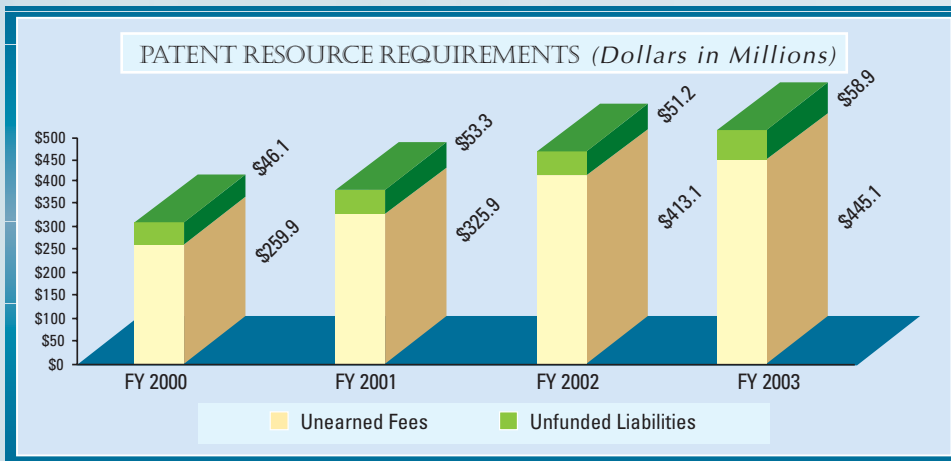
Budgetary Resources Available for Spending (Dollars in Millions)	FY 2003	FY 2002	FY 2001	FY 2000
Budgetary Resources Available for Spending	\$1,193.0	\$1,146.7	\$1,049.8	\$903.0
Percentage Change	4.0%	9.2%	16.3%	12.1%

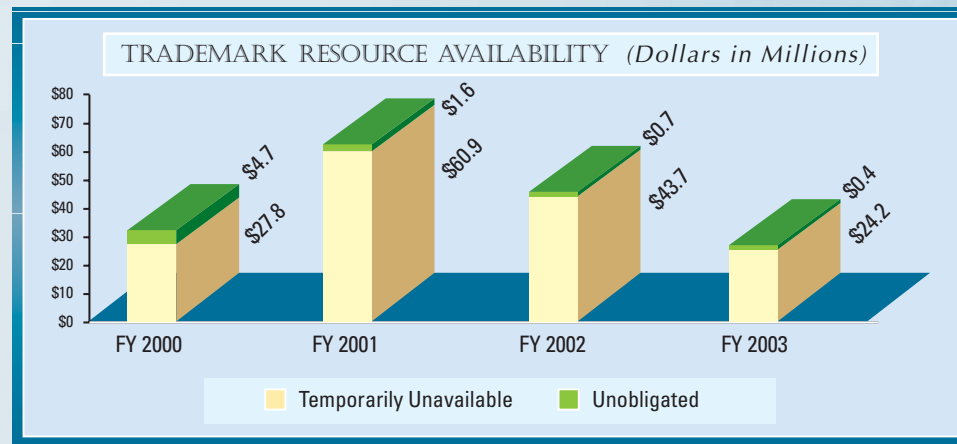
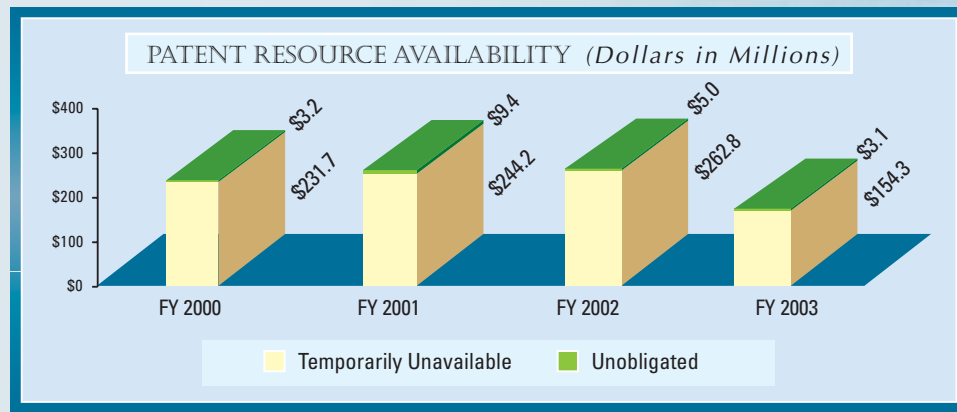
Temporarily unavailable fee collections occur when the Congress does not allow the USPTO to spend all fees collected during a given fiscal year. In FY 2003, the USPTO was appropriated \$166.8 million from fees collected in fiscal years 2001 and 2002. The USPTO was also appropriated \$1,015.2 million for fees collected during FY 2003. During FY 2003, the USPTO collected an additional \$178.5 million that was not available for spending. It is uncertain when the remaining \$341.0 million from fees will be appropriated to the USPTO.

The below chart illustrates amounts that Congress has appropriated to the USPTO over the past four fiscal years.

Temporary Unavailable Fee Collections (Dollars in Millions)	FY 2003	FY 2002	FY 2001	FY 2000
Current year fee collections	\$ 1,193.7	\$ 1,150.8	\$ 1,084.7	\$ 1,006.6
Current year collections appropriated	(1,015.2)	(843.7)	(783.8)	(748.7)
Rescissions	-	(0.6)	-	(3.0)
Current year unavailable collections	178.5	306.5	300.9	254.9
Prior year collections unavailable	329.3	305.1	259.1	142.7
Prior year collections subsequently appropriated	(166.8)	(282.3)	(254.9)	(138.5)
Temporarily unavailable fee collections	\$ 341.0	\$ 329.3	\$ 305.1	\$ 259.1

The following charts show the resources required to meet financial responsibilities compared to the resources available. Unfunded liabilities related to earned fee collections, as well as a liability for work to be performed on unearned fee collections are measures of the commitment to vendors and customers for services and orders that the USPTO has received and taken through FY 2003.





## LIMITATIONS

The USPTO has prepared its FY 2003 Financial Statements in accordance with the requirements of OMB Bulletin Number 01-09, *Form and Content of Agency Financial Statements*, and guidance provided by the Department of Commerce. OMB Bulletin Number 01-09 incorporates the concepts and standards contained in the Statements of Federal Financial Accounting Concepts (SFFAC) and the Statements of Federal Financial Accounting Standards (SFFAS) recommended by the Federal Accounting Standards Advisory Board (FASAB) and approved by the Secretary of the Treasury, the Director of the OMB, and the Comptroller General.

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

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

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

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

## MANAGEMENT RESPONSIBILITIES

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USPTO management is responsible for the fair presentation of information contained in the basic financial statements, in conformity with GAAP, the requirements of OMB Bulletin Number 01-09, and guidance provided by 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.

# Basic Financial Statements and Related Notes





## U.S. PATENT AND TRADEMARK OFFICE CONSOLIDATED BALANCE SHEETS

As of September 30, 2003 and 2002

(Dollars in Thousands)	2003	2002
<b>ASSETS</b>		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	\$ 985,586	\$ 926,130
Accounts Receivable	-	99
Advances and Prepayments	24,248	34,844
Total Intragovernmental	1,009,834	961,073
Cash	11,454	9,270
Accounts Receivable, Net	8,891	4,435
Advances and Prepayments	3,982	1,573
Property and Equipment, Net (Note 3)	117,365	119,184
Total Assets	\$1,151,526	\$1,095,535
<b>LIABILITIES</b>		
Intragovernmental:		
Accounts Payable	\$ 3,514	\$ 3,721
Accrued Payroll and Benefits	2,892	2,446
Accrued Postemployment Compensation	1,569	1,180
Customer Deposit Accounts	3,266	3,749
Total Intragovernmental	11,241	11,096
Accounts Payable	76,610	71,037
Accrued Payroll and Benefits	34,515	31,135
Accrued Leave	38,046	34,461
Customer Deposit Accounts	71,141	61,002
Patent Cooperation Treaty Account	6,109	4,810
Deferred Revenue (Note 5)	504,193	465,974
Actuarial Liability (Note 6)	6,494	5,332
Total Liabilities (Note 4)	\$ 748,349	\$ 684,847
<b>NET POSITION</b>		
Unexpended Appropriations	\$ 25	\$ 678
Cumulative Results of Operations	169,623	176,481
Revenue Withheld	233,529	233,529
Total Net Position	\$ 403,177	\$ 410,688
Total Liabilities and Net Position	\$1,151,526	\$1,095,535

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

## U.S. PATENT AND TRADEMARK OFFICE CONSOLIDATING STATEMENTS OF NET COST

For the years ended September 30, 2003 and 2002

(Dollars in Thousands)	2003			2002
	PATENTS	TRADEMARKS	TOTAL	TOTAL
<b>Enhance Quality and Minimize Processing Time</b>				
Intragovernmental Gross Cost	\$ 219,014	\$ 26,910	\$ 245,924	\$ 231,153
Gross Cost with the Public	855,084	105,065	960,149	929,842
<b>Total Gross Cost (Notes 9 and 10)</b>	<b>1,074,098</b>	<b>131,975</b>	<b>1,206,073</b>	<b>1,160,995</b>
Intragovernmental Earned Revenue	(5,050)	(109)	(5,159)	(5,496)
Earned Revenue from the Public	(999,426)	(157,658)	(1,157,084)	(1,055,851)
<b>Total Earned Revenue</b>	<b>(1,004,476)</b>	<b>(157,767)</b>	<b>(1,162,243)</b>	<b>(1,061,347)</b>
<b>Net Cost/(Income) from Operations</b>	<b>\$ 69,622</b>	<b>\$ (25,792)</b>	<b>\$ 43,830</b>	<b>\$ 99,648</b>
<b>Total Entity</b>				
Total Program Cost (Notes 9 and 10)	\$ 1,074,098	\$ 131,975	\$ 1,206,073	\$ 1,160,995
Total Earned Revenue	(1,004,476)	(157,767)	(1,162,243)	(1,061,347)
<b>Net Cost/(Income) from Operations</b>	<b>\$ 69,622</b>	<b>\$ (25,792)</b>	<b>\$ 43,830</b>	<b>\$ 99,648</b>

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



## U.S. PATENT AND TRADEMARK OFFICE CONSOLIDATED STATEMENTS OF CHANGES IN NET POSITION

For the years ended September 30, 2003 and 2002

(Dollars in Thousands)	2003		2002	
	Cumulative Results of Operations	Unexpended Appropriations	Cumulative Results of Operations	Unexpended Appropriations
Net Position, Beginning of Year	\$ 410,010	\$ 678	\$ 478,588	\$ —
Budgetary Financing Sources:				
Appropriations Received	—	—	—	1,500
Appropriations Used	653	(653)	822	(822)
Other Budgetary Financing Uses	—	—	(555)	—
Other Financing Sources:				
Imputed Financing (Note 8)	36,319	—	30,803	—
Total Financing Sources	36,972	(653)	31,070	678
Net Cost from Operations	(43,830)	—	(99,648)	—
Net Position, End of Year	\$ 403,152	\$ 25	\$ 410,010	\$ 678

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

## U.S. PATENT AND TRADEMARK OFFICE COMBINED STATEMENTS OF BUDGETARY RESOURCES

For the years ended September 30, 2003 and 2002

(Dollars in Thousands)	2003	2002
<b>BUDGETARY RESOURCES</b>		
Budget Authority - Appropriations Received	\$ 166,771	\$ 283,800
Unobligated Balance - Beginning of Year (Note 11)	5,655	11,029
Spending Authority from Offsetting Collections:		
Earned - Collected	1,158,207	1,052,367
Earned - Customer Receivables and Refund Payables	(160)	6,803
Change in Unfilled Customer Orders - Advance Received	36,612	92,662
<b>Total Spending Authority from Offsetting Collections</b>	<b>1,194,659</b>	<b>1,151,832</b>
Actual Recoveries of Prior Year Obligations	5,911	10,076
Temporarily not Available Pursuant to Public Law	(178,515)	(306,513)
Permanently not Available	—	(555)
<b>Total Budgetary Resources</b>	<b>\$ 1,194,481</b>	<b>\$ 1,149,669</b>
<b>STATUS OF BUDGETARY RESOURCES</b>		
Obligations Incurred:		
Direct	\$ —	\$ 1,497
Reimbursable	1,190,941	1,142,517
Unobligated Balance Available:		
Realized and Apportioned for Current Year (Note 11)	2,064	2,661
Unobligated Balances not Available - Not Apportioned (Note 11)	1,476	2,994
<b>Total Status of Budgetary Resources</b>	<b>\$ 1,194,481</b>	<b>\$ 1,149,669</b>
<b>RELATIONSHIP OF OBLIGATIONS TO OUTLAYS</b>		
Obligated Balance, Net, Beginning of Year	\$ 288,341	\$ 316,289
Accounts Receivable	708	548
Undelivered Orders (Note 12)	230,079	198,370
Accounts Payable	97,002	89,423
<b>Obligated Balance, Net, End of Year</b>	<b>327,789</b>	<b>288,341</b>
Outlays:		
Disbursements	1,145,741	1,155,083
Collections	(1,194,818)	(1,145,029)
<b>Net (Collections)/Outlays</b>	<b>\$ (49,077)</b>	<b>\$ 10,054</b>

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

## U.S. PATENT AND TRADEMARK OFFICE CONSOLIDATED STATEMENTS OF FINANCING

For the years ended September 30, 2003 and 2002

(Dollars in Thousands)	2003	2002
<b>RESOURCES USED TO FINANCE ACTIVITIES</b>		
Budgetary Resources Obligated:		
Obligations Incurred	\$ 1,190,941	\$ 1,144,014
Spending Authority from Offsetting Collections and Recoveries	(1,200,570)	(1,161,908)
Net Obligations	(9,629)	(17,894)
Other Resources - Imputed Financing from Cost Absorbed by Others	36,319	30,803
<b>Total Resources Used to Finance Activities</b>	<b>26,690</b>	<b>12,909</b>
<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	(23,522)	(10,253)
Resources that Fund Costs Recognized in Prior Periods	—	(6,204)
Budgetary Offsetting Collections that do not Affect Net Cost of Operations (Note 11)	36,612	92,662
Resources that Finance the Acquisition of Assets Capitalized on the Balance Sheet	(61,062)	(60,237)
<b>Total Resources Used to Finance Items not Part of the Net Cost of Operations</b>	<b>(47,972)</b>	<b>15,968</b>
<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 (Note 11)	6,687	4,309
Net Increase in Revenue Receivables not Generating Resources until Collected	(4,761)	(3,095)
<b>Total Components of Net Cost of Operations that will Require or Generate     Resources in Future Periods</b>	<b>1,926</b>	<b>1,214</b>
Components not Requiring or Generating Resources:		
Depreciation, Amortization, or Loss on Asset Dispositions	62,881	69,651
Other Costs that will not Require Resources	305	(94)
<b>Total Components of Net Cost of Operations that will not Require or     Generate Resources</b>	<b>63,186</b>	<b>69,557</b>
<b>Total Components of Net Cost of Operations that will not Require or Generate     Resources in the Current Period</b>	<b>65,112</b>	<b>70,771</b>
<b>Net Cost from Operations</b>	<b>\$ 43,830</b>	<b>\$ 99,648</b>

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

## U.S. PATENT AND TRADEMARK OFFICE CONSOLIDATED STATEMENTS OF CASH FLOWS (INDIRECT METHOD)

For the years ended September 30, 2003 and 2002

(Dollars in Thousands)	2003	2002
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net Cost from Operations	\$ (43,830)	\$ (99,648)
Imputed Financing from Cost Absorbed by Others	36,319	30,803
Net Decrease in Cumulative Results of Operations	(7,511)	(68,845)
Adjustments Affecting Cash Flow:		
Increase in Accounts Receivable	(4,357)	(1,742)
Decrease/(Increase) in Advances and Prepayments	8,187	(30,089)
Increase in Accounts Payable	5,366	13,989
Increase/(Decrease) in Accrued Payroll and Benefits	3,826	(16,773)
Increase in Accrued Leave and Postemployment Compensation	3,974	4,257
Increase in Customer Deposit Accounts	9,656	7,292
Increase/(Decrease) in Patent Cooperation Treaty Account	1,299	(2,094)
Increase in Deferred Revenue	38,219	90,986
Increase/(Decrease) in Actuarial Liability	1,162	(194)
Decrease in Capital Lease Liability	—	(3,032)
Decrease in Contingent Liability	—	(3,590)
Depreciation, Amortization, or Loss on Asset Dispositions	62,881	69,651
Total Adjustments	130,213	128,661
Net Cash Provided by Operating Activities	122,702	59,816
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchases of Property and Equipment	(61,062)	(60,237)
Net Cash Used in Investing Activities	(61,062)	(60,237)
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Direct Appropriation	—	1,500
Rescission	—	(555)
Net Cash Provided by Financing Activities	—	945
Net Cash Provided by Operating, Investing, and Financing Activities	\$ 61,640	\$ 524
Fund Balance with Treasury and Cash, Beginning of Year	\$ 935,400	\$ 934,876
Net Cash Provided by Operating, Investing, and Financing Activities	61,640	524
Fund Balance with Treasury and Cash, End of Year	\$ 997,040	\$ 935,400

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

## U.S. PATENT AND TRADEMARK OFFICE NOTES TO FINANCIAL STATEMENTS

As of and for the years ended September 30, 2003 and 2002

### NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

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#### Reporting Entity

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

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

These financial statements report the accounts for salaries and expenses (13X1006), special fund receipts (revenue withheld) (135127), customer deposits from the public (13X6542), customer deposits from other Federal agencies (13F3885), and patent cooperation treaty collections (13X6538), which are under the control of the USPTO. The Federal budget classifies the USPTO under the Commerce and Housing Credit (376) budget function. The USPTO does not have custodial responsibility, nor does it have lending or borrowing authority. The USPTO does not transact business among its own operating units, and therefore, no intra-entity eliminations are necessary.

