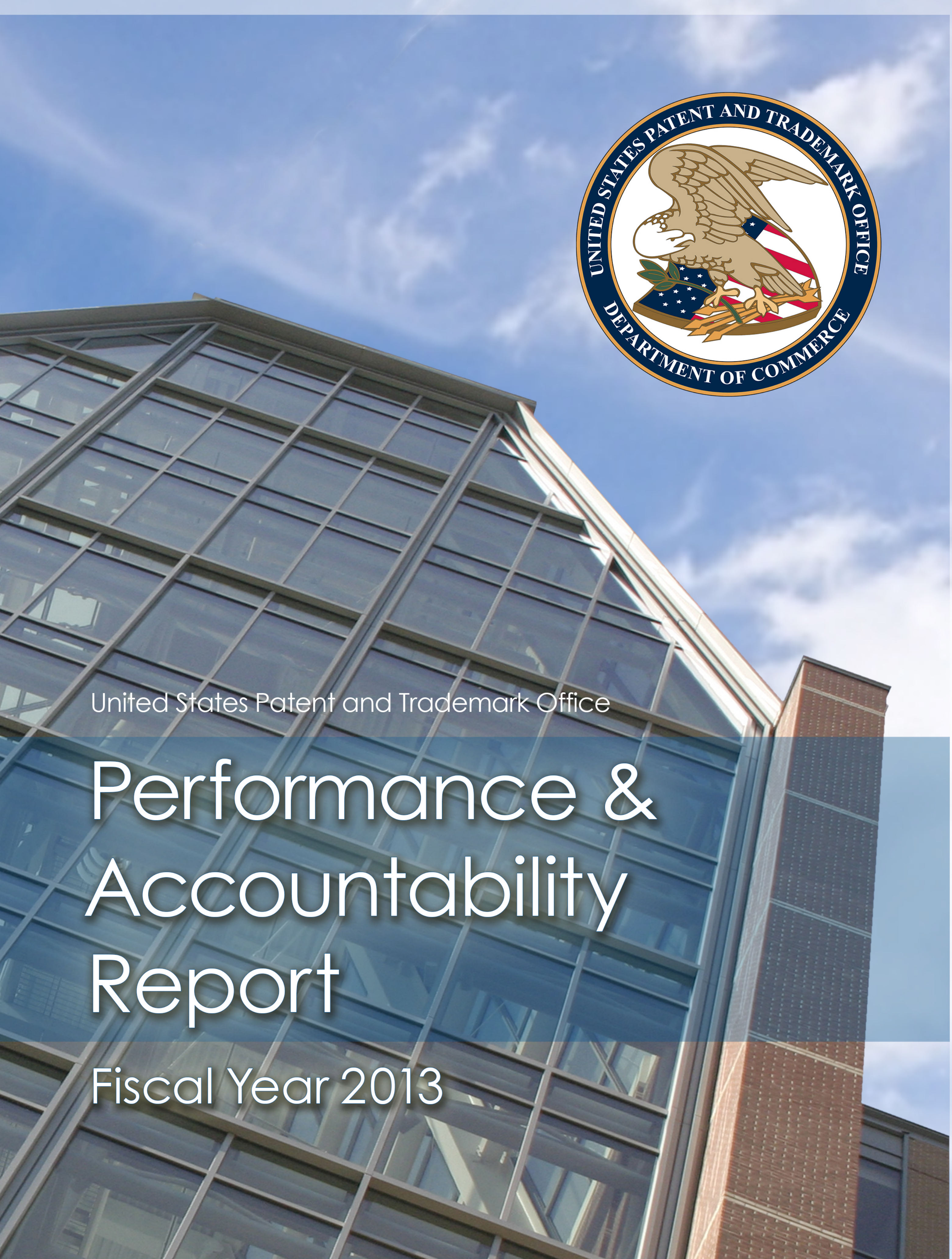


United States Patent and Trademark Office

Performance & Accountability Report

Fiscal Year 2013

Financial and Related Highlights

(Dollars in Thousands)	% Change 2013 over 2012	September 30, 2013	September 30, 2012
Fund Balance with Treasury	15.6%	$ 1,996,736	$ 1,726,955
Property, Plant, and Equipment, Net	8.5%	257,008	236,980
Other Assets	(16.2%)	15,240	18,188
Total Assets	14.5%	$ 2,268,984	$ 1,982,123
Deferred Revenue	12.1%	$ 931,548	$ 830,955
Accounts Payable	6.9%	80,399	75,186
Accrued Payroll, Benefits, and Leave	(18.3%)	177,630	217,364
Other Liabilities	(1.2%)	130,170	131,744
Total Liabilities	5.1%	$ 1,319,747	$ 1,255,249
Net Position	30.6%	949,237	726,874
Total Liabilities and Net Position	14.5%	$ 2,268,984	$ 1,982,123
Total Program Cost	9.5%	$ 2,540,427	$ 2,320,947
Total Earned Revenue	12.1%	(2,719,972)	(2,427,082)
Net Income from Operations	69.2%	$ (179,545)	$ (106,135)
Budgetary Resources Available for Spending	12.2%	$ 2,931,558	$ 2,612,627
Total Collections, Net of Outlays	239.8%	$ (274,909)	$ (80,894)
Federal Personnel	2.1%	11,773	11,531
Disbursements by Electronic Funds Transfer (EFT)	—	100%	100%
On-Time Payments to Vendors	—	99%	99%

Performance Highlights

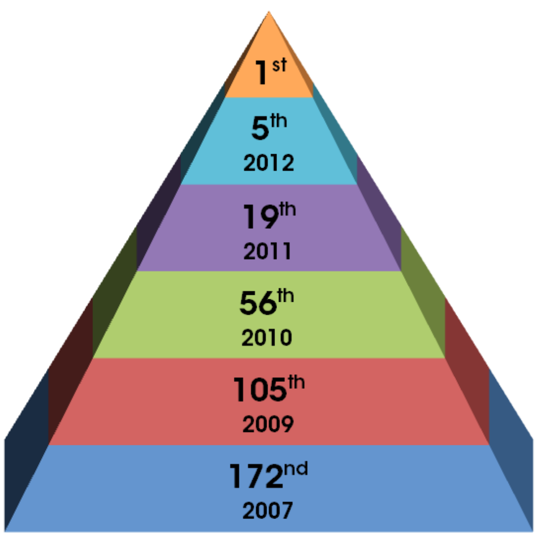
Performance Measures	FY 2013 Target	FY 2013 Actual	Performance Results[1]
Patent Average First Action Pendency (months)	18.0	18.2	Slightly Below
Patent Average Total Pendency (months)	30.1	29.1	Met
Patent Quality Composite Score	65-73	71.9	Met
Patent Applications Filed Electronically	98.0%	98.1%	Met
Trademark Average First Action Pendency (months)	2.5 – 3.5	3.1	Met
Trademark Average Total Pendency (months)	12.0	10.0	Met
Trademark First Action Compliance Rate	95.5%	96.3%	Met
Trademark Final Compliance Rate	97.0%	97.1%	Met
Exceptional Office Action	23.0%	35.1%	Met
Trademark Applications Processed Electronically	76.0%	79.0%	Met
Percentage of prioritized countries for which country teams have made progress on at least 75% of action steps in the country-specific action plans along the following dimensions: 1. institutional improvements of IP office administration for advancing IP rights, 2. institutional improvements of IP enforcement entities, 3. improvements in IP laws and regulations, and 4. establishment of government-to-government cooperative mechanisms.	75.0%	100%	Met

[1] *The performance result of a given measure is either met (100 percent or greater of target), slightly below (95 to 99 percent of the target), or not met (below 95 percent of target).*

Addendum to the Fiscal Year 2013 USPTO Performance and Accountability Report (PAR)

On December 18, 2013, two days after the final publication of the FY 2013 USPTO PAR, the agency received notice from the Partnership for Public Service that the USPTO was ranked number 1 out of 300 agency subcomponents in its 2013 *Best Places to Work in the Federal Government®* report.

Since this survey was conducted for fiscal year 2013, it was felt that, despite the PAR already being completed, this signal achievement should accompany it. Accordingly, this post-publication addendum is incorporated into the FY 2013 USPTO PAR to formally memorialize the USPTO's ranking as the number one best place to work in the federal government.



The 2013 *Best Places to Work in the Federal Government®* Recognition

The USPTO was named number one out of 300 agency subcomponents in the 2013 *Best Places to Work in the Federal Government* rankings released by the non-profit Partnership for Public Service (PPS). The annual report is based on a survey of more than 700,000 civil servants from 371 federal agencies and subcomponents conducted earlier this year by the Office of Personnel Management (OPM). The USPTO's rise to number one follows a steady climb from number 172 in 2007 to number five in 2012 (see chart above).

"This is a tremendous tribute to the tireless dedication of our hardworking employees, unions, and agency leaders," said Commissioner for Patents Margaret A. (Peggy) Focarino. "Our employees have faced significant challenges, including the impact of budget sequestration despite being a fully fee-funded agency, and the completion of our implementation of the Leahy-Smith America Invents Act, the most sweeping overhaul of our nation's patent system in generations. Yet despite those challenges we maintained our upward momentum in being recognized by our employees as a Best Place to Work in the federal government."

One large component of USPTO's success has been our highly successful telework program, which the PPS recognized with a 2012 nomination for its annual Samuel J. Heyman Service to America awards (the Sammies). The agency's telework program improved flexibility in employee work location, reduced examiner turnover to historically low levels, increased examiner productivity, and saved the agency millions each year in overhead costs.

Building collaborative team-based approaches to projects and increasing technical and leadership training opportunities have also improved the morale and effectiveness of our highly talented workforce.

Over the last two years, the USPTO's Creativity and Innovation Challenge has helped improve operations through collaboration and idea-sharing between the agency and its employees. Developed in partnership by USPTO management and the employee unions —The Patent Office Professional Association, the National Treasury Employee Union (NTEU), Chapter 243 and NTEU Chapter 245 — the challenge established an interactive employee forum encouraging employees to submit and vote on innovative ways to improve the agency.

Table of Contents

Web address for the USPTO Performance and Accountability Report

www.uspto.gov/about/stratplan/

ABOUT THIS REPORT

The USPTO Performance and Accountability Report (PAR) for FY 2013 provides a comprehensive summary of program and financial results and is structured to help the President, the Congress, and the American public assess our performance relative to our mission and accountability for our financial resources.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Message from the Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office

The United States Patent and Trademark Office has over the last year continued to foster innovation, competitiveness, and economic growth at home and abroad, while maintaining the standard for what a user-friendly, stakeholder-oriented 21st-century government agency can be.

As expressed in the USPTO's *2010-2015 Strategic Plan*, our mission is to foster innovation, competitiveness, and economic growth, domestically and abroad by delivering high-quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide, with a highly skilled, diverse workforce.

The agency continues to make significant progress in reducing the unexamined patent application backlog. At the end of FY 2013, the agency decreased the unexamined patent application backlog to 584,998 from its zenith in 2009. This reduction constitutes a 23 percent reduction. Our total pen-dency was reduced to 29.1 months and our first action pendency was reduced to 18.2 months, much lower than the previous year. As discussed in greater detail in the Goal 1 section, we have im-plemented two significant initiatives that have helped to reduce our Request for Continued Exam-ination (RCE) backlog. An RCE is a request by an applicant to reopen prosecution of the patent ap-plication after prosecution is closed.

Our Trademark organization continued to experience increased applications in FY 2013, with 433,654 new classes filed, a 4 percent increase over the previous year. The USPTO continues to maintain consistent first office action trademark pendency figures within the target range of 2.5 to 3.5 months, with disposal pendency running at 10 months, lower than the 12-month performance target.

We implemented in March 2013 the final provisions of the Leahy-Smith America Invents Act that President Obama signed into law on September 16, 2011, including the first-inventor-to-file provision. That provision further harmonizes our patent operations with patent offices around the world, and includes safeguards to ensure that only an original inventor or his assignee may be awarded a patent.

Significantly, the process of patent reform did not end with the implementation of these provisions. In June of this year—in conjunction with the release of a White House paper on "Patent Assertion and U.S. Innovation"—President Obama announced five executive actions and seven legislative recommendations designed to protect innovators from the abusive litigation of Patent Assertion Entities and to ensure the issuance of high quality patents. The USPTO is implementing four of the five executive actions. In fact, the USPTO was already taking proactive measures to address stakeholder concerns surrounding patent litigation, including a January 2013 "Real Party in Interest" roundtable we hosted at the USPTO to receive input on possible changes to our rules of practice to ensure more transparency in patent ownership.

Expanding on the success of our Elijah J. McCoy Satellite Office in Detroit, we began the process of opening three more permanent satellite offices, in Dallas, Denver, and Silicon Valley. Currently operating in temporary spaces, these offices place USPTO personnel in every continental U.S. time zone, providing critical government resources and services in some of our nation's most dynamic hubs of innovation.

It has also been a year of exciting progress on the international front, as we worked with offices around the world to build a more robust and efficient international intellectual property system. In January, in partnership with the European Patent Office (EPO), we formally launched the Cooperative Patent Classification (CPC) system that incorporates the best practices of both offices. In June, the Korean Intellectual Property Office became the first office to join the USPTO and EPO in using CPC. We furthered our cooperation with our IP5 partners, China, Korea, Japan and EPO, and hosted the annual IP5 heads of office meeting in the Silicon Valley. Working collaboratively with other offices, we also continued to expand harmonization efforts, promote work sharing among offices, and improve intellectual property multilaterally through the World Intellectual Property Organization and in other fora.

In support of the Administration's "Open Government" initiative, we continue to put more and more important information on-line, through tools like a robust Data Visualization Center that includes dashboards for Patents, Trademarks, External Affairs, and our Patent and Trademark Trial and Appeal Boards.

However, FY 2013 was not without its challenges. Despite the USPTO's significant progress in application inventory reduction this year, the sequestration experienced in FY 2013 impacted many IT improvements and threatens our ability to meet patent application pendency and first office action targets in the future. The far-reaching effect of this financial reduction is still being evaluated. We are also challenged by maintaining our current Trademark performance levels while experiencing continued growth and the need to replace outdated information technology systems.

We are confident that the USPTO's financial and performance data are complete, reliable, accurate, and consistent as we improve our ability to measure progress toward our performance goals.

This fiscal year, we learned that the USPTO was named one of the U.S. Federal Government's Best Places to Work by the non-profit Partnership for Public Service, which ranked the USPTO number 5 out of 292 federal agency subcomponents based on a survey by the Office of Personnel Management. The USPTO has climbed the rankings in recent years, from 105th to 5th place in just four short years—a remarkable achievement that speaks volumes about the dedication to excellence of every employee in our agency.

Our telework program is a vital component of employee satisfaction. This improved flexibility in work location for more than 72 percent of our workforce has reduced examiner turnover to historically low levels, increased examiner productivity, and saved the agency millions each year in overhead costs. Telework continues to contribute greatly to the morale and effectiveness of our highly talented and creative employees.

Despite our future challenges, we fully expect to achieve or exceed our goals. We are building a remarkably talented and nimble staff that is designed to scale to our evolving needs. The USPTO is dedicated to leading the rapidly evolving 21st Century intellectual property system. We are positioned to work transparently with our stakeholder partners and to diligently continue our efforts to advance intellectual property rights globally. We remain fully prepared to accelerate our nation's technological and commercial needs and help retain its place as the international model of innovation.

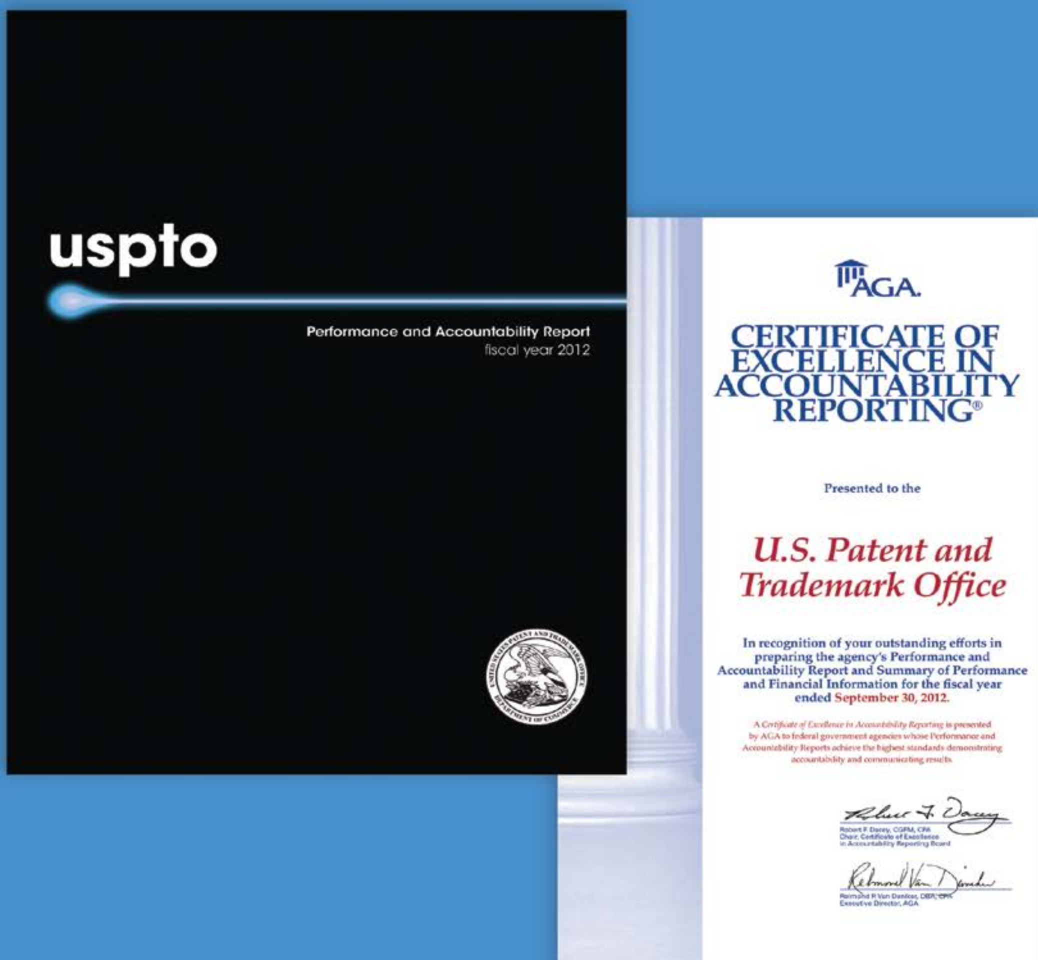
Teresa Stanek Rea

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office

November 20, 2013

2012

CERTIFICATE OF EXCELLENCE



Management's Discussion and Analysis

Mission and Organization of the USPTO

Mission

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

The United States Patent and Trademark Office's (USPTO) mission is derived from Article I, Section 8, Clause 8, of the Constitution "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writing and discoveries," and the Commerce Clause of the Constitution (Article 1, Section 8, Clause 3) supporting the Federal registration of trademarks.

For most of the last century, the United States has been the clear leader in developing new technologies, products, and entire industries that provide high-value jobs for Americans, enabling us to maintain our economic and technological leadership.

As an agency of the Department of Commerce (DOC), the USPTO is uniquely situated to support the accomplishment of the Department's mission to *create the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship.*

Our Organization

As shown in Figure 4, the USPTO is led by the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, who consults with the Patent Public Advisory Committee (PPAC) and the Trademark Public Advisory Committee (TPAC). The USPTO is comprised of two major components, the Patent Business Line and the Trademark Business Line, which are teamed with several other supporting units, as shown in the organization chart on page 12. Headquartered in Alexandria, Virginia, the USPTO also has a satellite office in Detroit, Michigan (which opened on July 13, 2012), and is establishing three more offices in Dallas, Texas; Denver, Colorado; and Silicon Valley, California (Figure 1). Finally, the USPTO has two storage facilities located in Virginia and Pennsylvania.

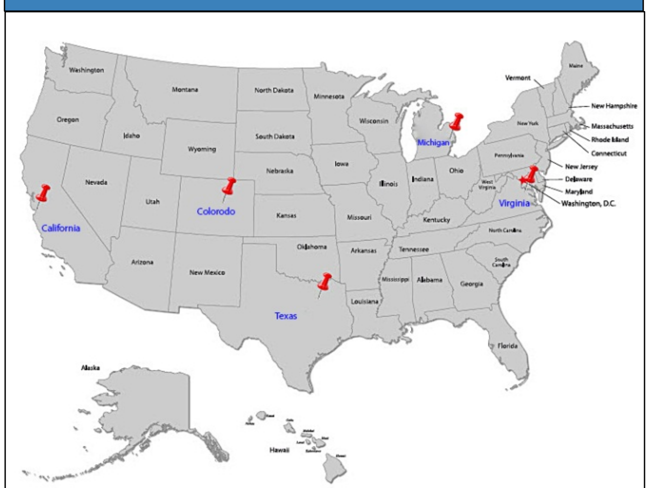
The USPTO has evolved into a unique government agency. In 1991, under the Omnibus Budget Reconciliation Act (OBRA) of 1990, the USPTO became fully supported by user fees to fund its operations. In 1999, the American Inventors Protection Act (AIPA) established the USPTO as an agency with performance-based attributes; for example, a clear mission statement, measurable services, a performance measurement system, and known sources of funding. In 2011, President Obama signed into law the Leahy-Smith America Invents Act (AIA). The AIA promotes innovation and job creation by improving patent quality, clarifying patent rights, reducing the application backlog, and offering effective alternatives to costly patent litigation. It also provides temporary fee-setting authority that is essential to the USPTO's sustainable funding model.

As the clearinghouse for U.S. patent rights, the USPTO is an important catalyst for U.S. economic growth as it plays a key role in fostering the innovation that drives job creation, investment in new technology, and economic recovery. Through the prompt granting of patents, the USPTO promotes the economic vitality of American business, paving the way for investment, research, scientific development, and the commercialization of new inventions. The USPTO also promotes economic vitality by ensuring that only valid patent applications are granted, thus providing certainty that enhances competition in the marketplace.

The Patent Organization. The Patent organization examines patent applications to compare the

Figure 1

Map of USPTO and Satellite Offices



National Inventors Hall of Fame 2013 inductee, John Daugman.

scope of claimed subject matter to a large body of technological information to determine whether the claimed invention is new, useful, and non-obvious. Patent examiners also provide answers on applications appealed to the Patent Trial and Appeal Board (PTAB); prepare initial memoranda for interference proceedings, post-grant proceedings, etc., to determine priority of invention; and prepare preliminary examination reports for international applications filed under the Patent Cooperation Treaty (PCT). The patent process includes performing an administrative review of newly filed applications, publishing pending applications, issuing patents to successful applicants, and disseminating issued patents to the public.

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

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

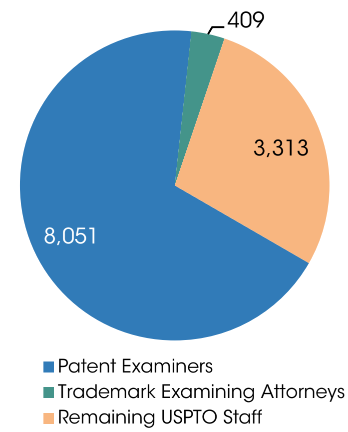
The performance information presented in this report is the joint effort of the Under Secretary's office, the Patent organization, the Trademark organization, the Office of Policy and External Affairs (OPEA), and the Office of the Chief Financial Officer (OCFO).

Our People

At the end of FY 2013, the USPTO work-force (Figure 2) was composed of 11,773 Federal employees (including 8,051 patent examiners and 409 trademark examining attorneys).

Figure 2

USPTO Staffing



America Invents Act

On September 16, 2011, President Obama signed the Leahy-Smith America Invents Act (AIA) (Pub. L. No. 112-29) into law. This sweeping reform introduced some of the biggest changes to the patent system in 200 years. Among the most significant changes, the Act transitions the patent system of the United States from a "first to invent" to a "first inventor to file" system.

Since its enactment, the USPTO has worked diligently to implement the AIA's statutory requirements to improve patent quality, reduce the backlog of patent applications, reduce domestic and global patenting costs for U.S companies, provide greater certainty in patent rights, and offer effective alternatives to costly and complex litigation.

In this fiscal year, the USPTO has accomplished the following significant milestones in implementing the AIA:

Rulemaking

In order to implement federal statutes, agencies typically must incorporate the statutory provisions into their regulatory scheme by engaging in rulemaking. The USPTO completed its AIA implementation rulemaking in FY 2013. Specifically, the agency issued final rules for the first-inventor-to-file, micro-entity, and fee-setting provisions in March 2013. For more information regarding AIA-related rulemaking, associated comments, etc, please go to www.uspto.gov/aia_implementation/.

AIA Studies

The AIA mandates the USPTO to conduct studies into certain areas of intellectual property law and make recommendations to Congress based on study findings. In FY 2013, the agency planned to finalize the confirmatory genetic testing study, which commenced in FY 2012. However, the intra-agency clearance process for the genetic testing report is still ongoing. The agency also was required in FY 2013 to issue a report on practitioner misconduct before the Office, which was finalized and released in September 2013. For more information about these AIA-required studies, please see www.uspto.gov/aia_implementation.

AIA Programs

The AIA requires the USPTO to establish certain programs to assist applicants when they file and prosecute patent applications. In FY 2013, the agency was required to continue work establishing additional satellite offices in Denver, Dallas, and Silicon Valley (the USPTO identified these locations in FY 2012 and opened the initial satellite office in Detroit in FY 2012). Due to sequestration and other federal budgetary constraints, the agency has been delayed in its efforts. It is proceeding as resources permit to secure the necessary space, infrastructure, and personnel to eventually open these offices.

For more information on the progress of these satellite offices, please go to www.uspto.gov/about/locations/index.jsp.

Deputy Under Secretary Teresa Stanek Rea speaks at an AIA Public Forum.

AIA Outreach

It is the USPTO's top priority to keep our stakeholders informed and as involved in the AIA implementation as possible. In FY 2013, we took the following steps to maximize transparency and stakeholder/public participation:

- Public forum in March 2013 to educate stakeholders about the new final rules for the first-inventor-to-file, micro-entity, and fee-setting statutory provisions.
- Second anniversary public forum in September 2013 to provide guidance about successes and pitfalls of recent AIA filings for all AIA statutory provisions.
- Continuing maintenance of the USPTO website to provide AIA implementation information and updates such as videos and frequently-asked-questions.
- Continuing use of AIA Subscription Center to inform subscribers via email about AIA.events and new information

Performance Goals and Results

Introduction to Performance

In FY 2010, the USPTO issued its *2010-2015 Strategic Plan*, which recognizes that innovation has become the principal driver of our modern economy by stimulating economic growth and creating high-paying jobs. America's innovators rely on the U.S. patent and trademark systems to secure investment capital and to bring their products and services to the marketplace as soon as possible. Therefore, it is critical that the USPTO thrive for American innovation to succeed.

Strategic Planning Performance Framework

The USPTO's mission is to foster innovation and competitiveness by providing high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and protecting intellectual property rights. The *USPTO 2010-2015 Strategic Plan* (www.uspto.gov/about/stratplan/) provides three strategic goals and one management goal in support of the agency's mission with a focus on achieving results. The strategic objectives under the first three goals define what the agency needs to do in order to achieve the goals. The management goal provides the administrative support foundation for the USPTO to achieve organizational excellence.