#### Basis of Presentation

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

These financial statements were prepared in accordance with accounting principles generally accepted in the U.S. (GAAP) and the form and content for entity financial statements specified by the Office of Management and Budget (OMB) in Bulletin Number 01-09, *Form and Content of Agency Financial Statements*, as well as the accounting policies of the USPTO. Therefore, they may differ from other financial reports submitted pursuant to OMB directives for the purpose of monitoring and controlling the use of the USPTO's budgetary resources. The GAAP for Federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official body for setting the accounting standards of the Federal Government.

Throughout these financial statements, intra-governmental 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.

#### Basis of Accounting

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

## **Budgets and Budgetary Accounting**

Appropriated funds from general taxpayer revenue were eliminated gradually following the passage of the Omnibus Budget Reconciliation Act (OBRA) in 1990. The OBRA established revenue withholding on statutory patent fees. Subsequent legislation extended the revenue withholding through the end of fiscal year (FY) 1998. This withheld revenue constitutes offsetting receipts, and was deposited into a restricted special fund receipt account at the U.S. Department of the Treasury (Treasury). The USPTO may use moneys from this account only as authorized by the U.S. Congress, and only as made available by the issuance of a Treasury warrant. The *U.S. Patent and Trademark Reauthorization Act, Fiscal Year 1999*, as amended by Public Law 106-113, reset patent statutory fees without the OBRA surcharge. The USPTO has not collected or deposited any fees in the restricted special fund receipt account since FY 1998. The special fund receipt account has no liabilities currently, and the entire fund balance will remain restricted until appropriated.

Fees other than the restricted revenue withholding are offsetting collections subject to an annual congressional limitation, and are available to the USPTO until expended. Funds authorized but not used in a given fiscal year are carried forward for use in future periods, as appropriated by the U.S. Congress.

The USPTO receives an appropriation of Category A funds from the U.S. Congress, which apportions budgetary resources by fiscal quarter. The USPTO does not receive any Category B funds, or those exempt from apportionment. Category B fund appropriations typically distribute the budgetary resources by program reporting categories, activities, projects, objects, or a combination of these categories.

## **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 at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates.

## **Revenue and Other Financing Sources**

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

The USPTO's share of the cost to the Federal Government for providing pension and other post-retirement benefits to eligible USPTO employees is recognized as an imputed financing source.

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

## **Entity/Non-Entity**

Assets that an entity is authorized to use in its operations are termed entity assets, while assets that are held by an entity and are not available for the entity's use are termed non-entity assets. All of the USPTO's assets are entity assets and are available to carry out the mission of the USPTO within existing budget constraints, with the exception of a portion of the Fund Balance with Treasury, as highlighted in Note 2.

## Fund Balance with Treasury

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

## Accounts Receivable

Accounts receivable from the public represent a very small portion of the USPTO's assets as the USPTO requires payment prior to the provision of goods or services during the course of its core business activities. Public accounts receivable are comprised mainly of amounts due from former employees for the reimbursement of education expenses and other benefits.

The USPTO recorded an \$8 thousand and \$13 thousand allowance for uncollectible amounts to reduce the gross amount of its public accounts receivable to its net realizable value as of September 30, 2003 and 2002, respectively. The allowance is established for receivables that have been transferred to Treasury. Typically, most items transferred to Treasury are subsequently collected. The gross amount of USPTO's public accounts receivable as of September 30, 2003 and 2002 was \$8,899 thousand and \$4,547 thousand, respectively.

## Advances and Prepayments

On occasion, the USPTO prepays amounts in anticipation of receiving future benefits. Although a payment has been made, an expense is not recorded until goods have been received or services have been performed. The largest advance, in the amount of \$20,100 thousand, is with the U.S. General Services Administration (GSA) for the construction of the USPTO headquarters in Alexandria, Virginia. In addition, the USPTO maintains deposit accounts with the U.S. Government Printing Office and Commerce to facilitate recurring transactions. The USPTO also advances funds to personnel for travel costs, which are expensed after travel has occurred.

## Cash

Most of the USPTO's cash balance consists of undeposited checks for fees that were not processed at the Balance Sheet date due to the lag time between receipt and initial review. All such undeposited check amounts are considered to be cash equivalents. As of September 30, 2003 and 2002, the cash balance includes undeposited checks of \$11,452 thousand and \$9,268 thousand, respectively. Of these balances, \$800 thousand and \$224 thousand were non-entity assets as of September 30, 2003 and 2002, respectively. Cash is also held outside the Treasury to be used as imprest funds. An imprest fund of \$2 thousand was held as of September 30, 2003 and 2002.

## Property and Equipment

The USPTO's capitalization policies are summarized below:

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

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

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

## **Injury Compensation**

Claims brought by USPTO employees for on-the-job injuries fall under the Federal Employees Compensation Act (FECA) administered by the U.S. Department of Labor (DOL). The DOL bills each agency annually as its claims are paid, but payment on these bills is deferred two years to allow for funding through the budget process. As of September 30, 2003, the USPTO recorded a \$1,358 thousand liability for claims paid on its behalf during the benefit period July 1, 2001 through September 30, 2003. As of September 30, 2002, the USPTO recorded a \$1,091 thousand liability for claims paid on its behalf during the benefit period July 1, 2000 through September 30, 2002.

## **Post-employment Compensation**

USPTO employees who lose their jobs through no fault of their own may receive unemployment compensation benefits under the unemployment insurance program administered by the DOL. The DOL bills each agency quarterly as its claims are paid. As of September 30, 2003 and 2002, the USPTO liability was \$211 thousand and \$89 thousand respectively, for claims paid by the DOL on behalf of the USPTO.

## **Annual, Sick, and Other Leave**

Annual leave and compensatory time are accrued as earned, with the accrual being reduced when leave is taken. An adjustment is made each fiscal year 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 or prior year funding is not available to pay for leave earned but not taken, funding will be obtained from future financing sources. Sick leave and other types of non-vested leave are expensed as used.

Accrued leave as of September 30, 2003 and 2002 was \$38,046 thousand and \$34,461 thousand, respectively.

## **Employee Retirement Systems and Benefits**

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

The USPTO's financial statements do not report CSRS or FERS assets or accumulated plan benefits that may be applicable to its employees. The reporting of such liabilities is the responsibility of the U.S. Office of Personnel Management (OPM). While the USPTO reports no liability for future payments to employees under these programs, the Federal Government is liable for future payments to employees through the various agencies administering these programs. The USPTO does not fund post-retirement benefits such as the Federal Employees Health Benefit Program (FEHB) and the Federal Employees Group Life Insurance Program (FGLI). The USPTO also is not required to fully fund the CSRS pension liabilities. The financial statements of the USPTO recognize an imputed financing source and corresponding expense that represents the USPTO's share of the cost to the Federal Government of providing pension, post-retirement health, and life insurance benefits to all eligible USPTO employees.

For the year ended September 30, 2003, the USPTO made contributions equivalent to approximately 7.1 percent (7.5 percent from October through December and 7.0 percent from January through September) and 10.7 percent of the employee's basic pay for those employees covered by CSRS and FERS, respectively, based on OPM cost factors. For the year ended September 30, 2002, the USPTO made contributions equivalent to approximately 8.5 percent and 10.7 percent of the employee's basic pay for those employees covered by CSRS and FERS, respectively, based on OPM cost factors.

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 one percent contribution to this plan. In addition, the USPTO makes matching contributions ranging from one to four percent 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.



For the years ended September 30, 2003 and 2002, the USPTO's retirement plan contributions for CSRS and FERS participants were \$49,433 thousand and \$47,664 thousand, respectively. The USPTO also contributed to the Social Security Administration for FICA benefits \$31,744 thousand and \$30,788 thousand for the years ending September 30, 2003 and 2002, respectively.

### 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, with 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.

### Environmental Cleanup

The USPTO does not have any liabilities for environmental cleanup.

## NOTE 2. FUND BALANCE WITH TREASURY

As of September 30, 2003 and 2002, Fund Balance with Treasury consisted of the following:

(Dollars in Thousands)	2003	2002
Obligated Balance Not Yet Disbursed	\$ 327,789	\$ 288,341
Unobligated Balance Available	2,065	2,661
Unobligated Balance Unavailable	655,732	635,128
<b>Total Fund Balance with Treasury</b>	<b>\$ 985,586</b>	<b>\$ 926,130</b>

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

As of September 30, 2003 and 2002, the unobligated balance unavailable includes revenue withheld of \$233,529 thousand and non-entity funds of \$79,716 thousand and \$69,337 thousand, respectively.

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

(Dollars in Thousands)	2003	2002
Intragovernmental Deposit Accounts	\$ 3,266	\$ 3,749
Other Customer Deposit Accounts	71,141	61,002
Patent Cooperation Treaty Account	5,309	4,586
<b>Total Non-Entity Funds</b>	<b>\$ 79,716</b>	<b>\$ 69,337</b>

**NOTE 3. PROPERTY AND EQUIPMENT**

As of September 30, 2003, property and equipment consisted of the following:

**(Dollars in Thousands)**

<b>Class of Fixed Asset</b>	<b>Depreciation/ Amortization Method</b>	<b>Service Life (Years)</b>	<b>Acquisition Value</b>	<b>Accumulated Depreciation/ Amortization</b>	<b>Net Book Value</b>
IT Equipment	SL	3-5	\$ 226,538	\$ 182,403	\$ 44,135
Software	SL	3-5	152,131	107,373	44,758
Software in Progress	—	—	15,504	—	15,504
Furniture	SL	5	13,607	10,748	2,859
Equipment	SL	3-5	10,637	9,428	1,209
Construction in Progress	—	—	8,900	—	8,900
<b>Total Fixed Assets</b>			<b>\$ 427,317</b>	<b>\$ 309,952</b>	<b>\$ 117,365</b>

As of September 30, 2002, property and equipment consisted of the following:

**(Dollars in Thousands)**

<b>Class of Fixed Asset</b>	<b>Depreciation/ Amortization Method</b>	<b>Service Life (Years)</b>	<b>Acquisition Value</b>	<b>Accumulated Depreciation/ Amortization</b>	<b>Net Book Value</b>
IT Equipment	SL	3-7	\$ 211,247	\$ 157,861	\$ 53,386
Software	SL	3-7	123,145	82,555	40,590
Software in Progress	—	—	19,552	—	19,552
Furniture	SL	5	14,473	10,413	4,060
Equipment	SL	3-5	10,136	8,540	1,596
<b>Total Fixed Assets</b>			<b>\$ 378,553</b>	<b>\$ 259,369</b>	<b>\$ 119,184</b>

## NOTE 4. LIABILITIES

The USPTO records liabilities for amounts that are likely to be paid as the direct result of events that have already occurred. The USPTO considers liabilities covered by three types of resources: realized budgetary resources; unrealized budgetary resources that become available without further Congressional action; and cash and Fund Balance with Treasury. Realized budgetary resources include obligated balances funding existing liabilities and unobligated balances as of September 30, 2003. In addition, cash and Fund Balance with Treasury cover liabilities that will never require the use of a budgetary resource. These liabilities consist of deposit accounts, refunds payable to customers for fee overpayments, undeposited collections, and amounts collected by the USPTO on behalf of other organizations.

Due to the USPTO's funding structure, budgetary resources do not cover a portion of unearned fees. The USPTO's fees that were withheld and deposited into a restricted special fund receipt account are not considered a resource until appropriated and made available by the issuance of a Treasury warrant, although the USPTO incurred costs to generate these fees. Therefore, budgetary resources from current operations that normally would be used to cover a portion of unearned fees have been used to cover prior year costs associated with restricted fees. In addition, the current patent fee structure sets low initial application fees that are followed by income from maintenance fees as a supplement in later years to cover the full cost of the patent examination and issuance process. The combination of these funding circumstances requires the USPTO to obtain additional budgetary resources to cover its liability for unearned revenue.

As of September 30, 2003 and 2002, liabilities covered and not covered by budgetary resources were as follows:

<b>(Dollars in Thousands)</b>	<b>2003</b>	<b>2002</b>
<b>Liabilities Covered by Resources</b>		
Intragovernmental:		
Accounts Payable	\$ 3,514	\$ 3,721
Accrued Payroll and Benefits	2,892	2,446
Customer Deposit Accounts	3,266	3,749
<b>Total Intragovernmental</b>	<b>9,672</b>	<b>9,916</b>
Accounts Payable	76,610	71,037
Accrued Payroll and Benefits	14,694	12,865
Customer Deposit Accounts	71,141	61,002
Deferred Revenue	14,192	14,700
Patent Cooperation Treaty Account	6,109	4,810
<b>Total Liabilities Covered by Resources</b>	<b>\$ 192,418</b>	<b>\$ 174,330</b>
<b>Liabilities Not Covered by Resources</b>		
Intragovernmental:		
Accrued Postemployment Compensation	\$ 1,569	\$ 1,180
<b>Total Intragovernmental</b>	<b>1,569</b>	<b>1,180</b>
Accrued Payroll and Benefits	19,821	18,270
Accrued Leave	38,046	34,461
Deferred Revenue	490,001	451,274
Actuarial Liability	6,494	5,332
<b>Total Liabilities Not Covered by Resources</b>	<b>\$ 555,931</b>	<b>\$ 510,517</b>
<b>Total Liabilities</b>	<b>\$ 748,349</b>	<b>\$ 684,847</b>

## NOTE 5. DEFERRED REVENUE

As of September 30, 2003, deferred revenue consisted of the following:

(Dollars in Thousands)	Patents	Trademarks	Total
Unearned Fees	\$ 445,112	\$ 48,429	\$ 493,541
Undeposited Checks	9,598	1,054	10,652
Total Deferred Revenue	\$ 454,710	\$ 49,483	\$ 504,193

As of September 30, 2002, deferred revenue consisted of the following:

(Dollars in Thousands)	Patents	Trademarks	Total
Unearned Fees	\$ 413,070	\$ 43,859	\$ 456,929
Undeposited Checks	7,465	1,580	9,045
Total Deferred Revenue	\$ 420,535	\$ 45,439	\$ 465,974

## NOTE 6. ACTUARIAL LIABILITY

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

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

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

2003	2002
3.84% in year 1, 4.35% in year 2, and thereafter	5.20% in year 1, 5.20% in year 2, and thereafter

Based on information provided by the DOL, Commerce estimated the USPTO's liability as of September 30, 2003 and 2002 was \$6,494 thousand and \$5,332 thousand, respectively.

## NOTE 7. LEASES

### Operating Leases:

The GSA negotiates long-term office space leases and levies rent charges, paid by the USPTO, approximate to commercial rental rates. These operating lease agreements for the USPTO's office buildings expire at various dates between FY 2004 and FY 2023. During the years ended September 30, 2003 and 2002, the USPTO paid \$78,061 thousand and \$67,693 thousand, respectively, to the GSA for rent.

Under existing commitments, the future minimum lease payments as of September 30, 2003 are as follows:

Fiscal Year	(Dollars in Thousands)
2004	\$ 72,681
2005	70,079
2006	64,119
2007	60,026
2008	55,871
Thereafter	828,799
<b>Total Future Minimum Lease Payments</b>	<b>\$ 1,151,575</b>

The commitments shown above relate primarily to the new operating lease for the USPTO headquarters in Alexandria, Virginia, beginning in FY 2004 and extending to FY 2023. The operating lease commitments for USPTO offices in Crystal City, Virginia, will expire in FY 2008.

## NOTE 8. IMPUTED FINANCING

The USPTO recognizes an imputed financing source and corresponding expense to represent its share of the cost to the Federal Government of providing pension and post-retirement health and life insurance benefits (Pension/ORB) to all eligible USPTO employees. During the year ended September 30, 2002, the USPTO also recognized an imputed financing source and corresponding expense for a payment made on its behalf from the Judgment Fund.

As of September 30, 2003 and 2002, the components of the imputed financing sources and corresponding expenses were as follows:

(Dollars in Thousands)	2003	2002
CSRS	\$ 11,017	\$ 8,933
FERS	1,972	13
FEHB	23,249	21,569
FEGLI	81	76
<b>Total Pension/ORB</b>	<b>36,319</b>	<b>30,591</b>
Judgment Fund	—	212
<b>Total Imputed Financing</b>	<b>\$ 36,319</b>	<b>\$ 30,803</b>

## NOTE 9. PROGRAM COSTS

Program costs are accumulated by USPTO strategic goals and consist of both costs related directly to the individual business lines and overall support costs allocated to the business lines. There were no costs that could not be assigned to specific programs. Total program or operating costs for the years ended September 30, 2003 and 2002 by cost category were as follows:

(Dollars in Thousands)	2003			2002
	Direct	Allocated	Total	Total
Personnel Services and Benefits	\$ 609,326	\$ 47,265	\$ 656,591	\$ 630,261
Unfunded Personnel Services and Benefits	38,226	4,778	43,004	35,372
Travel and Transportation	1,171	4,496	5,667	5,450
Rent, Communications, and Utilities	73,884	16,741	90,625	87,295
Printing and Reproduction	75,287	161	75,448	68,955
Contractual Services	147,113	82,543	229,656	220,074
Training	1,652	557	2,209	7,093
Maintenance and Repairs	7,940	13,181	21,121	16,389
Supplies and Materials	7,922	1,477	9,399	9,466
Equipment not Capitalized	6,099	3,314	9,413	9,303
Insurance Claims and Indemnities	18	41	59	1,686
Depreciation, Amortization, or Loss on Asset Dispositions	41,798	21,083	62,881	69,651
<b>Total Program Costs</b>	<b>\$1,010,436</b>	<b>\$ 195,637</b>	<b>\$ 1,206,073</b>	<b>\$ 1,160,995</b>

## NOTE 10. PROGRAM COSTS BY CATEGORY AND RESPONSIBILITY SEGMENT

The program costs for the years ended September 30, 2003 and 2002 by cost category and business line were as follows:

(Dollars in Thousands)	2003			2002
	Patents	Trademarks	Total	Total
<b>Direct Costs</b>				
Personnel Services and Benefits	\$ 546,336	\$ 62,990	\$ 609,326	\$ 587,659
Unfunded Personnel Services and Benefits	34,157	4,069	38,226	32,545
Travel and Transportation	1,003	168	1,171	1,292
Rent, Communications, and Utilities	65,983	7,901	73,884	72,961
Printing and Reproduction	72,731	2,556	75,287	67,493
Contractual Services	127,011	20,102	147,113	143,418
Training	1,408	244	1,652	6,929
Maintenance and Repairs	6,551	1,389	7,940	7,262
Supplies and Materials	7,517	405	7,922	7,977
Equipment not Capitalized	4,499	1,600	6,099	6,159
Insurance Claims and Indemnities	16	2	18	(302)
Depreciation, Amortization, or Loss on Asset Dispositions	37,159	4,639	41,798	45,897
<b>Subtotal Direct Costs</b>	<b>904,371</b>	<b>106,065</b>	<b>1,010,436</b>	<b>979,290</b>
<b>Allocated Costs</b>				
Automation	82,511	12,703	95,214	91,544
Resource Management	87,216	13,207	100,423	90,161
<b>Subtotal Allocated Costs</b>	<b>169,727</b>	<b>25,910</b>	<b>195,637</b>	<b>181,705</b>
<b>Total Program Costs</b>	<b>\$ 1,074,098</b>	<b>\$ 131,975</b>	<b>\$ 1,206,073</b>	<b>\$ 1,160,995</b>

## NOTE 11. FUTURE FUNDING REQUIREMENTS

For the period ended September 30, 2003, future funding requirements were as follows:

<b>(Dollars in Thousands)</b>	
Liabilities not Covered by Budgetary Resources as of 9/30/2002	\$ 510,517
Unobligated Balance Used to Cover Unfunded Liabilities	5,655
Unfunded Liabilities as of 9/30/2002	\$ 516,172
Liabilities not Covered by Budgetary Resources as of 9/30/2003	\$ 555,931
Unobligated Balance Used to Cover Unfunded Liabilities	3,540
Unfunded Liabilities as of 9/30/2003	\$ 559,471
Increase in Unfunded Liabilities	\$ 43,299
Costs that will be Funded by Resources in Future Periods	\$ 6,687
Budgetary Offsetting Collections that do not Affect Net Cost of Operations	36,612
Increase in Future Funding Requirements	\$ 43,299

## NOTE 12. COMMITMENTS AND CONTINGENCIES

### Commitments

In addition to the future lease commitments discussed in Note 7, the USPTO is obligated for the purchase of goods and services that have been ordered, but not yet received. Total undelivered orders for all of the USPTO's activities were \$258,310 thousand and \$234,788 thousand as of September 30, 2003 and 2002, respectively. Of these amounts, \$230,079 thousand and \$198,370 thousand, respectively, were unpaid.

### Contingencies

The USPTO is a party to various routine administrative proceedings, legal actions, and claims brought by or against it, including threatened or pending litigation involving labor relations claims, some of which may ultimately result in settlements or decisions against the Federal Government. As of September 30, 2003, management expects that it is reasonably possible that approximately \$450 thousand may be owed for awards or damages involving labor relations claims and there are other unasserted claims where a range cannot be determined. During the year ended September 30, 2002, there was a \$212 thousand payment from the Judgment Fund on behalf of the USPTO. Although the ultimate disposition of any potential Judgment Fund proceedings cannot be determined, management does not expect any liability or imputed costs that might ensue would be material to the USPTO's financial statements.



# Required Supplemental Information





## U.S. PATENT AND TRADEMARK OFFICE REQUIRED SUPPLEMENTAL INFORMATION

As of September 30, 2003 and 2002

### Intragovernmental Assets:

(Dollars in Thousands)

Trading Partner	2003			2002	
	Fund Balance with Treasury	Advances and Prepayments	Total	Total	
04 U.S. Government Printing Office	\$ —	\$ 3,442	\$ 3,442	\$ 3,731	
13 Department of Commerce	—	706	706	700	
20 Department of Treasury	985,586	—	985,586	926,130	
47 General Services Administration	—	20,100	20,100	30,512	
Total	\$ 985,586	\$ 24,248	\$ 1,009,834	\$ 961,073	

### Intragovernmental Liabilities:

(Dollars in Thousands)

Trading Partner	2003				2002	
	Accounts Payable	Accrued Payroll and Benefits	Accrued Post-employment Compensation	Customer Deposit Accounts	Total	Total
03 Library of Congress	\$ 130	\$ -	\$ -	\$ -	\$ 130	\$ 314
04 Government Printing Office	299	-	-	-	299	1,461
11 Executive Office of the President	71	-	-	-	71	-
12 Department of Agriculture	16	-	-	207	223	193
13 Department of Commerce	188	-	-	82	270	454
14 Department of Interior	27	-	-	16	43	13
15 Department of Justice	-	-	-	12	12	12
16 Department of Labor	52	-	1,569	-	1,621	1,232
17 Department of the Navy	-	-	-	1,162	1,162	1,190
18 United States Postal Service	-	-	-	9	9	5
19 Department of State	5	-	-	-	5	33
20 Department of Treasury	5	-	-	-	5	701
21 Department of the Army	-	-	-	322	322	700
24 Office of Personnel Management	397	2,084	-	-	2,481	1,957
29 Federal Trade Commission	2	-	-	-	2	-
45 U.S. Equal Employment Opportunity Commission	1	-	-	-	1	-
47 General Services Administration	1,872	-	-	-	1,872	1,155
57 Department of the Air Force	-	-	-	131	131	90
68 Environmental Protection Agency	120	-	-	39	159	103
69 Department of Transportation	-	-	-	2	2	1
75 Health and Human Services	130	-	-	36	166	76
80 National Aeronautics and Space Administration	-	-	-	238	238	371
88 National Archives and Records Administration	172	-	-	-	172	-
89 Department of Energy	-	-	-	969	969	936
96 U.S. Army Corps of Engineers	-	-	-	21	21	68
97 Department of Defense	27	-	-	20	47	31
99 Treasury General Fund	-	808	-	-	808	-
Total	\$ 3,514	\$ 2,892	\$ 1,569	\$ 3,266	\$ 11,241	\$ 11,096

**Intragovernmental Earned Revenue:  
(Dollars in Thousands)**

<b>Trading Partner</b>	<b>2003</b>	<b>2002</b>
03 Library of Congress	\$ -	\$ 1
04 Government Printing Office	-	1
12 Department of Agriculture	326	218
13 Department of Commerce	42	67
14 Department of Interior	28	43
15 Department of Justice	8	5
17 Department of the Navy	1,352	1,340
18 United States Postal Service	44	77
19 Department of State	-	1
21 Department of the Army	791	751
47 General Services Administration	-	239
49 National Science Foundation	30	-
57 Department of the Air Force	316	332
68 Environmental Protection Agency	213	159
69 Department of Transportation	5	162
75 Department of Health and Human Services	7	4
80 National Aeronautics and Space Administration	544	604
89 Department of Energy	1,340	1,389
96 U.S. Army Corps of Engineers	47	48
97 Department of Defense	66	55
<b>Total</b>	<b>\$ 5,159</b>	<b>\$ 5,496</b>

**Gross Costs that Generated Intragovernmental Earned Revenue:  
(Dollars in Thousands)**

<b>Budget Functional Classification</b>	<b>2003</b>	<b>2002</b>
376 Commerce Housing Credit	\$ 5,353	\$ 6,269
<b>Total</b>	<b>\$ 5,353</b>	<b>\$ 6,269</b>

The USPTO has not deferred to a future period maintenance on the property and equipment presented on the Balance Sheet as of September 30, 2003 and 2002.

# Independent Auditors' Report








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

DEC - 1 2003

MEMORANDUM FOR: James E. Rogan  
Under Secretary of Commerce for Intellectual Property and  
Director of the U.S. Patent and Trademark Office

FROM: Johnnie E. Frazier 

SUBJECT: USPTO's FY 2003 Financial Statements  
Audit Report No. FSD-16075-4-0001

I am pleased to provide you with the attached audit report, which presents an unqualified opinion on the U.S. Patent and Trademark Office's FY2003 financial statements. The audit results indicate that the USPTO has established an internal control structure that facilitates the preparation of reliable financial and performance information. We commend the USPTO for the noteworthy accomplishment of attaining an unqualified opinion for the 11<sup>th</sup> consecutive year.

My office contracted with the independent certified public accounting firm of KPMG LLP (KPMG) to perform the audit of the USPTO's financial statements as of and for the year ended September 30, 2003. The contract required that the audit be done in accordance with U.S. generally accepted government auditing standards and OMB Bulletin 01-02, *Audit Requirements for Federal Financial Statements*.

In its audit of the USPTO, KPMG found that:

- the financial statements were fairly presented, in all material respects and in conformity to U.S. generally accepted accounting principles;
- there were no material weaknesses in internal control, as defined on page 2 of the audit report;
- there were no instances in which the USPTO's financial management systems did not comply with the requirements of the Federal Financial Management Improvement Act of 1996, and no reportable noncompliance with other laws and regulations tested.

My office defined the audit's scope and oversaw its performance and delivery. We reviewed KPMG's report and related documentation, and inquired of its representatives. Our review, as differentiated from an audit in accordance with U.S. generally accepted government auditing standards, was not intended to enable us to express, and we do not express, an opinion on the USPTO's financial statements, conclusions about the effectiveness of internal control, or conclusions on compliance with laws and regulations. KPMG is responsible for the attached auditor's report dated November 14, 2003, and the conclusions expressed in the report. However, our review disclosed no instances where KPMG did not comply, in all material respects, with *Government Auditing Standards*.

If you wish to discuss the contents of this report, please call me on (202) 482-4661, or Michael Sears, Assistant Inspector General for Auditing, on (202) 482-1934. We appreciate the cooperation and courtesies the USPTO extended to KPMG and my staff during the audit.

**Attachments**

cc: Jo-Anne Barnard  
Chief Financial Officer and Chief Administrative Officer  
U.S. Patent and Trademark Office

Otto J. Wolff  
Chief Financial Officer and Assistant Secretary for Administration  
Department of Commerce





2001 M Street NW  
Washington, DC 20036

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

We have audited the accompanying consolidated balance sheet of the U. S. Patent and Trademark Office (USPTO), an Agency within the U.S. Department of Commerce, as of September 30, 2003, and the related consolidated statements of net cost, changes in net position, financing, and cash flows, and the combined statement of budgetary resources for the year then ended. The objective of our audit was to express an opinion on the fair presentation of these financial statements. In connection with our audit, we also considered the USPTO's internal control over financial reporting and tested the USPTO's compliance with certain provisions of applicable laws and regulations that could have a direct and material effect on its financial statements.

#### **SUMMARY**

As stated in our opinion on the financial statements, we concluded that the USPTO's financial statements as of and for the year ended September 30, 2003, are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America.

Our consideration of internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses under standards issued by the American Institute of Certified Public Accountants. However, we noted no matters involving the internal control and its operation that we considered to be material weaknesses.

The results of our tests of compliance with laws and regulations disclosed no instances of noncompliance that are required to be reported herein under *Government Auditing Standards*, issued by the Comptroller General of the United States, or Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*.

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

#### **OPINION ON THE FINANCIAL STATEMENTS**

We have audited the accompanying consolidated balance sheet of the U. S. Patent and Trademark Office as of September 30, 2003, and the related consolidated statements of net cost, changes in net position, financing, and cash flows, and the combined statement of budgetary resources for the year then ended. The accompanying financial statements as of and for the year ended September 30, 2002, were audited by other auditors whose unqualified opinion thereon was dated December 13, 2002.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the USPTO as of September 30, 2003, and its net costs, changes in net position, budgetary resources, reconciliation of net costs to budgetary obligations, and cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.



KPMG LLP, a U.S. limited liability partnership, is  
a member of KPMG International, a Swiss association.



The information in the Management Discussion and Analysis section and the Required Supplemental Information presented on pages 81 through 86 are not a required part of the financial statements, but are supplementary information required by accounting principles generally accepted in the United States of America or OMB Bulletin No. 01-09, *Form and Content of Agency Financial Statements*. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However, we did not audit this information and, accordingly, we express no opinion on it.

Our audits were conducted for the purpose of forming an opinion on the financial statements taken as a whole. The Management and Performance Challenges Identified by the Inspector General and Other Accompanying Information presented on pages 93 through 136 are presented for purposes of additional analysis and are not a required part of the financial statements. This information has not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we express no opinion on it.

#### **INTERNAL CONTROL OVER FINANCIAL REPORTING**

Our consideration of internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses under standards issued by the American Institute of Certified Public Accountants. Material weaknesses are conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud, in amounts that would be material in relation to the financial statements being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. However, we noted no matters involving the internal control and its operation that we considered to be material weaknesses as defined above.

\* \* \* \* \*

However, we noted other matters involving internal control over financial reporting and its operation that we have reported to the management of USPTO in a separate restricted use and distribution IT report dated November 3, 2003.

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

The results of our tests of compliance with other laws and regulations, exclusive of the *Federal Financial Management Improvement Act (FFMIA)*, disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 01-02.

The results of our tests of FFMIA disclosed no instances in which the USPTO's financial management systems did not substantially comply with the three requirements discussed in the Responsibilities section of this report.

#### **RESPONSIBILITIES**

##### ***Management's Responsibilities***

The *Government Management Reform Act of 1994 (GMRA)* requires each federal agency to report annually to Congress on its financial status and any other information needed to fairly present its financial position and results of operations. To meet the GMRA reporting requirements, the USPTO prepares annual financial statements.

Management is responsible for the financial statements, including:

- Preparing the financial statements in conformity with accounting principles generally accepted in the United States of America;



- Establishing and maintaining internal controls over financial reporting, and preparation of the Management Discussion and Analysis (including the performance measures) and required supplemental information, and
- Complying with laws and regulations, including FFMIA.

In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control policies. Because of inherent limitations in internal control, misstatements, due to error or fraud may nevertheless occur and not be detected.

#### ***Auditors' Responsibilities***

Our responsibility is to express an opinion on the fiscal year 2003 financial statements of the USPTO based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards*, and OMB Bulletin No. 01-02. Those standards and OMB Bulletin No. 01-02 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit includes:

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

We believe that our audit provides a reasonable basis for our opinion.

In planning and performing our fiscal year 2003 audit, we considered the USPTO's internal control over financial reporting by obtaining an understanding of the USPTO's internal control, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 01-02 and *Government Auditing Standards*. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*. The objective of our audit was not to provide assurance on internal control over financial reporting. Consequently, we do not provide an opinion thereon.

As required by OMB Bulletin No. 01-02, with respect to internal control related to performance measures determined by management to be key and reported in the Management Discussion and Analysis, we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions. Our procedures were not designed to provide assurance on internal control over performance measures and, accordingly, we do not provide an opinion thereon.

As part of obtaining reasonable assurance about whether the USPTO's fiscal year 2003 financial statements are free of material misstatement, we performed tests of the USPTO's compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain provisions of other laws and regulations specified in OMB Bulletin No. 01-02, including certain provisions referred to in FFMIA. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws and regulations applicable to the USPTO. Providing an opinion on compliance with laws and regulations was not an objective of our audit and, accordingly, we do not express such an opinion.



Under OMB Bulletin No 01-02 and FFMA, we are required to report whether the USPTO's financial management systems substantially comply with (1) Federal financial management systems requirements, (2) applicable Federal accounting standards, and (3) the United States Government Standard General Ledger at the transaction level. To meet this requirement, we performed tests of compliance with FFMA Section 803(a) requirements.