The USPTO strategic planning performance framework is designed to strengthen the capacity of the USPTO by focusing on a specific set of goals and the steps we must take to reach those goals, as follows:

- Provide timely examination of patent applications: Reduce the average time to first office action for patent applications to 10 months (average time from filing until an examiner's initial determination on patentability), and average total pendency to 20 months (average time from filing until the application is issued as a patent or abandoned)
- Improve quality of patent examination
- Improve patent appeal and post-grant processes
- Optimize trademark quality and maintain pendency

Figure 3

Summary of FY 2013 Strategic Goal Performance Target Results

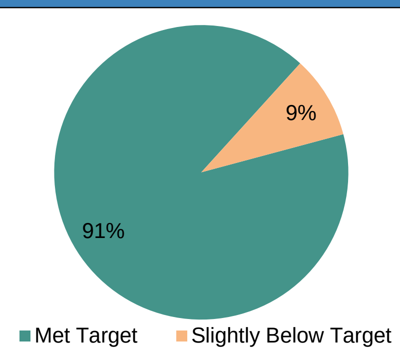
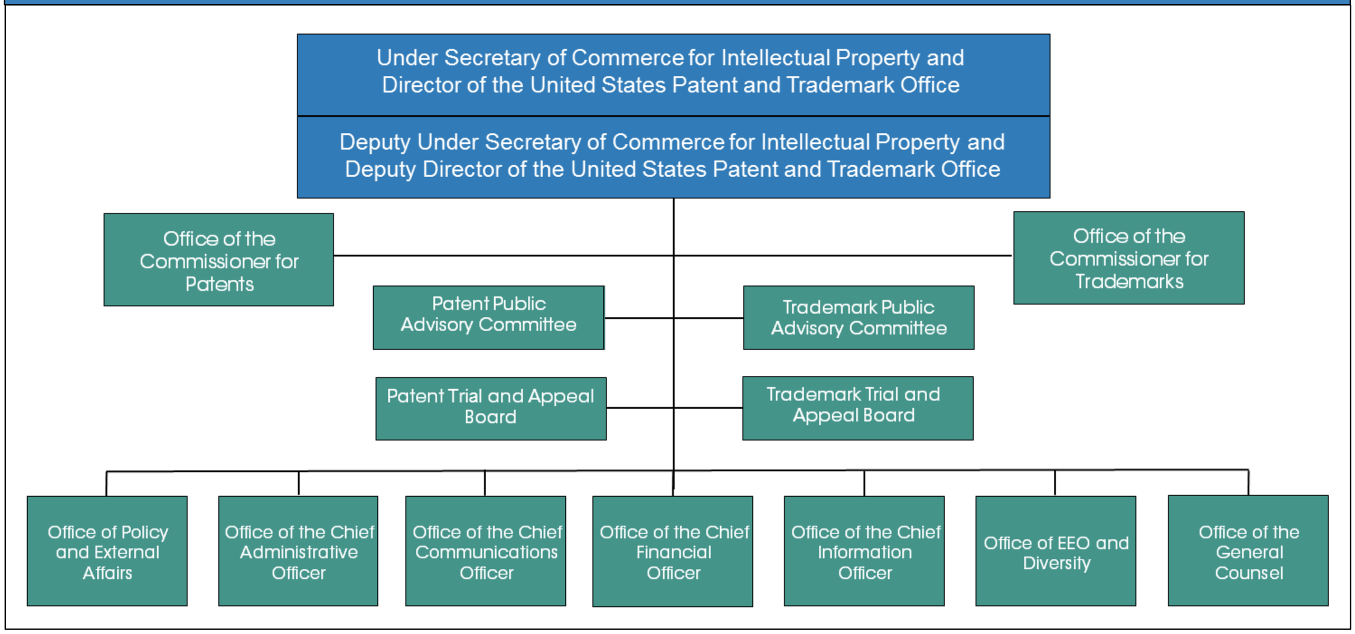


Figure 4

FY 2013 UNITED STATES PATENT AND TRADEMARK OFFICE



- Demonstrate global leadership in all aspects of IP policy development
- Improve IT infrastructure and tools
- Implement a sustainable funding model for operations
- Improve relations with employees and stakeholders.

These priorities support the DOC's focus on economic growth, and its goal of delivering the tools, systems, policies, and technologies critical to transforming our economy, fostering U.S. competitiveness, and driving the development of new businesses.[1]

There are 11 Strategic Plan performance outcome measures, all designed to achieve the USPTO's strategic goals. Annual performance targets were developed for each measureable outcome.

The USPTO met its targets for 10 of its 11 performance measures as shown in Figure 3.

Our Strategic Plan communicates the USPTO's priorities and directions, and serves as the foundation for programmatic and management functions. As a management tool for tracking progress in meeting each of our performance commitments, the plan includes a Balanced Scorecard. This identifies the objectives, initiatives, and performance measures associated with each strategic goal. These performance commitments are outlined in the strategic framework presented in Table 1.

Following the presentation of the Strategic Planning Framework, a summary table (Table 2) provides trend information on performance results within each strategic goal. This is followed by a more detailed discussion of our strategy and performance results, by strategic objective within each strategic goal.

The USPTO has two major components: the Patent Business Line and the Trademark Business line, which are teamed with several other supporting units, as shown in the organization chart (Figure 4).

This will be the final year of our *FY 2010-2015 Strategic Plan*. New directives, such as the Government Performance and Results Modernization Act of 2010, etc., require the agency to update its current Strategic Plan. The new *2014-2018 Strategic Plan* currently is under development, and is expected to be published in the 2nd Quarter of FY 2014. Next year's PAR will evaluate the USPTO's performance against the plans in that document.

[1] The Office of Policy and External Affairs changed its name to the Office of Policy and International Affairs in FY 2014.

Table 1

2010 2015 Strategic Plan

MISSION

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

VISION

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

Strategic Goals with Resources Invested	Objectives
GOAL 1: ***Optimize Patent Quality and Timeliness*** Obligations: $2,231.4 million Total Cost: $2,281.2 million	Re-Engineer Patent Process to Increase Efficiencies and Strengthen Effectiveness
	Increase Patent Application Examination Capacity
	Improve Patent Pendency and Quality by Increasing International Cooperation and Work Sharing
	Measure and Improve Patent Quality
	Improve Appeal and Post-Grant Processes
	Develop and Implement the Patent End-to-End Processing System
GOAL 2: ***Optimize Trademark Quality and Timeliness*** Obligations: $211.5 million Total Cost: $213.1 million	Maintain Trademark First Action Pendency on Average between 2.5 – 3.5 Months with 12.0 Months Final Pendency
	Continuously Monitor and Improve Trademark Quality
	Ensure Accuracy of Identifications of Goods and Services in Trademark Applications and Registrations
	Enhance Operations of Trademark Trial and Appeal Board (TTAB)
	Modernize IT System by Developing and Implementing the Trademark Next Generation IT System
	Develop a New Generation of Trademark Leaders
GOAL 3: ***Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide*** Obligations: $46.4 million Total Cost: $46.1 million	Provide Domestic Leadership on IP Policy Issues and Development of a National IP Strategy
	Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights (IPR)
MANAGEMENT GOAL: ***Achieve Organizational Excellence***	Improve IT Infrastructure and Tools
	Implement a Sustainable Funding Model for Operations
	Improve Employee and Stakeholder Relations

Summary of Strategic Goal Results

The following table summarizes FY 2013 actual performance results against established goals and targets for each key performance measure. The table also includes actual performance results for the past four fiscal years. For the latest updated status of these and other performance measures, please visit our Data Visualization Center at: www.uspto.gov/about/stratplan/dashboards.jsp. There were no measures that have been either discontinued or changed since the FY 2012 PAR.

Table 2

Summary of Strategic Goal Results for FY 2009 – FY 2013

Strategic Goals Performance Measures	FY 2009 Actual	FY 2010 Actual	FY 2011 Actual	FY 2012 Actual	FY 2013 Target	FY 2013 Actual
GOAL 1: Optimize Patent Quality and Timeliness						
Average First Action Pendency	25.8	25.7	28.0	21.9	18.0	18.2
Average Total Pendency	34.6	35.3	33.7	32.4	30.1	29.1
Patent Quality Composite Score	N/A	N/A	30.7	72.4	65-73	71.9
Patent Applications Filed Electronically	82.4%	89.5%	93.1%	97.1%	98.0%	98.1%[1]
GOAL 2: Optimize Trademark Quality and Timeliness						
Average First Action Pendency	2.7	3.0	3.1	3.2	2.5 -3.5	3.1
Average Total Pendency	11.2	10.5	10.5	10.2	12.0	10.0
First Action Compliance Rate	96.4%	96.6%	96.5%	96.2%	95.5%	96.3%
Final Compliance Rate	97.6%	96.8%	97.0%	97.1%	97.0%	97.1%
Exceptional Office Action	N/A	N/A	23.6%	26.1%	23.0%	35.1%
Trademark Applications Processed Electronically	62.0%	68.1%	73.0%	77.0%	76.0%	79.0%
GOAL 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide						
Percentage of prioritized countries for which country teams have made progress on at least 75% of action steps in the country-specific action plans along the following dimensions: 1. institutional improvements of IP office administration for advancing IP rights, 2. institutional improvements of IP enforcement entities, 3. improvements in IP laws and regulations, and 4. establishment of government-to-government cooperative mechanisms.	N/A	75.0%	100%	75.0%	75.0%	100%

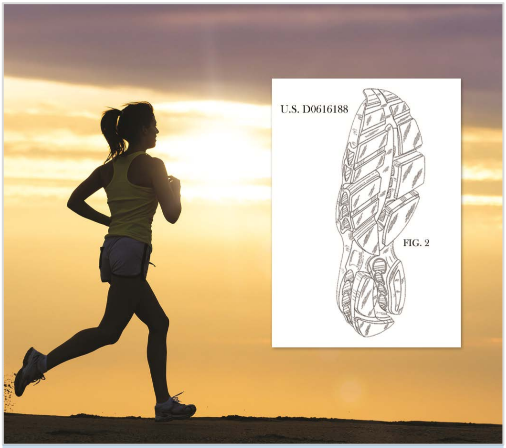
The performance result of a given measure is either Met (100 percent or greater of target), Slightly Below (95 to 99 percent of the target), or Not Met (below 95 percent of target).

N/A: Denotes new performance measures where data was not available.

[1] This is preliminary data and is expected to be final after the publication of this report and will be reported in the FY 2014 PAR.

What is a patent?

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



A patent drawing of a sneaker sole. On the left side: a woman running during sunrise.

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

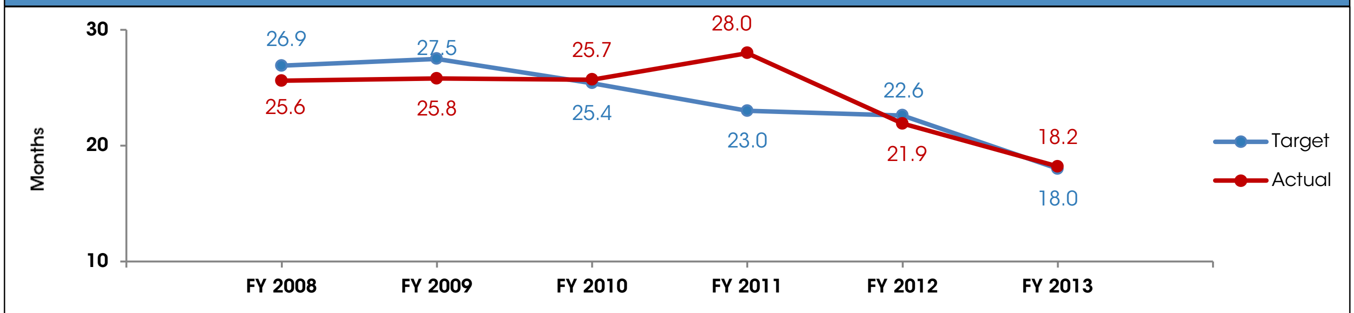
For a detailed look at how the patent application examination process works, please visit this site:

www.uspto.gov/patents/process/

PATENTS: Strategic Goal 1

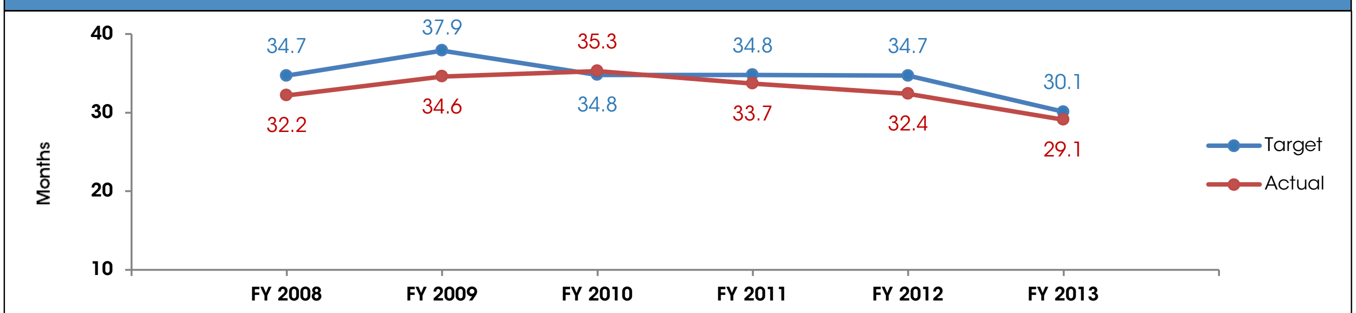
Below are performance trends for Strategic Goal 1 measures. The Patent Quality Composite Score Measure is new and does not yet have sufficient data to show a trend.

Patent Average First Action Pendency



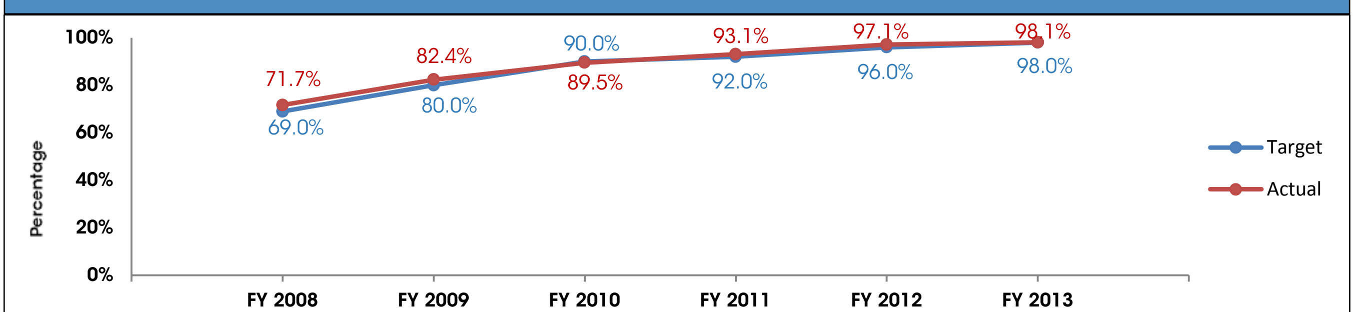
Trend: Trends are positive from FY 2008 to FY 2013. Additional discussion for this metric can be found on page 21.

Patent Average Total Pendency



Trend: Trends are positive from FY 2008 to FY 2013. Additional discussion for this metric can be found on page 21.

Patent Applications Filed Electronically



Trend: Trends are positive from FY 2008 to FY 2013. This measure has served its purpose and is expected to be discontinued after FY 2013. Additional discussion for this metric can be found on page 22.

Strategic Goal 1: Optimize Patent Quality and Timeliness

This year was one of both accomplishments and challenges for the Patent organization.

Through five executive actions, the White House in early June announced several major steps to improve incentives for future innovation in high tech patents, a key driver of economic growth and good-paying American jobs. The USPTO is responsible for executing four of the initiatives: begin a rulemaking process to require patent applicants and owners to regularly update patent ownership information; develop and commence training for patent examiners on scrutiny of functional claim language; provide an accessible, plain English online portal that will answer key questions for small businesses and enterprising individuals; and finally, expand dedicated stakeholder outreach through round table events and partnerships, such as the Software Partnership Initiative. This particular initiative is an opportunity to bring stakeholders together through a series of roundtable discussions to share ideas, feedback, experiences, and insights on software-related patents. The International Trade Commission (ITC) is responsible for the fifth initiative, strengthening enforcement process of exclusion orders.

The agency successfully and timely completed its implementation of all new statutory provisions of the America Invents Act (AIA) by March. In particular, the agency established procedures for a third party to submit potential prior art to the examiner in a pending patent application to assist an examiner in determining the patentability of a claimed invention. Numerous third parties have used this procedure as the agency has received several hundred prior art submissions, and examiners have made rejections based on those submissions in several instances. Likewise, FY 2013 marked the first complete year in which the agency executed the three types of administrative trials to enable a third party to challenge an issued patent before the agency in lieu of the federal district courts. The agency has granted many petitions filed by several hundred third parties to initiate these administrative trials. Further, the agency has migrated from a first-to-invent system to a first-inventor-to-file system. This migration harmonizes U.S. law with other industrialized nations and gives greater certainty regarding patent rights. Accordingly, America's innovators are seeing the benefits of the AIA.

The USPTO continued to engage in efforts to improve the patent examination process, enabling important innovations to move more quickly to the marketplace. The agency continues to make significant progress in reducing the unexamined patent application backlog. From a high of 764,000 in January 2009, the agency has decreased this backlog to approximately 584,998 by the end of FY 2013, a 31 percent reduction. Our total pendency was reduced to 29.1 months and our first action pendency was reduced to 18.2 months, much lower than the previous year. Prior to sequestration, the USPTO was on target to meet its patent application pendency goal of 10 months to first action by 2016 and 20 months total patent application pendency by 2017.

The USPTO also was on track to reach an optimal working level inventory in FY 2016. However, as a result of the reduced fee availability this year due to sequestration and the need to halt most patent examiner hiring, the agency will not achieve these Administration priority goals within these time frames.

OBJECTIVE 1: Re-engineer Patent Process to Increase Efficiencies and Strengthen Effectiveness

The USPTO is realizing benefits from the success of various initiatives, pilots, and operational improvements. The agency has moved from a one-track patent examination process to a multi-track process by adopting procedures and initiatives that incentivize the abandonment of applications that are not important to applicants; accelerate deployment of critical information technologies; permit an applicant to accelerate applications; and explore other incentive and accelerated examination options. Specific initiatives include:

Prioritized Examination - Track One

The USPTO published a final rule to implement Track One of the "Three-Track" initiative on April 4, 2011, and began accepting applications under Track One on September 26, 2011. The goal is to provide a final disposition within twelve months, on average, once prioritized status is granted and offers small businesses a discount on this option. Since its inception, the agency received over 11,700 Track One patent applications, and more than 4,700 entrepreneurs have taken advantage of these discounted fees. The agency completed more than 8,200 first actions on Track One examinations in an average of 62 days, mailed over 2,900 allowances, and issued more than 2,700 patents.

Quick Path Information Disclosure Statement (QPIDS) and After Final Consideration Pilot (ACFP) 2.0

One way the USPTO is achieving its goal to optimize pendency and achieve an appropriate working inventory is through reducing our backlog of patent applications associated with a Request for Continued Examination (RCE). An RCE is a request by an applicant to reopen prosecution of the patent application after prosecution is closed. There is currently a backlog of 78,272 applications related to RCEs, and this backlog diverts our resources from examination of new applications. We received input from the public on the many reasons why an RCE is filed, allowing us to design new programs and initiatives aimed at reducing the need for an RCE.

The Quick Path Information Disclosure Statement (QPIDS) pilot program and the After Final Consideration Pilot (AFCP) 2.0 are two initiatives that we implemented to reduce the RCE backlog. The QPIDS pilot program has already helped the agency avoid over 1,100 RCEs.

In the QPIDS program, when an examiner determines that no item of information in the Information Disclosure Statement (IDS) necessitates reopening prosecution, the USPTO will issue a corrected notice of allowability and the application is returned to the publications cycle. Only those applications in which the IDS necessitates a reopening of prosecution are processed as RCEs.

The goal of AFCP 2.0 is to reduce the number of RCEs and by encouraging increased collaboration between the applicant and the examiner to effectively advance prosecution of the application. The revised procedure focuses the pilot on review of proposed claim amendments and allows the USPTO to better evaluate the pilot. Examiners continue to use their professional judgment to decide whether the response can be fully considered under AFCP 2.0.

"My client decided to take advantage of Track One because we believed infringement by a competitor was imminent. We filed using Track One and received a first Office Action on the merits two months later. Our examiner was exceptional. The Office Action was thoughtful and complete; the prior art search was thorough. We were able to secure for our client a Notice of Allowance less than three months after the initial filing date. The patent was issued six weeks later. I have nothing but good things to say about both of my Track One experiences. My thanks to the USPTO for taking this initiative."

For other testimonials about Track One, please visit:
www.uspto.gov/patents/init_events/track_one_testimonials.jsp

Cooperative Patent Classification (CPC)

A new chapter opened in global classification of patent documents this year. A collaborative, internationally-compatible classification system—Cooperative Patent Classification (CPC)—was established between the USPTO and the European Patent Office (EPO) for cataloging technical and patent documents used in the patent-granting process.

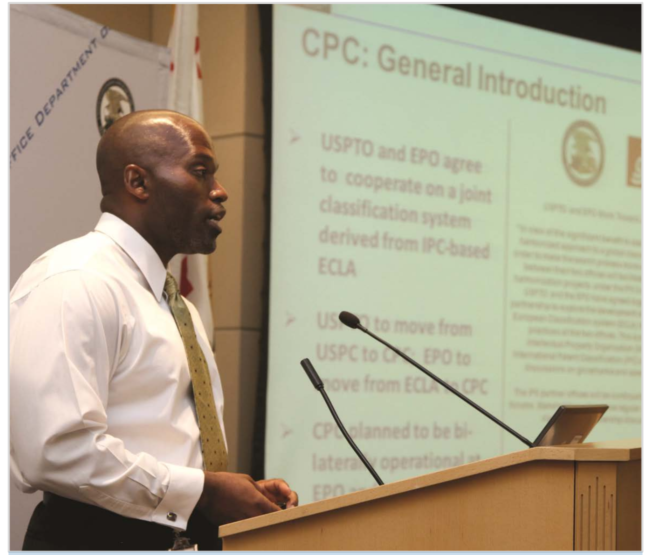
Since the beginning of 2013, the USPTO has been in a two-year transition period in which we will move toward full use of CPC. Examiners are receiving extensive training enabling them to effectively search in CPC and place CPC symbols[1] on published patent applications and granted patents. Over 8 million U.S. patent documents already containing CPC symbols result in a more comprehensive search of prior art. Once fully implemented, our examiners will classify and search in CPC.

CPC is the future of classification for the USPTO and the EPO. Together, we are engaging other IP offices to expand the use of CPC and are exploring future enhancements to the CPC system. By joining together and sharing resources with the EPO, CPC will provide far-reaching benefits to our employees, stakeholders, and the international patent classification community.

OBJECTIVE 2: Increase Patent Application Examination Capacity

The USPTO continues to increase its examination capacity by employing new recruitment and development models to hire, train, and retain a highly-skilled and diverse workforce.

As part of our effort to modernize the United States patent system, we implemented a Nationwide Workforce Program that directly expands the employment candidate pool, minimizes real estate costs associated with workforce expansion, and expands the national presence of the USPTO for enhanced interaction with the IP community.



Derris Banks, Group Director of Technology Center 2600, speaks to Cooperative Patent Classification community stakeholders.

The AIA, signed into law by President Obama on September 16, 2011, requires the USPTO to establish three satellite locations by September 16, 2014. The satellite offices will function as hubs of innovation and creativity, helping protect and foster American innovation in the global marketplace, and creating hundreds of highly-skilled jobs in each of the local communities. The first USPTO satellite office, the Elijah J. McCoy Satellite Office, opened in Detroit, Michigan, on July 13, 2012. The Detroit office is the first of four announced USPTO satellite offices, each of which will save critical time and resources. All four locations: Detroit; Denver, Colorado; Silicon Valley, California; and Dallas, Texas, currently have offices staffed by Patent Trial and Appeal Board (PTAB) judges, who are helping reduce the board's inventory of appeal cases and AIA trials. The PTAB's nationwide presence will allow applicants and their attorneys to appear for hearings from our satellite locations, which will minimize costs of court appearances. Directors are in place in the Detroit and Silicon Valley offices.

Given our current budget constraints under sequestration, efforts to move into permanent spaces for three locations - Denver, Silicon Valley, and Dallas - have been delayed. We continue to operate and engage local stakehodlers about IP rights and awareness from the temporary spaces.

[1] Internationally compatible search symbols.

Detroit

As the agency's very first satellite office, Detroit represents a historic achievement for the USPTO. The Detroit team is meeting and exceeding the needs of the agency and a community of innovators.

The Detroit office expands our capacity and aids productivity, despite tough budgetary constraints. Through increased outreach efforts with entrepreneurs and innovators throughout the Midwest, the USPTO stays attuned to the needs of the area's unique ecosystem of creativity and enterprise.

By tapping into local talent to hire and train 100 new patent examiners in Detroit, the team at this office helped us achieve our goal of reducing the backlog of unexamined patent applications. Since opening, the Detroit office has already issued several thousand First Office Actions.

The Detroit office also expanded the PTAB by hiring new judges from the region with plans in place to add more. This increase in staff will help the agency reduce its inventory of appeal cases and AIA trials. The PTAB's nationwide presence will allow applicants and their attorneys to appear for hearings from our satellite locations, which will minimize costs of court appearances. It also allows practitioners to more readily access and navigate the patent appeals process.

The Detroit, Michigan building hosting the USPTO's satellite office.

The presence of the office in this important hub of American innovation has increased the agency's ability to support innovators; and provide the Midwest IP community resources that enable inventors to better understand, obtain, maintain, and commercialize their IP rights.

The Detroit office offers workshops and seminars that provide local businesses and inventors knowledge to develop, license, and distribute technologies and services. Numerous outreach events and several "Saturday Seminars" have been held for local inventors and entrepreneurs, enabling them to learn more about patents and trademarks.

The Detroit office provides us opportunities to foster new partnerships with organizations such as the Henry Ford Museum and the Auto Harvest Foundation. The office also partners with regional inventor associations to raise awareness of key tools and resources that empower businesses of all sizes to grow and protect their products and services in a global economy.

OBJECTIVE 3: Improve Patent Pendency and Quality by Increasing International Cooperation and Work Sharing

Patent processing times are primarily gauged by two measures – Average First Action Pendency (Table 3) and Average Total Pendency (Table 4). Average First Action Pendency is the average length of time it takes from filing until an examiner's initial determination of the patentability of an invention. Average Total Pendency is the average length of time it takes from filing until the application is issued as a patent or is abandoned by the applicant. Although financial adjustments brought on by budget sequestration and updated estimates of fee revenue early in the year impacted our ability to achieve both FY 2013 pendency targets, we continue to make some progress in reducing patent pendency.

The Patent Prosecution Highway (PPH) continues to be a successful work sharing vehicle, delivering prosecution advantages to both users and IP offices. PPH provides users reduced numbers of office actions, lower costs, higher grant rates, and faster prosecution, and they are all factors that drive the growth of the program.