**DISTRIBUTION**

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

**KPMG LLP**

November 14, 2003

# Management and Performance Challenges Identified by the Inspector General





## **INSPECTOR GENERAL'S STATEMENT SUMMARIZING THE MAJOR MANAGEMENT AND PERFORMANCE CHALLENGES FACING THE UNITED STATES PATENT AND TRADEMARK OFFICE**

James E. Rogan

Under Secretary of Commerce for Intellectual Property

Director of the United States Patent and Trademark Office

**W**e herewith submit, for inclusion in the U.S. Patent and Trademark Office's (USPTO) *Performance & Accountability Report*, a summary of the issues we have determined to be USPTO's most critical management and performance challenges.

The Office of Inspector General considers the issues noted to be significant impediments to USPTO's efforts to promote economy, efficiency, and effectiveness in its management and operations because they are complex, vital to the agency's mission, involve sizable expenditures, or require significant management improvements. We believe that by addressing these issues USPTO can enhance program efficiency and effectiveness; eliminate serious operational problems; decrease fraud, waste, abuse and mismanagement; and achieve substantial cost savings.

### **Successfully Operate as a Performance-Based Organization**

As a performance-based organization<sup>1</sup>, USPTO has not only broad control over its budget allocations and expenditures, personnel decisions and processes, procurement, and information technology operations, it also has the ability to manage its operations more like a business.

In response to the concerns of its stakeholders, in June 2002, USPTO issued its 5-year, 21st Century Strategic Plan. The plan was intended to help the agency overcome the challenges accompanying its transition to performance-based operations - the need to successfully develop necessary personnel processes, systems, and capabilities; establish procurement and administrative policies as well as performance-oriented processes and standards for evaluating overall cost-effectiveness; and, simultaneously, meet its performance goals under the Government Performance and Results Act (GPRA) in addition to the timeliness standards of the American Inventors Protection Act.

According to USPTO, the 21st century plan is aggressive and far-reaching and provides a roadmap for major changes in patent and trademark processes, including steps to (1) move to a paperless environment and promote e-government, (2) enhance employee development, (3) explore competitive sourcing, and (4) improve and maintain quality assurance. The plan also calls for the agency to work with worldwide intellectual property offices to create a global framework for enforcing intellectual property rights.

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<sup>1</sup> The American Inventors Protection Act of 1999 established the U.S. Patent and Trademark Office as a performance-based organization, giving it greater flexibility and independence to operate more like a business.

Our office is reviewing selected aspects of major USPTO operations as they currently function and in light of changes proposed by the 21st century plan. These include the trademark application process and efforts to reduce trademark application pendencies; as well as patent examiner production goals, awards, and performance appraisal plans and their effect on employee productivity and patent pendency. In addition, we are reviewing certain policies and procedures related to the operation of USPTO's Office of Human Resources Management. As changes in these and other areas occur, we will evaluate their impact on USPTO's successful operation as a performance-based organization - an achievement we view as critical to its long-term viability and its success at addressing other challenges we have identified in recent years, as described below.

### **Information Technology Security Must Remain a Priority**

USPTO's patent and trademark information is essential to administering patent and trademark law, promoting industrial and technical progress, and strengthening the national economy. Loss of or serious damage to the critical systems that process this information could have devastating impacts, which makes identifying IT weaknesses and recommending solutions a continuing priority for OIG.

Our **FY 2003 Federal Information Security Management Act (FISMA)**<sup>2</sup> evaluation found that USPTO has begun to better integrate information technology security into its capital planning and investment control process, and is improving its system life-cycle information security requirements and processes. In addition, the agency continues to work to ensure that its senior program officials understand and accept their responsibilities for information security, a prerequisite for any effective and long-lived program.

USPTO is also well on its way to having its systems certified and accredited. Our **FY 2002 Government Information Security Reform Act (GISRA)**<sup>3</sup> evaluation found that USPTO lacked current certifications and accreditations for its systems and suggested that it report information security as a material weakness until its critical systems are fully certified and accredited. The agency did so in its *FY 2002 Performance & Accountability Report* and set a goal of certifying and accrediting all high-risk systems by the end of FY 2003. It subsequently revised its system inventory by consolidating more than 100 systems into 19<sup>4</sup> - 9 mission-critical and the remainder business essential. It planned to have the 9 mission-critical systems and 1 classified system certified and accredited by the end of FY 2003. By the end of FY2003, all 10 systems had undergone certification testing; 9 had been granted 120-day interim accreditations and 1 had received final accreditation.

We found that USPTO does not grant interim accreditations without comprehensive risk assessments, security plans, and testing; and uses a disciplined certification and accreditation process that includes rigorous testing of security controls. Using this approach the agency has gained a great deal of insight into system-specific weaknesses that must be corrected and organization-wide security policies, procedures, and processes that must be improved.

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<sup>2</sup> FISMA, signed into law on December 17, 2002, provides a comprehensive framework for ensuring that information resources supporting federal operations and assets employ effective security controls. FISMA requires agencies to conduct annual information security program reviews and Offices of Inspector General to perform annual independent evaluations of those programs.

<sup>3</sup> FISMA replaced GISRA, which expired in December 2002.

<sup>4</sup> After our FY 2003 evaluation report was published, USPTO further revised its system inventory, further reducing the number of systems to 18.



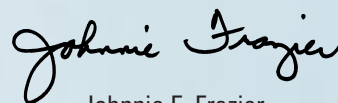
Because of the security weaknesses identified by the certification process and the lack of final accreditations, we believe USPTO should continue to report information security as a material weakness for FY 2003.

### **Construction of New Facility Warrants Close Management Oversight**

As part of our effort to monitor USPTO's performance-based operation, we are reviewing progress on the construction of the agency's new headquarters complex in Alexandria, Virginia. Construction of this state-of-the-art office complex is one of the federal government's largest real estate ventures. When completed in 2005, the five-building complex will consolidate the majority of the USPTO employees and contractors currently scattered among 18 buildings in Crystal City, Virginia. With construction well under way, USPTO must monitor progress to help ensure the project stays on schedule and to carefully implement the relocation of its facilities so as to minimize costs and adverse effects on operations, employees, patent and trademark applicants, and the public.

### **Emergency Preparedness, Safety, and Security of Facilities and Personnel — A National Priority**

USPTO, along with other Commerce facilities in the Washington, D.C., area and like most federal entities across the nation, has taken steps to improve the safety and security of its people and property. As work on its new headquarters progresses, USPTO must be sure to incorporate all the necessary protections before occupying the space, and to periodically reassess its security status and adjust protective measures accordingly.



Johnnie E. Frazier

Inspector General



# Other Accompanying Information





## **THE NATURE OF THE TRAINING PROVIDED TO USPTO EXAMINERS**

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**A**chieving 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 automation training in FY 2003. The USPTO has a comprehensive training program for new patent examiners and trademark examining attorneys, which has a well-established curriculum including initial legal training and training in examination practice and procedure. Automation training is provided to all examiners on an as-needed, just-in-time basis. Technology-specific legal and technical training was conducted throughout the examining operations. This specific training either focused on practices particular to the technology or was developed to address training needs identified through Trademark training.

The USPTO training staff works one-on-one with the Patent and Trademark business units to address specific training concerns and serve as consultants to design specific internal programs to fit the education needs of each business unit. Training is reviewed and evaluated on an on-going basis to insure it is up-to-date and that coursework reflects developments and changes that have taken place in the industry.

In FY 2003 in Trademarks, data gathered from the results of quality reviews are being analyzed and used to prepare the content of on-line e-learning training materials for trademark examining attorneys. Three e-learning modules: "proper handling of scandalous and disparaging trademarks;" "likelihood of confusion regarding weak and diluted trademarks;" and "scope of identification of goods and services amendments" have been developed. Reviewers continue to gather data regarding dozens of examination issues on each file they review to identify future training needs and support the Office goal to improve quality through in-process reviews.

## PATENT EXAMINER TRAINING

<p><b>Procedural Training</b> – mandatory for all first year examiners</p>	<p>Patent Examiner Initial Training and Introduction to Practice and Procedures</p> <p>Standardized training is provided to new patent examiners to teach them the basic skills and knowledge of the patent process, and practices and procedures such that they will be able to successfully examine a patent application. The examiner will also be able to provide an initial report to their supervisor on what is the claimed, as well as the disclosed invention contained in the application so as to permit him or her to perform a prior art search. The number of courses offered each year is based on the projected number of new examiners entering the patent business unit.</p>
<p><b>Legal Training</b> – Mandatory for all first year examiners</p>	<p>Practice and Procedures Lectures covering the following topics:</p> <ul style="list-style-type: none"> <li>■ Types of applications and application requirements</li> <li>■ “Novelty” Requirements</li> <li>■ “Non-Obviousness” Requirements</li> <li>■ “Utility” Requirements</li> <li>■ Restriction Practice</li> <li>■ Unity of Invention</li> <li>■ Double Patenting</li> <li>■ Allowance and Issue</li> <li>■ Appeals</li> </ul>
<p><b>Legal Training</b> – Technology Center Focused</p>	<ul style="list-style-type: none"> <li>■ “Novelty” Requirements</li> <li>■ Docket Management</li> <li>■ Parts of Application</li> <li>■ USPTO Forms</li> <li>■ After Final Practice</li> <li>■ “Non-Obviousness” Requirements</li> <li>■ “Utility” Requirements</li> <li>■ Prior Art (special topics)</li> <li>■ Restriction Practice</li> <li>■ Response to Arguments</li> <li>■ Double Patenting</li> <li>■ Re-exam/Re-issue</li> </ul>
<p><b>Legal Training</b> – Legal Lectures</p>	<p>Various topics offered each year</p>
<p><b>Legal Training</b> – Legal Courses</p>	<ul style="list-style-type: none"> <li>■ Patent Law and Evidence</li> </ul>

**PATENT EXAMINER TRAINING *Continued***

**Examiner Technical Training**

(Technology Center Focused)

- Biotechnology
- Computer Software and Hardware
- Optics, Semiconductor, Electrical Engineering
- Communication Technology

**Non-Duty Technical Training Program**

Examples:

- Mathematical Methods for Physics

**Automation Training**

Examples:

**IFW Classes**

- IFW for Examiners (eDAN)
- IFW for Technical Support Staff (MADRAS)
- IFW for Coordinating Committee
- IFW Messaging for Supervisory Patent Examiners
- IFW Refresher Course

**Non-IFW Classes**

- Classification Data System Desktop Training
- ChemDraw
- Examiner Automated Search System (EAST) 1.3: New Features
- EAST and Bibliographic Retrieval System: The Fundamentals
- Office Action Correspondence System (OACS) 1.3: New Features
- OACS Basics
- OACS for Non-Typists
- OACS: Creating Personal Forms
- Chemical Searching for Non-chemists
- West: Refresher
- Microsoft® PowerPoint
- Microsoft® Outlook
- PALMExpo Overview

**TC-Focused Classes**

- EAST Databases
- EAST: Automated Searching for Design Examiners
- EAST and Optical Character Recognition
- OACS Basics for Design Examiners
- Non-Patent Literature (NPL) Web Resources in Your Art Area
- Classification and Security Review

## TRADEMARK EXAMINING ATTORNEY TRAINING

<p><b>Trademark Organization Training and Learning</b></p> <p><b>Legal Training</b> – mandatory for all first year trademark-examining attorneys.</p>	<p>This course provides new trademark attorneys with basic knowledge of the Federal Trademark Act, examination procedures and automated search tools. Practice and Procedures Lectures and Activities cover the following topics:</p> <ul style="list-style-type: none"> <li>■ Trademark Law Overview</li> <li>■ Refusals under Section 2(d) of Trademark Act (Likelihood of Confusion)</li> <li>■ Refusals under Section 2(e)(1) of Trademark Act (Mere Descriptiveness/Deceptively Misdescriptive)</li> <li>■ Trademark Manual of Examining Procedure</li> <li>■ Refusals under Section 2(e)(2) of Trademark Act (Geographically Descriptive)</li> <li>■ Refusals under Section 2(e)(3) of Trademark Act (Geographically Deceptively Misdescriptive)</li> <li>■ Refusals under Section 2(e)(4) of Trademark Act (Primarily Merely Surname)</li> <li>■ Intent to Use Procedural Requirements</li> <li>■ Identification and Classification of Goods and Services Practice</li> <li>■ Legal Letter Writing</li> <li>■ Drawings, Specimens and Use-Based Refusals</li> <li>■ Basis Requirements</li> <li>■ Options Practice – Section 2(f) of Trademark Act and Supplemental Register</li> <li>■ Disclaimer Requirements</li> <li>■ Evidence Practice</li> <li>■ Refusals under Sections 2(a), (b) and (c) of Trademark Act</li> </ul>
<p><b>Automation Training</b></p>	<ul style="list-style-type: none"> <li>■ PTOnet System and Applications</li> <li>■ X-Search Automated Trademark Search System</li> </ul>



## FISCAL YEAR 2003 USPTO WORKLOAD TABLES

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**TABLE 1**
**SUMMARY OF PATENT EXAMINING ACTIVITIES**
*(As of September 30 of each fiscal year)*

PATENT EXAMINING ACTIVITY	1999	2000	2001	2002	2003
<b>Applications filed, total</b>	<b>278,268</b>	<b>311,807</b>	<b>344,717</b>	<b>353,394</b>	<b>355,418</b>
Utility <sup>1</sup>	259,618	291,653	324,211	331,580	331,729
Reissue	664	805	956	974	938
Plant	759	786	914	1,134	785
Design	17,227	18,563	18,636	19,706	21,966
<b>Provisional Applications Filed<sup>2</sup></b>	<b>54,727</b>	<b>78,963</b>	<b>86,123</b>	<b>89,537</b>	<b>92,517</b>
<b>First actions</b>					
Design	18,050	17,856	17,748	19,029	19,013
Utility, Plant, and Reissue	226,642	237,421	241,770	275,054	283,111
PCT/Chapter 1	14,316	16,331	17,972	19,460	23,277
<b>Patent application disposals, total</b>	<b>238,292</b>	<b>252,871</b>	<b>257,467</b>	<b>279,297</b>	<b>303,635</b>
<b>Allowed patent applications, total</b>	<b>171,685</b>	<b>182,888</b>	<b>183,394</b>	<b>189,191</b>	<b>205,879</b>
Design	16,305	16,688	16,526	17,377	17,596
Utility, Plant, and Reissue	155,380	166,200	166,868	171,814	188,283
<b>Abandoned, total</b>	<b>66,493</b>	<b>69,895</b>	<b>74,014</b>	<b>90,092</b>	<b>97,745</b>
Design	2,431	1,839	1,448	1,675	1,552
Utility, Plant, and Reissue	64,062	68,056	72,566	88,417	96,176
<b>Statutory invention registration disposals, total</b>	<b>114</b>	<b>88</b>	<b>59</b>	<b>14</b>	<b>11</b>
<b>PCT/Chapter II examinations completed</b>	<b>12,886</b>	<b>15,471</b>	<b>18,859</b>	<b>16,456</b>	<b>21,005</b>
<b>Patents issued<sup>3</sup></b>	<b>159,166</b>	<b>182,223</b>	<b>187,822</b>	<b>177,317</b>	<b>189,597</b>
Utility	142,856	164,490	169,576	160,843	171,500
Reissue	437	561	504	466	394
Plant	393	453	563	912	1,178
Design	15,480	16,719	17,179	15,096	16,525
Pendency time of average patent application <sup>4</sup>	25.0	25.0	24.7	24.0	26.7
Reexamination certificates issued	243	276	287	200	193
PCT international applications received by					
USPTO as receiving office	30,305	36,671	43,322	42,889	42,969
National requirements received by USPTO as designated/elected office	19,941	23,628	26,821	29,846	32,753
Patents renewed under Public Law (P.L.) 102-204 <sup>5</sup>	156,414	206,255	205,117	194,143	253,475
Patents expired under P.L. 102-204 <sup>5</sup>	52,289	47,958	49,077	53,724	57,770

<sup>1</sup> Utility patents include chemical, electrical and mechanical applications.

<sup>2</sup> Provisional applications provided for in P.L. 103-465.

<sup>3</sup> Excludes withdrawn numbers.

<sup>4</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>5</sup> The provisions of P.L. 102-204 regarding the renewal of patents superceded P.L. 96-517 and P.L. 97-247. FY 1999 column revised from FY 1999 report.

**TABLE 2**

**PATENT APPLICATIONS FILED  
(FY 1983 - FY 2003)**

Year	Utility <sup>1</sup>	Design	Plant	Reissue	Total
1983	96,847	8,256	231	370	105,704
1984	109,010	8,446	248	281	117,985
1985	115,893	9,504	244	290	125,931
1986	120,988	9,792	291	332	131,403
1987	125,677	10,766	364	366	137,173
1988	136,253	11,114	377	439	148,183
1989	150,418	11,975	418	495	163,306
1990	162,708	11,140	395	468	174,711
1991	166,765	10,368	414	536	178,083
1992	171,623	12,907	335	581	185,446
1993	173,619	13,546	362	572	188,099
1994	185,087	15,431	430	606	201,554
1995	220,141	15,375	516	647	236,679
1996	189,922	15,160	557	637	206,276
1997	219,486	16,272	680	607	237,045
1998	238,850	16,576	658	582	256,666
1999	259,618	17,227	759	664	278,268
2000	291,653	18,563	786	805	311,807
2001	324,211	18,636	914	956	344,717
2002	331,580	19,706	1,134	974	353,394
<b>2003</b>	<b>331,729</b>	<b>21,966</b>	<b>785</b>	<b>938</b>	<b>355,418</b>

<sup>1</sup> Chemical, electrical, and mechanical applications.