Table 3 Measure: Patent Average First Action Pendency (Months)		
FISCAL YEAR	TARGET	ACTUAL
2009	27.5	25.8
2010	25.4	25.7
2011	23.0	28.0
2012	22.6	21.9
2013	18.0	18.2
2014	17.1[1]	
2015	15.1[1]	
Target slightly below. *[1]Outyear targets subject to change*		

Table 4 Measure: Patent Average Total Pendency (Months)		
FISCAL YEAR	TARGET	ACTUAL
2009	37.9	34.6
2010	34.8	35.3
2011	34.5	33.7
2012	34.7	32.4
2013	30.1	29.1
2014	26.1[1]	
2015	25.7[1]	
Target met. *[1]Outyear targets subject to change*		

PPH metrics to highlight include:

- An allowance rate of approximately 90 percent, significantly higher than the overall USPTO average allowance rate;
- A lower-than-average average appeal rate of 0.4 percent versus the overall USPTO average appeal rate of 3.0 percent; and
- A 13.0 percent rate of requests for continued examination versus the average rate of 29.6 percent.

Because of these advantages over traditional proceution paths, usage of PPH has grown in popularity. The USPTO continues to expand the program by partnering with new offices and conducting stakeholder outreach (the USPTO currently has PPH agreements with 26 other IP offices). As of the end of FY 2013, the USPTO has received over 20,000 applications within the PPH program since its inception, with over 6,500 of these coming in FY 2013. The USPTO is receiving approximately 550 requests per month, a 22 percent increase over the previous fiscal year.

Since its inception in FY 2011, the Patent Cooperation Treaty (PCT) - PPH program has become a contributing force to the increased growth of the overall PPH program. For over one year, the majority of new PPH requests at the USPTO have come in through the PCT-PPH work sharing route. For more about PCT-PPH, please see the discussion in Goal 3.

All participating offices work together to streamline and improve the program. Most recently, the USPTO and 12 other offices agreed to a new PPH pilot, simplifying the program for users by adhering to a common set of guidelines and a single request form. This is a major achievement for the USPTO and its partners, as the 13 offices account for approximately 90 percent of global PPH usage. Details of the pilot are under negotiation among the offices, and it is expected to launch in January 2014.

OBJECTIVE 4: Measure and Improve Patent Quality

Improving patent quality was a key element in building bipartisan support for the AIA.

The USPTO continues to leverage a more robust quality measure, the Patent Quality Composite Score. This quality composite metric is composed of seven total factors that take into account stakeholder comments, including three factors drawn from the USPTO's previous quality measurement procedures, and four additional factors that focus upon data never before acquired and/or employed for quality measurement purposes. The factors measure: (1) the quality of the action setting forth the final disposition of the application; (2) the quality of the actions taken during the course of the examination; (3) the perceived quality of the patent process, as measured through external quality surveys of applicants and practitioners; (4) the quality of the examiner's initial search; (5) the degree to which the first action on the merits follows best examination practices; (6) the degree to which global USPTO data on patent examination activities is indicative of compact, robust prosecution; and (7) the degree to which patent prosecution quality is reflected in the perceptions of the examination corps as measured by internal quality surveys. Table 5 exhibits our recent progress on this measure. Note that FY 2011 was the baseline year. For more information on the Patent Quality Composite, please visit www.uspto.gov/about/ advisory/ppac/20130314_PPAC_QualityComposite.pdf.

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

We are continuously reaching out to our stakeholders for feedback regarding quality. Our roundtable discussions and partnership meetings provide opportunities for applicable stakeholders to improve their understanding of facts, and perhaps reconsider their activities. Moreover, this outreach provides us input that enables us to continually improve and to ensure both consistency and correctness at the individual case level. Town Hall meetings with examination staff and management help pinpoint where the USPTO could benefit from additional training. All of this is continuing to ensure correct examination decisions across the board.

In providing more effective training on quality, the USPTO enhances patent examination fundamentals, communication, and cooperation between the examiner and applicant. The USPTO utilizes highly successful training and refresher training programs that encompass over 20 modules designed to enhance examiners' knowledge and skills in procedural and legal topics pertaining to patent examination. In addition, the USPTO also implemented the *Patent Examiner Technical Training Program* (PETTP) which provides patent examiners with direct access to experts who are able to share their technical knowledge on prior art and industry standards in areas of emerging and established technologies. The PETTP provides an excellent opportunity for communication between patent examiners and the experts who work in the various technologiyy USPTO examiners encounter. This enhanced communication contributes to improving overall patent quality and decreasing patent pendency.

Table 5

Measure: Patent Quality Composite Score

FISCAL YEAR	TARGET	ACTUAL
2011	N/A	30.7
2012	48-56	72.4
2013	65-73	71.9
2014	83-91	
2015	100	

Target met.

Table 6

Measure: Total Cost Per Patent Production Unit

FISCAL YEAR	TARGET	ACTUAL
2009	$3,562	$3,523
2010	$3,530	$3,471
2011	$4,041	$3,594
2012	$3,970	$3,617
2013	$4,041	$3,686
2014	$4,425[1]	
2015	$4,028[1]	

Target met.

[1]*Outyear targets subject to change*

In addition, the Office of Patent Training (OPT) provided a two-phase training program to new supervisory patent examiners which offers coaching and mentoring, leadership and software training modules to foster employee engagement and help patent examiners reach their full potential. Patent managers and supervisors will continue to participate in a *Leadership Development Program* which focuses on educating and creating future agency leaders. This year, the OPT received recertification for the ISO 9001:2008, while the Office of Patent Quality Assurance (OPQA) maintained their certification of registration for the International Standards ISO 9001:2008. The ISO 9001 quality standard is the most widely recognized and established quality management system framework in the world, outlining requirements that provide the foundation for both OPQA and OPT to meet stakeholder expectations and achieve customer satisfaction.

OBJECTIVE 5: Improve Appeal and Post-Grant Processes

In its first full year of operation, and the first full year of accepting and addressing proceedings under the AIA, the Patent Trial and Appeal Board (PTAB) received nearly 600 petitions to initiate AIA proceedings. This includes petitions received during late September 2012, when petitions under the AIA could be officially submitted. This tremendous inflow of new proceedings is higher than initially estimated during planning but is a challenge that the PTAB eagerly accepted and enthusiastically embraced. More than 200 decisions on petitions have been issued, all within the deadlines imposed by statute. All petitions awaiting decision are also meeting statutory requirements. In addition, nearly 200 trials have been instituted and 45 have been terminated, again, all within statutory deadlines.

While the workload resulting from a steadily increasing number of AIA proceedings has been, and will continue to be a challenge for the PTAB, the board issued a record number of appeals decisions in FY 2013: 12,250. Due to the outstanding efforts of the Administrative Patent Judges and staff at the PTAB, and despite the additional workload caused by the intake of AIA proceedings, the inventory of *ex parte* appeals has remained essentially stable and is currently below the level it was at the end of FY 2012. While we expect to keep making progress, many factors will continue to affect the reduction, including intake of new appeals, successful hiring in FY 2014, and increased intake of proceedings authorized by the AIA. All indications suggest that the PTAB will be able to maintain the inventory at current levels while still meeting statutory obligations under the AIA.

A demonstration of Patents End-to-End. From left to right: Amelia Rutledge, Office of Patent Information Management (OPIM) Detailee, Primary Examiner, Art Unit 2177; Jamie Kucab, OPIM Detailee Primary Examiner, Art Unit 3681; Nelson Yang, Patent Business Analyst; Sharon Grubaugh, UniX Designer, Design For Context; and Arti Singh-Pandey, Primary Examiner, Art Unit 1786.

In an effort to ensure the PTAB is able to meet statutory requirements in the future, while reducing the regular *ex parte* appeal inventory, the PTAB has endeavored to take all possible steps to maximize its ability to issue decisions on all areas of its jurisdiction, this includes realigning board operations to improve efficiency, continued aggressive hiring of new judges, and actively working with the patent examiner corps to find new and innovative ways for patent examiner resources to assist PTAB judges in issuing timely, quality decisions.

OBJECTIVE 6: Develop and Implement the Patent End-to-End Processing System

Patents End-To-End (PE2E) represents an extensive portfolio of tools for improved processing of patent applications, based on a multi-year, user-centered, agile-development methodology. The tools under development focus on core improvement. These include migrating from an image-centered environment to a structured text-centered (extensible markup language (XML)) environment, integrating functionality fragmented among multiple legacy tools, improving analytical and searching capabilities, automating laborious and repetitive tasks, and providing a modern application architecture to satisfy agency needs for scalability and reliability in the face of an ever-increasing workload.

Table 7 Measure: Patent Applications Filed Electronically		
FISCAL YEAR	TARGET	ACTUAL
2009	80.0%	82.4%
2010	90.0%	89.5%
2011	92.0%	93.1%
2012	96.0%	97.1%
2013	98.0%	98.1%
Target met. Metric to be discontinued after FY 2013.		

The use of electronic filings as shown in Table 7 has risen to 98.1 percent. In addition to exceeding this year's target, this demonstrates that patent applicants are almost exclusively using electronic means for filing their patent applications. This was the original objective of this measure and it has served its purpose. FY 2013 will be the final year for this metric.

The Text2PTO projects aim to allow and promote text submissions of patent applications from applicants. It will provide applicants with a suite of pre-submission tools to analyze and validate applications. Planning for Text2PTO began in 2012, and outreach to the IP community has been conducted to vet different approaches, understand applicant needs, and communicate the advantages of text-based submission. Early in FY 2013, the USPTO provided a demonstration of a text-submission prototype. Text2PTO was suspended this year due to sequestration.

As the first major step in allowing examiners to search a broad range of international patent data, the Office of the Chief Information Officer (OCIO) this year deployed functionality to enable searching of Chinese patents from 1985 to 2012 provided by the Chinese State Intellectual Property Office (SIPO) in XML format. Search results include the original text of the patents, the machine-translated text of the patents, and an image of the original patent. The search is available at gpsn.uspto.gov/. In addition to providing a framework for broader international patent search capabilities, the project provides a test-bed for deployment of the new PE2E patent search system, which has been delayed due to the sequestration as well.

In 2013, the OCIO deployed additional functionality to transmit USPTO patent data to our partner IP5 offices – EPO, SIPO, Korean Intellectual Property Office (KIPO), and Japan Patent Office (JPO). This reduces the workload for patent examiners around the world when they are examining applications that are members of the same patent family.

CPC is a partnership between the USPTO and the EPO to harmonize patent classification between offices under a single standard. This required the USPTO to develop and deploy new core classification functionality, system integration with legacy search systems, and collaboration tools with the EPO.

Supporting this classification system required adaptations to legacy systems and data within the USPTO, which were made and deployed in 2013, including collaboration tools to facilitate joint classification between the USPTO and EPO as well as tools to allow the examiners to use CPC.

Management

To achieve organizational excellence, the Patent organization is striving to improve employee and stakeholder relations. Several initiatives are under way.

The USPTO is committed to being an employer of choice, and employees play a critical role in supporting that effort. The Employee Viewpoint Survey (EVS) measures USPTO employees' opinions regarding their work environment, including areas such as job satisfaction, personal work experience, training, and leadership. Over the last five years, we have implemented improvements that have helped us climb steadily from number 172 to number 5 in the Partnership for Public Service's (PPS) "Best Places to Work in Federal Government" ratings index. This year the USPTO's participation rate was 71 percent which exceeded our goal of 70 percent.

Our RCE outreach effort included a series of events to share ideas, feedback, experiences, and insights on RCE-related prosecution strategies. Each event consisted of a roundtable discussion and a focus session. Roundtable discussion topics were generally directed toward learning root causes for RCE filings, the role of RCE practice in patent prosecution, prosecution strategies to reduce the need for RCE filings, and recommendations for changes in USPTO procedures to reduce the need for RCE filings. Roundtable participants had the opportunity to speak about these or related topics.

Now in its third year, the Patents Ombudsman Program enhances the USPTO's ability to assist applicants or their representatives with issues that arise during patent application prosecution. More specifically, when there is a breakdown in the normal application process, including before and after prosecution, the Patents Ombudsman Program can assist in getting the application back on track.

Lastly, there are a limited but growing number of regional pro bono programs to assist financially under-resourced inventors and small businesses in the United States, but many additional programs are anticipated to become operational over the next year or two. An online portal for placing inventors into the current regional pro bono patent legal programs has been developed. This portal serves as a clearinghouse and is operated by the Federal Circuit Bar Association.

What is a trademark or service mark?

Trademark presentation at the Trademark Expo.

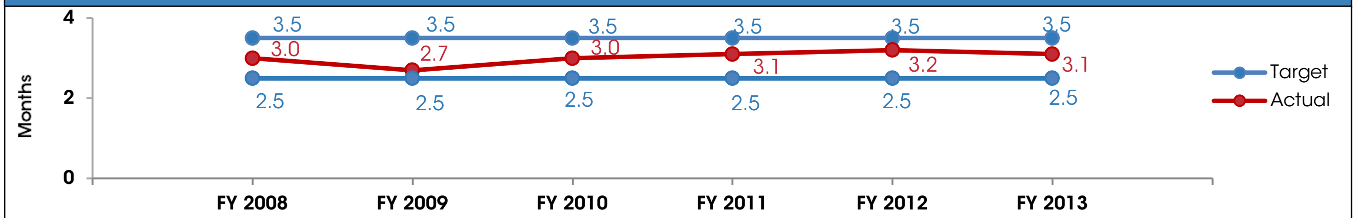
A trademark or service mark is a word, name, symbol, device, or any combination, used to identify and distinguish the goods and services of one seller or provider from those of others, and to indicate the source of the goods and services. Although federal registration of a mark is not mandatory, it has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

For a look at the steps involved for obtaining a trademark from the USPTO, please visit this site: www.uspto.gov/trademarks/process/

TRADEMARKS: Strategic Goal 2

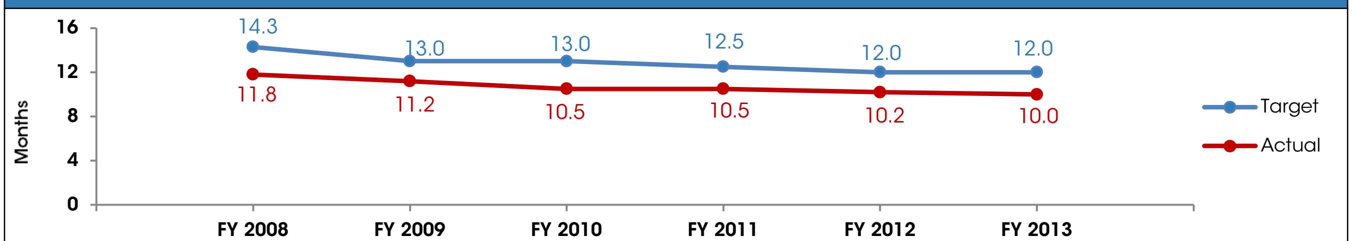
Below are those Strategic Goal 2 measures for which enough data is available to establish performance trends. The Exceptional Office Action Measure is relatively new and has insufficient data to show a trend.

Trademark Average First Action Pendency



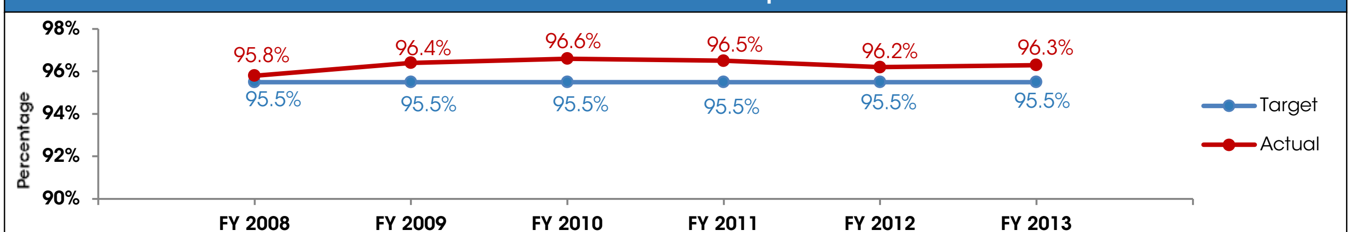
Trend: Trends are stable. Additional discussion for this metric can be found on page 29.

Trademark Average Total Pendency



Trend: Trends are positive from FY 2008 to FY 2013. Additional discussion for this metric can be found on Page 30.

Trademark First Action Compliance Rate

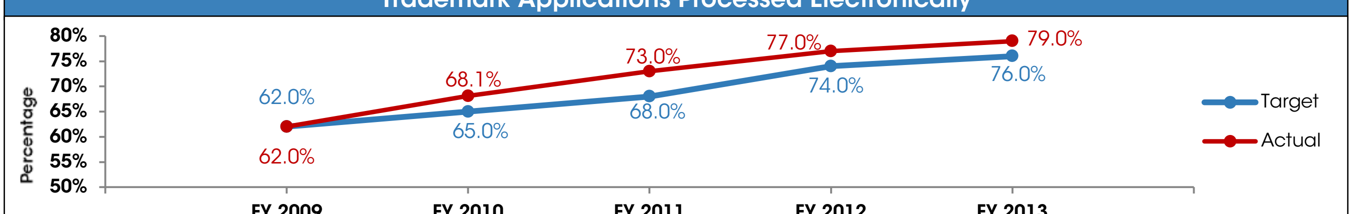


Trend: Trends are positive from FY 2008 to FY 2013. Additional discussion for this metric can be found on Page 30.

Trademark Final Compliance Rate

Trend: Trends are stable. Additional discussion for this metric can be found on page 30.

Trademark Applications Processed Electronically



Trend: Trends are positive from FY 2009 to FY 2013. Additional discussion for this metric can be found on page 33.

Strategic Goal 2: Optimize Trademark Quality and Timeliness

We have experienced a global expansion of trade within and among states and countries over the years, resulting in sustained economic growth and prosperity. Trade greatly benefits from and depends on a strong intellectual property (IP) system. Throughout recorded history, trademarks have served this function and allowed inventors and businesses to brand and differentiate the source and quality image of their product and service offerings. With globalization, trademarks are becoming more valuable as business assets serving to strategically position a company and cement its client base. By registering trademarks, the USPTO plays an instrumental role in enhancing consumer protection and safeguarding brands and their related investments.

The Trademark organization has met and exceeded its performance targets for several years now, and continues to leverage and expand its investments in human capital, process reengineering, and information technology.

OBJECTIVE 1: Maintain Trademark First Action Pendency on Average between 2.5-3.5 Months with 12.0 Months for Final Pendency

Despite the inherent uncertainty and volatility of trademark filings, first action pendency—the length of time between receipt of a trademark application and when the USPTO makes a preliminary decision — remains well within the optimum range of 2.5 to 3.5 months. This range reflects our external and internal stakeholders' need for expediency, quality, operational effectiveness, and cost efficiency. Results are contained in Table 8. Average total pendency—the average number of months from date of filing to notice of abandonment, notice of allowance, or registration —is equally impressive at 10.0 months for applications not involved in *inter partes* proceedings or previously suspended. See Table 9 for FY 2013 results.

Maintaining low pendency requires appropriate staffing and hiring, sustained productivity, continuous support and expansion of electronic filing and processing tools and systems, and enhanced outreach and stakeholder engagements. The

Trademark Expo, October 2012.

Trademark Electronic Application System (TEAS) electronic filing levels are at record highs of more than 99 percent. TEAS Plus, which represents electronic applications that meet stricter filings requirements, comprises more than 33 percent of all new application filing. With more TEAS Plus filings, applications at filing are more complete; and have higher quality which translates to higher and faster approvals upon first action.

Table 8

Measure: Trademark Average First Action Pendency (Months)

FISCAL YEAR	TARGET	ACTUAL
2009	2.5 to 3.5	2.7
2010	2.5 to 3.5	3.0
2011	2.5 to 3.5	3.1
2012	2.5 to 3.5	3.2
2013	2.5 to 3.5	3.1
2014	2.5 to 3.5	
2015	2.5 to 3.5	

Target met.

Table 9 Measure: Trademark Average Total Pendency (Months)		
FISCAL YEAR	TARGET	ACTUAL
2009	13.0	11.2
2010	13.0	10.5
2011	12.5	10.5
2012	12.0	10.2
2013	12.0	10.0
2014	12.0	
2015	12.0	
Target met.		

OBJECTIVE 2: Continuously Monitor and Improve Trademark Quality

The quality of first actions exceeded the 95.5 percent compliance target and the quality of final action exceeded the 97 percent target. The quality of office actions is measured through an evaluation of the substantive decisions on the legal registrability of a mark. The quality targets reflect the high standards set by the Trademark organization, as well as a commitment to improve quality through enhanced training and communication, promotion of electronic filing and processing, and greater use of online tools. See Tables 10 and 11 for FY 2013 results.

The efficiency measure (Table 12) is calculated by dividing total expenses associated with the examination and processing of trademarks (including associated overhead and allocated expenses) by outputs or office disposals. The measure is a relative indicator of the efficiency of the trademark process and related services over time; it does not represent the unit cost of a trademark since office disposals are only one measure among many products and services that the USPTO performs each year.

The newer and more comprehensive measure of quality, the exceptional office action, indicates the excellence of first office actions based on search, evidence, writing, and decision making. The measure, which is evaluated by reviewing a random sample of applications, exceeds the revised target and statutory standard for accuracy. The results illustrate the commitment of the examination staff to provide excellent service and the commitment of management to provide high-quality training and mentoring to enhance stake-

Table 10 Measure: Trademark First Action Compliance Rate		
FISCAL YEAR	TARGET	ACTUAL
2009	95.5%	96.4%
2010	95.5%	96.6%
2011	95.5%	96.5%
2012	95.5%	96.2%
2013	95.5%	96.3%
2014	95.5%	
2015	95.5%	
Target met.		

Table 11 Measure: Trademark Final Compliance Rate		
FISCAL YEAR	TARGET	ACTUAL
2009	97.0%	97.6%
2010	97.0%	96.8%[1]
2011	97.0%	97.0%
2012	97.0%	97.1%
2013	97.0%	97.1%
2014	97.0%	
2015	97.0%	
Target met.		
[1]Within the target range of 97.0% considering the margin of error of (+/- 0.6%)		

Table 12 Measure: Total Cost Per Trademark Office Disposal		
FISCAL YEAR	TARGET	ACTUAL
2009	$639	$474
2010	$607	$520
2011	$650	$541
2012	$607	$560
2013	$609	$552
2014	$620[1]	
2015	$603[1]	
Target met.		
[1]Outyear targets subject to change		

holder engagement and public outreach. For more information about the Exceptional Office Action, please visit the USPTO Data Visualization Center and www.uspto.gov/about/advisory/tpac/tpac_2012annualrpt.pdf.

OBJECTIVE 3: Ensure Accuracy of Identifications of Goods and Services in Trademark Applications and Registrations

The USPTO improved tools offered to trademark applicants so that they are better equipped to accurately identify their goods and/or services. For example, the USPTO debuted an "ID Checker" feature in the electronic application form to help applicants assess whether their description of goods and/or services is consistent with language previously deemed acceptable in the *U.S. Acceptable Identification of Goods and Services Manual* (ID Manual). In addition, the Trademark organization enhanced its ID Manual to include more explanatory notes and a new optional interface that helps focus a search on the most helpful entries. Another resource offered to the public was a "Goods and Services" video, which was updated and reposted on the USPTO website as part of the Trademark Information Network series that assists the public with various aspects of the trademark process.

The USPTO also increased outreach to ensure that its identification resources remain current and helpful, even in specialized industries with emerging technologies. For example, the Trademark organization partnered with stakeholder organizations such as the International Trademark Association and the Intellectual Property Owners to establish teams of industry experts on the goods and/or services who will work to make sure the adequately addresses the needs of particular industries. Feedback from stakeholders was incorporated into USPTO examining attorney training on identification policy and practice.

The USPTO furthered its collaboration with the international community on harmonized accurate and acceptable identifications. The agency began cooperation with the World Intellectual Property Organization (WIPO) on its WIPO Goods and Service Manager, a database providing information on the acceptability of identifications of goods and services in a wide range of nations. Also, the USPTO continued coordination with the "TM5"[1] on the TM5 Identification of Goods and Services Project, a harmonized list of identifications of goods and services and their classifications that would be accepted in all TM5 offices, along with any additional national office that has "docked on" to the project, such as Canada, the Philippines, the Russian Federation, Mexico, and Singapore.

Finally, the Trademark organization continued its pilot program requiring additional proof of use in connection with a random selection of Section 8 and 71 Affidavits of Continued Use to assess the level of accuracy of the identifications on the register. Preliminary results from the pilot are expected to issue within six months and will provide useful background and facilitate further public discussion on this issue.

"Excellent presentation....The speaker was very engaging—what a great source of information! I feel so much more confident about this topic and the process of TM/SM and [registered marks]."

-Attendee evaluation from one of our "Trademark Basics" training presentations to the public. An overview of the course may be found here: www.uspto.gov/trademarks/basics/index.jsp.

[1] The "TM5" consists of the USPTO, the Japan Patent Office, the European Community's industrial design and trademark office, the Korean Intellectual Property Office, and the Chinese State Administration for Industry and Commerce. These organizations collectively address international trademarks and industrial design issues.

OBJECTIVE 4: Enhance Operations of Trademark Trial and Appeal Board (TTAB)

The Trademark Trial and Appeal Board (TTAB) hosted a public roundtable discussion in November 2012 with representatives of stakeholder organizations regarding the use of Accelerated Case Resolution (ACR) and related "best practices" that result in more efficient trial case proceedings. The discussion promoted transparency in relation to board operations, provided stakeholders with the opportunity to discuss their respective experiences with ACR, and included discussion of how the board can leverage best practices to pursue continued process improvements for trial cases. The board's attorneys and judges also continued to emphasize and promote the benefits of ACR options during speeches, panel discussions and through webinars. The board received suggestions from participants about desirable subjects for discussion in future roundtables, and added an e-mail address that allows parties to submit suggestions for ACR and related process improvements.

The TTAB continued to work closely with the Trademark Public Advisory Committee (TPAC) and stakeholders to provide more and different forms of information on board performance. The board developed a one-page summary of various performance measures already posted on the board's Web page, and which is updated on a quarterly basis. In addition, the board developed several new dashboards that display TTAB performance data in a visual manner, and posted these on the board's Web page. Stakeholders have the opportunity to comment on the dashboards via an e-mail address established for that purpose.

In June 2013, the TTAB issued the second revision of the third edition of the Trademark Board Manual of Procedure (TBMP): http://www.uspto.gov/trademarks/process/appeal/Preface_TBMP.jsp.
The manual was revised to incorporate new material related to amendments of the Trademark Act, the Trademark Rules of Practice, and the Federal Rules of Civil Procedure, as applicable, as well as many precedential decisions issued by the board and the Court of Appeals for the Federal Circuit. In all, this revision acknowledges developments in practice since the first revision of the third edition was posted on the board's Web page in June 2012. The board has maintained its commitment to make annual updates to the manual for three years. Also in FY 2013, the board posted chapter 1200 of the TBMP, which covers *ex parte* appeal practice, for public comment in the Idea Scale application. The board will post a portion or sections of the TBMP twice per year to receive public comments and suggestions.

Commissioner for Trademarks, Debbie Cohn and TPAC members at the USPTO. Back row, L to R: Linda K. McLeod, Jody Haller Drake, Cheryl L. Black, Ray Thomas, Jr., and Anne H. Chasser. Front Row, L to R: Deborah A. Hampton, Commissioner Cohn, TPAC Chair Maury M. Tepper, III, and Kathryn Barrett Park,

Throughout the year, the TTAB fulfilled its commitment to developing the law by issuing a substantial number of precedential opinions and orders, with 49 such decisions issued on a wide variety of substantive and procedural matters. The TTAB's precedential decisions on *ex parte* appeals provide procedural and substantive guidance to the trademark examining attorneys, trademark owners, and the trademark bar. The TTAB's precedential decisions in opposition and cancellation proceedings provide guidance to trademark owners and the bar on procedural matters pertaining to the Trademark Rules of Practice, the application of the Federal Rules of

Civil Procedure to board cases, and on substantive legal matters.