**TABLE 3**

**PATENTS PENDING PRIOR TO ALLOWANCE <sup>1</sup>**  
**(FY 1983 - FY 2003)**

Year	Awaiting action by examiner	Total applications pending <sup>2</sup>
1983	102,532	223,101
1984	90,687	219,567
1985	90,648	215,512
1986	80,547	207,774
1987	65,010	209,911
1988	75,678	215,280
1989	92,377	222,755
1990	104,179	244,964
1991	104,086	254,507
1992	112,201	269,596
1993	99,904	244,646
1994	107,824	261,249
1995	124,275	298,522
1996	139,943	303,720
1997	112,430	275,295
1998	224,446	379,484
1999	243,207	414,837
2000	308,056	485,129
2001	355,779	542,007
2002	433,691	636,530
<b>2003</b>	<b>471,382</b>	<b>674,691</b>

<sup>1</sup> Includes patents 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 2003)**

<b>UTILITY, PLANT &amp; REISSUE (UPR) APPLICATIONS</b>	<b>NUMBER OF APPLICATIONS</b>	<b>AVERAGE PENDENCY (in months)</b>
<b>Total</b>	<b>284,459</b>	<b>26.7</b>
Issued	188,283	27.6
Abandoned	96,176	25.5
Applications In Process	702,070	N/A

**UPR PENDENCY STATISTICS BY TECHNOLOGY CENTER (in months)**

	<b>To Issue</b>	<b>Abandoned</b>
<b>Total UPR Pendency</b>		
Tech Center 1600 - Biotechnology & Organic Chemistry	28.6	26.4
Tech Center 1700 - Chemical & Materials Engineering	27.0	25.3
Tech Center 2100 - Computer Architecture, Software, & Information Security	39.0	35.7
Tech Center 2600 - Communications	40.3	35.2
Tech Center 2800 - Semiconductor, Electrical, Optical Systems, & Components	24.4	21.5
Tech Center 3600 - Transportation, Construction, Agriculture, & Electronic Commerce	23.4	23.7
Tech Center 3700 - Mechanical Engineering, Manufacturing, & Products	24.6	20.9

**TOTAL UPR PENDENCY BY TECHNOLOGY CENTER (in months)**

	<b>Average Pendency in Months</b>
<b>Total UPR Pendency</b>	
Tech Center 1600 - Biotechnology & Organic Chemistry	27.8
Tech Center 1700 - Chemical & Materials Engineering	26.6
Tech Center 2100 - Computer Architecture, Software, & Information Security	38.0
Tech Center 2600 - Communications	39.0
Tech Center 2800 - Semiconductor, Electrical, Optical Systems, & Components	23.9
Tech Center 3600 - Transportation, Construction, Agriculture, & Electronic Commerce	23.5
Tech Center 3700 - Mechanical Engineering, Manufacturing, & Products	23.7

TABLE 5

**SUMMARY OF PENDING PATENT APPLICATIONS**  
(As of September 30, 2003)

Stage of processing	Utility, plant and reissue applications	Design applications	Total patent applications
<b>Pending patent applications, total</b>	<b>737,944</b>	<b>24,970</b>	<b>762,914</b>
<b>In preexamination processing, total</b>	<b>108,155</b>	<b>6,017</b>	<b>114,172</b>
<b>Under examination, total</b>	<b>548,853</b>	<b>11,003</b>	<b>559,856</b>
Undocketed	76,334	2,182	78,516
Awaiting first action by examiner	272,765	5,929	278,694
Rejected, awaiting response by applicant	149,270	2,310	151,580
Amended, awaiting action by examiner	37,892	493	38,385
In interference	435	1	436
On appeal, and other <sup>1</sup>	12,157	88	12,245
<b>In postexamination processing, total</b>	<b>80,293</b>	<b>7,930</b>	<b>88,223</b>
Awaiting issue fee	44,278	3,969	48,247
Awaiting printing <sup>2</sup>	32,902	3,960	36,862
D-10s (secret cases in condition for allowance)	3,113	1	3,114

<sup>1</sup> Includes cases on appeal and undergoing petitions.

<sup>2</sup> Includes withdrawn cases.

TABLE 6

**PATENTS ISSUED**  
 (FY 1983 - FY 2003)

Year	Utility <sup>1</sup>	Design	Plant	Reissue	Total
1983	54,744	4,401	219	351	59,715
1984	66,753	4,935	174	287	72,149
1985	69,667	5,058	277	300	75,302
1986	71,301	5,202	227	263	76,993
1987	82,141	6,158	240	254	88,793
1988	77,317	5,740	283	244	83,584
1989	95,831	5,844	728	309	102,712
1990	88,974	7,176	295	282	96,727
1991	91,822	9,386	318	334	101,860
1992	99,405	9,612	336	375	109,728
1993	96,676	9,946	408	302	107,332
1994	101,270	11,138	513	347	113,268
1995	101,895	11,662	390	294	114,241
1996	104,900	11,346	338	291	116,875
1997	111,979	10,331	400	267	122,977
1998	139,298	14,420	577	284	154,579
1999	142,856	15,480	437	393	159,166
2000	164,490	16,719	453	561	182,223
2001	169,576	17,179	563	504	187,822
2002	160,843	15,096	912	466	177,317
<b>2003</b>	<b>171,500</b>	<b>16,525</b>	<b>1,178</b>	<b>394</b>	<b>189,597</b>

<sup>1</sup> Includes chemical, electrical, and mechanical applications.

**TABLE 7**

**PATENT APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES <sup>1</sup>  
(FY 2003)**

**DATA IS PRELIMINARY**

State/Territory	No. for 2003	State/Territory	No. for 2003	State/Territory	No. for 2003
<b>Total</b>	<b>197,948</b>	Kentucky	683	Oklahoma	794
		Louisiana	608	Oregon	2,979
Alabama	615	Maine	253	Pennsylvania	4,982
Alaska	68	Maryland	2446	Rhode Island	491
Arizona	2,499	Massachusetts	6,428	South Carolina	928
Arkansas	220	Michigan	5,560	South Dakota	145
California	35,083	Minnesota	4,772	Tennessee	1,386
Colorado	3,563	Mississippi	278	Texas	9,184
Connecticut	2,776	Missouri	1,404	Utah	1,295
Delaware	607	Montana	192	Vermont	511
District of Columbia	161	Nebraska	373	Virginia	2,003
Florida	4,897	Nevada	877	Washington	4,669
Georgia	2,669	New Hampshire	969	West Virginia	166
Hawaii	160	New Jersey	5,674	Wisconsin	2,992
Idaho	2,477	New Mexico	526	Wyoming	111
Illinois	6,130	New York	9,183	Puerto Rico	57
Indiana	2,214	North Carolina	3,184	Virgin Islands	9
Iowa	987	North Dakota	111	U.S. Pacific Islands <sup>2</sup>	1
Kansas	807	Ohio	5,063	United States <sup>3</sup>	50,728

<sup>1</sup> Data include utility, plant, design, and reissue applications.

<sup>2</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>3</sup> No State indicated in database.



**TABLE 8**

**PATENTS ISSUED TO RESIDENTS OF THE UNITED STATES <sup>1</sup>  
(FY 2003)**

State/Territory	No. for 2003	State/Territory	No. for 2003	State/Territory	No. for 2003
<b>Total</b>	<b>99,898</b>	Kentucky	483	Oklahoma	566
		Louisiana	451	Oregon	1,880
Alabama	458	Maine	159	Pennsylvania	3,592
Alaska	41	Maryland	1,623	Rhode Island	327
Arizona	1,743	Massachusetts	4,199	South Carolina	687
Arkansas	191	Michigan	4,266	South Dakota	89
California	22,351	Minnesota	3,243	Tennessee	1,009
Colorado	2,345	Mississippi	186	Texas	6,509
Connecticut	1,940	Missouri	937	Utah	753
Delaware	376	Montana	118	Vermont	465
District of Columbia	57	Nebraska	233	Virginia	1,250
Florida	3,113	Nevada	424	Washington	2,570
Georgia	1,611	New Hampshire	721	West Virginia	148
Hawaii	78	New Jersey	4,068	Wisconsin	2,138
Idaho	1,883	New Mexico	403	Wyoming	79
Illinois	3,979	New York	6,973	Puerto Rico	29
Indiana	1,720	North Carolina	2,199	U.S. Pacific Islands <sup>2</sup>	-
Iowa	675	North Dakota	74	United States <sup>3</sup>	1
Kansas	510	Ohio	3,972	Virgin Islands	3

<sup>1</sup> Data include utility, plant, design, 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.

**TABLE 9**
**UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES <sup>1</sup>**  
 (FY 1999 - FY 2003)

**FY 2003 DATA IS PRELIMINARY**

Residence	1999	FN	2000	2001	2002	2003	Residence	1999	FN	2000	2001	2002	2003
<b>Total</b>	<b>125,423</b>		<b>136,102</b>	<b>154,205</b>	<b>160,036</b>	<b>157,470</b>	Falkland Islands	-		-	-	-	-
Albania	-		-	-	-	-	Fiji	2		-	2	1	1
Algeria	-		1	2	-	1	Finland	1,309		1,475	1,799	2,045	1,308
Andorra	1		-	3	3	1	French Polynesia	-		2	-	-	-
Angola	-		-	-	1	-	France	6,398		6,859	7,154	7,434	5,061
Anguilla	1		-	-	1	-	French Guiana	-		-	-	-	-
Antigua & Barbuda	-		-	-	-	-	Gabon	-		-	-	-	-
Argentina	102		138	146	109	89	Georgia	2		1	5	3	3
Armenia	1	3	1	4	1	1	Germany	17,446		17,858	19,776	21,657	14,415
Aruba	-		-	1	1	-	Ghana	1		-	-	1	-
Australia	1,507		1,887	2,088	2,246	1,720	Gibraltar	-		-	-	1	-
Austria	871		887	945	1,134	775	Greece	47		45	48	56	30
Azerbaijan	1		1	2	-	1	Guadeloupe	-		-	-	-	-
Bahamas	14		17	14	26	16	Guatemala	2		1	12	3	1
Bahrain	2		1	-	-	1	Guyana	-		-	1	-	-
Bangladesh	-		-	1	1	1	Guinea	-		-	-	-	-
Barbados	3		7	4	4	-	Haiti	-		2	-	1	-
Belarus	6		11	4	8	3	Honduras	6		1	1	-	-
Belgium	1,207		1,338	1,341	1,435	1,013	Hungary	115		116	91	135	96
Belize	-		-	-	-	-	Iceland	30		39	39	40	34
Benelux Convention	-		-	-	-	-	India	263		389	636	813	800
Bermuda	7		15	4	12	9	Indonesia	26		15	10	25	24
Bolivia	2		-	1	1	-	Iran	2		1	4	4	3
Bosnia & Herzegovina	1		1	-	-	-	Iraq	-		-	1	1	-
Botswana	-		-	-	-	-	Ireland	264		339	401	448	281
Brazil	206		240	247	288	228	Israel	1,938		2,477	2,781	2,737	1,915
British Virgin Islands	2		3	2	13	11	Italy	2,835		3,031	3,185	3,336	2,424
Brunei	-		-	2	2	-	Jamaica	4		2	1	2	2
Bulgaria	2		23	10	10	6	Japan	47,413		54,365	62,676	61,259	45,835
Canada	7,006		7,146	7,802	7,967	6,073	Jordan	5		-	4	3	4
Cayman Islands	7		4	8	10	1	Kazakhstan	10		2	2	1	1
Chile	14		28	29	44	22	Kenya	8		1	13	12	25
China (Hong Kong)	757		837	1,008	1,109	892	Korea, Dem. Republic of	-		-	-	-	-
China (People's Republic)	271		437	694	966	887	Korea, Republic of	5,634		5,882	6,792	7,757	7,071
Columbia	21		24	28	26	17	Kuwait	12		10	6	11	2
Cook Islands	-		-	-	-	-	Kyrgyzstan	1		-	-	-	-
Costa Rica	8		29	8	18	15	Laos	-		-	-	-	-
Cote D'Ivoire	1		-	-	2	-	Latvia	2		2	5	2	2
Croatia	15		18	22	20	18	Lebanon	5		4	9	11	6
Cuba	5		14	6	11	6	Lesotho	-		-	-	-	-
Cyprus	4		2	7	5	6	Liechtenstein	26		26	33	28	26
Czech Republic	37		58	83	55	38	Lithuania	3		4	8	2	6
Czechoslovakia	15		-	-	-	-	Luxembourg	51		65	77	81	53
Democratic Republic of the Congo	-		-	-	-	-	Macau	2		-	4	7	7
Denmark	938		941	1,130	1,227	819	Madagascar	1		-	2	-	-
Djibouti	-		-	-	-	-	Macedonia	-		3	2	-	-
Dominica	1		2	-	-	-	Malaysia	74		94	144	136	178
Dominican Republic	-		4	1	3	4	Maldives	-		-	-	-	-
Ecuador	5		6	8	11	4	Mali	-		-	-	-	-
Egypt	19		21	16	13	9	Malta	-		1	6	5	3
El Salvador	1		2	3	1	2	Marshall Islands	-		-	1	-	-
EPO	-		-	-	-	-	Mauritius	-		-	1	-	1
Estonia	7		7	7	8	5	Mexico	172		180	220	167	154
Ethiopia	-		-	-	-	-	Moldova	-		1	2	3	1
							Monaco	14		26	29	27	22
							Mongolia	-		-	-	-	-

**TABLE 9**  
**CONT.**

**UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES<sup>1</sup>**  
**(FY 1999 - FY 2003)**

**FY 2003 DATA IS PRELIMINARY**

Residence	1999	FN	2000	2001	2002	2003	Residence	1999	FN	2000	2001	2002	2003
Montserrat	-		-	-	-	-	Slovakia	5		10	3	15	5
Morocco	1		5	1	1	4	Slovenia	20		27	21	21	42
Myanmar	-		-	-	-	-	Solomon Islands	-		-	-	-	-
Namibia	1		-	-	-	-	South Africa	243		199	259	248	174
Nauru	-		-	-	-	-	Soviet Union	-		-	-	-	-
Nepal	-		-	-	-	-	Spain	481		595	611	690	456
Netherlands	2,158		2,446	2,822	3,074	1,754	Sri Lanka	13		8	8	20	3
Netherlands Antilles	1		-	1	1	-	St. Lucia	-		-	1	1	-
New Caledonia	-		-	-	3	-	Suriname	-		1	-	-	-
New Zealand	249		296	355	402	341	Swaziland	-		-	-	-	-
Nicaragua	-		-	1	-	-	Sweden	2,770		2,840	3,001	2,692	1,705
Niger	-		-	-	-	-	Switzerland	2,245		2,318	2,494	2,560	1,741
Nigeria	1		5	7	3	3	Syria Arab Rep	5		3	-	3	4
Norfolk Island	-		-	-	1	-	Taiwan	11,392		10,380	12,403	13,761	10,883
Norway	399		465	452	587	343	Tanzania	-		1	1	1	-
Oman	-		-	-	1	4	Thailand	61		91	106	85	62
Pakistan	2		6	2	6	4	Trinidad & Tobago	1		8	1	1	4
Palau	1		-	-	1	-	Tunisia	1		-	1	3	2
Panama	8		4	10	4	4	Turkey	35		27	31	39	34
Paraguay	-		2	-	-	-	Turks and Caicos Islands	-		2	5	7	6
Peru	8		6	8	9	5	Uganda	4		-	-	-	-
Philippines	28		32	47	72	28	Ukraine	20		23	39	46	23
Poland	27		35	43	46	36	United Arab Emirates	7		6	2	11	5
Portugal	29		22	27	31	18	United Kingdom	7,128		7,613	8,464	9,238	5,913
Qatar	-		-	-	1	-	Uruguay	4		2	7	8	7
Romania	5		10	13	9	8	Uzbekistan	4		3	-	3	1
Russian Federation	360		384	417	403	251	Vatican City	-		-	-	1	-
Saint Kitts & Nevis	2		2	2	1	5	Venezuela	44		42	65	41	21
San Marino	-		-	1	-	-	Vietnam	1		1	5	1	1
Saudi Arabia	17		24	32	35	26	Yemen	-		-	-	-	-
Senegal	-		-	-	-	-	Yugoslavia	6	<sup>3</sup>	7	4	8	6
Seychelles	-		-	1	-	1	Zimbabwe	1		1	1	2	1
Sierra Leone	-		-	-	-	-	Other <sup>2</sup>	-		-	-	-	40,435
Singapore	444		680	766	792	612							

- 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.

<sup>2</sup> Country of origin information not available.