OBJECTIVE 5: Modernize Information Technology (IT) System by Developing and Implementing the Trademark Next Generation IT System

Electronic systems represent an investment in mission-critical infrastructure. More than 99 percent of applications are filed electronically, with 79 percent processed electronically from filing to disposal. A great effort has been made to maintain, enhance, and modernize the trademark systems IT infrastructure.

TEAS forms have been enhanced to allow for broader adoption, increased user-friendliness, and higher quality. The First Action System for Trademarks (FAST), which manages the internal process for docketing, crediting and routing application processing and examination, has been improved and redeployed to all examiners.

In FY 2013, 79 percent of applications were exclusively filed through electronic means from filing to disposition (Table 13). This performance result demonstrates the success of our outreach efforts to improve electronic correspondence following the initial filing.

While enhancement work is under way on several other legacy systems and functionalities, the Trademark organization is making great progress creating a modern IT infrastructure by separating systems that compete for resources and creating a more economical virtual environment. Most Trademark systems have been separated, making them more stable to operate, maintain, and migrate. The virtualization is helping reduce system footprints while offering a more scalable and cost-effective IT platform. The office has successfully migrated the Trademark Status and Document Retrieval (TSDR) system and a novel reporting and datamart system to the cloud. Preparations are nearly complete for launching the new electronic Official Gazette (eOG) which will automate the functionality of a system that replaces a decades-old paper manual in the cloud as well.

Table 13

Measure: Trademark Applications Processed Electronically

FISCAL YEAR	TARGET	ACTUAL
2009	62.0%	62.0%
2010	65.0%	68.1%
2011	68.0%	73.0%
2012	74.0%	77.0%
2013	74.0%	79.0%
2014	78.0%[1]	
2015	80.0%[1]	

Target met.
[1]*Outyear targets subject to change*

OBJECTIVE 6: Develop a New Generation of Trademark Leaders

This fiscal year, we also ensured the provision of effective tools and supervisory structure to compliment both on campus and remote workforce. Trademark management completed a first-ever "Succession Plan" recognizing the skills and development necessary for ensuring leadership continuity for essential positions. A number of developmental positions were created to give aspiring leaders an opportunity to act in positions of increased management responsibility. The Trademarks organization sponsored an onsite leadership development training day in June on "employee engagement" for current managers. Focus groups were held to address findings from the "Employee Viewpoint Survey" to provide a forum for better understanding and addressing survey results.

The Trademark organization also provided effective support and management for telework and *Telework Enhancement Act Pilot Program* (TEAPP) expansion—an important component in retaining the best people for our organization's future. Trademark management worked cooperatively with union bargaining representatives to expand telework opportunities. A new agreement was reached in September that allows expansion of the hours that examining attorneys may work from home while maintaining an office onsite. The updated guidelines, among numerous other modifications and clarifications, clarify use of collaboration tools to permit effective communications with a dispersed workforce.

What is the role of the USPTO and intellectual property policy?

President Barack Obama speaking at the National Medal of Technology and Innovation Award Ceremony on February 1, 2013.

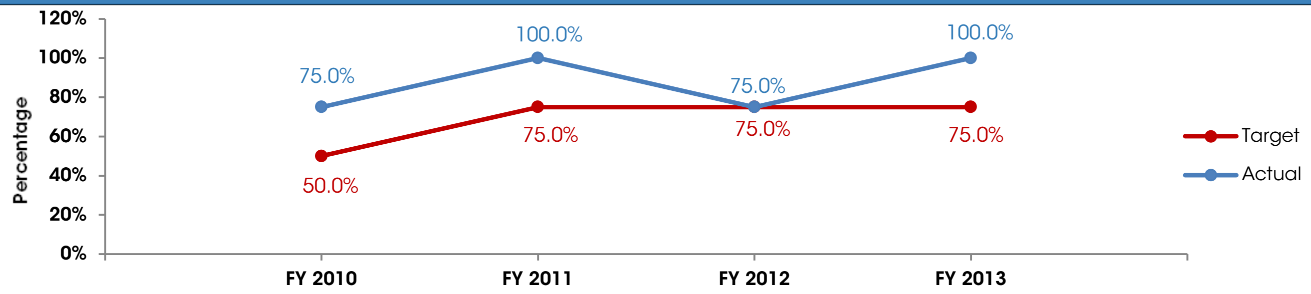
The United States Patent and Trademark Office (USPTO) advises the President, through the Secretary of Commerce, and all federal agencies on national and international intellectual property policy issues, including IP protection in other countries. The USPTO's Strategic Plan highlights these activities in the USPTO's Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection, and Enforcement Worldwide. The Office of Policy and External Affairs (OPEA) oversees and implements this policy role.

INTELLECTUAL PROPERTY: Strategic Goal 3

Below is the Strategic Goal 3 measure for which sufficient data is available to establish performance trends.

Percentage of prioritized countries for which country teams have made progress on at least 75% of action steps in the country specific actions plans along the following dimensions:

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



Trend: Trends are positive from FY 2010 to FY 2013. Additional discussion for this metric can be found on page 48.

Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide

The Office of Policy and External Affairs (OPEA)[1] assists the Under Secretary of Commerce for Intellectual Property and Director of the USPTO in advising the President, through the Secretary of Commerce, and federal agencies on domestic and international IP issues.

OPEA's work includes the following:

- It helps formulate U.S. domestic and international policy regarding protection and enforcement of intellectual property rights, and promotes the development of intellectual property systems, nationally and internationally.
- It consults with foreign governments and other U.S government agencies on the substantive technical analysis of intellectual property rights enforcement laws, legal and judicial regimes, civil and criminal procedures, border measures, and administrative regulations relating to the enforcement of intellectual property laws.
- It supports the Office of the U.S. Trade Representative, the Department of State and other U.S. government agencies in international negotiations and consultations, and assists with the drafting, reviewing, and implementation of intellectual property obligations in bilateral and multilateral treaties and trade agreements.
- It provides and participates in technical assistance and capacity-building programs for foreign governments seeking to develop or improve their intellectual property laws and regulations.
- It manages the IP Attaché program, in partnership with the U.S. and the Foreign Commercial Service to improve the protection and enforcement of intellectual property rights overseas.

[1] The Office of Policy and External Affairs changed its name to the Office of Policy and International Affairs, effective FY 2014, or October 1, 2013.

Deputy Under Secretary Teresa Stanek Rea meets with Soowon Lee, CFO and Director General, Bureau of General Administration, Seoul National University on January 25, 2013.

OBJECTIVE 1: Provide Domestic Leadership on IP Policy Issues

Provide Empirical Evidence on the Economic Impact of USPTO Operations

The entire U.S. economy relies on some form of IP, because virtually every industry either produces or uses IP[2] www.uspto.gov/news/publications/IP_Report March 2012.pdf. Hence, patent examination backlogs and the ability to obtain a timely patent can have significant consequences to the U.S. economy.

On June 26, 2013, the United Kingdom Intellectual Property Office and the USPTO released the working draft of a joint report on the economic and opera-

[2] As cited in the report the Secretary of Commerce released April 11, 2012, titled "Intellectual Property in the U.S. Economy: Industries in Focus," which was co-authored by the USPTO and the Economics and Statistics Administration.

tional impacts of patent application backlogs. www.ipo.gov.uk/ipresearch-uspatlog-201306.pdf.

The report clarifies ambiguity surrounding the terms "backlog" and "pendency," and identifies and quantifies the main contributors to pendency.

Notable findings of the U.S. analysis indicate that total pendency has grown primarily due to the increase in first-action pendency, and that one of the main contributors to total pendency is the greater use of Requests for Continued Examinations (RCEs). In particular, applications with at least one RCE disproportionately displace other applications.

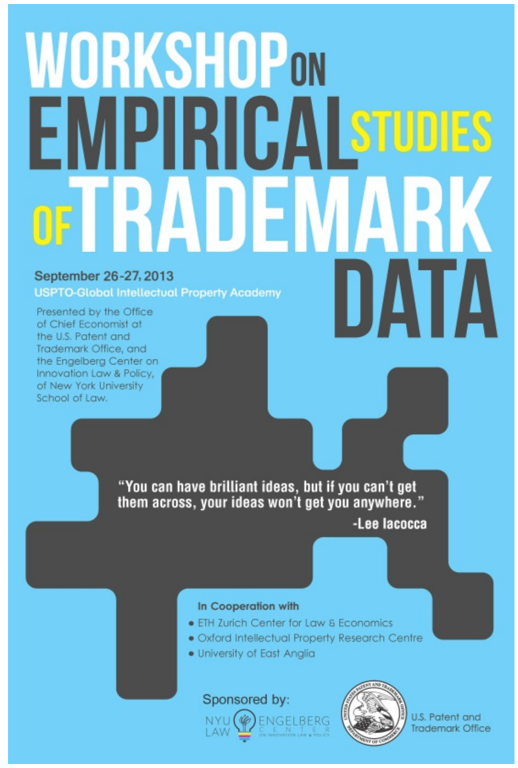
This report makes valuable methodological contributions and presents a variety of findings important to patent policy. The USPTO responded to the backlog challenge with a variety of actions, including: hiring additional examiners; changing the examiner count system; changing the examiner docket management system; America Invents Act (AIA) initiatives such as expedited review and fee-setting; and new pilot programs designed to streamline patent prosecution.

The policies implemented to date by the USPTO are reducing pendency. The quantity of unexamined patent applications at the end of FY 2013 is 584,998 with first-action pendency at 18.2 months, the lowest in a decade.

Improve Transparency and Access to IP Related Data

In January of 2013, the USPTO published *The USPTO Trademark Case Files Dataset: Descriptions, Lessons, and Insights*, along with a public use dataset of trademark applications and registrations. These data were released as part of an ongoing initiative to make patent and trademark information available in a form convenient for public use and academic research.

By releasing the data, the USPTO seeks to encourage new streams of research on trademarks and what they indicate about their users, the strategies for employing them, and the wider economic impacts that the data will help uncover. The research provides a "first look" at the key trends in trademark



Promotional material from the "Workshop on Empirical Studies of Trademark Data" hosted by the University of Oxford in December 2012.

applications, registrations, and renewals. The report shows that annual applications have nearly tripled over the past two decades, which is consistent with broader economic growth but also suggests intensified trademark use. New registrations have increased by a factor of four since 1991.

In conjunction with the data release, the USPTO recently sponsored two events to encourage the use of trademark data in empirical economic research. The *Workshop on Empirical Studies of Trademark Data* was hosted at the University of Oxford in December 2012, and *Using Trademark Data for Empirical Research* was held at the New York University School of Law, Engelberg Center on Innovation Law and Policy (ECILP), in September 2013.

Monitoring and Providing Policy Guidance on Key IP Issues Raised in Courts

The USPTO strongly influences IP law and policy through domestic litigation, both as a party and as

Federal Circuit judge and former Deputy General Counsel for Intellectual Property and Solicitor Ray Chen.

an *amicus curiae* ("friend of the court"). The agency's IP litigation responsibilities fall primarily on the Office of the Solicitor within the USPTO's Office of General Counsel (OGC). The Solicitor's Office defends, among other things, the decisions of the agency's Patent Trial and Appeal Board (PTAB) and Trademark Trial and Appeal Board (TTAB), decisions of the Director, and the agency's rulemaking and policies in court. These decisions involve a wide variety of issues, affecting both agency practice and substantive patent and trademark law, and impacting a broad spectrum of intellectual property law issues.

On the IP policy front, OGC worked to clarify the standards for patent-eligibility under 35 U.S.C. § 101 in a series of important cases over the past several years. Most recently, OGC advised the U.S. Solicitor General and the Department of Justice in Association for *Molecular Pathology v. Myriad Genetics* (www.supremecourt.gov/opinions/12pdf/12-398_1b7d.pdf) on the question of whether isolated genes are patent-eligible subject matter. Although the USPTO's long-standing practice has been that all isolated forms of nucleic acids, including genes, are patent-eligible, the Supreme Court held that isolated genes are patent-ineligible products of nature, whereas complementary DNAs (cDNAs) manufactured in laboratories are patent-eligible. This is the first time in over 30 years that the Supreme Court has considered the issue of patent-eligibility of biological products. In the wake of the *Myriad* decision, OGC helped the Office of Patent Legal Administration implement the decision and address any issues left open by the Court. At the invitation of the U.S. Court of Appeals for the Federal Circuit, the USPTO Deputy Solicitor also personally argued the government's position on whether patent claims to a computer-implemented method of exchanging obligations between parties are patent eligible in *CLS Bank Int'l v. Alice Corp.*, (http://www.cafc.uscourts.gov/images/stories/opinions-orders/11-1301.pdf) advocating that courts resolve issues of patent-eligibility on a case-by-case basis, based on factual inquiry and claim construction. The *en banc* (the full) Court affirmed the lower court's determination that the claims at issue impermissibly claimed an abstract idea and, as such, were patent-ineligible.

OGC also worked with the Solicitor General to formulate the government's position in *Bowman v. Monsanto* (www.supremecourt.gov/opinions/12pdf/11-796_c07d.pdf) which addressed whether the planting of genetically modified seed to produce a subsequent generation of seed constitutes an infringing "making" under 35 U.S.C. § 271. More specifically, *Bowman* concerned whether the purchase of genetically modified seed from a grain elevator as a commodity exhausted Monsanto's rights to subsequent generations of seed resulting from the planting of the commodity seed. The Supreme Court agreed with the government and Monsanto that Bowman's planting of the commodity seed to produce new seed was an unauthorized making, infringing Monsanto's patent rights. The *Bowman* decision is expected to govern the outcome in future cases concerning other self-replicating technologies.

On other fronts, OGC saw an uptick in the number of patent appeals taken in district court pursuant to 35 U.S.C. § 145 following the Supreme Court's 2012 decision in *Hyatt v. Kappos* (www.supremecourt.gov/opinions/11pdf/10-1219.pdf), which for the first time allowed patent applicants to present to the district court new evidence in defense of patentability that was previously available but not presented to the USPTO. A similar uptick was seen in the number of trademark appeals taken under the analogous trademark statute, 15 U.S.C. § 1071(b). These types of appeals consume large amounts of agency resources, including manpower and initial cash outlays for expert witnesses and travel. Despite these challenges, the Solicitor's Office has successfully defended the USPTO in each of the 145 appeals in which the district court has issued a final order, securing either dismissal, summary judgment, or remand in the USPTO's favor.

OGC continues to strengthen relations with the IP community through OGC's Office of Enrollment and Discipline (OED). This year OED published new ethics rules that help to streamline practitioners' professional responsibility obligations, bringing USPTO obligations in line with most state bar requirements, all while protecting the IP community. OED's Law School Clinic Certification Pilot Program also hosted a visit to the USPTO on March 12, 2013. The event included speakers from various business units within the USPTO and covered new developments in patent law. OED continues to collaborate with the 28 law schools who participate in the program to ensure that the clinic programs help provide pro bono legal services to independent inventors and small businesses.

Foreign officials have indicated how helpful the training of the USPTO's Global Intellectual Property Academy's (GIPA) is for their work. In a survey taken of former participants in GIPA programs, 100 percent responded that they had taken positive action as a result of the training they received.

Providing Domestic Education Outreach and Capacity Building

The USPTO, through the Global Intellectual Property Academy (GIPA) in the OPEA, provides IP educational opportunities to U.S. and foreign government officials, domestic small and medium-sized enterprises (SMEs), universities, and the public. The GIPA provides expertise on administration, protection, and enforcement in all areas of domestic and international IP. In FY 2013, the GIPA conducted 114 training programs for foreign government officials, reaching an audience of 7,078 foreign government officials from over 135 countries. The GIPA also conducted 39 programs targeted to U.S. SMEs, with an audience of 2,416 people. Domestic programs include outreach to Native American tribes, educational programs on IP awareness, and roadshows providing IP information to SMEs seeking to do business in other countries. The GIPA has increasingly engaged members of the judiciary within the U.S. and abroad. Additionally, the GIPA partners to develop and deliver educational outreach programs with various agencies and components of the United States government, in particular the Small Business Administration, and various bureaus of the Department of Commerce (DOC), including the International Trade Administration, the Minority Business Development Agency, and the U.S. Export Assistance Centers of the U.S. Commercial Service. The GIPA is using technology to make training programs more efficient and to expand the reach of those programs. For example, the GIPA hosts a database of all training and capacity-building activities conducted by U.S. government agencies. In addition, the GIPA hosts distance-learning modules on its web site. Those modules, which are available in seven different languages, have received over 38,948 hits since they were first posted on the site in 2010. The GIPA programs are aimed at small business outreach. Figures 5, 6, and 7 show the number of programs, officials, and countries trained by the GIPA.

Figure 5

Number of Attendees Trained

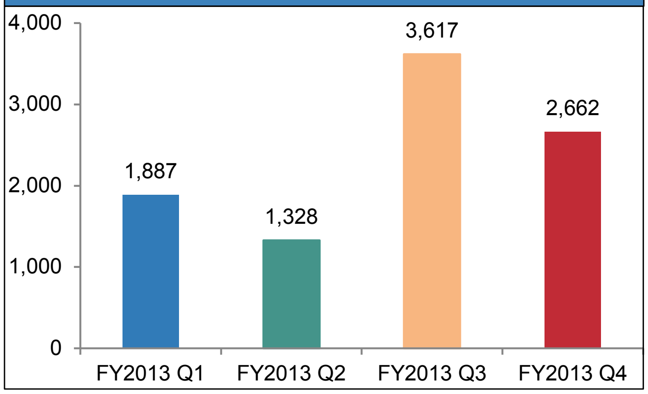


Figure 6

Educational Programs

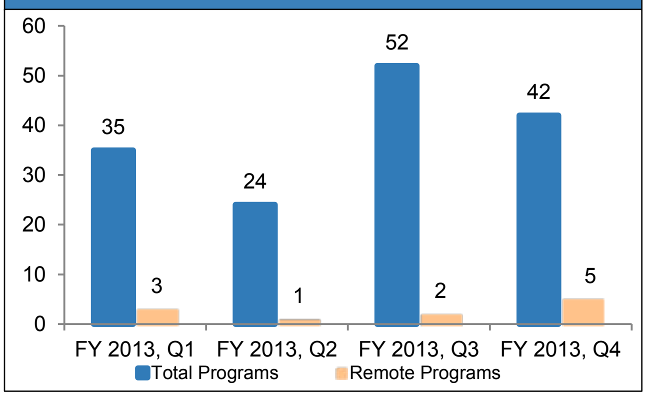
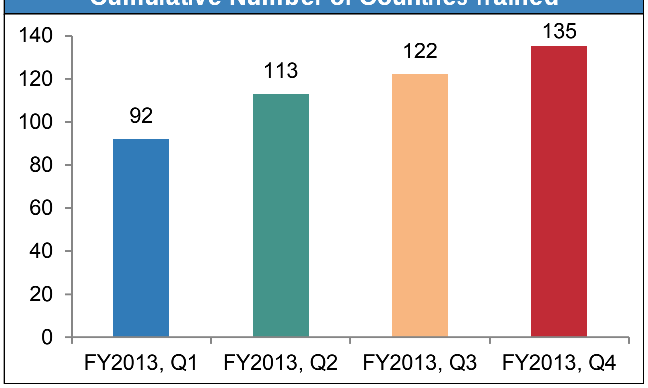


Figure 7

Cumulative Number of Countries Trained



Engaging U.S. Government Agencies and Congress on Legislation that Improves the IP System

Throughout FY 2013, the USPTO continued to engage Congress, other U.S. government agencies, and stakeholders to discuss, develop, promote, and implement effective and balanced IP-related legislation and administrative actions. Discussions and briefings focused on continued implementation of the AIA, congressional proposals to address patent litigation abuse, cyber security, copyright reforms, and other matters related to domestic and international IP rights.

On June 4, 2013, the White House Task Force on High-Tech Patent Issues announced major steps to address abusive patent litigation and to improve incentives for future innovation in high-tech patents. The steps include five executive actions and seven legislative recommendations designed to protect innovators from frivolous patent litigation and ensure the issuance of the highest-quality patents. The USPTO was tasked with implementing four of the five executive actions: making "real party-in-interest" the new default; tightening functional claiming; empowering downstream users; and expanding dedicated outreach and study. The USPTO also engaged with Congressional staff and stakeholders in developing consensus legislative language consistent with the seven recommended legislative measures identified by the White House.

In the area of copyright laws, the DOC released a green paper titled *Copyright Policy, Creativity, and Innovation in the Digital Economy* (Green Paper) to advance discussion on a set of policy issues critical to economic growth. The Green Paper is a product of the DOC's Internet Policy Task Force (IPTF), with input from the USPTO and the National Telecommunications and Information Administration (NTIA).

The Green Paper discusses the goals of maintaining an appropriate balance between rights and exceptions as the law continues to be updated; ensuring that copyright can be meaningfully enforced on the Internet; and furthering the development of an efficient online marketplace.

The Green Paper is the most thorough and comprehensive analysis of digital copyright policy issued by any administration since 1995. Through the IPTF, the USPTO and NTIA will solicit further public comments and convene roundtables and forums on a number of key policy issues.

Throughout the year, OPEA officials organized numerous briefings for Congressional staff on various IP policy issues, including the status of international agreements and activities in China, the impacts of sequestration on the USPTO, and the potential impact of proposed legislation, and the status of patent and trademark operations. Congressional staff were invited to meet with USPTO leadership in "Day in the Life of the USPTO" sessions at the Alexandria, Virginia, headquarters to learn about the daily work activities of patent and trademark examiners. A tour of the Smithsonian Institution's exhibit on "Inventing a Better Mousetrap" was also arranged for interested Congressional Staff at the American Art Museum in Washington, D.C. Finally, the USPTO conducted extensive outreach to and interaction with our stakeholder community on implementation of the AIA, through speaking engagements, webcasts, a frequently updated microsite, roundtable discussions, and roadshows. Interested Capitol Hill staff attended these sessions.

Objective 2: Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights

Leading Efforts at the WIPO and Other Intergovernmental/International Organizations to Improve International IP Rights Systems

Throughout FY 2013, the USPTO continued to lead efforts to improve IP multilaterally in several fora including the World Intellectual Property Organization (WIPO), the World Trade Organization (WTO), and other intergovernmental organizations. In June 2013 in Marrakesh, Morocco the USPTO led the U.S. delegation at a WIPO Diplomatic Conference to negotiate a landmark multilateral treaty that will improve access to books for the visually impaired. The treaty is the culmination of years of work on improving access for the blind, visually impaired, and print disabled to published works in formats such as Braille, large print text, and audio books.

The USPTO is actively engaged in the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore to transmit consolidated text to the General Assembly that fully reflects the various proposals suggested by committee members, as well as the "no mandatory disclosure" option supported by the U.S. and several other countries. The USPTO also continued to seek improvements in the WIPO registration services under the Patent Cooperation Treaty and the Madrid Protocol Concerning the International Registration of Marks.

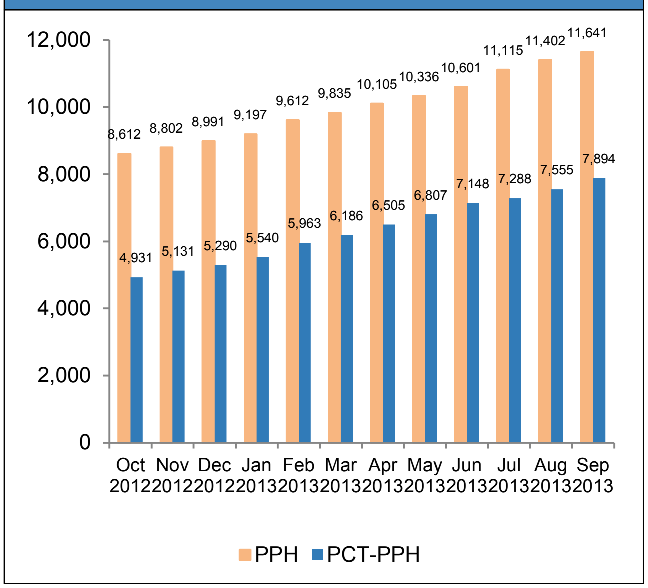
Improving Efficiency and Cooperation in the Global IP System – Patents

Throughout FY 2013, work sharing continued to be a key international engagement strategy for the USPTO to help reduce examination backlogs, improve examination quality, and promote streamlining of the international patent system. The Patent Prosecution Highway (PPH), first launched in 2006, remained the USPTO's cornerstone of work sharing cooperation. The PPH allows applicants to obtain patents faster and more cheaply in multiple jurisdictions, while enabling the participating offices to leverage each other's work in improving examination efficiency and quality.

The success of the PPH is evidenced by the continued trend in 2013 of substantial increases in user participation, as well as by the growth in the number of participating offices. The USPTO received on average about 100 more PPH requests per month in 2013 than in 2012 (see Figure 8 on New PPH Re-

Figure 8

Paris Route (PPH) and Patent Cooperation Treaty (PCT-PPH)



quests per Month-Paris and PCT-PPH Combined). The USPTO also expanded its PPH partnerships to 26 other patent offices, up from 22 as reported in 2012, and is in discussions with several other offices to launch new programs.

At the same time, the USPTO continues to lead efforts to develop and implement a next-generation PPH that will simplify and streamline the system by replacing the present network of bilateral arrangements with a central, standardized, more user-friendly framework. At a meeting in June 2013, the USPTO secured commitments from 11 other participating offices to implement a pilot project in January 2014 to test out the new framework.

The USPTO also made significant advances in other areas of work sharing-related cooperation. One key effort that has seen rapid progress since 2012 has been the Cooperative Patent Classification (CPC) project, a product of a partnership between the USPTO and the European Patent Office (EPO). Formally launched in January 2013, the CPC is a harmonized international system for classifying patents and published patent applications for ease of searching during the patent granting process. The CPC includes approximately 250,000 classification symbols based on the International Patent Classification (IPC) system, thus enabling examiners and patent users worldwide to conduct searches by accessing the same classified patent document collections. It will be used by the USPTO and more than 45 patent offices, totaling more than 20,000 patent examiners. CPC will lead to more efficient prior art searches, higher quality patents, and improved work sharing among offices.

Another major project has been the joint development, with the Japan Patent Office (JPO), of the "Global Dossier." The Global Dossier concept envisions a one-stop shop for applicants to electronically file and manage a global portfolio of patent applications and for offices to access information for work sharing purposes.

Improving Efficiency and Cooperation in the Global IP System – TM5

The "TM5"—consisting of the USPTO, the JPO, the European Community's Office for Harmonization in the Internal Market, the Korean Intellectual Property Office (KIPO), and the Chinese State Administration for Industry and Commerce—brings together the largest trademark and design offices in the world to share information and collaborate on projects that increase efficiencies in filing and maintaining international portfolios of trademarks and industrial designs.

TM5 design experts are presently considering requirements for presenting the design in an application, inter-office exchanges of priority documents, and a harmonized grace period for filing an application for an industrial design following a public disclosure of the design. Current TM5 trademark projects include a harmonized list of trademark identifications and classifications of goods and services and their translations that will be accepted in all TM5 offices, and in third countries that participate in the project; a methodology for generating uniform statistics that assists in measuring forecasting data on trademarks and designs; agreement on common terms to identify the status of applications and registrations; research on image search systems for figurative marks; creation of a taxonomy system for goods and services to achieve better organization and a common grouping of goods and services; and integration of trademark data in global search databases. Most notably, the USPTO has worked diligently with the TM5 partners to exchange best practices on the topic of bad faith trademark applications and to create solutions and move these solutions to implementation.

Improving Enforcement and Providing Capacity Building and Technical Assistance to Key Countries/Regions

The USPTO developed and implemented capacity building and technical assistance programs for foreign enforcement officials focusing on key issues.

In Peru, a program was held on The Enforcement of Copyrights in the Digital Environment for judges in South America. Approximately 50 magistrates from Argentina, Brazil, Chile, Paraguay, Peru, and Uruguay had the opportunity to present the copyright enforcement scenario in their countries, and to attend presentations from different authorities, industry representatives, and academia. The USPTO conducted the Workshop for the Judiciary on Digital Piracy and Copyright Enforcement in Mexico. Judges from the Federal District and the states of Monterrey (Nuevo Leon), Guadalajara (Jalisco), Estado de Mexico, Leon (Guanajuato), and Queretaro actively participated in the program, both as presenters and in larger discussion groups. The workshop provided comparative jurisprudence between U.S. and Mexican law, specifically addressing how each system treats illegal activity in the online context. Topics of presentation and discussion included copyright enforcement challenges in the digital environment, introduction to U.S. criminal copyright law and jurisprudence in the digital environment, prosecuting digital IP crimes and remedies, and damages and sentencing determinations in copyright infringement cases.

The USPTO hosted a visiting delegation from the Turkish National Police and conducted a program on U.S. intellectual property enforcement and combating the threat of counterfeit medicines. The investigation of counterfeit trademark and copyright piracy crimes issues were addressed from both domestic and international perspectives. Presentations and discussions with U.S. Customs and Border Protection, the Department of Justice, the New York Police Department, and stake-holders were provided.

In Southeast Asia a workshop on Effective Practices in Transnational Cooperation in the Border Enforcement of Intellectual Property Rights was held in Bangkok, Thailand, in cooperation with the Association of Southeast Nations (ASEAN) Secretariat. Customs officials from the following countries participated in the program: Brunei Darussalam, Cambodia, Indonesia, Lao Peoples' Democratic Republic, Malaysia, Myanmar (Burma), Thailand, Vietnam, China, and India. The discussions focused on regional trends in combatting illicit trade, the im-

Deputy Under Secretary Teresa Stanek Rea meets with a delegation from China that included officials from China's National Copyright Administration and from the National People's Congress.

portance of public-private cooperation, challenges faced by specific industries, organized crime, and free trade zones. Attendees participated, both as presenters and in discussions with the larger group. The USPTO hosted the ASEAN-USPTO Roundtable for the Judiciary on IPR Issues and Enforcement in Thailand, in cooperation with the ASEAN Secretariat. Thirty judges participated in the program—three from each of the 10 ASEAN countries. The program focused on IP protection and enforcement, and provided a comparison of U.S. and ASEAN enforcement and judicial systems, as well as an overview and case study discussion on civil litigation, criminal IP prosecution and trials, and utilization of judicial mediation in dispute resolution of IPR cases.

In cooperation with ASEAN Secretariat, the USPTO held the Intellectual Property Workshop for Public Prosecutors and Law Enforcement in Thailand. The program had the participation of 40 public prosecutors and law enforcement officials from the ASEAN countries. The workshop focused on investigating and prosecuting IPR crimes in the digital environment, approaches for confronting the problem of organized crime, handling electronic evidence, shutting down infringing websites that traffic in counterfeit and piratical goods, and working with private industry to identify infringing goods.

Ambassador (Dr.) Konji Sebati meets Bismarck Myrick, Director of the Office of Equal Opportunity and Diversity and Mary Denison, Deputy Commissioner of Trademarks on April 22, 2013.

The USPTO conducted a program titled *IP Protection & Enforcement: IP and Economic Development, Public Health, and Safety* for officials from South Korea, representing the Intellectual Property Office, the Fair Trade Commission, the Communications Commission, the Food and Drug Administration, and the Ministry of Education, Science, and Technology. The focus of the program was on enforcement, featuring U.S. government speakers from the USPTO, the U.S. Department of Justice Computer Crime and Intellectual Property Section, the U.S. Immigration and Customs Enforcement, the U.S. Customs and Border Protection, the Federal Bureau of Investigation, the U.S. Copyright Office, and stakeholders. Discussion topics included U.S. practice concerning criminal IP prosecution, copyright piracy, pharmaceutical counterfeiting, criminal IP-infringement investigation, and counterfeit automotive parts.

The USPTO has sought to improve IP enforcement in Sub-Saharan Africa through its capacity-building and technical assistance programs. In particular, the USPTO worked with the International Criminal Police Organization's (INTERPOL) Trafficking in Illicit Goods Program, along with the Department of Justice, in conducting an IP enforcement program in Dar Es Salaam, Tanzania for up to 50 police, prosecutors, and customs officials from Tanzania, Rwanda, Uganda, Burundi, Kenya and Congo. In addition, the USPTO and INTERPOL organized a joint IP enforcement training in Gaborone, Botswana, for 45 police, prosecutors, and customs officials from Botswana, Malawi, Namibia, South Africa, and Zambia. Following this capacity-building program, INTERPOL coordinated enforcement actions, under Operation Kalahari, resulting in the seizure of over $1.2 million in counterfeit products. The USPTO supported the National Intellectual Property Rights Coordination Center in holding the first-ever IP enforcement training at the U.S. International Law Enforcement Academy in Botswana, Gaborone. Over 35 enforcement officials from Botswana, Ghana, Mauritius, Nigeria, Seychelles, and Swaziland participated in the program. In addition to instruction on IP enforcement best practices, a computer lab session was also conducted so participants could learn how to access and use various online IP databases.

Providing Policy Advice and Expertise to Other U.S. Government Agencies

Throughout FY 2013, the USPTO provided policy advice and technical expertise on IP domestic and international IP issues to the DOC and other Federal agencies. The USPTO advised the United States Trade Representative during the World Trade Organization (WTO) Trade Policy Reviews and WTO accession process of several countries, including the evaluation of IP laws, regulations, and practices of countries and their consistency with the Agreement on Trade-Related Aspects of Intellectual Property. The USPTO also provided policy advice in the course of reviews of several Section 337 International Trade Commission orders.

The USPTO provides policy advice and expertise to the U.S. Department of State regarding IP issues that arise in various agencies of the United Nations, including WIPO and the World Health Organization, as well as the Organization for Economic Cooperation and Development.

Providing Technical Expertise in Negotiation and Implementation of Bilateral and Multilateral Agreements

Throughout FY 2013, the USPTO continued to provide expert technical advice on IP protection in connection with ongoing negotiations and implementation of bilateral and multilateral agreements. For example, the USPTO played an active role in the negotiations regarding the IP portions of the Trans-Pacific Partnership (TPP) and Trans-Atlantic Trade and Investment Partnership (TTIP) free trade agreement negotiations. The USPTO continued to provide expertise in ongoing IPR discussions in WIPO on the protection of broadcasting organizations and on several patent issues including patent quality, patents and health, technology transfer, and exceptions and limitations. The USPTO continued to play an active role in the negotiation of Science and Technology (S&T) Agreements with several countries, and provided expertise in the development of a new model IPR Annex for S&T Agreements.

Increasing the Effectiveness of IP Attachés in Prioritized Countries/Regions

The USPTO places a high priority on increasing the effectiveness of the global IP system. In 2013, the IP Attaché program further implemented a new vision and mission statement that clearly links program objectives and priorities to the overall mission of the USPTO. Standard operating procedures, developed by the IP Attaché Task Force, were implemented. They require attachés to: (1) consult with stakeholders to define and prioritize IP-related business objectives in their country and region; (2) build a matrix of U.S. and foreign stakeholder associations and companies and their respective IP-related concerns; (3) identify any existing bilateral agreements that support our objectives; and (4) seek to negotiate bilateral agreements, or informal work plans, and associated metrics with host governments.

Deputy Under Secretary Teresa Stanek Rea at the signing of a bilateral Memorandum of Understanding between the USPTO and Mexican Institute of Industrial Property.

Two new attaché posts were established in Mexico City, Mexico, and in Shanghai, China, respectively. The addition of the Shanghai position will increase the USPTO's presence in China from two cities to three, and the addition of the Mexico City position will expand the USPTO's overseas presence from seven countries to eight. A vacant IP attaché position was filled in Beijing, China, and new IP attachés were hired to cover the Middle East and North Africa, as well as Guangzhou, China.

The implementation of country-specific action plans in prioritized countries is shown in Table 14.

This reflects the USPTO's continued efforts in engaging foreign IP offices, enforcement entities, and legislatures.

Table 14

Measure: Percentage of prioritized countries for which country teams have made progress on at least 75% of action steps in the country-specific action plans along the following dimensions: 1. institutional improvements of IP office administration for advancing IP rights, 2. institutional improvements of IP enforcement entities, 3. improvements in IP laws and regulations, and 4. establishment of government-to-government cooperative mechanisms.

FISCAL YEAR	TARGET	ACTUAL
2010	50%	75%
2011	75%	100%
2012	75%	75%
2013	75%	100%
2014	75%	
2015	75%	

Target met.

What is management's focus on maximizing the USPTO's mission performance?

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

Deputy Under Secretary Teresa Stanek Rea speaks at a panel with USPTO senior executives.

MANAGEMENT GOAL

Management Goal: Achieve Organizational Excellence

Fulfillment of the USPTO's mission requires strong leadership and collaborative management. While the three agency strategic goals focus on our core mission, our overarching management goal focuses on the prerequisite for achieving those goals and objectives—namely, the priorities of sound resource management, solid workforce planning, corporate support services, and effective use of information technology (IT).

OBJECTIVE 1: Improve IT Infrastructure and Tools

The USPTO continued to make improvements in our IT enterprise architecture, internal IT processes, and the Office of the Chief Information Officer (OCIO) organizational alignment to improve our ability to be more responsive and better manage and deliver quality products at enhanced service levels.

In particular, these IT initiatives directly support the *USPTO 2010-2015 Strategic Plan* to:

- Improve overall efficiency;
- Improve availability of and streamline access to USPTO information, data, and services with improvements to the USPTO web-site;
- Serve an increasing, geographically dispersed workforce with the deployment of the Universal Laptop (UL);
- Implement faster, more secure information exchange by adhering to the Federal Information Security Management Act (FISMA);
- Continue expansion and improvement of e-filing, e-processing, and other e-government efforts; and
- Improve the USPTO's IT infrastructure and tools.

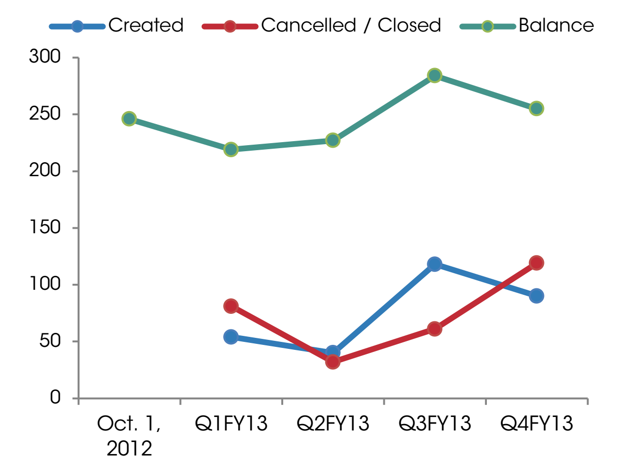
The USPTO completed the remaining two of nine infrastructure modernization projects comprising our *OCIO Information Technology Improvement Portfolio* (formerly titled *OCIO Road Map and Transformation Plan*) on time and on budget. This portfolio covered everything from basic network infrastructure to connectivity to systems virtualization to new personal computers and laptops for employees.

In keeping with the Obama Administration's commitments to "Transparency, Participation, and Collaboration", the USPTO expanded access to all patent and trademark data through the www.data.gov and www.google.com web-sites; has a "cloud first" policy; is working to align the IT budget with modular development; is reforming and strengthening the agency's Investment Review Boards; and has created "TechStat" and "PortfolioStat" models for the USPTO. The OCIO continues to work to improve the visibility of IT costs through a standardized budget execution system with assistance from the Office of the Chief Financial Officer (OCFO). This has allowed the OCIO to work with all USPTO business units to create an improved long-term IT investment strategy, which is discussed further in the *USPTO Strategic Information Technology Plan for 2010-2015*. See www.uspto.gov/about/offices/cio/ITP_Overview.pdf.

In fulfilling responsibilities under 44 U.S.C. § 3504(h), the USPTO uses a Capital Planning and Investment Control process to prioritize investments and determine funding levels for subsequent fiscal years. Projects are carefully managed throughout their life cycle, and progress reviews are conducted at key

Figure 9

Total Number of Open Plan of Action and Milestones



milestone dates to compare the project's status to planned benefit, cost, and schedule, along with technical efficiency and effectiveness measures. All major IT system investments are reported in Office of Management and Budget (OMB) Circular A-11 Exhibit 53, Exhibit 300A and 300B, and the USPTO's IT Investment Portfolio. See www.itdashboard.gov for more information on the USPTO's IT investments.

The USPTO's OCIO continued to work diligently with the Office of the Inspector General (OIG) and the Department of Commerce (DOC) to improve the USPTO's overall IT security program and the quality of the certification and authorization. See www.oig.doc.gov for more detailed information.

The chart (Figure 9) shows the total number of Open Plan of Actions and Milestones (POA&M) for the USPTO's operational systems at the end of FY 2012 and every quarter of FY 2013. Any known security weakness requiring remediation is tracked using POA&M. Our goal is to bring total number of open POA&Ms as low as possible by remediating security weaknesses in the systems.

OBJECTIVE 2: Implement a Sustainable Funding Model for Operations

Section 10 of the America Invents Act (AIA) authorizes the Director of the USPTO to set or adjust by rule all patent and trademark fees established, authorized, or charged under Title 35 of the U.S. Code and the Trademark Act of 1946 (15 U.S.C. § 1051 et seq.), respectively. When fees are set, the aggregate revenue from the patent fees may only recover the aggregate estimated cost of the patent operations, including administrative costs of the USPTO. Likewise, the aggregate revenue from the trademark fees may only recover the aggregate estimated cost of the trademark operations, also including administrative costs to the USPTO.

During FY 2013, the agency implemented the last of the six initiatives articulated within the Sustainable Funding Model Objective (Objective 2 of the *USPTO 2010-2015 Strategic Plan*). The last initiative implemented was to set and adjust fees using the fee setting authority enacted in the AIA. Fee setting is an important initiative of the agency's Strategic Goal Objective to implement a sustainable funding model for its operations. On January 18, 2013, the agency issued a final rule to set and adjust patent fees with effective dates in March 2013 and January 2014. During implementation, the agency consulted with its Patent Public Advisory Committee, stakeholders, and the public. Specifically, the USPTO published a final rulemaking that was essential to establishing a sustainable funding model by focusing on reducing the current patent application backlog, decreasing patent pendency, improving patent quality, upgrading the agency's patent business IT capability and infrastructure, and building a patent operating reserve. The operating reserve will enable the agency to maintain operations by absorbing and responding to temporary changes in its economic and operating environments or circumstances. The final rule also reduced fees for micro entities under Section 10(b) of the Act (75 percent discount), and furthered key policy considerations.

The FY 2012 through FY 2014 President's Budgets highlighted the agency's activities toward achieving a sustainable funding model, including:

- Conducting regular historical cost analyses of activities supporting fees to provide sufficient trending information to inform fee changes.

- Ensuring access to fee collections to support the agency's objectives.
- Instituting an interim patent fee increase.
- Pursuing the authority to adjust our fee structure by regulation to better align fees with the cost of providing services.
- Funding an operating reserve to manage operations on a multi-year basis and thereby protect the agency against unforeseen disruptions in revenue.

These activities support all aspects of budget formulation, performance reporting, and strategic planning, thus ensuring the USPTO meets reporting requirements, such as this Performance and Accountability Report (PAR), strategic planning updates, and budget submissions.

OBJECTIVE 3: Improve Employee and Stakeholder Relations

We were greatly honored to be named one of the "Best Places to Work in the Federal Government" by the non-profit Partnership for Public Service (PPS), which ranked the USPTO fifth out of 292 federal agency subcomponents based on a survey of more than 700,000 civil servants conducted in 2012 by the Office of Personnel Management (OPM) [the results were not published until the first quarter of FY 2013]. The USPTO has climbed the rankings in recent years, from 105th in 2009, to 56th in 2010, to 19th in 2011—a remarkable achievement that speaks volumes about the dedication to excellence of every employee in our agency.

One large component of this success is our hugely successful telework program. This improved flexibility in work location for more than 72 percent of our workforce has reduced examiner turnover to historically low levels, increased examiner productivity, and saved the agency millions each year in overhead costs. Building collaborative team-based approaches to projects and increasing technical and leadership training opportunities have also paid huge dividends in improving the morale and effectiveness of our highly talented and creative employees.

Advancements in USPTO's Human Resources Information Systems

Human resources operations are fairly consistent throughout the federal service. As such, many of the activities and services provided by the USPTO's Office of Human Resources (OHR) are similar to those services provided to other federal employees (i.e. pay, benefits, job classifications, recruitments, personnel action processing, etc.). Given that consistent approach, the OPM identified the Human Resources Line of Business (HRLOB) eGovernment initiative as a blueprint for more effective and efficient human resource information management across government. Under HRLOB, service providers have responsibility for providing, supporting, hosting, upgrading, and maintaining the Human Resources Management Systems—integrated solutions for Human Capital Management—while agencies retain control over their processes and strategic functions.

In FY 2013, the USPTO implemented the Department of Treasury's HRLOB solution, known as HR Connect. HR Connect, a modern, best-practice solution, is being used very successfully throughout the federal government. This solution is also part of a larger DOC-wide solution. Use of this system will provide many benefits, including: the ability to enter data once and use that same information often; virtually eliminating paper processing and providing an electronic workflow for most commonly performed functions, thus optimizing workflow efficiencies; and providing self-service features for managers and employees.

Advancements in USPTO's Leadership Development Programs

The USPTO identifies leadership development as a key, cross-cutting strategy for achieving organizational excellence and meeting strategic business objectives. The USPTO focuses its resources on talent development processes that yield a sustainable return on investment, while allowing the USPTO to close competency gaps, build a strong pipeline of talent, ensure continuity of leadership, and accomplish agencywide objectives. The agency conducted an annual enterprise-wide training needs assessment, in which 3,456 employees, representing approximately 30 percent of USPTO's workforce, participated. The employees' input led to the development and implementation of comprehensive training programs, mentoring programs, and individual employee development plans (IDPs) which can be leveraged by a large percentage of the agency's workforce. In FY 2013, the LDP was expanded to include virtual instructor led training sessions (ILT) and online LDP certificate program and learning plans. These resources were designed to enhance leadership development opportunities for our large teleworking population by providing ongoing two-way communication with the instructors and expanding access to computer-based classes. Of the 60 ILTs that were offered in FY 2013, 48 percent were offered by virtual means. Of those offered by virtual means, 69 percent were instructor-led classroom sessions that were simultaneously webcast, while the remaining 31 percent were webinars offered online only. To further develop and strengthen leadership capacity to its maximum potential, the agency also offered an Executive Education Program. This continuing program involves executive development plans, participation in 360 Degree assessments, personal coaching, and participation in leadership forums and Senior Executive Service (SES) Council discussions.

Advancements in the USPTO's Wellness Program

The USPTO continues to offer workplace flexibilities that increase employee morale, engagement, performance, and commitment to the agency. In addition to leading the federal government in telework and hoteling programs, offering extremely flexible work schedules, and providing its workforce with an onsite child care center and fitness facility, the agency runs an extremely robust wellness program. With a strong emphasis on employee health and wellness, this program includes an agency-wide wellness council that planned over 80 activities in FY 2013. These wellness activities and events encompass a wide array of topics, with the most frequent being health screenings, blood drives, health and wellness fairs, retirement seminars, financial planning, parenting classes, and elder care.

Healthy food representatives at the USPTO Wellness Fair.

Long-standing wellness activities offered during FY 2013 include the Farmer's Market (May-October), Employee Assistance Program, LifeCare Life Management Services, an on-site Weight Watchers Program, walking and running Groups, and a Nursing Mothers' Program. The agency recently launched a new wellness Intranet site designed as a one-stop shop for wellness topics. The site offers employees direct access to health and wellness resources, services, links, and schedules for wellness events.

"I joined the USPTO, June 2013, upon separating from the U.S. Army Special Operations Command as a patent examiner. I was contacted directly and brought in as an employee under the Veterans Recruitment Act. Transitioning to the USPTO from the military was made extremely easy and convenient by the effort the agency puts into veterans recruitment."

Advancements in the USPTO's Veterans and Transitioning Servicemembers Program

In support of the USPTO's goal to increase the hiring of veterans and transitioning servicemembers, the agency built on last year's success by expanding its participation in career fairs to include Transition Assistance Program Employer Panels conducted on military installations. The agency also conducted information sessions regarding at colleges and universities to student and alumni veteran associations and strengthened relationships with the Education and Employment Initiative Regional Coordinators of the Department of Defense's (DoD) Office of Warrior Care Policy. The Veteran Internship Program selected four transitioning servicemembers for the 2013 Class of Student Trainee Patent Examiners. The USPTO also participated in DoD's internship program, Operation Warfighter; developed for active duty service members recovering at military treatment facilities and seeking transition back to the military or civilian workforce. The USPTO's efforts produced substantial gains in hiring veterans and

transitioning servicemembers. The agency's veteran hiring goals for FY 2012 and FY 2013 were 20 percent of all hires for the agency overall, and 10 percent of all patent examiner hires. In FY 2012 the agency finished at 15 percent and 5 percent, respectively. In FY 2013, those numbers have risen considerably to 19 percent overall and nearly tripled for patent examiners up to 12 percent.

Advancements in the USPTO's Physical Workspaces

The USPTO continues to excel in creating a workplace that is modern, attractive, safe, secure, and energy-efficient.

Satellite Offices

In FY 2012, the USPTO kicked off its Nationwide Workforce Program by establishing its first satellite office in Detroit, Michigan. In FY 2013, the program expanded by occupying temporary office spaces in Dallas, Denver, and Silicon Valley, with plans to occupy more permanent space in these locations over the next several years. More than an extension of the USPTO, this program is a valuable force

The Byron Rogers Building in Denver, Colorado, selected to be the permanent home of the USPTO Denver Satellite Office.

in the economic and innovative environment of these regions and gives the agency a physical presence in every time zone across the contiguous United States.

During FY 2013 the USPTO partnered with the General Services Administration on a workplace analysis for our satellite offices. This analysis, which included focus groups, interviews, and time studies, recommended a new workplace concept that better addresses employee requirements and provides spaces for public outreach and education.

Energy Efficiency

The USPTO won an Energy and Environmental Stewardship Award from the DOC in recognition of its highly successful recycling program—marking the second consecutive year the USPTO has won this award. Over the past five years, the agency's waste diversion rate climbed from 36 percent in FY 2008 to a remarkable 86 percent through FY 2013. This represents more than 3,698 tons of waste materials that were recycled, thereby diverting waste from landfills.

In FY 2013 the USPTO, in partnership with LCOR, the owner of the Alexandria campus buildings, was the recipient of the Environmental Protection Agency's (EPA) prestigious Energy Star award for achieving strict building performance standards set by the EPA. Energy Star buildings use less energy, cost less to operate, produce fewer greenhouse gas emissions, and perform better than 75 percent of similar office buildings nationwide. This again is the second straight year for this award.

The USPTO Green Team's outreach program kept employees informed of ways to save energy at both work and home through its "Green at USPTO" web-site, lobby-level kiosks, and an annual green fair.

Safety and Security

The USPTO's emergency preparedness programs were improved by the rollout of a self-service feature allowing employees to receive notification of campus emergencies, inclement weather alerts, etc., on their mobile devices. To further enhance

The Environmental Protection Agency's prestigious Energy Star certification was awarded in February to LCOR, owner of the USPTO's Alexandria campus, for achieving strict building performance standards and outstanding energy efficiency. The Alexandria campus buildings performed in the top 25 percent of all similar commercial buildings nationwide. Pictured from left to right: Ed Stratchko, LCOR; Maren Williams, USPTO Space and Facilities Management Division Manager; Roxanne Fuhrman, USPTO; Mike Mestre, LCOR; and Sudan Saha, USPTO.

its emergency preparedness posture, Continuity of Operations Plan (COOP)-related tabletop exercises were held with Business Unit COOP managers, Emergency Response Group personnel, and Reconstitution Team Members.

Warehouse Efficiencies

In an effort to reduce operating expenses, the USPTO's records retention procedures were updated to allow for the disposal of a large number of paper application documents that appear in the USPTO's official electronic record of application. As a result, 278,800 boxes of paper were recycled, yielding revenue of $207,959. Following the disposal, the shelving used to store the documents was also recycled, yielding scrap metal proceeds in excess of $19,000. Finally, warehouse space previously devoted to the storage of the boxed applications was returned to the General Services Administration, reducing the USPTO's annual warehouse rental rate by $662,384 annually.

Advancements in Telework

The USPTO continues to be a model for telework in the federal government. Telework at the USPTO is a corporate business strategy, which supports mission achievement and goal fulfillment via a distributed workforce. In FY 2013, more than 8,550 employees agencywide were working from home at least one day a week, translating to 72.6 percent of the USPTO workforce. This is an increase of nearly 1,191 teleworking employees from the same time last fiscal year.