<sup>3</sup> Revised from FY 1999 Report

**TABLE 10**
**PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES<sup>1</sup>**  
**(FY 1999 - FY 2003)**

Residence	1999	FN	2000	2001	2002	2003	Residence	1999	FN	2000	2001	2002	2003
<b>Total</b>	<b>70,047</b>		<b>81,675</b>	<b>86,203</b>	<b>83,970</b>	<b>89,699</b>	Ghana	1		-	-	-	-
Albania	-		1	-	-	-	Gibraltar	-		1	-	-	-
Algeria	1	<sup>2</sup>	-	1	-	-	Greece	21		22	23	21	26
Andorra	1		-	-	1	1	Guadeloupe	-		-	-	-	-
Anguilla	-		-	-	-	-	Guatemala	2		2	-	5	3
Antigua & Barbuda	-		1	-	-	-	Guinea	-		1	-	-	-
Argentina	45		65	58	54	68	Haiti	1		-	-	-	-
Armenia	-		1	1	1	2	Honduras	5		1	-	2	1
Aruba	-		2	-	1	-	Hungary	38		41	57	49	67
Australia	795		885	1,041	955	1,040	Iceland	10		15	23	17	17
Austria	443		544	653	535	627	India	109		123	159	254	338
Azerbaijan	1		1	-	-	-	Indonesia	4		15	9	14	13
Bahamas	12		13	12	14	6	Iran	1		-	1	1	-
Bahrain /2	-		3	-	-	-	Ireland	104		128	174	136	187
Bangladesh	-		-	-	-	1	Israel	748		856	1,023	1,042	1,265
Barbados	1		-	2	6	2	Italy	1,595		1,915	2,052	1,945	2,015
Belarus	5		4	5	3	6	Jamaica	1		2	1	2	1
Belgium	667		807	805	772	762	Japan	30,425		34,563	34,875	34,954	37,862
Bermuda	2		-	5	4	7	Jordan	2		-	3	1	1
Bolivia	-		3	-	-	1	Kazakhstan	1		4	3	2	1
Bosnia and Herzegovina	-		-	1	1	-	Kenya	2		1	4	3	7
Brazil	87		122	127	113	150	Korea, Dem. Republic of	-		-	-	-	-
British Virgin Islands	2		1	1	-	8	Korea, Republic of	3,477		3,699	3,783	3,755	4,198
Brunei	-		-	-	1	-	Kuwait	12		11	4	11	5
Bulgaria	5		2	5	1	9	Kyrgyzstan	-		-	2	-	-
Canada	3,498		4,060	4,157	3,809	3,869	Latvia	2		2	-	1	2
Cayman Islands	4		6	6	6	11	Lebanon	3		3	4	2	6
Chile	12		15	15	13	16	Liechtenstein	15		19	22	15	20
China (Hong Kong)	395	/2	540	603	546	667	Lithuania	4		2	4	2	4
China (Mainland)	86	/2	143	239	347	442	Luxembourg	46		48	46	52	55
Colombia	4		6	13	14	11	Macau	-		-	-	-	6
Cook Islands	-		-	-	-	-	Macedonia, Former	-		-	-	-	1
Costa Rica	10		12	8	10	10	Madagascar	-		1	1	1	-
Croatia	17		11	8	10	14	Malaysia	27		51	51	57	65
Cuba	4		1	4	8	8	Malta	-		2	2	-	3
Cyprus	-		1	1	-	1	Marshall Islands	1		-	-	1	-
Czech Republic	18		42	32	24	38	Mauritius	-		1	-	-	-
Czechoslovakia	7		8	7	4	-	Mexico	79		107	95	93	92
Democratic Republic of the Congo	-		-	-	-	-	Moldova, Republic	3	<sup>2</sup>	-	-	1	1
Denmark	551		536	532	569	609	Monaco	12		14	21	16	12
Dominica	-		1	2	-	-	Morocco	1		2	2	-	1
Dominican Republic	3		2	3	-	1	Myanmar	1		-	-	-	-
Ecuador	4		-	3	1	5	Namibia	-		1	-	-	-
Egypt	1		6	10	4	6	Netherlands	1,322		1,484	1,465	1,604	1,640
El Salvador /2	-		-	3	-	-	Netherlands Antilles	1		2	-	2	1
Estonia	1		2	4	5	4	New Caledonia	-		-	-	-	-
Faroe Islands	-		-	-	-	-	New Guinea	-		-	-	-	1
Fiji	-		-	-	1	2	New Zealand	140		149	147	162	171
Finland	665		679	778	805	904	Nicaragua	1		-	-	-	-
France	3,802		4,392	4,576	4,289	4,228	Nigeria	1		2	-	3	5
French Guiana	-		-	-	-	-	Norfolk Island	1		-	-	-	-
French Polynesia	-		-	1	1	-	Norway	224		266	292	262	277
Georgia	-		1	2	1	3	Pakistan	1		4	2	2	1
Germany	9,113		10,978	12,128	11,529	12,361	Panama	-		3	1	1	2
							Paraguay	1		-	-	-	-
							Peru	5		4	6	1	5

**TABLE 10**  
**CONT.**

**PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES<sup>1</sup>**  
**(FY 1999 - FY 2003)**

Residence	1999	FN	2000	2001	2002	2003	Residence	1999	FN	2000	2001	2002	2003
Philippines	16		17	14	20	17	Switzerland	1,310		1,516	1,574	1,489	1,513
Poland	21		9	20	14	16	Syrian Arab Rep	1		4	1	1	1
Portugal	11		10	16	12	12	Taiwan	4,105		5,578	6,766	6,346	6,719
Palau	-		1	-	-	-	Tanzania	-		-	1	-	2
Qatar	-		1	-	-	-	Thailand	23		36	46	49	53
Romania	5		4	10	5	8	Trinidad & Tobago	1		-	2	2	2
Russian Federation	174		192	242	198	208	Tunisia	-		-	-	1	-
Saint Kitts & Nevis	-		1	2	1	1	Turkey	2		5	14	16	21
Saint Vincent/The Grenadines	-		-	-	-	-	Turks and Caicos Islands	-		1	1	1	2
San Marino	1		-	-	-	-	Uganda	-		-	1	1	-
Saudi Arabia	12		21	13	8	20	Ukraine	16		13	28	28	14
Singapore	134		220	299	392	443	United Arab Emirates	-		3	7	6	3
Slovakia	6		3	3	8	5	United Kingdom	3,686		4,241	4,425	4,076	4,110
Slovenia	13		18	22	16	16	Uruguay	4		-	1	3	1
South Africa	115		145	144	107	145	Uzbekistan	-		3	2	1	-
Soviet Union	2		3	-	1	-	Venezuela	40		31	33	27	23
Spain	262		321	350	350	341	Vietnam	1		1	-	5	1
Sri Lanka	1		2	5	5	14	Yemen	-		-	-	1	-
Suriname	1		1	1	-	-	Yugoslavia	3		4	4	5	1
Sweden	1,368		1,805	1,946	1,824	1,708	Zimbabwe	1		1	1	1	1

- Represents zero.

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

<sup>2</sup> Revised from FY 1999 Report

**TABLE 11**

**STATUTORY INVENTION REGISTRATIONS (SIRs) PUBLISHED**  
**(FY 1999 - FY 2003)**

Assignee	1999	2000	2001	2002	2003
Air Force	1	-	11	8	2
Army	4	2	4	1	-
Energy	1	1	2	1	-
Navy	8	5	20	10	6
Health & Human Services	-	-	-	-	1
USA <sup>1</sup>	2	-	1	1	-
Other Than U.S. Government	37	50	93	32	25
<b>Total</b>	<b>53</b>	<b>58</b>	<b>131</b>	<b>53</b>	<b>34</b>

- Represents zero

<sup>1</sup> United States of America - no agency indicated in database.

**TABLE 12**

**UNITED STATES GOVERNMENT AGENCY PATENTS<sup>1</sup>**  
(FY 1993 - FY 2003)

AGENCY	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	TOTAL
Agriculture	57	38	44	48	39	68	79	57	65	46	58	599
Air Force	126	130	104	101	78	81	83	79	103	66	75	1,026
Army	147	194	163	138	169	160	146	151	151	149	139	1,707
Commerce	21	28	35	22	21	16	20	19	21	20	10	233
Energy	193	201	146	60	70	69	48	51	68	52	43	1,001
EPA	7	5	4	7	9	2	4	6	11	8	5	68
FCC	-	-	-	-	-	-	1	-	-	1	-	2
HEW/HHS	88	99	96	110	144	148	153	119	98	91	84	1,230
Interior	9	10	13	20	6	3	6	5	7	7	13	99
Library of Congress	-	-	1	1	-	-	-	-	-	-	-	2
NASA	155	148	157	102	92	104	87	98	92	81	81	1,197
Navy	333	360	352	299	279	347	306	369	326	362	360	3,693
NSA	5	6	4	3	1	3	7	16	11	11	15	82
Postal Service	-	-	1	1	1	-	-	-	2	-	4	9
State Department	-	-	1	-	-	-	-	-	1	-	-	2
Transportation	2	1	-	-	-	3	1	3	-	1	5	16
Treasury	-	-	-	-	1	-	-	-	-	-	-	1
TVA	1	2	5	4	4	2	6	2	3	-	1	30
USA <sup>2</sup>	9	3	9	5	9	7	8	1	1	-	1	53
VA	-	-	-	-	-	-	-	-	1	2	4	7
<b>Total</b>	<b>1,153</b>	<b>1,225</b>	<b>1,135</b>	<b>921</b>	<b>923</b>	<b>1,013</b>	<b>955</b>	<b>976</b>	<b>961</b>	<b>897</b>	<b>898</b>	<b>11,057</b>

- Represents zero

<sup>1</sup> Data in this table represent utility patents assigned to agencies at the time of patent issue.

<sup>2</sup> United States of America - no agency indicated in database.

**TABLE 13A**

**EX PARTE REEXAMINATION  
(FY 1999 - FY 2003)**

ACTIVITY	1999	2000	2001	2002	2003
<b>Requests filed, total</b>	<b>385</b>	<b>318</b>	<b>296</b>	<b>272</b>	<b>392</b>
By patent owner	173	137	144	121	136
By third party	181	172	150	140	239
Commissioner ordered	31	9	2	11	17
<b>Determinations on requests, total</b>	<b>367</b>	<b>338</b>	<b>342</b>	<b>272</b>	<b>381</b>
Requests granted:					
By examiner	327	320	263	262	360
By petition	1	2	2	1	1
Requests denied	39	16	77	9	20
<b>Requests known to have related litigation</b>	<b>62</b>	<b>80</b>	<b>80</b>	<b>52</b>	<b>109</b>
<b>Filings by discipline, total</b>	<b>385</b>	<b>318</b>	<b>296</b>	<b>272</b>	<b>392</b>
Chemical	138	96	90	87	124
Electrical	107	103	89	78	118
Mechanical	140	119	117	107	150

**TABLE 13B**

**INTER PARTES REEXAMINATION  
(FY 2000 - FY 2003)**

ACTIVITY	2000	2001	2002	2003
<b>Requests filed, total</b>	-	<b>1</b>	<b>4</b>	<b>21</b>
<b>Determinations on requests, total</b>	-	-	<b>5</b>	<b>20</b>
Requests granted:				
By examiner	-	-	-	18
By petition	-	-	-	-
Requests denied	-	-	-	2
<b>Requests known to have related litigation</b>	-	-	-	<b>4</b>
<b>Filings by discipline, total</b>	-	<b>1</b>	<b>4</b>	<b>21</b>
Chemical	-	1	2	3
Electrical	-	-	-	7
Mechanical	-	-	2	11

TABLE 14

## SUMMARY OF CONTESTED PATENT CASES

*(Within the U.S. Patent and Trademark Office, as of September 30, 2003)*

ITEM	TOTAL
<b>Ex parte cases</b>	
Appeals <sup>1</sup>	
Cases Pending as of 9/30/03	3,090
Cases Filed During FY 2003	2,721
<b>Disposals During FY 2003, total</b>	
Decided, total	<b>3,843</b>
Affirmed	1,411
Affirmed-in-Part	413
Reversed	1,504
Dismissed/Withdrawn	61
Remanded	454
<b>Cases Pending as of 9/30/03</b>	<b>1,968</b>
<b>Rehearings</b>	
Cases Pending as of 9/30/03	
<b>Inter partes cases</b>	
Cases pending as of 9/30/03	171
Cases declared or reinstated during FY 2003	95
<b>Inter partes cases, FY 2003 total</b>	<b>266</b>
Cases terminated during FY 2003	159
<b>Cases pending as of 9/30/03</b>	<b>107</b>

<sup>1</sup> Jurisdiction of an appeal passes to the Board of Patent Appeals and Interferences after the examiner has written the answer and after the time for filing a reply brief to the answer has passed.



**TABLE 15** **SUMMARY OF TRADEMARK EXAMINING ACTIVITIES**  
(FY 1999 - FY 2003)

ITEM	1999	2000	2001	2002	2003
<b>Applications for Registration:</b>					
Applications including Additional Classes	295,165	375,428	296,388	258,873	267,218
Applications Filed	240,308	296,490	232,939	207,287	218,596
<b>Disposal of Trademark Applications:</b>					
Registrations including Additional Classes	104,324	127,794	124,502	164,457	185,182
Abandonments including Additional Classes	77,184	101,099	142,973	120,102	119,858
Trademark First Actions including Additional Classes	338,937	352,325	464,618	253,187	276,568
Applications Approved for Publication including Additional Classes	181,366	203,251	235,419	217,487	168,235
<b>Certificates of Registration Issued:<sup>1</sup></b>					
1946 Act Principal Register	57,046	73,888	61,152	81,096	83,022
Principal Register					
ITU-Statements of Use Registered	26,810	27,170	36,188	45,064	54,046
1946 Act Supplemental Register	3,918	5,325	4,974	7,065	6,356
Total Certificates of Registration	87,774	106,383	102,314	133,225	143,424
<b>Renewal of Registration:*</b>					
Section 9 Applications Filed	7,944	24,435	24,174	34,325	35,210
Section 8 Applications Filed**	N/A	24,099	24,167	34,271	34,189
Registrations Renewed	6,280	8,821	31,477	29,957	34,370
Affidavits, Sec. 8/15:					
Affidavits Filed	33,104	28,920	33,547	39,484	43,151
Affidavits Disposed	29,119	28,894	37,092	35,375	39,603
Affidavits for Benefits:					
Under Sec. 12(c)					
Published Under Sec. 12(c)	8	3	15	26	5
Amendments to Allege Use Filed	3,554	8,971	8,582	8,261	8,458
Statements of Use Filed	34,367	36,119	47,811	53,974	67,222
Notice of Allowance Issued	82,940	120,177	120,166	158,868	139,332
<b>Total Active Certificates of Registration</b>	<b>931,273</b>	<b>1,020,126</b>	<b>1,063,164</b>	<b>1,116,200</b>	<b>1,184,888</b>
Pendency - Average Months:					
Between Filing and Examiner's First Action	4.6	5.7	2.7	4.3	5
Between Filing, Registration (Use Applications)					
Abandonments, and NOA's	18.9	17.3	17.8	19.9	19.8
Between Filing and Issuing a NOA (Intent to Use Applications)	18.9	16.0	16.4	18.3	16.2

<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.

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

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

**Workload Sources:**

Applications Filed are taken from the TRAMPY10AR01 Report.  
 Registration and Post Registration data is taken from the TRAM Megaspac TMIIMC38-PO1 and TMIFY15-PO1 Report.  
 Abandonments are taken from the TRAM TMIIMR08 - PO1 Report.  
 First Actions and Approvals for Publication are taken from the TRAM Progress Summary Report.  
 Pendency is taken from the TRAM Examination Pendency Plus Suspended/Inter Partes Cases TMIPE05-PO3.  
 Statements of Use are taken from the TRAM TMIFY20-PO1 Report.  
 Notices of Allowance Issued are taken from the TMAM TMIFY25-PO1 Report.  
 Total Active TM registrations are taken from the TMIIXS40-01TRAM Data Base Statistics report.

**TABLE 16**

**TRADEMARK APPLICATIONS FILED FOR REGISTRATION  
AND RENEWAL AND TRADEMARK AFFIDAVITS FILED  
(FY 1983 - FY 2003)**

<b>YEAR</b>	<b>FOR REGISTRATION</b>	<b>FOR RENEWAL</b>	<b>SECTION 8 AFFIDAVIT</b>	<b>SEC. 12(C) AFFIDAVIT</b>
1983	51,014	5,438	12,544	46
1984	61,480	5,926	13,519	5
1985	64,677	5,275	8,823	29
1986	69,253	5,660	8,519	19
1987	70,002	5,871	16,644	34
1988	76,813	6,763	18,316	23
1989	83,169	6,127	17,986	104
1990	127,294	6,602	20,636	5
1991	120,365	5,634	25,763	1
1992	125,237	6,355	20,982	25
1993	139,735	7,173	21,999	5
1994	155,376	7,004	20,850	4
1995	175,307	7,346	23,497	-
1996	200,640	7,543	22,169	6
1997	224,355	6,720	20,781	2
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	4
2002	258,873	34,325	39,484	-
<b>2003</b>	<b>267,218</b>	<b>35,210</b>	<b>43,151</b>	<b>1</b>

- Represents zero

\* Concurrent 10 and 20 year renewal of registration.

Registration and Post Registration data is taken from the TRAM Megaspac TMIIMC38-P01 and TMIIFY15-P01 Report.