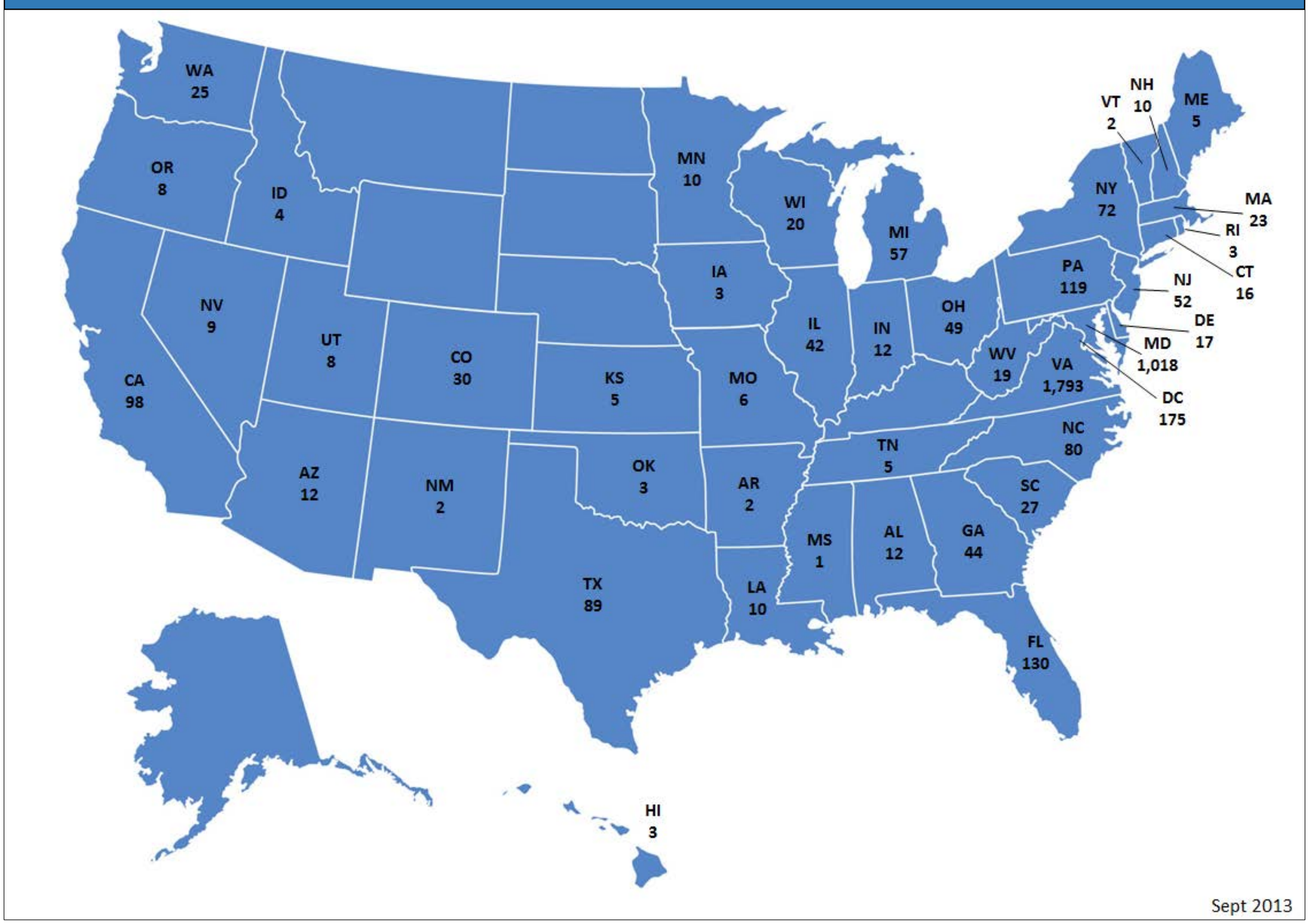
Additionally, between FY 2012 and FY 2013, the percent of positions eligible to telework increased from 73.5 percent to 90.8 percent (+2,174 eligible positions agencywide).

As part of the Telework Enhancement Act of 2010, the USPTO was granted legislative authority to conduct the federal government's initial Telework Travel Expenses Test Program. The USPTO Telework Enhancement Act Pilot Program (TEAPP) allows employees to waive their right to travel expenses for up to six annual mandatory trips back to the USPTO headquarters in Alexandria, Virginia. Hoteling (or full-time teleworking) employees may now elect, voluntarily and for their own convenience, to live greater than 50 miles from the USPTO campus, by becoming a TEAPP participant—thereby changing their official duty station. In FY 2013, 1,280 employees were participating in the TEAPP. For the number and geographical distribution of all USPTO hotelers, please see Figure 10.

In April 2013, USPTO won the DOC Green Innovation Award for demonstrating excellence in telework. The award recognizes an innovation or idea with clear potential to transform the federal community's overall energy and environmental performance, in keeping with the goals defined by Executive Order 13514. Telework provides cost savings by reducing the need for additional office space,

Figure 10

USPTO Hoteling Across the USA



enhances recruitment and retention, fosters greater efficiency in production and management, provides opportunities for expanded work flexibility and better work-life balance for participating employees, and reduces the agency's overall environmental footprint.

Jacob Petranek, Primary Patent Examiner.

While agencies remained closed for the second day of Hurricane Sandy, patent examiners maintained a 58 percent production rate and trademarks examining attorneys maintained a 79 percent production rate. Similarly, patent examiners maintained an 83 percent production rate and trademark examining attorneys maintained a 93 percent production rate during the March 6, 2013 snowstorm that shutdown Washington, D.C. metropolitan agencies. Without telework and hoteling, the agency would have been much less productive during this time.

-"Mobile Work Exchange," Fall 2013.

Equal Employment Opportunity and Diversity

The Office of Equal Employment Opportunity and Diversity (OEEOD) actively supports a network of 12 affinity groups at the USPTO. OEEOD's work includes conducting quarterly meetings with the leaders of the affinity groups to discuss joint projects and programs; for example, the annual International Food Sample Festival that allows the affinity groups to showcase diversity through food.

Figure 11 shows the current racial and national origin diversity of the USPTO for FY 2013.

Additionally, OEEOD managed the agency's National Engineering Week event in partnership with the Office of Education and Outreach and several of the agency's affinity groups. The interactive, hands-on program focused on bringing in local high school students to learn about 3D printing technology, with the hope of inspiring them to pursue careers in engineering and science.

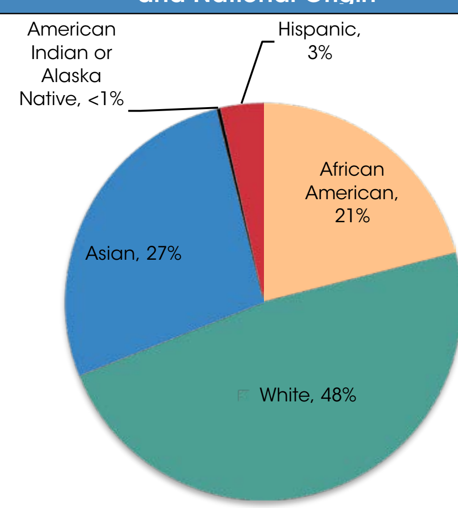
OEEOD expanded the New Examiner Mentoring Program from 50 mentoring pairs to over 130 pairs, after the initial pilot demonstrated overwhelmingly positive results – the attrition rate for mentees was half that of new examiners who did not participate. The program's goal is to help new patent examiners acclimate to the agency and improve retention past the initial probationary period. The second pilot concluded in June 2013 with positive results again.

On May 9, 2013, the agency hosted its annual capstone diversity event, Community Day. On Community Day, USPTO business units and offices, unions, affinity groups, and civic groups showcase their organizations to USPTO employees. On Community Day, the agency's Deputy expressed a commitment to a diverse workforce, and presented the agency's Equal Employment Opportunity Awards. This year, the event highlighted the agency's affinity group with a "Spotlight on Diversity."

Community Day has four core purposes: (1) inform employees of the agency equal employment opportunity policy and program; (2) provide recognition, in the form of the Equal Employment Opportunity Award, to employees who demonstrate superior accomplishments in support of the agency's diversity program, as required; (3) promote active engagement in recognized employee resource

Figure 11

Total USPTO Employees by Race and National Origin



USPTO Community Day volunteers posing with the food collected for the Stamp Out Hunger Food Drive, sponsored by U.S. Postal Service.

groups, and educate the workforce on office initiatives (e.g., employee viewpoint survey, computer security, wellness programs, green initiatives, etc.); and (4) expose employees to civic organizations in the broader community (City of Alexandria) to improve community conditions that affect employability.

OEEOD also works closely with the relevant affinity groups on Special Emphasis Month programs. For example, OEEOD partnered with various affinity groups to host programs for Hispanic Heritage Month, Native American Heritage Month, Black History Month, Lesbian, Gay, Bisexual, and Transgender Pride Month, Asian American and Pacific Islander Heritage Month and Caribbean American Heritage Month. Additionally, for the first time, OEEOD, in conjunction with the USPTO Chapter of Blacks in Government, the National Society of Black Engineers USPTO Professional Chapter, the Society of Ethiopian American Engineers and Scientists and the Caribbean Intellectual Property Association, hosted an event to celebrate Juneteenth.

Providing Information and Feedback Channels for Employees and the Public

The USPTO continues to support the independent inventor community and enhanced its outreach efforts with the Office of Innovation Development (OID), administratively situated within the Patent organization. The OID serves a key role in promoting innovation and technological development in the United States. The OID oversees programs that foster and support innovation in the independent inventor and small business communities, universities, and non-profit organizations. To this end, the OID designs and implements outreach programs that target a wide range of demographics including independent inventors, women, small business concerns, minorities, and other under-served communities. The OID also works closely with other officials and agencies throughout the government in support of the Obama administration's efforts to promote small business, entrepreneurship, and job creation. As part of this year's effort, the OID held three Saturday Seminars at the Detroit satellite office, and a Regional Independent Inventors Conference in Kansas.

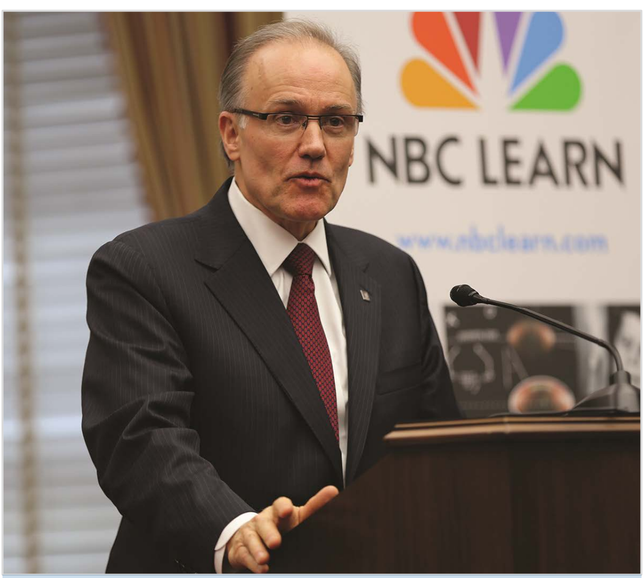
One strategic long-term initiative spearheaded specifically by OID is the USPTO's ongoing collaboration with the Smithsonian Institution. Over the next seven years, the OID will assist the Smithsonian in producing exhibits and programming for the Arts

A USPTO team tours the Smithsonian Institution Arts and Industry building, which is due to open in FY 2014. From Left to Right: Dana Colarulli, Pherabe Kolb (Smithsonian Institution), Jim Payne, Teresa Stanek Rea, John Cabeca, Wayne Clough (Secretary of the Smithsonian Institution), Richard Maulsby, Bruce Kisliuk, Debbie Cohn and Todd Elmer.

and Industries Building on the National Mall, scheduled to open in 2014. The OID will provide input, content, and direction to the Smithsonian on matters of technology and IP, and make use of the Arts and Industries Building for special events and regularly scheduled programming.

The OID also participates extensively in outreach initiatives with inventor organizations throughout the United States. These non-profit inventor organizations assist inventors with their innovations and their desire to start a business based on those inventions.

The USPTO continues to encourage the growth of pro bono IP legal services through universities and professional law associations. In all cases, the OID plays an instrumental role in the development of protocol for the pro bono program and finding partners for this endeavor. The ultimate goal is to have regions covering the entire country and to have a single entity, the Federal Circuit Bar Association, serve as an intake and referral center for all inventors and small businesses interested in pro bono services. The pro bono program helps ensure that applications submitted to the USPTO are well



World Intellectual Property Organization (WIPO) Deputy Director General, Innovation and Technology Sector James Pooley speaks at the 2013 World Intellectual Property Day event on Capitol Hill. The 2013 theme was "Creativity: The Next Generation." The program included representatives from NBC Learn, the education arm of NBC News.

written and compliant, limiting the resources needed for examination and directly contributing to the USPTO's strategic goals of reducing pendency and improving patent quality.

Implementation of the Patents Ombudsman Program was a direct response to the public's request for a dedicated resource providing assistance to patent applicants, attorneys, and agents with application-specific issues related to patent prosecution advancement. This program serves as a means for maintaining the lines of communication between practitioners and examiners. The Patent Ombudsman Program has resulted in improved, high-quality customer service by advancing the status of patent applications while simultaneously demonstrating the agency's commitment to achieving its strategic goals by improving patent quality and timeliness, promoting confidence in the patent examination process, and improving relations with stakeholders, all in an effort to ultimately spur innovation and economic growth.

Also in FY 2013, the USPTO, in collaboration with its three employee unions, developed the Creativity and Innovation 2.0 Pilot Program. The purpose of the Program was to provide a 24/7 online community-building environment that enabled innovation and cross-organizational collaboration within the USPTO. It was also meant to empower USPTO employees to develop innovative ideas on how to improve the agency, and to comment and vote on those ideas. The pilot generated 470 ideas, several of which were implemented. The Pilot program is currently being evaluated by a joint labor-management team, with the intent to establish a permanent program in FY 2014.

The Office of Education and Outreach sponsors educational outreach programming for the USPTO and is managed through the Office of the Under Secretary. The USPTO provides educational activities and participates in educational programs for students, educators, and young inventors and innovators of all ages. This fiscal year, an 11-part series, "Science of Innovation," was produced by NBC Learn, the educational arm of NBC News, in partnership with the National Science Foundation (NSF) and the USPTO. The series highlights innovations, but also explains the specific processes that helped bring them about, such as the need to imagine and invent, as well as the desire to improve existing innovations and even inspire others. The stories are told through the eyes of scientists and engineers funded by the NSF, who have used patents and sometimes trademarks to protect their work. "Science of Innovation" launched on February 11, 2013, the 165th birthday of Thomas Alva Edison, to underscore the fact that the spirit of innovation lives on in the United States today. The videos in this collection are available for free and aligned to middle school and high school lesson plans produced by the National Science Teachers Association (NSTA) and to national education standards.

AIA Implementation/Rulemaking Legal Support

The Office of General Law (OGL) is the non-IP legal component of the Office of General Counsel. It is responsible for providing legal advice and support concerning the administration and management of the USPTO. OGL also represents the USPTO in various administrative proceedings concerning employment, labor and procurement issues. OGL provides administrative law support for the USPTO's rulemaking efforts and in particular helped ensure that regulations were issued to implement the AIA provisions while complying with applicable rulemaking requirements. OGL was integrally involved in every stage of the AIA rulemaking process, working with representatives from every business unit and interacting with outside parties and stakeholders to ensure prompt completion of the rules. OGL secured expedited clearances of the many AIA rules, saving the agency time and money and facilitating successful issuance of the rules within the statutory deadlines. These rules included a new patents fee schedule designed to build a sustainable funding model and to provide increased filing options for applicants and expanded discounts for small businesses and independent inventors. OGL advised on numerous employment and labor matters arising from the AIA initiative to hire additional patent examiners and PTAB personnel, and the implementation of various other AIA initiatives. OGL provides legal support for the USPTO's many agreements, procurements, and partnerships to promote intellectual property protection domestically and internationally related to the AIA. OGL supports the USPTO's AIA public outreach, including assistance to help small businesses and independent inventors take advantage of new processes and fee discounts provided by the AIA.

Management Challenges and What's Ahead

The distance between innovation and the marketplace is shrinking. Said another way, innovation is moving more quickly from creation to manufacture and distribution. IP is a necessary instrument for innovators and businesses to capture value as ideas move to the marketplace. In performing its mission—quality examination and disposition of patents and trademarks—the USPTO faces significant challenges.

Given current budget constraints under sequestration, efforts to move into permanent spaces for three locations—Denver, Colorado; Silicon Valley, California; and Dallas, Texas—have been delayed, but the personnel in those locations are nonetheless continuing to operate from the temporary spaces, and striving to grow our presence in the satellite office locations remains a top agency priority. These offices are in addition to the USPTO's first satellite office in Detroit, Michigan, which opened in 2012. The four offices will function as hubs of innovation and creativity, helping protect and foster American innovation in the global marketplace, helping businesses cut through red tape, and creating new economic opportunities in each of the local communities.

Also, the failure to hire sufficient numbers of patent examiners this year will impact backlog and pendency targets and the attainment of the agency's 10 and 20-month pendency goals.

The AIA promotes innovation and job creation by improving patent quality, clarifying patent rights, reducing the application backlog, and offering effective alternatives to costly patent litigation. The implementation of the AIA's provisions will continue to present numerous challenges and the USPTO continues to look forward to actively engage stakeholders both in outreach and education regarding these changes.

Build and Focus on Improvements

The Patent and Trademark organizations built on their accomplishments and worked toward meeting the objectives of the *USPTO 2010-2015 Strategic Plan* while working with stakeholders to ensure that the objectives remained aligned with their needs.

The Patent organization's continuing challenges are to reduce patent pendency and the excess inventory of unexamined patent applications to an appropriate working inventory, while improving patent quality and building a highly trained and stable workforce. By providing patent applicants with additional options to accelerate the USPTO's review of their applications, they gain greater control over examination timing. Collaborative efforts in areas that include automation, global patent classification, and work sharing has resulted in increased efficiency. The Patent organization continues to forge ahead in meeting these challenges by hiring, training, and retaining highly skilled and diverse examiners.

A significant challenge for the Trademark organization will be maintaining performance levels while continuing to grow and replace outdated IT systems. Our performance metrics and stakeholder feedback indicate that the Trademark organization has achieved a high level of performance. The key challenge becomes maintaining this level of high performance when faced with significant year-over-year growth and while rebuilding mission-critical infrastructure and systems. To address this challenge, the organization developed a coherent long-term strategic plan and is actively monitoring and reporting progress towards achieving its performance goals and IT modernization projects.

We must also continue to enhance trademark quality and pendency. The organization has achieved a record of high-level quality. The expectation for even higher quality is legitimate, but can be elusive and/or cost-prohibitive. The Trademark organization has been addressing this challenge by adopting a more holistic definition of quality and excellence, by expanding and tailoring training programs, and by enhancing communication with applicants and within internal work groups. Maintaining optimal application pendency level is also an issue meriting close observation. Pendency is determined by the volume of application filings and our ability to adjust examination capacity to maintain process and examination times. Given the inherent volatility of trademark filings and the inflexibility of adjusting examination capacity, maintaining optimal pendency can be a significant challenge if the organization lacks the resources or tools to respond quickly to sudden economic changes and filings. The organization has demonstrated success with accurate filing forecasts and incentives which permit adjustments to ensure consistent pendency.

Completing IT projects on time and within budget will be a priority to watch. The Trademark organization has embarked on a large multi-year program to modernize its IT infrastructure. The challenge is to deliver on time and on budget despite evolving business requirements, ever-changing technologies, and stiff competition for talent and know-how. The organization developed a plan that recognized these constraints and adopted agile methodologies to cost-effectively meet its IT goals. A part of this challenge will be to deliver enhanced systems functionality to internal and external users. The pressure to maintain a legacy system while building a modern platform can lead to a narrow focus on replacement versus enhancement. This focus can also be exacerbated by the lack of visibility to future business requirements and needs as the technological and socio-economic landscapes continually change. The Trademark organization is addressing this challenge by maintaining its focus on enhancements, by targeting a scalable and flexible technological platform, and by continuously seeking input and feedback from its stakeholders.

Finally, ensuring cost efficiency will continue to be an ongoing challenge. As the Trademark organization grows and invests to address greater service requests and future needs, costs can escalate and impact efficiency. To address this challenge, the organization has adopted a cautious plan that favors better and full usage of existing resources before incremental investments. The organization is also actively monitoring, through a sophisticated managerial accounting system, its cost of services and activities to ensure efficient and effective resource allocation.

Manage and Execute to Goals

The USPTO's promotion, protection, and enforcement of IPR have never been more important to our nation's economic prosperity. The USPTO must harness the expertise and skills within the agency and leverage new technology to achieve its goals. The actions we have taken to create a unified strategy to deliver timely, high-quality patents and trademarks must be carefully managed. The agency continues to face the external pressures of increasing application volume and rapid technology changes. We will meet these challenges by continuing to update our antiquated IT infrastructure; by hiring, retaining, and training examiners; and by improving our operations to be more effective and efficient. As we improve our agency, we must continue to focus on building relationships with our workforce, applicants, patent and trademark owners, Congress, and the public.

Continue to Move to an Electronic Workplace

The Patent and Trademark organizations have made significant progress to eliminate paper documents and manual transactions from their processes. Electronic communications are improving and encouraging more applicants to do business electronically by using Web-based systems. The Patent and Trademark organizations now rely heavily on data submitted or captured electronically to support examination, publish documents, and issue registrations. Because of the high degree of reliance on electronic operations, both organizations are dependent on the management and support of internal IT systems and services to manage their operations and provide services to the public.

The Patent and Trademark organizations, along with the support of the OCIO, are working to address the challenge of completing an electronic docket and file management system for each organization. These systems will link all operations and processing that support core examination and post-issuance activities. A fully electronic workflow will allow both organizations to better manage the fluctuations in filings and to be more efficient and in processing and responding to filings.

Another major challenge is to integrate and modernize legacy systems, especially those now used for Patent operations. The legacy systems were developed over the past 30+ years. Most of these systems have their own user interface, do not allow for easy movement of data to other systems, and were built on now obsolete technology. The goal of our Next Generation IT systems is to provide a common user interface and full data integration using modern IT tools, replacing the current antiquated and decaying infrastructure. This increased reliance on electronic systems presents other challenges to the USPTO in the event of an unplanned outage or disruption in processing.

Strengthen Global IPR Systems

The USPTO faces numerous challenges in seeking to strengthen global IP systems, including funding insecurity caused by the global recession for many IP institutions around the world. The USPTO will continue to promote the strengthening of IP systems through its policy advocacy and leadership, and its training and education efforts. In close cooperation with other agencies of the U.S. government, the USPTO will continue to promote the adequate and effective protection and enforcement of IP rights overseas.

USPTO Funding Model

The USPTO is challenged to finish establishing a sustainable funding model that provides the requirements-based authority to spend all fees collected on operations and work received, spans multiple years, and is adaptable to fluctuations inherent in estimates. An important aspect of a sustainable funding model is the authority to set and adjust fees by regulation, so that we can properly establish and align fees in a timely, fair, and consistent manner without the inherent time impediments of the legislative process. The USPTO obtained this authority for seven years in the AIA, signed on September 16, 2011. The agency began to alleviate these challenges with an implementing rule that was published in January 2013. A majority of this rule was implemented in March 2013 and the remainder will be effective in January 2014. With this rule, the USPTO exercised, for the first time in its existence, the ability to adjust fees in such a way as to establish a sustainable funding model, reduce the current patent application backlog, decrease patent pendency, improve patent quality, and upgrade the agency's patent business IT capability and infrastructure.

The fee-setting authority provided for in the AIA sunsets seven years from September 2011. Also, sequestration this year presented a new challenge in securing the authority to spend all fees collected on operations and work received. In the future, the USPTO will continue to build its operating reserve to a level that sustains operations, work toward securing permanent fee-setting authority, and address the challenges associated with being able to spend all of the fees it collects on operations and work received from applicants.

Human Capital Management

The USPTO's mission requires a highly skilled, well-educated, and diverse workforce. The agency continues to face the ongoing need to recruit, hire, develop, and retain sufficient numbers of qualified professionals in a highly competitive environment. In order to do so, the USPTO strives to be recognized as an employer of choice. The results of the annual Employee Viewpoint Survey (EVS) are used extensively to direct efforts and resources towards employer-of-choice programs, benefits, and strategies. In FY 2013, we learned that, as a result of the agency's focus on the EVS and subsequent efforts to meet the needs of our employees, the USPTO was recognized by the non-profit PPS as number 5 out of 292 federal agency subcomponents as the "Best Place to Work." The USPTO will need to continue to find even more innovative ways to retain this highly desirable employee acknowledgement.

The agency uses a cradle-to-grave approach when it comes to anticipating employees' needs and exceeding their expectations—starting with proactive engagement at job fairs, targeted recruitment trips, an aggressive veteran's hiring program, and other recruitment venues to attract and hire highly sought after candidates in all engineering disciplines, computer sciences, and other professional fields. Once aboard, the agency turns its attention to retaining their services and skill sets. Our retention strategies are continually updated to reflect industry best practices. Attrition data is tracked and survey results monitored in an effort to discern the effectiveness of our retention initiatives and to identify developing trends. The agency continues to focus on work-life enhancements including the federal government's best telework program, an extensive wellness program, and a number of engaged affinity groups, all of which increase employee satisfaction.

Moving forward and in line with the Diversity and Inclusion Strategic Plan (D&ISP), OEEOD intends to support the agency's hiring initiatives by helping to recruit a diverse pool of well-qualified applicants. OEEOD will support hiring by identifying sources of diverse and well-qualified applicants, coordinating with the affinity groups to support recruitment efforts, and assisting with the on-boarding process.

OEEOD is also working with OHR to develop an executive development program to increase the diversity of the agency's SES, which is currently not reflective of the agency's overall diversity. The development program will incorporate best practices for identifying and nurturing a diverse pool of future executives.

OEEOD continues its responsibility for ensuring that the agency remains a fair workplace with equal opportunity for all. OEEOD is working to maximize available technology to become a leader in user and results-oriented investigations so that issues are handled in an efficient, collaborative, and accessible manner.

Create IT Enterprise Architecture and Tools that Support Mission-Critical Business and Programmatic Requirements

In FY 2014, the USPTO will continue to take steps to improve its ability to be more responsive and to better manage and deliver quality products at enhanced service levels. This will be accomplished by reducing the complexity of systems, establishing and enforcing more standards, and practicing continual process improvement.

The challenge facing the OCIO will be in continuing efforts to:

- Work on strengthening our IT Infrastructure and moving to a "cloud" computing environment;
- Complete the expansion of IT infrastructure to include faster network connections to/from the USPTO campus and additional collaboration tools in support of a nationwide workforce;

- Plan, implement, and maintain IT systems that support and improve business processes in the Patent and Trademark organizations;
- Work to develop and fully implement an IT Human Capital Strategic Plan, in alignment with the new *USPTO 2014-2018 Strategic Plan*, currently under development;
- Improve the security, availability, and quality of IT systems and services while reducing their complexity and cost; support business area needs to accommodate the hiring and equipping of new employees; provide internal online tools (regarding consistency and quality of searching and examination); provide electronic file management and workflow; develop interactive online electronic filing capabilities and upgrade e-tools to the public; help move the USPTO to full electronic records and eliminate the need to collect and store paper records; and continue to improve overall data quality;
- Work with the OCFO to plan, implement, and support the Fee Processing Next Generation (FPNG) system that will integrate with the business IT systems for the Patent and Trademark organizations; and
- Continue to add datasets to the U.S. government's www.data.gov and www.google.com web-sites, providing the public with no-cost access to bulk text and image data collections of current and retrospective patent and trademark data.

Accompanying Information on USPTO Performance

Performance Audits and Evaluations

The OIG completed two new final audit reports in FY 2013. The first report, USPTO Deployed Wireless Capability with Minimal Consideration for IT Security (February 2013, OIG-13-014-A) focused on the effectiveness of the USPTO's IT security program by determining whether key security measures adequately protect its systems and access to the Public and Enterprise Wireless LAN (PEWLAN). The USPTO concurred with the OIG's final report recommendations. The OIG recommended that the USPTO ensure that the system owners register all systems under development in Cyber Security Assessment and Management during the system's initiation phase and that the USPTO rigorously applies its system development life cycle (SDLC) process and the National Institute of Standards and Technology's (NIST) risk management framework to all system-development projects. Further, the OIG recommended that system owners, information system security officers, technical leads, project managers, and program managers attend the USPTO's SDLC role-based training course on a regular basis. Finally, they recommended that Cybersecurity Division representatives have a role in deciding whether IT system development projects should transition to a subsequent phase in the SDLC based on their assessment of the effectiveness of incorporating security into the process. The USPTO concurred with the OIG's audit findings and began to address all recommendations. As of September 30, 2013, the USPTO has fully implemented the OIG findings in the final report. This evaluation was performed in support of the Management Goal, Objective 1: Improve IT Infrastructure and Tools.

The second final report, USPTO Successfully Implemented Most Provisions of the America Invents Act, but Several Challenges Remain (September 2013, OIG-13-032-A) , reviewed the USPTO's efforts to implement the America Invents Act (AIA). The USPTO concurred with the OIG's final report recommendations and has begun taking initial steps to ensure their timely implementation. The USPTO realigned and is increasing PTAB's IT capabilities to strengthen its project planning and execution. The USPTO is In process of preparing a comprehensive Capital Investment Decision Paper for the PTAB Next Generation IT System. The USPTO will also ensure the quality of First Inventor to File applications by improving the evaluative process of incoming applications and additional training. The USPTO will provide Congress an updated assessment of the agency's ability to establish – or not establish – satellite offices that meet AIA provisions no later than September 30, 2014. The USPTO will also develop a consistent and coordinated approach in establishing and managing the satellite offices. And, finally, the USPTO will prepare an overall AIA report, to include milestones for completing the five remaining AIA reports and certain individual implementation plans. This evaluation was performed in support of Goal 1: Optimize Patent Quality and Timeliness.

Performance Data Verification and Validation

In accordance with the GPRA Modernization Act of 2010 requirements, the USPTO is committed to making certain the performance information it reports is complete, accurate, and consistent. The USPTO developed a strategy to validate and verify the quality, reliability, and credibility of USPTO performance results as follows:

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

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

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

Commissioner's Performance for FY 2013

The American Inventors Protection Act (AIPA), Title VI, Subtitle G, the Patent and Trademark Office Efficiency Act, requires that an annual performance agreement be established between the Commissioner for Patents and the Secretary of Commerce, and the Commissioner for Trademarks and the Secretary of Commerce. The Commissioners for Patents and Trademarks have FY 2013 performance agreements with the Secretary of Commerce, which outline the measurable organizational goals and objectives for which they are responsible. They may be awarded a bonus, based upon an evaluation of their performance as defined in the agreement, of up to 50 percent of their base salary. The results achieved in FY 2013 are documented in this report. FY 2013 bonus information is currently not available. For FY 2012, the Commissioner for Patents was awarded a bonus of 13.9 percent of base salary and the Commissioner for Trademarks was awarded a bonus of 13.9 percent of base salary.

Management Assurances and Compliance with Laws and Regulations

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

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

Management Assurances

Federal Managers' Financial Integrity Act (FMFIA)

The FMFIA requires federal agencies to provide an annual statement of assurance regarding management controls and financial systems. USPTO management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the FMFIA. The objectives of internal control are to ensure:

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

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

Federal Financial Management Improvement Act (FFMIA)

The FFMIA requires federal agencies to report on agency substantial compliance with federal financial management system requirements, federal accounting standards, and the U.S. Standard General Ledger at the transaction level. In accordance with OMB Circular A-127 (revised), substantial compliance is achieved when an agency's financial management systems routinely provide reliable and timely financial information for managing day-to-day operations as well as to produce reliable financial statements, maintain effective internal control, and comply with legal and regulatory requirements. The USPTO complied substantially with the FFMIA for FY 2013.

Other Compliance with Laws and Regulations

Federal Information Security Management Act (FISMA)

The USPTO remains vigilant in reviewing administrative controls over information systems and is always seeking methods of improving our security program. During FY 2013, the USPTO continued its dedicated efforts in support of compliance with FISMA standards and improvement of our security program. The USPTO IT Security Program includes a strategy for continuous monitoring, which conducts credentialed compliance and vulnerability scans on servers, network devices, database, and Web-application on a quarterly basis. The analysis is being performed to ensure that operating systems have been configured in accordance with their security baseline and appropriate software patch levels. Additionally, the IT Security program has integrated artifacts to support Security Impact Analysis within the systems development lifecycle that allow assessment of testing requirements for systems undergoing new developments, enhancements, or maintenance. This proactive approach to security within the development process has successfully assessed changes and enabled security compliance for systems as they are being developed or updated.

As a result, the Chief Information Security Officer and the OCIO staff working together made a concerted effort to meet the compliance requirements of FISMA, while also meeting the reporting requirements to OMB. These endeavors were a complete success. All USPTO systems achieved a 100 percent FISMA compliance reporting level for FY 2013. There were no deficiencies identified that are considered to be the result of any material weaknesses in internal control. As a result of the work accomplished, the USPTO was able to continue with continuous monitoring and provide an accurate summary of information consistent with OMB reporting requirements for year-end reporting.

On the basis of the USPTO's comprehensive internal control program during FY 2013, the USPTO can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations as of September 30, 2013, was operating effectively. Accordingly, I am pleased to certify with reasonable assurance that our agency's systems of internal control, taken as a whole, comply with Section 2 of the Federal Managers' Financial Integrity Act of 1982. Our agency also is in substantial compliance with applicable federal accounting standards and the U.S. Standard General Ledger at the transaction level and with federal financial system requirements. Accordingly, our agency fully complies with Section 4 of the Federal Managers' Financial Integrity Act of 1982, with no material non-conformances.

In addition, the USPTO conducted its assessment of the effectiveness of our agency's internal control over financial reporting, which includes safeguarding of assets and compliance with applicable laws and regulations, in accordance with OMB Circular A-123, Management's Responsibility for Internal Control. Based on the results of this evaluation, the USPTO provides reasonable assurance that its internal control over financial reporting as of June 30, 2013 was operating effectively and no material weaknesses were found in the design or operation of the internal control over financial reporting. In addition, no material weaknesses related to internal control over financial reporting were identified between July 1, 2013 and September 30, 2013.

Teresa Stanek Rea
Deputy Under Secretary of Commerce
for Intellectual Property and Deputy
Director of the United States Patent and
Trademark Office
October 3, 2013

The Inspector General's Statement of Management Challenges for the DOC (in the Other Information section of this report) identifies IT security as a cause for concern department-wide, to include the USPTO. While the OIG continues to report IT security as a Commerce-wide concern, USPTO management has concluded that IT security issues within the agency have been sufficiently resolved beginning in FY 2009 to remove the material weakness.

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

Agency's Financial Management Systems Strategy

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

The Fee Processing Next Generation (FPNG) investment replaces RAM, the USPTO's legacy fee collection system. FPNG will use a combination COTS, GOTS, and open source code, as well as a custom user interface that has the same look-and-feel as other USPTO web-sites. Developing and implementing FPNG supports USPTO's Strategic Priority, "Improve IT Infrastructure and Tools," and will replace legacy RAM with modern 21st century technology that has more automated internal controls, electronic commerce capabilities, and will be able to meet the patent and trademark fee collection needs of the future. As the USPTO progresses with its patent and trademark IT strategies (Patents End-to-End and Trademarks Next Generation), the fee processing system also needs to progress to the next generation. The lack of modern technology in legacy RAM hinders the USPTO from taking full advantage of the potential benefits from Patents End-to-End and Trademarks Next Generation initiatives.

Inspector General Act Amendments

The Inspector General Act, as amended, requires semi-annual reporting on IG audits and related activities, as well as any requisite agency follow-up. The report is required to provide information on the overall progress on audit follow-up and internal management controls, statistics on audit reports with disallowed costs, and statistics on audit reports with funds put to better use. The USPTO did not have audit reports with disallowed costs or funds put to better use in FY 2013.

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, 2013, management had resolved eight recommendations outstanding from reports issued in FY 2011 and FY 2012 (OIG-11-033-A: "Patent End-to-End Planning and Oversight Need to Be Strengthened to Reduce Development Risk"; OIG-12-018-A: "The Patent Hoteling Program is Succeeding as a Business Strategy"; and OIG-12-032-A: "USPTO Other Backlog: Past Problems and Risks Ahead for the Board of Patent Appeals and Interferences"). Zero recommendations were outstanding as of September 30, 2013.

Two new audit report were issued during FY 2013 (OIG-13-014-A: "USPTO Deployed Wireless Capability with Minimal Consideration for IT Security" and OIG-13-032-A: "USPTO Successfully Implemented Most Provisions of the America Invents Act, but Several Challenges Remain"). For details on this audit, refer to page 65. Six recommendations were outstanding as of September 30, 2013.

Status of IG Act Amendment Audit Recommendations as of September 30, 2013				
Report for Fiscal Year	**Status**	**Recommendation**	**Action Plan**	**Completion Date**
FY 2011	Closed	The USPTO Director should direct the appropriate USPTO officials to improve oversight of PE2E by: a) Updating USPTO oversight procedures for PE2E by establishing • the key milestone oversight review schedule, • criteria for evaluating project progress at oversight reviews, and • thresholds for convening special oversight reviews b) Seeking independent expert advice on technical and project management for input into milestone reviews and defining the rules of engagement for independent reviewers, including when advice will be sought and access given to project artifacts and personnel.	a) The USPTO ensured that key milestone reviews are conducted semi-annually with the ITIRB and quarterly with the CRB. In addition the CRB receives monthly financial and summary progress reports. b) To ensure PE2E is achieving its milestones and following applicable government and industry best practices for development, the USPTO has retained a world-class expert on legacy migration and business architecture to provide insight, validate, and offer corrective advice for PE2E development, deployment, and application migration strategies.	November 2012
FY 2012	Closed	Conduct a more comprehensive calculation for costs and cost avoidance related to PHP in order to obtain more accurate estimates of the cost and benefits affiliated with this program	The USPTO undertook an assessment of the costs and cost avoidance associated with the PHP as part of the Cost Benefit Analysis for the Telework Enhancement Act Pilot Program.	October 2012
FY 2012	Closed	Ensure that internal controls are in place so that only eligible patent examiners participate in PHP and appropriate documentation is maintained.	The USPTO reviewed the eligibility, signup procedures, and records retention procedures for the PHP. We ensured procedures are in place to fully reflect the eligibility information for all PHP participants.	October 2012
FY 2012	Closed	Align BPAI's[1] resource planning with the hiring actions and expected production levels of patent examiners.	Board resource (Administrative Patent Judge "APJ") planning and hiring actions made taking expected patent examiner hiring and production as one of the primary planning factors. The Board has already begun a significant APJ hiring effort, which is expected to continue. Ultimate hiring results will depend on fee revenue projections, attracting sufficient numbers of qualified candidates, and other factors.	September 2013
FY 2012	Closed	Direct BPAI to develop and publish performance measures and targets for ex parte appeals and other proceedings.	The Board developed and published performance measures for ex parte appeals and other proceedings.	September 2013
FY 2012	Closed	Develop comprehensive management plans (including how to measure progress, gauge performance, and identify risk) to address the implementation and operational oversight of the new BPAI proceedings under the AIA.	The Board developed comprehensive management plans to address the implementation and operational oversight of the new PTAB proceedings under the AIA.	September 2013
FY 2012	Closed	Ensure that data processing systems meet the needs of all four AIA proceedings.	Completed work with Judges and staff on internal processing requirements. Liaised with OCIO to implement systems by required dates. Sought and received input from public users.	September 2013

[1] Note, pursuant to the AIA, effective September 16, 2012, BPAI is now known as the Patent Trial and Appeal Board (PTAB).

Status of IG Act Amendment Audit Recommendations as of September 30, 2013				
Report for Fiscal Year	Status	Recommendation	Action Plan	Completion Date
FY 2012	Closed	Explore the feasibility of BPAI's current management and administrative structure and staffing, given the increase in the number of proceedings and staff at BPAI.	Worked with OHR to assess the structure of the Board in relation to current work and staffing levels and expected growth in staffing to meet needs of new proceedings under the AIA.	September 2013
FY 2013	Closed	Ensure that system owners register all systems under development in Cyber Security Assessment and Management (CSAM) during the initiation phase of the System Development Lifecycle (SDLC).	a) We ensured that systems under development are registered in CSAM. b) We ensured that System Owners and Technical Leads are educated on how to initiate registration of systems during the initiation phase of the SDLC. c) The USPTO CyberSecurity Division maintains ongoing close communication with System Owners and Technical Leads during the initial phase of the SDLC process to mitigate security issues early in the cycle.	February 2013
FY 2013	Closed	Ensure that USPTO rigorously applies its SDLC process and the Risk Management Framework (RMF) to all IT system development projects. This should include ensuring that required system security documents are appropriately developed and updated and that security controls required to protect a system are implemented and assessed.	a) We ensured that all IT system development projects are executed in accordance with the SDLC process. b) We applied the RMF to all USPTO systems in accordance with NIST Special Publication 800-37 Rev. 1. c) We ensured that all system security documentation is properly developed and maintained to accurately reflect the present state of the information systems as part of the continuous monitoring efforts.	February 2013
FY 2013	Closed	Ensure that system owners, information system security officers, technical leads, project managers, and program managers attend the SDLC role-based training course on a regular basis.	a) Identified all information system stakeholders with significant security, technical and managerial roles and notified of the annual role base training sessions. b) Ensure that all stakeholders involved with information systems developed and deployed at the USPTO are required to attend the annual SDLC/Security role-based training. c) Track attendance and completion of the training sessions are recorded and maintained.	September 2013
FY 2013	Closed	Ensure that the CyberSecurity Division representatives have a role in deciding whether IT system development projects should transition to a subsequent phase in the SDLC based on their assessment of the effectiveness of incorporating security into the process.	a) We ensured that representatives play a critical role in determining if information systems are authorized to transition to a subsequent phase based on the SDLC process recommendation. b) We communicated with the system owners and technical leads in order to determine whether or not the project can proceed to the next phase of the SDLC. c) We track progress by recording in the form of a Yes/No vote by the CyberSecurity Division representatives as projects move from one SDLC stage to another.	February 2013

Status of IG Act Amendment Audit Recommendations as of September 30, 2013				
Report for Fiscal Year	**Status**	**Recommendation**	**Action Plan**	**Completion Date**
FY 2013	Open	Strengthen project planning and execution between OCIO and PTAB and, looking forward, with other USPTO units lacking a working relationship with the OCIO by adhering to USPTO's System Development Lifecycle policies for risk management practices, requirements collection, and communications and reevaluating whether waivers to specific project requirements should apply if initial funding and scope assumptions change.	The report was issued on September 30, 2013. The action plan will be developed in the first quarter of FY 2014.	To be determined
FY 2013	Open	Develop a multiyear plan that comprehensively addresses PTAB's IT requirements, including internal IT staffing and training needs, to support its expanded responsibilities under the AIA.	The report was issued on September 30, 2013. The action plan will be developed in the first quarter of FY 2014.	To be determined
FY 2013	Open	Ensure the quality of FITF application processing by soliciting feedback from examiners after they have taken substantive FITF training and after they have reviewed their first FITF applications, and oversample recently filed FITF applications included in USPTO's established quality assurance reviews.	The report was issued on September 30, 2013. The action plan will be developed in the first quarter of FY 2014.	To be determined
FY 2013	Open	Provide Congress with an updated assessment of the agency's ability, or not, to establish satellite offices that meet the provisions outlined in the AIA and provide a plan to establish its remaining satellite offices as resources become available.	The report was issued on September 30, 2013. The action plan will be developed in the first quarter of FY 2014.	To be determined
FY 2013	Open	Strengthen the management of the satellite office program to develop a consistent and coordinated approach to establish and operate satellite offices by taking the following actions: a) Develop a consistent and centralized approach to effectively manage the planning and opening of currently planned satellite offices and assess whether this approach should continue if additional satellite offices are needed. b) Determine a standardized position description for the satellite office regional director whose documented responsibilities are commensurate with and reflect their responsibilities and grade level, or develop a single, centralized managerial function at USPTO headquarters responsible for operating and evaluating satellite offices.	The report was issued on September 30, 2013. The action plan will be developed in the first quarter of FY 2014.	To be determined
FY 2013	Open	Prepare a comprehensive implementation plan for the issuance of the overall AIA Implementation report, to include milestones for completing the six other remaining AIA reports, and individual implementation plans to address the operational oversight needed to carry out its Pro Bono and Diversity of Applicants programs.	The report was issued on September 30, 2013. The action plan will be developed in the first quarter of FY 2014.	To be determined

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 2013 against performance targets established internally and by OMB and the government-wide Metric Tracking System (MTS).

Prompt Payment Act

The Prompt Payment Act requires federal agencies to report on their efforts to make timely payments to vendors, including interest penalties for late payments. In FY 2013, the USPTO did not pay interest penalties on 99.3 percent of the 8,318 vendor invoices processed, representing payments of approximately $603.0 million. Of the 55 invoices that were not processed in a timely manner, the USPTO was required to pay interest penalties on all 55 invoices. The USPTO paid $2 in interest penalties for every million dollars disbursed in FY 2013. Virtually all recurring payments were processed by EFT in accordance with the EFT provisions of the Debt Collection Improvement Act of 1996.

Civil Monetary Penalty Act

There were no Civil Monetary Penalties assessed by the USPTO during FY 2013.

Debt Collection Improvement Act

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

Biennial Review of Fees

The Chief Financial Officers Act of 1990 requires a biennial review of agency fees, rents, and other charges imposed for services and things of value it provides to specific beneficiaries as opposed to the American public in general. The objective of the review is to identify such activities and to begin charging fees, where permitted by law, and to periodically adjust existing fees to reflect current costs or market value so as to minimize general taxpayer subsidy of specialized services or things of value (such as rights or privileges) provided directly to identifiable non-federal beneficiaries. The USPTO is a fully fee-funded agency without subsidy of general taxpayer revenue. The USPTO uses Activity Based Costing (ABC) to calculate the cost of activities performed for each fee, and uses this information to evaluate and inform when setting fees. When appropriate, fees are adjusted to be consistent with legislative requirements to recover full cost of the goods or services provided to the public.

Consistent with the provisions of the AIA, the USPTO expects to continuously assess fees, on at least a biennial basis following the initial fee adjustments published in January 2013. Section 10(c) of the AIA directs the USPTO to consult the PPAC and TPAC, respectively, annually on the advisability of reducing fees set or adjusted under Section 10(a).

Financial Performance Measure	FY 2013 Target	FY 2013 Performance
Percentage of Timely Vendor Payments (MTS)	98%	99%
Percentage of Payroll by Electronic Transfer (OMB)	90%	100%
Percentage of Treasury Agency Locations Fully Reconciled (OMB)	95%	100%
Timely Reports to Central Agencies (OMB)	95%	100%
Audit Opinion on FY 2013 Financial Statements (OMB)	Unmodified	Unmodified
Material Weaknesses Reported by OIG (OMB)	None	None
Timely Posting of Inter-Agency Charges (USPTO)	30 days	17 days
Average Processing Time for Travel Payments (USPTO)	8 days	5 days

Financial Discussion and Analysis

Financial Highlights

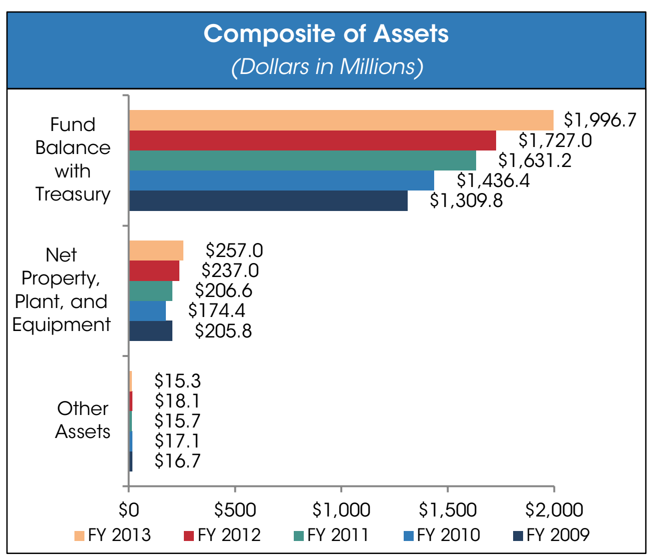
The USPTO received an unmodified (clean) audit opinion from the independent public accounting firm of KPMG LLP on its FY 2013 financial statements, provided in the Financial Section of this report. This is the 21st consecutive year that the USPTO received a clean opinion. Our unqualified audit opinion provides independent assurance to the public that the information presented in the USPTO financial statements is fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America. In addition, KPMG LLP reported no material weaknesses or significant deficiencies in the USPTO's internal control, and no instances of noncompliance with laws and regulations affecting the financial statements. Refer to the Other Accompanying Information section for the Summary of Financial Statement Audit and Management Assurances.

The summary financial highlights presented in this section provide an analysis of the information that appears in the USPTO's FY 2013 financial statements. The USPTO financial management process ensures that management decision-making information is dependable, internal controls over financial reporting are effective, and that compliance with laws and regulations is maintained. The issuance of these financial statements is a component of the USPTO's objective to continually improve the accuracy and usefulness of its financial management information.

Balance Sheet and Statement of Changes in Net Position

At the end of FY 2013, the USPTO's consolidated Balance Sheet presents total assets of $2,269.0 million, total liabilities of $1,319.8 million, and a net position of $949.2 million.

Total assets increased 48.1 percent over the last four years, resulting largely from the increase in Fund Balance with Treasury. The following graph



shows the changes in assets during this period.

Fund Balance with Treasury is the single largest asset on the Balance Sheet and represents 88.0 percent of total assets at the end of FY 2013. Over half of the Fund Balance with Treasury represents fees the USPTO has collected, but has not been authorized to spend through the annual appropriation process – this includes temporarily unavailable fees of $937.8 million and unavailable special fund receipts under OBRA of $233.5 million, which total $1,171.3 million in unavailable fees. This asset is also comprised of unpaid obligated funds of $265.5 million, other funds held on deposit for customers of $117.6 million, and unobligated funds carried over from one year to the next (operating reserve) of $442.3 million.

The unavailable special fund receipts and the temporarily unavailable funds require Congressional appropriation before they will be available for USPTO's use. These funds, together with amounts obligated and held on deposit, represent 77.8 percent of the Fund Balance with Treasury.

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

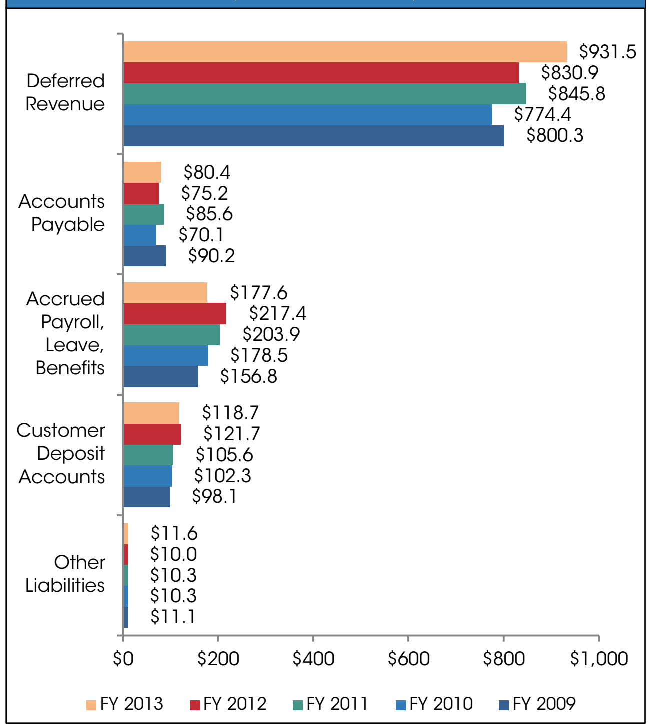
As required by 35 U.S.C. §42(c)(3), the USPTO maintains and tracks two separate and distinct operating reserve balances – one for Patent operations and one for Trademark operations. At the end of FY 2013, the Patent operating reserve was $287.2 million and the Trademark operating reserve was $155.1 million, 1.5 and 8.7 months of operating expenses, respectively.

The other major asset is property, plant, and equipment. The net balance of this asset has increased by $51.2 million during the past four years, with the acquisition values of property, plant, and equipment increasing by $208.3 million. The USPTO is beginning to completely re-invent our IT systems from end-to-end, which will lead to future increases in IT hardware, software, and software in development values. This was evidenced by an increase of $205.4 million from FY 2011 through FY 2013 for IT hardware, software, and software in development.

Total liabilities increased from $1,255.2 million at the end of FY 2012 to $1,319.8 million at the end of FY 2013, representing an increase of $64.6 million, or 5.1 percent. The following graph shows the composition of liabilities during the past five years.

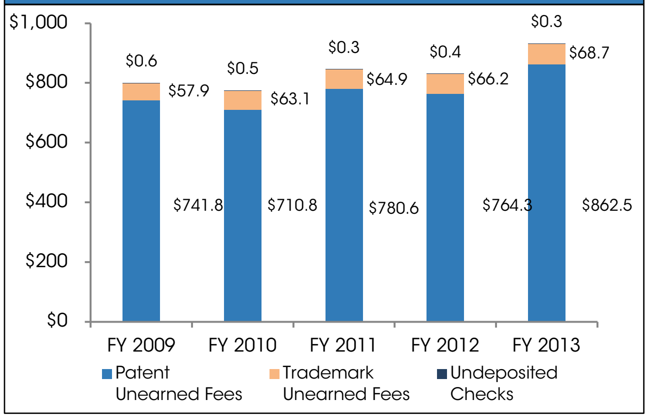
Composite of Liabilities

(Dollars in Millions)



The USPTO's deferred revenue is the largest liability on the Balance Sheet. The liability for deferred revenue is calculated by analyzing the process for completing each service provided. The percent

Deferred Revenue
(Dollars in Millions)



incomplete based on the inventory of pending work and completion status is applied to fee collections to estimate the amount for deferred revenue liability.

FY 2013 resulted in an increase to the deferred revenue liability of $100.6 million, or 12.1 percent from FY 2012. The deferred revenue liability includes unearned patent and trademark fees, as well as undeposited checks. The unearned patent fees represented 92.6 percent of this liability for FY 2013. The following graph depicts the composition of the deferred revenue liability, in addition to the change in this liability during each of the past five years.

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

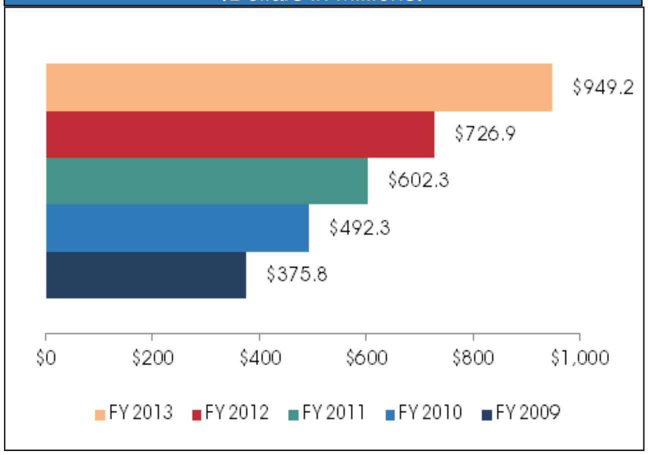
The following table depicts the changes in the filings and pendencies during the past five years. In FY 2013, despite a decrease in first action pendency of 3.7 months, unearned patent fees increased 12.8 percent as a result of the increased fee rates associated with the more recent applications. Deferred revenue associated with the patent process is expected to decrease in the upcoming years due to the anticipated decreases in pendencies. In the FY 2014 President's Budget, the number of patent applications filed from FY 2014 through FY 2018 is expected to gradually increase, with first action pendency decreasing to 10.0 months and total pendency to 18.8 months by FY 2018. The pendency decreases will result in patent deferred revenue decreases.