**TABLE 17**

**SUMMARY OF PENDING TRADEMARK APPLICATIONS**  
(As of September 30, 2003)

STAGE OF PROCESSING	APPLICATION FILES	CLASSES
<b>Pending applications, total</b>	<b>431,805</b>	<b>575,901</b>
<b>In preexamination processing</b>	<b>88,797</b>	<b>106,556</b>
<b>Under examination, total</b>	<b>271,907</b>	<b>374,307</b>
<b>Applications under initial examination</b>	<b>99,422</b>	<b>133,569</b>
Amended, awaiting action by Examiner	96,477	130,117
Awaiting first action by Examiner	2,945	3,452
<b>Intent-To-Use applications pending Use</b>	<b>120,042</b>	<b>165,128</b>
<b>Applications under second examination</b>	<b>12,682</b>	<b>17,262</b>
Administrative processing of Statements of Use	3,984	5,344
Undergoing second examination	1,661	2,159
Amended, awaiting action by Examiner	7,037	9,759
<b>Other pending applications <sup>1</sup></b>	<b>39,761</b>	<b>58,348</b>
<b>In postexamination processing</b>	<b>71,101</b>	<b>95,038</b>
(Includes all applications in all phases of publication and issue and registration)		

<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 1983 - FY 2003)

YEAR	CERTIFICATES OF REGIS. ISSUED	RENEWED	PUBLISHED UNDER 12(C)	REGISTRATIONS <i>(Incl Classes)</i>
1983	41,179	5,695	74	-
1984	45,475	5,678	22	-
1985	63,122	5,177	27	-
1986	48,971	5,550	29	-
1987	47,522	4,415	24	-
1988	46,704	5,884	29	-
1989	51,802	9,209	84	-
1990	56,515	7,122	19	-
1991	43,152	6,416	19	-
1992	62,067	5,733	13	-
1993	74,349	6,182	21	86,122
1994	59,797	6,136	11	68,853
1995	65,662	6,785	4	75,372
1996	78,674	7,346	11	91,339
1997	97,294	7,389	11	112,509
1998	89,634	6,504	8	106,279
1999	87,774	6,280	3	104,324
2000	106,383	8,821	15	127,794
2001	102,314	31,477	11	124,502
2002	133,225	29,957	26	164,457
<b>2003</b>	<b>143,424</b>	<b>34,370</b>	<b>5</b>	<b>185,182</b>

- Represents zero

<sup>1</sup> Includes withdrawn numbers.

**TABLE 19**

**TRADEMARK APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES  
(FY 2003)**

State/Territory	No. for 2003	State/Territory	No. for 2003	State/Territory	No. for 2003
<b>Total</b>	<b>217,847</b>	Kentucky	1,252	Oklahoma	1,073
Alabama	1,247	Louisiana	1,030	Oregon	2,372
Alaska	198	Maine	603	Pennsylvania	6,612
Arizona	3,783	Maryland	3,868	Rhode Island	1,122
Arkansas	888	Massachusetts	6,399	South Carolina	1,379
California	44,812	Michigan	4,814	South Dakota	240
Colorado	4,652	Minnesota	4,829	Tennessee	2,702
Connecticut	3,930	Mississippi	416	Texas	11,982
Delaware	3,395	Missouri	3,254	Utah	2,290
District of Columbia	2,007	Montana	353	Vermont	437
Florida	13,345	Nebraska	906	Virginia	4,807
Georgia	5,636	Nevada	2,950	Washington	4,663
Hawaii	639	New Hampshire	1,047	West Virginia	261
Idaho	645	New Jersey	8,800	Wisconsin	3,277
Illinois	10,593	New Mexico	538	Wyoming	253
Indiana	2,418	New York	21,949	Puerto Rico	175
Iowa	1,126	North Carolina	3,719	Virgin Islands	24
Kansas	1,165	North Dakota	358	U.S. Pacific Islands <sup>1</sup>	13
		Ohio	6,483	United States <sup>2</sup>	118

<sup>1</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>2</sup> No State indicated in data base, includes APO filings.

**TABLE 20**

**TRADEMARKS REGISTERED TO RESIDENTS OF THE UNITED STATES<sup>1</sup>  
(FY 2003)**

State/Territory	No. for 2003	State/Territory	No. for 2003	State/Territory	No. for 2003
<b>Total</b>	<b>118,207</b>	Kentucky	610	Oklahoma	489
		Louisiana	495	Oregon	986
Alabama	460	Maine	251	Pennsylvania	2,775
Alaska	48	Maryland	1,420	Rhode Island	443
Arizona	1,229	Massachusetts	2,311	South Carolina	509
Arkansas	211	Michigan	2,330	South Dakota	131
California	12,461	Minnesota	2,302	Tennessee	863
Colorado	1,561	Mississippi	153	Texas	4,093
Connecticut	1,010	Missouri	1,523	Utah	935
Delaware	27,402	Montana	129	Vermont	207
District of Columbia	860	Nebraska	384	Virginia	1,655
Florida	4,433	Nevada	1,999	Washington	2,138
Georgia	1,916	New Hampshire	305	West Virginia	116
Hawaii	207	New Jersey	2,607	Wisconsin	1,796
Idaho	213	New Mexico	206	Wyoming	144
Illinois	3,902	New York	7,044	Puerto Rico	70
Indiana	1,238	North Carolina	1,502	Virgin Islands	8
Iowa	708	North Dakota	72	U.S. Pacific Islands <sup>2</sup>	7
Kansas	499	Ohio	2,996	United States <sup>3</sup>	13,845

<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 data base, includes APO filings.

TABLE 21

TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES  
(FY 1999 - FY 2003)

Residence	1999	2000	2001	2002	2003	Residence	1999	2000	2001	2002	2003
<b>Total</b>	<b>44,549</b>	<b>67,035</b>	<b>65,589</b>	<b>50,052</b>	<b>49,371</b>	Ecuador	19	22	40	10	15
Albania	-	-	-	-	1	Egypt	2	10	24	3	8
Algeria	-	1	-	-	-	El Salvador	9	25	59	33	35
Andorra	7	3	1	5	3	EPO	1	-	-	-	-
Angola	1	3	1	1	-	Estonia	7	5	13	10	4
Anguilla	4	14	18	11	7	Ethiopia	-	1	-	-	1
Antigua & Barbuda	6	15	43	30	-	Faroe Islands	-	-	-	-	-
Argentina	142	326	246	189	266	Fiji	3	1	-	10	3
Armenia	3	9	8	1	-	Finland	340	473	656	442	336
Aruba	7	5	13	9	6	France	3,695	4,860	4,636	3,546	3,473
Australia	1,423	2,321	1,731	1,478	1,794	French Guiana	-	-	-	1	-
Austria	500	632	604	743	444	French Polynesia	2	8	1	1	6
Bahamas	101	148	153	220	158	French South/Antarctic	-	-	-	-	-
Bahrain	4	-	3	3	4	Gabon	-	-	-	-	-
Bangladesh	-	-	7	-	-	Georgia	7	7	12	1	1
Barbados	88	89	92	120	165	Germany	6,307	10,218	9,474	7,195	6,412
Belarus	-	5	-	2	1	Ghana	5	-	-	-	-
Belgium	409	619	548	454	425	Gibraltar	48	31	12	11	21
Belize	8	9	15	23	9	Greece	30	92	22	46	44
Benelux Convention	-	8	-	2	-	Greenland	-	3	-	-	-
Bermuda	148	321	258	322	340	Grenada	1	3	3	1	-
Bolivia	1	6	2	4	1	Guadeloupe	-	-	-	1	2
Botswana	-	-	-	-	-	Guatemala	18	14	30	19	8
Brazil	211	357	443	472	400	Guinea	1	-	-	-	-
British Virgin Islands	232	696	363	259	202	Guyana	2	2	2	4	1
Brunei	-	-	1	-	-	Hague	-	-	-	-	-
Bulgaria	13	5	6	2	13	Haiti	3	-	8	6	5
Burundi	-	2	-	-	-	Honduras	3	3	4	1	6
Cambodia	7	6	1	1	-	Hong Kong	625	1,097	898	860	794
Cameroon	-	-	-	3	-	Hungary	21	31	48	35	33
Canada	7,889	9,844	8,086	6,765	6,838	Iceland	26	50	64	15	35
Cape Verde	-	-	-	-	2	India	123	252	214	267	291
Cayman Islands	50	265	190	117	113	Indonesia	23	31	50	37	45
Central African Republic	-	-	-	1	-	Iran	-	-	3	-	1
Channel Islands	-	110	65	72	50	Ireland	386	560	469	331	317
Chile	101	132	207	141	190	Isle of Man	28	38	34	55	27
China (mainland)	301	438	448	472	474	Israel	621	1,033	835	448	480
Christmas Island	-	4	-	2	-	Italy	1,868	2,548	2,380	1,919	2,115
Colombia	79	183	170	135	151	Jamaica	33	51	56	33	31
Comoros	-	3	1	-	-	Japan	3,028	4,273	9,008	4,450	4,342
Cook Islands	-	1	10	9	4	Jordan	28	7	13	14	6
Costa Rica	11	25	12	23	32	Kazakhstan	-	-	-	-	-
Cote d'Ivoire	-	-	-	1	-	Kenya	-	5	42	13	21
Croatia	2	9	7	10	6	Korea, Dem. Republic of	5	4	-	1	6
Cuba	-	1	1	2	-	Korea, Republic of	498	943	913	887	758
Cyprus	31	71	34	21	66	Kuwait	8	7	7	3	-
Czechoslovakia	30	50	39	58	55	Latvia	3	3	4	-	7
Democratic Republic of the Congo	-	-	-	-	-	Laos	-	-	-	-	-
Denmark	382	604	716	568	564	Lebanon	14	4	13	10	13
Djibouti	-	-	-	-	-	Liberia	2	3	-	-	-
Dominica	-	2	2	-	-	Liechtenstein	110	149	89	61	58
Dominican Republic	65	62	43	40	57	Lithuania	-	2	3	3	1
East Timor	-	-	-	-	1	Luxembourg	137	198	135	186	130
						Macao	2	-	1	3	5
						Macedonia	1	-	1	-	1

**TABLE 21**  
**CONT.**
**TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES**  
**(FY 1999 - FY 2003)**

Residence	1999	2000	2001	2002	2003	Residence	1999	2000	2001	2002	2003
Madagascar	-	-	-	1	-	Saint Pierre/Mique	-	-	-	-	-
Malawi, Republic of	-	-	-	-	-	Saint Vincent/Grenadines	12	1	14	1	-
Malaysia	42	94	66	60	28	Samoa	2	1	-	1	-
Mali	-	-	-	-	-	San Marino	-	-	6	-	-
Malta	1	26	6	3	29	Saudi Arabia	10	29	22	18	26
Marshall Islands	-	-	2	-	-	Scotland	105	51	95	82	94
Martinique	-	1	1	1	-	Senegal, Republic of	-	-	1	-	-
Mauritania	-	2	-	-	-	Seychelles	11	1	5	5	1
Mauritius	18	61	30	38	44	Sierra Leone	-	-	-	-	-
Mayotte	1	-	-	-	-	Singapore	186	419	339	283	285
Mexico	852	809	982	1,026	994	Slovakia	-	-	3	3	7
Micronesia	-	1	-	1	-	Slovenia	10	18	8	36	38
Moldova	-	1	2	-	-	Solomon Islands	-	-	4	-	-
Monaco	104	70	136	72	68	Somalia	-	-	-	-	-
Mongolia	-	3	-	-	3	South Africa	169	263	206	170	175
Montserrat	-	-	-	-	1	Russian Federation	110	135	111	145	144
Morocco	7	2	-	1	2	Spain	694	1,149	1,035	852	984
Myanmar	-	-	-	-	1	Sri Lanka	3	28	7	6	10
N. Mariana Island	2	-	-	3	1	Sudan	-	-	-	1	-
Namibia	-	-	3	1	-	Suriname	1	-	1	-	-
Nauru	-	-	-	-	-	Swaziland	5	7	57	-	1
Navassa Island	-	-	-	-	-	Sweden	1,213	1,722	1,490	836	919
Nepal	-	-	5	9	-	Switzerland	2,032	3,385	3,023	2,754	2,867
Netherlands	1,472	2,220	2,063	1,596	1,331	Taiwan	961	1,283	1,060	1,143	1,259
Netherlands Antilles	97	92	64	55	30	Tajikistan	-	-	-	-	-
New Caledonia	4	-	1	-	-	Tanzania	-	-	-	-	-
New Hebrides	-	-	1	-	-	Thailand	88	82	78	103	153
New Zealand	314	324	359	292	362	Tokelau	-	-	1	-	-
Newfoundland	2	1	2	5	-	Tonga	-	-	-	-	-
Nicaragua	2	3	5	5	7	Trinidad & Tobago	8	8	11	9	11
Nigeria	-	9	-	15	6	Tunisia	1	4	1	-	3
Norway	226	317	319	206	178	Turkey	46	61	131	85	166
Oman	-	4	2	2	-	Turks and Caicos Islands	6	12	2	5	-
Pakistan	10	6	5	4	8	Uganda	-	-	-	1	7
Panama	46	20	36	47	46	Ukraine	1	6	17	2	29
Papua New Guinea	-	-	-	-	1	United Arab Emirates	19	19	61	31	24
Paraguay	4	4	4	2	2	United Kingdom	5,056	9,367	7,860	5,597	5,586
Peru	10	20	27	37	28	Uruguay	22	34	17	19	36
Philippines	19	15	42	31	12	Uzbekistan	-	-	-	-	-
Pitcairn Islands	-	-	-	-	-	Vanuatu	3	21	9	2	31
Poland	26	41	64	59	99	Venezuela	50	116	115	75	112
Portugal	95	110	134	106	133	Vietnam	5	14	5	55	79
Qatar	1	1	6	6	-	Yemen	-	-	-	-	-
Republic Moldova	-	-	-	-	22	Yugoslavia	-	-	-	4	-
Reunion	-	2	-	-	-	Yukon Territory	1	-	-	-	-
Romania	9	2	14	14	1	Zambia	1	-	-	-	-
St. Kitts & Nevis	-	-	-	-	-	Zimbabwe	3	1	2	2	2
Saint Christ-Nevis	-	-	-	6	2	Other <sup>1</sup>	2	66	547	257	143
Saint Lucia	-	-	-	2	-						

- Represents zero.

<sup>1</sup> Country of Origin information not available or not indicated in database, includes ARIPO filings.



TABLE 22

**TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES  
(FY 1999- FY 2003)**

Residence	1999	2000	2001	2002	2003	Residence	1999	2000	2001	2002	2003
<b>Total</b>	<b>11,419</b>	<b>15,376</b>	<b>21,269</b>	<b>19,052</b>	<b>25,217</b>	Finland	62	111	135	159	200
Afghanistan	-	-	1	-	-	France	943	1,402	2,063	1,560	2,105
Algeria	1	1	-	-	-	French Polynesia	2	-	-	1	-
Andorra	1	1	1	-	1	Gabon	-	-	-	1	-
Angola, Republic of	-	-	3	2	-	Georgia	1	7	7	8	10
Anguilla	2	2	2	1	8	Germany	1,393	2,255	3,691	2,561	3,654
Antigua & Barbuda	2	5	12	15	11	Ghana	-	-	-	2	2
Argentina	36	43	47	68	108	Gibraltar	1	7	15	11	4
Armenia	-	-	2	5	6	Greece	6	13	10	16	15
Aruba	-	-	-	1	2	Greenland	-	-	-	-	-
Australia	312	368	629	663	845	Grenada	-	-	-	-	2
Austria	101	170	217	171	268	Guatemala	7	5	7	9	17
Azerbaijan	-	-	-	-	-	Guyana	1	2	-	1	3
Bahamas	21	36	31	41	79	Hague	-	-	-	-	-
Bahrain	1	1	1	1	1	Haiti	1	1	1	-	2
Bangladesh	-	-	-	-	2	Honduras	1	2	3	2	3
Barbados	11	9	22	26	38	Hong Kong	146	194	267	288	387
Belarus	-	1	-	1	2	Hungary	5	6	8	10	13
Belgium	120	135	211	205	272	Iceland	6	7	8	10	14
Belize	1	-	4	3	5	India	54	48	96	73	111
Benelux Convention	2	2	-	1	2	Indonesia	16	12	18	16	26
Bermuda	43	35	82	94	108	Iraq	-	-	-	1	-
Bolivia	1	3	1	-	3	Iran	8	8	5	8	7
Bosnia & Herzegovina	-	-	-	-	2	Ireland	69	76	135	107	151
Brazil	66	59	55	110	160	Isle of Man	13	7	12	7	8
British Virgin Islands	64	-	-	133	177	Israel	129	167	226	262	380
Brunei Darussalam	-	-	-	1	-	Italy	644	900	1,079	979	1,253
Bulgaria	2	2	2	5	4	Jamaica	16	23	12	19	16
Cambodia	-	2	-	1	-	Japan	1,034	1,173	1,585	1,510	1,896
Cameroon	-	-	-	-	1	Jordan	2	-	6	9	3
Canada	2,052	2,460	3,062	2,911	3,398	Kenya	2	2	1	1	6
Cayman Islands	37	29	47	43	85	Kiribati	-	-	-	-	-
Central African Rep.	1	-	-	-	-	Korea, Dem. Republic of	-	1	-	2	1
Channel Islands	14	10	7	50	40	Korea, Republic of	159	222	251	283	431
Chile	39	24	35	45	110	Kuwait	3	1	2	2	2
China (mainland)	132	182	197	174	326	Latvia	4	-	1	1	3
Colombia	32	21	44	58	69	Lebanon	2	4	6	2	7
Comoros	1	-	-	-	-	Liberia	3	17	12	13	13
Cook Islands	1	-	2	7	5	Libya	-	-	-	-	-
Costa Rica	11	16	8	4	14	Liechtenstein	21	-	38	30	43
Croatia	1	-	-	5	1	Lithuania	2	-	-	1	3
Cuba	7	3	4	4	8	Luxembourg	20	86	47	59	56
Cyprus	4	7	8	6	15	Macao	1	-	3	2	-
Czechoslovakia	5	13	18	22	30	Macedonia	-	-	-	2	-
Denmark	105	178	187	177	281	Malaysia	10	18	17	24	21
Dominica	-	-	-	-	-	Malta	1	1	-	1	4
Dominican Republic	18	19	18	24	19	Marshall Islands	-	-	-	-	-
Ecuador	12	16	13	9	18	Mauritius	3	-	1	3	12
Egypt	2	1	3	3	4	Mexico	257	316	308	342	435
El Salvador	3	5	4	9	18	Micronesia	-	-	-	1	1
Estonia	-	-	-	2	3	Moldova	-	-	-	1	-
Ethiopia	-	-	2	1	1	Monaco	9	18	30	10	18
Faroe Islands	-	2	-	-	-	Morocco	1	4	2	1	1
Fiji	1	1	4	1	5	Myanmar	1	-	-	-	-
						Namibia	-	-	-	1	1

**TABLE 22**  
**CONT.**
**TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES**  
**(FY 1999- FY 2003)**

Residence	1999	2000	2001	2002	2003	Residence	1999	2000	2001	2002	2003
N. Mariana Island	1	-	-	-	1	Slovenia	3	4	15	5	9
Netherlands	342	489	701	628	782	South Africa	41	43	57	62	117
Netherlands Antilles	6	25	48	27	33	Russian Federation	14	37	35	23	53
Nepal	-	-	-	-	3	Spain	280	263	391	474	560
New Zealand	68	88	113	97	196	Spraty Islands	-	-	-	-	-
Nicaragua	2	1	1	6	1	Sri Lanka	4	5	5	9	3
Nigeria	2	11	17	7	5	Sudan	-	-	-	-	1
Norway	53	112	86	100	145	Swaziland	1	-	2	-	1
Oman	-	-	-	-	-	Sweden	208	263	476	406	532
Pakistan	1	2	6	10	7	Switzerland	445	838	1,028	820	1,261
Panama	24	34	28	41	34	Syria	-	-	-	1	3
Papua New Guinea	-	-	-	-	-	Taiwan	299	450	569	656	698
Paraguay	2	2	1	2	1	Thailand	15	24	42	43	55
Peru	7	-	6	9	22	Trinidad & Tobago	6	7	5	4	8
Philippines	13	10	12	12	25	Tunisia	1	-	-	-	-
Poland	7	14	7	20	25	Turkey	13	7	35	35	43
Portugal	27	37	39	40	64	Turks and Caicos Islands	11	6	12	9	14
Republic Moldova	-	-	-	-	1	Ukraine	-	-	3	4	6
Romania	1	-	8	3	11	United Arab Emirates	4	5	3	9	6
Saint Christ & Nevis	-	-	-	-	6	United Kingdom	1,108	1,531	2,260	1,803	2,357
St. Kitts & Nevis	-	3	1	-	-	Uruguay	1	1	2	12	9
Saint Lucia	-	-	-	-	3	Vanuatu	-	-	-	3	-
Saint Vincent/Grenadines	-	-	-	-	2	Vatican City	1	-	-	-	-
San Marino	-	3	-	-	1	Venezuela	24	16	21	29	43
Saudi Arabia	8	-	4	2	12	Vietnam	4	6	-	5	21
Scotland	1	5	23	10	18	Western Samoa	-	-	-	1	1
Senegal	-	-	-	-	1	Yemen	-	-	-	-	-
Seychelles	-	-	7	1	6	Yugoslavia	3	-	1	-	-
Sierra Leone	-	-	1	-	-	Zimbabwe	-	-	1	-	2
Singapore	34	44	76	82	95	Other <sup>1</sup>	7	10	26	27	15
Slovakia	3	2	1	-	4						

- Represents zero.

<sup>1</sup> Country of origin information not available.

**TABLE 23**

**SUMMARY OF CONTESTED TRADEMARK CASES**  
*(Within the U.S. Patent and Trademark Office, as of September 30, 2003)*

ACTIVITY	EX PARTE	CANCELLATIONS	USE	INTERFERENCE	OPPOSITION	TOTAL
<b>Cases pending as of 9/30/03, total</b>	<b>2,034</b>	<b>2,476</b>	<b>90</b>	-	<b>6,922</b>	<b>11,522</b>
<b>Cases filed during FY 2003</b>	<b>3,095</b>	<b>1,615</b>	<b>49</b>	-	<b>5,250</b>	<b>10,009</b>
<b>Disposals during FY 2003, total</b>	<b>3,028</b>	<b>1,962</b>	<b>26</b>	-	<b>5,297</b>	<b>10,313</b>
Before hearing	2,556	1,940	26	-	5,229	9,751
After hearing	472	22	-	-	68	562
<b>Cases pending as of 9/30/03, total</b>	<b>2,101</b>	<b>2,129</b>	<b>113</b>	-	<b>6,875</b>	<b>11,218</b>
Awaiting decision	57	5	-	-	24	86
In process before hearing <sup>1</sup>	2,044	2,124	113	-	6,851	11,132
<b>Requests for extension of time to oppose</b>						

- Represents zero

<sup>1</sup> Includes suspended cases.

**TABLE 24**

**ACTIONS ON PETITIONS TO THE DIRECTOR OF THE USPTO  
(FY 1999 - FY 2003)**

NATURE OF PETITION	1999	FN	2000	2001	2002	2003
<b>Patent matters</b>						
<b>Actions on patent petitions, total</b>	<b>31,155</b>	<b>1</b>	<b>33,386</b>	<b>43,062</b>	<b>22,290</b>	<b>57,267</b>
Acceptance of:						
Amendments filed after payment of issue fee	19		15	22	15	18
Late assignments	69		106	85	30	42
Late issue fees	-		-	1,332	1,676	2,362
Late priority papers	46		77	72	330	1,184
Access	9		24	4	6	3
Certificates of correction	17,583		14,111	22,157	0	32,455
Deferment of issue	52		68	25	21	40
Entity Status Change	569		888	986	836	-
Filing date	529		744	1,375	2,158	1,776
Interference	3		-	-	-	-
Make special:	-		-	-	-	-
Infringement/manufacture	-		-	-	3	-
Other	1,502		1,574	1,498	1,573	1,592
Miscellaneous	920		2,323	1,854	1,411	2,547
Maintenance fees	1,474		1,698	1,614	1,614	2,002
Public use	-		5	-	3	-
Reexamination proceedings	17		-	-	6	2
Restriction	75		73	42	102	82
Revivals	4,158		5,084	4,231	3,395	4,154
Rule 47 (37 CFR 1.47)	407		849	1,531	1,698	2,045
Supervisory authority	66		75	44	112	196
Suspend rules	861		942	875	1,052	1,441
Withdrawal of attorney	-		1,401	2,002	2,530	3,749
Withdrawal from issue	862		1,212	991	1,178	881
Change of inventorship	80		147	121	186	228
Withdrawals of holding of aband./pat. lapse	1,854		1,970	2,201	2,355	468
<b>Trademark matters</b>						
<b>Actions on trademark petitions, total</b>	<b>5,863</b>		<b>6,858</b>	<b>10,374</b>	<b>24,699</b>	<b>18,493</b>
Affidavits of Use and extensions	168		31	-	1	3
Decision by examiner	3		6	23	14	20
Filing date restorations <sup>2</sup>	1,402		1,311	1,785	846	495
Grant application filing date	656		66	25	29	21
Inadvertently issued registrations	253		233	325	654	516
Interferences	-		2	1	2	-
Make special	160		157	199	133	138
Miscellaneous	76		40	23	40	46
Oppositions and extensions	30		-	6	3	4
Record documents affecting title	2		-	2	1	4
Reinstatements <sup>3</sup>	1,501		2,130	2,043	6,304	3,845
Restore jurisdiction to examiner	10		3	2	2	8
Review board decisions	40		6	13	10	14
Revive	1,262		2,673	5,633	16,222	12,771
Section 7 correction/amendment	14		-	10	17	10
Section 9 renewal	6		3	13	14	28
Section 8 or 15	17		61	60	75	61
Section 44(e) Amendment *	131		102	183	317	493
Review Letter of Protest Decision *	5		3	8	4	2
Waive fees/refunds	127		31	20	11	14
<b>Petitions awaiting action as of 9/30/03</b>						
Patent matters	2,389		1,458	699	1,844	2,317
Trademark petitions awaiting response	22		158	503	2,197	354
Trademark petitions awaiting action	651		3,199	6,060	582	1,791
Trademark pending filing date issues *	-		189	24	12	8

- Represents zero.

<sup>1</sup> Correction to FY 1999 Report

<sup>2</sup> Trademark Applications entitled to a particular filing date; based on clear evidence of Office error.

<sup>3</sup> Trademark Applications restored to pendency; inadvertently abandoned by the Office.

\* Not reported in previous years.

TABLE 25

## CASES IN LITIGATION

(Selected Courts of the United States, as of September 30, 2003)

	PATENTS	TRADEMARKS	OED	TOTAL
<b>United States District Courts</b>				
<b>Civil actions pending as of 9/30/03, total</b>	6	3	2	11
<b>Filed during FY 2003</b>	18	2	2	22
<b>Disposals, total</b>	16	3	3	22
Affirmed	2	1	-	3
Reversed	-	-	-	-
Remanded	2	1	-	3
Dismissed	8	1	2	11
Amicus/intervene	-	-	-	-
Transfer	4	-	1	5
<b>Civil actions pending as of 9/30/03, total</b>	<b>8</b>	<b>2</b>	<b>1</b>	<b>11</b>
<b>United States Courts of Appeals<sup>1</sup></b>				
<b>Ex parte cases</b>				
<b>Cases pending as of 9/30/03</b>	19	14	-	33
<b>Cases filed during FY 2003</b>	38	9	2	49
<b>Disposals, total</b>	29	17	2	48
Affirmed	18	7	-	25
Reversed	1	-	-	1
Remanded	2	4	-	6
Dismissed	8	6	1	15
Transfer	-	-	1	1
Writs of mandamus:				
Granted	-	-	-	-
Granted-in-part	-	-	-	-
Denied	-	-	-	-
Dismissed	-	-	-	-
<b>Total ex parte cases pending as of 9/30/03</b>	<b>28</b>	<b>6</b>	<b>-</b>	<b>34</b>
<b>Inter partes cases</b>				
<b>Cases pending as of 9/30/03</b>	11	8	-	19
<b>Cases filed during FY 2003</b>	13	14	-	27
<b>Disposals, total</b>	14	16	-	30
Affirmed	8	7	-	15
Reversed	-	1	-	1
Remanded	-	-	-	-
Dismissed	5	8	-	13
Amicus/intervene	-	-	-	-
Transferred	1	-	-	1
<b>Total inter partes cases pending as of 9/30/03</b>	<b>10</b>	<b>6</b>	<b>-</b>	<b>16</b>
<b>Total United States Courts of Appeals cases pending as of 9/30/03</b>	<b>38</b>	<b>12</b>	<b>-</b>	<b>50</b>
<b>Supreme Court</b>				
<b>Ex parte cases</b>				
<b>Cases pending as of 9/30/03</b>	1	-	-	1
<b>Cases filed during FY 2003</b>	1	-	-	1
<b>Disposals, total</b>	2	-	-	2
<b>Cases pending as of 9/30/03, total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Notices of Suit filed in FY 2003</b>	<b>2,897</b>	<b>2,265</b>	<b>-</b>	<b>5,162</b>

- Represents zero

<sup>1</sup> Includes Federal Circuit and others.

**TABLE 26**

**PATENT CLASSIFICATION ACTIVITY  
(FY 1999 - FY 2003)**

<b>ACTIVITY</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>
Original patents professionally reclassified - completed projects	82,944	53,437	39,209	19,621	10,802
Subclasses established	2,433	1,869	1,878	780	2,023
<b>Reclassified patents clerically processed, total</b>	<b>193,309</b>	<b>128,362</b>	<b>145,090</b>	<b>61,433</b>	<b>212,798</b>
Original U.S. patents	62,584	49,231	51,266	13,155	16,202
Cross-reference U.S. patents	97,615	70,302	84,611	38,868	189,274
Foreign patents	33,110	8,829	9,213	9,410	7,322

TABLE 27

**SCIENTIFIC AND TECHNICAL INFORMATION CENTER ACTIVITY  
(FY 2003)**

ACTIVITY	QUANTITY
<b>Prior Art Search Services Provided:</b>	
Automated Prior Art Searches Completed	12,977
On-line and Manual Foreign Patent Searches Completed	3,555
Genetic Sequence Searches Completed	10,471
Number of Genetic Sequences Searched	33,661
CRF Submissions Processed	18,728
PLUS Searches Completed	10,863
<b>Document Delivery Services Provided:</b>	
Document Delivery/Interlibrary Loan Requests Processed	51,702
Documents Provided Using Electronic Tools	9,117
Copies of Foreign Patents Provided:	2,156
Copies Purchased by the Public	2,629
Copies Provided to USPTO Staff	1,755
Foreign Patents Provided Using Electronic Tools	1,617
<b>Information Assistance and Automation Services:</b>	
One-on-One Examiner Assistance	15,236
Foreign Patents Assistance for Examiners and Public	5,184
Public Search Sessions for Foreign Patents	5,879
Examiner Briefings	1,762
Web Pages Created	197
<b>Translation Services Provided for Examiners:</b>	
Written Translations of Documents	5,819
Number of Words Translated (Written)	16,082,030
Documents Orally Translated	6,940
<b>Collection Usage and Growth:</b>	
Print/Electronic NPL Collection Usage	360,726
Print Books/Subscriptions Purchased	4,688
Print/Microform Foreign Patents Added to Collections	28,656
Full Text Electronic Journal Titles Available	10,100
Full Text Electronic Book Titles Available	3,190
NPL Databases Available for Searching (est.)	1,486
Foreign Patent Databases/Web Sites Accessed	31





# Glossary of Acronyms and Abbreviation List





**AIPA** – American Inventors Protection Act of 1999

**ABC** – Activity Based Cost Accounting

**ABM** – Activity Based Management

**APJ** – Administrative Patent Judge

**BPAI** – Board of Patent Appeals and Interferences

**CSRS** – Civil Service Retirement System

**C&A** – Certification and Accreditation

**Commerce** – U.S. Department of Commerce

**DOL** – U.S. Department of Labor

**EAST** – Examiners Automated Search System

**EFT** – Electronic Funds Transfer

**E-Gov** – Electronic Government

**EPO** – European Patent Office

**FASAB** – Federal Accounting Standards Advisory Board

**FECA** – Federal Employees Compensation Act

**FEGLI** – Federal Employees Group Life Insurance

**FEHB** – Federal Employees Health Benefit

**FERS** – Federal Employees Retirement System

**FMIA** – Federal Financial Management Improvement Act

**FICA** – Federal Insurance Contributions Act

**FMFIA** – Federal Managers' Financial Integrity Act

**FMS** – Financial Management Service

**FTA** – Free Trade Agreement

**FTAA** – Free Trade Areas of the Americas

**FY** – Fiscal Year

**GAAP** – Accounting Principles General Accepted  
in the United States

**GAO** – General Accounting Office

**GPRA** – Government Performance and Results Act

**GSA** – General Services Administration

**IFW** – Image File Wrapper

**IG** – Inspector General

**IP** – Intellectual Property

**IPR** – Intellectual Property Rights

**IT** – Information Technology

**JPO** – Japan Patent Office

**KSA** – Knowledge, Skills, and Abilities

**NPL** – Non-Patent Literature

**OACS** – Office Action Correspondence System

**OBRA** – Omnibus Budget and Reconciliation Act

**OHIM** – Office for Harmonization in the Internal Market

**OIG** – Office of the Inspector General

**OMB** – Office of Management and Budget

**OPF** – Official Personnel Folders

**OPM** – Office of Personnel Management

**PALM** – Patent Application Location and Monitoring system

**PCT** – Patent Cooperation Treaty

**P.L.** – Public Law

**SCCRR** – Standing Committee on Copyright and Related Rights

**SFFAC** – Statements of Federal Financial Accounting Concepts

**SFFAS** – Statements of Federal Financial Accounting Standards

**SIR** – Statutory Invention Registration

**S&T** – Science and Technology

**TLT** – Trademark Law Treaty

**TRAM** – Trademark Reporting and Monitoring system

**Treasury** – U.S. Department of the Treasury

**TRIPS** – Trade Related Aspects of Intellectual Property

**TTAB** – Trademark Trial and Appeal Board

**U.S.** – United States

**U.S.C.** – United States Code

**USPTO** – United States Patent and Trademark Office

**USTR** – U.S. Trade Representative

**WCT** – World Copyright Treaty

**WIPO** – World Intellectual Property Organization

**WPPT** – World Performances and Phonograms Treaty

**WTO** – World Trade Organization