The deferred revenue associated with the trademark process increased in FY 2013. Trademark deferred revenue increased by $2.5 million, or 3.8 percent, from FY 2012, with an overall 18.7 percent increase over the past four years. The FY 2013 increase was consistent with the increase in trademark applications, offset by trademark average pendency decreasing to 10.0 months and total trademark first action pendency slightly decreasing to 3.1 months. Estimates included in the FY 2014 President's Budget project the pendencies to remain constant in the upcoming years.

Filings and Pendencies	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Patent Filings	486,499	509,367	537,171	565,406	601,317[1]
Percentage Change in Patent Filings	(2.1)%	4.7%	5.5%	5.3%	6.4%
Patent First Action Pendency (months)	25.8	25.7	28.0	21.9	18.2
Percentage Change in Patent First Action Pendency	0.8%	(0.4)%	8.9%	(21.8)%	(16.9)%
Total Patent Pendency (months)	34.6	35.3	33.7	32.4	29.1
Percentage Change in Total Patent Pendency	7.5%	2.0%	(4.5)%	(3.9)%	(10.2)%
Trademark Filings	352,051	368,939	398,667	415,026	433,654
Percentage Change in Trademark Filings	(12.3)%	4.8%	8.1%	4.1%	4.5%
Trademark First Action Pendency (months)	2.7	3.0	3.1	3.2	3.1
Percentage Change in Trademark First Action Pendency	(10.0)%	11.1%	3.3%	3.2%	(3.1)%
Total Trademark Average Pendency (months)	11.2	10.5	10.5	10.2	10.0
Percentage Change in Total Trademark Average Pendency	(5.1)%	(6.2)%	–%	(2.9)%	(2.0)%
[1] *Preliminary data*					

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

Net Positions
(Dollars in Millions)



The increase in net position from $726.9 million at the end of FY 2012 to $949.2 million at the end of FY 2013, or 30.6 percent, is attributable to the results of operations.

Statement of Net Cost

The Statement of Net Cost presents the USPTO's results of operations by the following responsibility segments – Patent, Trademark, and Intellectual Property Policy, Protection and Enforcement Worldwide. The following table presents the total USPTO's results of operations for the past five fiscal years. In FY 2013, USPTO generated a net income of $179.5 million due to an increase in fees received and revenue recognition of previously deferred revenue collected as we work off the backlog.

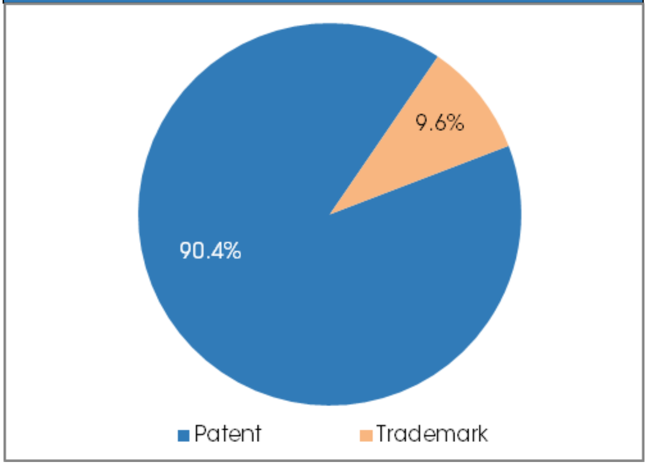
The Statement of Net Cost compares fees earned to costs incurred during a specific period of time. It is not necessarily an indicator of net income or net cost over the life of a patent or trademark. Net income or net cost for the fiscal year is dependent upon work that has been completed over the various phases of the production life cycle. The net income calculation is based on fees earned during the fiscal year being reported, regardless of when those fees were collected. Maintenance fees also play a large part in whether a total net income or net cost is recognized. Maintenance fees collected in FY 2013 are a reflection of patent issue levels 3.5, 7.5, and 11.5 years ago, rather than a reflection of patents issued in FY 2013. Therefore, maintenance fees can have a significant impact on matching costs and revenue.

During FY 2013, the number of patent filings increased by 6.4 percent over the prior year. Despite this increase, the Patent organization disposed 5.4 percent more applications than were disposed of during FY 2012. This, combined with increased fee collections, resulted in an increase in patent deferred revenue and a decrease in earned revenue.

During FY 2013, with the number of trademark applications increasing by 4.5 percent over the prior year, the Trademark organization was able to continue to address the existing inventory and maintain pendency between 2.5 and 3.5 months during FY 2013. The Trademark organization was able to do this while recognizing a slight increase in deferred revenue and corresponding decrease in revenue earned.

Net (Cost)/Income (Dollars in Millions)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Earned Revenue	$ 1,927.1	$ 2,101.7	$ 2,236.4	$ 2,427.1	$ 2,719.9
Program Cost	(1,981.9)	(2,007.0)	(2,148.1)	(2,321.0)	(2,540.4)
Net (Cost)/Income	$ (54.8)	$ 94.7	$ 88.3	$ 106.1	$ 179.5

FY 2013 Earned Revenue



Earned Revenue

The USPTO's earned revenue is derived from the fees collected for patent and trademark products and services. Fee collections are recognized as earned revenue when the activities to complete the work associated with the fee are completed. The earning process is the same for all collections even though a certain portion of the fees may not be made available to the USPTO for spending. Temporarily unavailable fee collections occur when the USPTO is not appropriated the authority to spend all fees collected during a given year. During FY 2013, due to sequestration, the USPTO collected $147.7 million in fee collections that were designated as temporarily unavailable.

Earned revenue totaled $2,719.9 million for FY 2013, an increase of $292.8 million, or 12.1 percent, over FY 2012 earned revenue of $2,427.1 million. Of revenue earned during FY 2013, $600.6 million related to fee collections that were deferred for revenue recognition in prior fiscal years, $836.5 million related to maintenance fees collected during FY 2013, which were considered earned immediately, $1,278.5 million related to work performed for fees collected during FY 2013, and $4.3 million were not fee-related.

For fees collected and earned during FY 2013, there was an increase of $113.2 million over these same fees earned during FY 2012. This increase can primarily be attributed to the increase in overall Patent fee rates effective in March 2013.

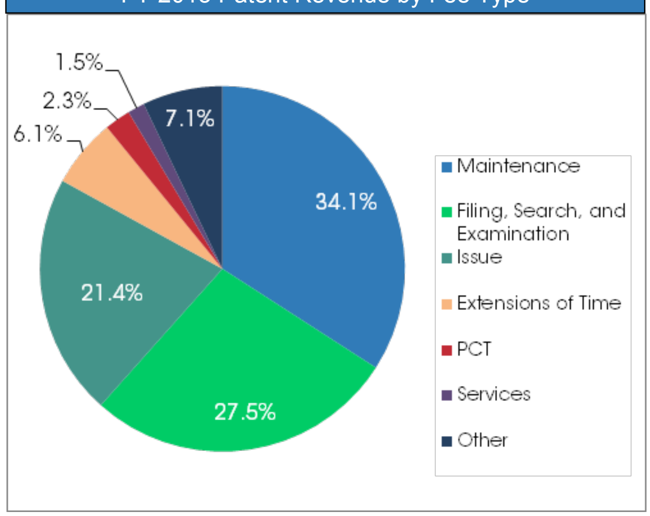
Patent

Traditionally, the major components of earned revenue derived from patent operations are maintenance fees, initial application fees for filing, search, and examination, and issue fees. These fees account for approximately 83 percent of total patent income. The following chart depicts the relationship among the most significant patent fee types.

Patent maintenance fees are the largest source of earned revenue by fee type. During FY 2013, maintenance fees collected increased $138.7 million, or 19.9 percent, from FY 2012. Since these fees are recognized immediately as earned revenue, any fluctuations in the rates of renewal have a significant impact on the total earned revenue of the USPTO. To some extent, renewals recoup costs incurred during the initial patent process. As shown below, the renewal rates for all three stages of maintenance fees increased or remained stable this year.

Application fee revenue earned upon filing decreased from $124.2 million in FY 2012 to $119.5 million in FY 2013 (decrease of 3.8 percent), with the number of applications increasing from 565,406 to 601,317 over the same period (increase of 6.4 percent). The FY 2014 President's Budget projects a 5.0 percent increase in patent applications filed beginning in FY 2014 through FY 2018, which will contribute to continued budgetary resources, as well as earned fee revenue.

FY 2013 Patent Revenue by Fee Type



Patent Renewal Rates[1]	FY 2009	FY 2010	FY 2011[2]	FY 2012[2]	FY 2013
First Stage	80.3%	99.4%	101.3%	78.3%	92.0%
Second Stage	63.5%	71.2%	80.6%	55.7%	63.3%
Third Stage	45.4%	50.0%	60.0%	47.0%	47.0%

[1] Note: the First Stage refers to the end of the 3rd year after the initial patent is issued; the Second Stage refers to the end of the 7th year after the initial patent is issued; and the Third Stage refers to the end of the 11th year after the initial patent is issued. For example, in FY 2013, 92.0 percent of the patents issued three years ago were renewed, 63.3 percent of the patents issued seven years ago were renewed, and 47.0 percent of the patents issued 11 years ago were renewed.
[2] Note: Due to the implementation of the 15 percent fee surcharge on September 26, 2011, the FY 2011 renewal rates include some early renewals that would have otherwise been renewed in FY 2012.

Earned issue fee revenue increased from $463.3 million in FY 2012 to $525.5 million in FY 2013, with the number of patents issued increasing from 270,258 to 290,083 over the same period, an increase of 13.4 percent and 7.3 percent, respectively. These increases are in line with the increases in production and the patent allowance rate. The FY 2014 President's Budget projects that patents issued will increase an average of 2.1 percent each fiscal year through FY 2018, which will result in increases in maintenance fees in future years.

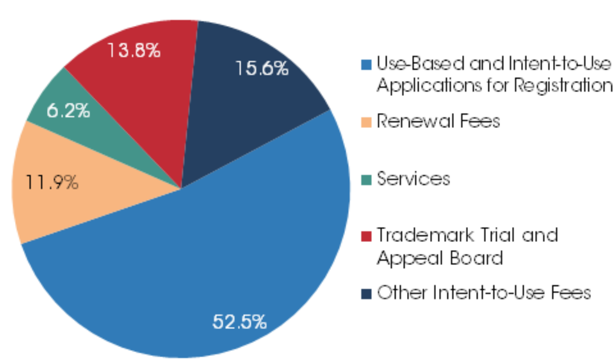
Trademark

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

Earned revenue for trademark applications increased from $130.1 million in FY 2012 to $137.7 million in FY 2013, with the number of trademarks registered increasing from 243,459 to 259,681 over the same period, increases of 5.8 percent and 6.7 percent, respectively. The FY 2014 President's Budget projects that trademark applications filed will continue to increase, which will contribute to the continued growth in budgetary resources, as well as earned fee revenue.

Trademark registration can be a recurring source of revenue. To some extent, renewal fees recoup costs incurred during the initial examination process. As shown below, the renewal rates for trademarks have remained fairly stable over the last five years, indicating continued earned revenue from this source. Further, in the FY 2014 President's Budget, earned revenue from trademark renewals is expected to continue in the future.

FY 2013 Trademark Revenue by Fee Type



Trademark Renewal Rates[1]	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013[2]
Renewals	29.3%	29.3%	29.3%	30.2%	30.2%

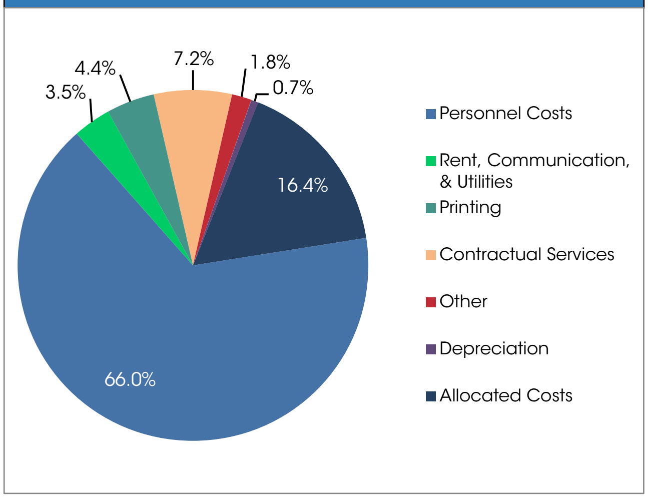
[1] Note: the renewals occur every 10th year for registered trademarks. For example, in FY 2013, 30.2 percent of the trademarks granted ten years ago were renewed.

[2] Preliminary data.

Program Costs

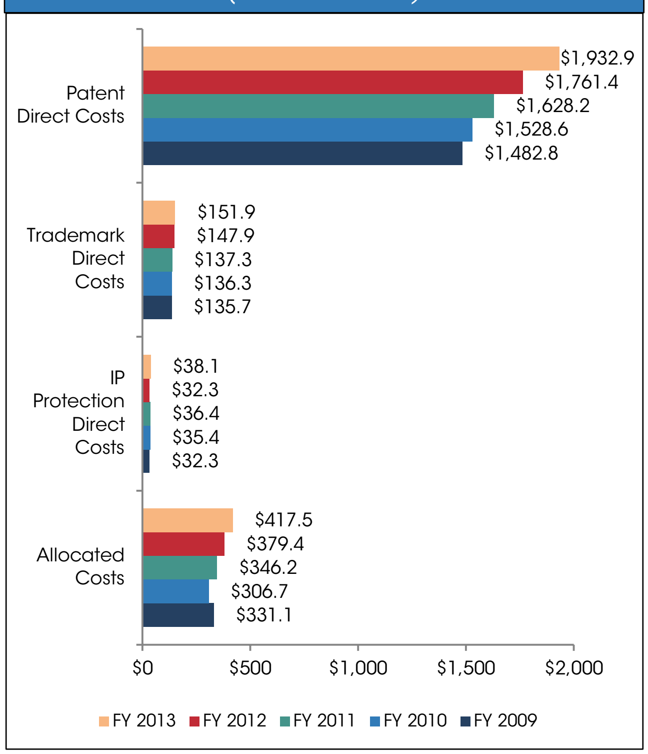
Program costs totaled $2,540.4 million for the year ended September 30, 2013, an increase of $219.4 million, or 9.5 percent, over FY 2012 program costs of $2,321.0 million. The USPTO's most significant program cost is personnel services and benefits, which comprise approximately 66 percent of USPTO's total program costs. Any significant change or fluctuation in staffing or pay rate directly impacts the change in total program costs from year-to-year. Total personnel services and benefits costs for the year ended September 30, 2013, were $1,814.8 million, an increase of $188.4 million, or 11.6 percent, over FY 2012 personnel services and benefits costs of $1,626.4 million. This change was predominantly the result of a net increase of 242 personnel, from 11,531 at the end of FY 2012 to 11,773 at the end of FY 2013.

FY 2013 Program Costs



USPTO Program Costs

(Dollars in Millions)

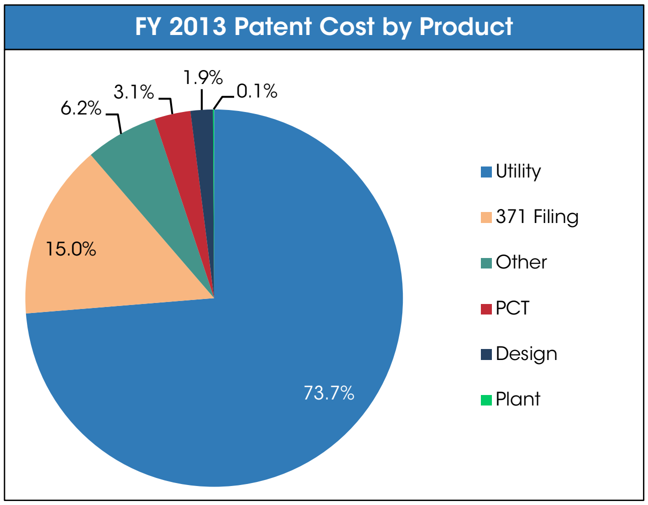


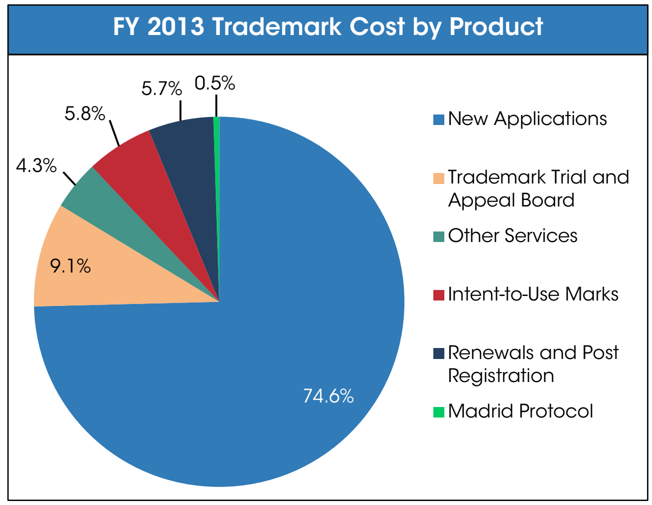
The USPTO directs maximum resources to the priority functions of patent and trademark examination, as well as IP policy, protection, and enforcement worldwide. For FY 2013, costs directly attributable to the Patent, Trademark, and IP protection business areas represent 83.6 percent of total USPTO costs. The remaining costs, representing support costs, are allocated to the business areas using ABC accounting. Allocated costs increased 10.0 percent over the past year in line with increased IT investments.

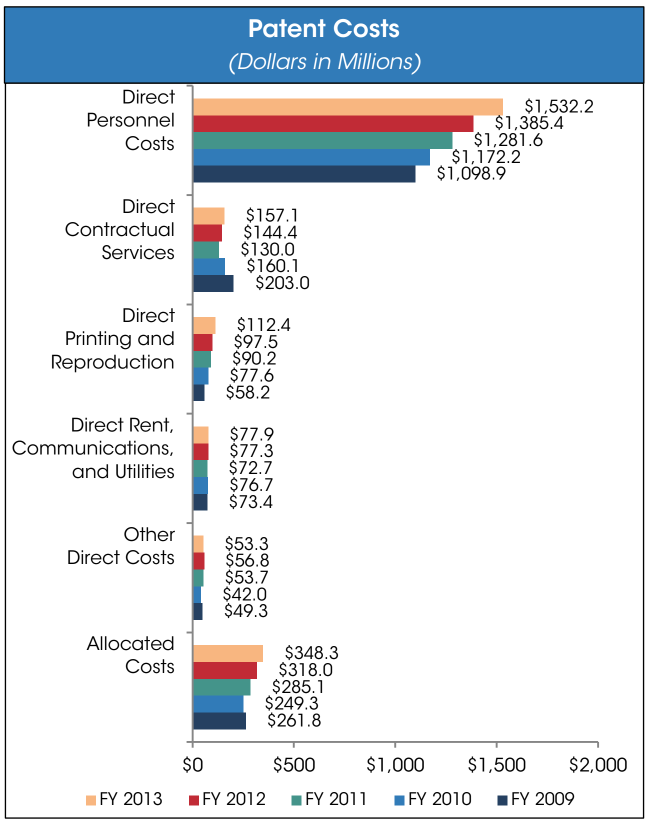
Patent

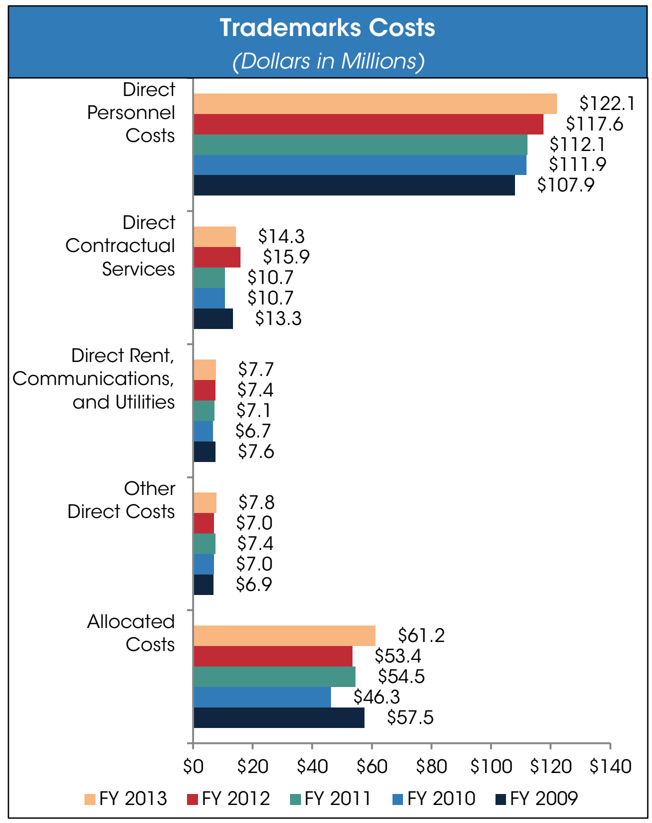
Total costs for the Patent business unit increased $536.6 million, 30.8 percent, from FY 2009 through FY 2013. The Patent organization's most significant program costs relate to personnel services, and account for 80.7 percent of the increase in total cost of Patent operations during the past four years. Patent personnel costs for the year ended September 30, 2013, were $1,532.2 million, an increase of $146.8 million, or 10.6 percent, over FY 2012 personnel costs of $1,385.4 million. Rent, communications, and utilities, printing and reproduction, and contractual service costs represent 15.2 percent of the Patent program costs for FY 2013. During FY 2013, contractual and printing costs increased in line with the overall increase in Patent costs due to increases in the number of patents issued.

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







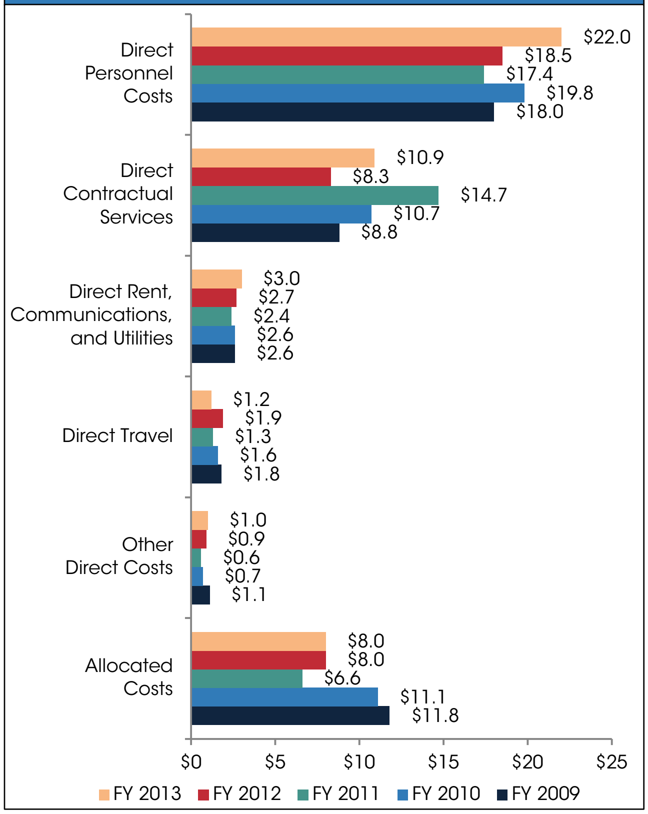


Trademark

Total costs for the Trademark business unit increased $19.9 million, 10.3 percent, from FY 2009 through FY 2013. The Trademark organization's most significant program costs relate to personnel services, and account for most of the increase in total cost of Trademark operations during the past four years. This increase of $14.2 million was offset by other minor cost increases and decreases.

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

Intellectual Property, Protection, And Enforcement Costs
(Dollars in Millions)



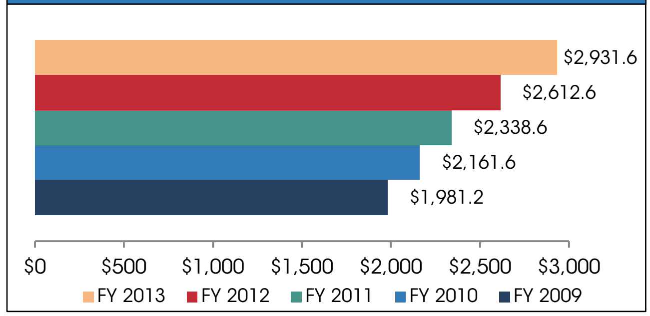
Intellectual Property Policy, Protection, and Enforcement Worldwide

Total costs for IP Protection increased $2.0 million, or 4.5 percent, from FY 2009 through FY 2013. The most significant program costs for IP Protection in FY 2013 relate to personnel services, and account for 47.7 percent of the total cost for IP Protection operations. The next largest cost associated with the policy, protection, and enforcement of intellectual property worldwide is contractual services, which include joint project agreements. These costs were incurred in line with the activities discussed on pages 37 to 46.

Statement of Budgetary Resources

During FY 2013, total budgetary resources available for spending was 12.2 percent over the amount available in the preceding year, with a 48.0 percent increase over the past five fiscal years. The increase in budgetary resources available for use is depicted by the graph below.

Annual Growth in Available Budgetary Resources
(Dollars in Millions)



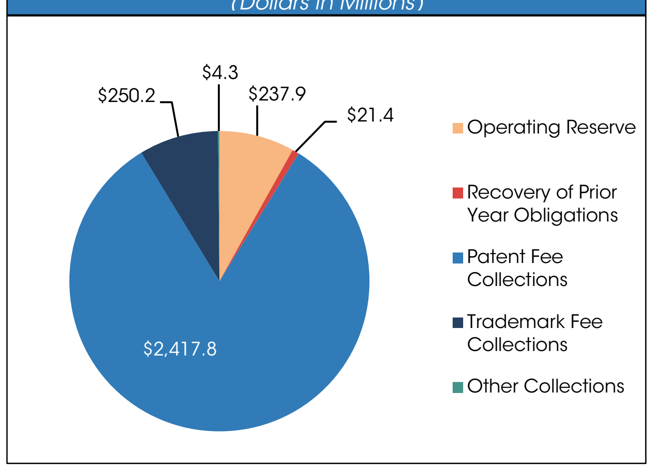
In FY 2013, sequestration was enacted government-wide to effect an annual five percent reduction in spending. This restricted full access to agency fee collections. As we are an agency funded entirely by user fees, this affects our operations significantly.

The USPTO was provided appropriation authority to spend anticipated fee collections in FY 2013 for an amount up to $2,933.2 million, of which five percent would be sequestered and unavailable. This was more than the amount of total fees collected in FY 2013.

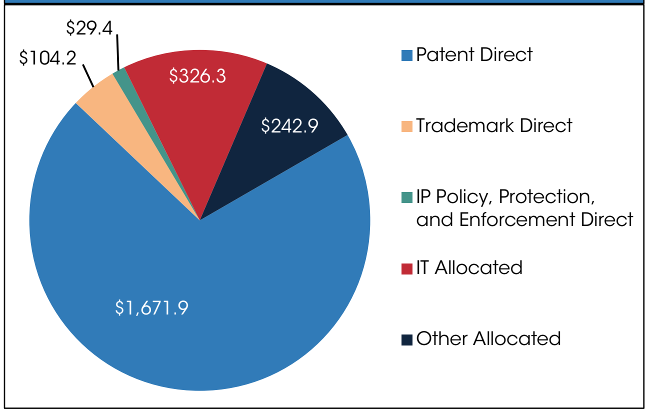
In FY 2013, we used the new authority in the AIA to set fees so that we are able to manage patent and trademark revenue fluctuations and properly align fees in a timely, fair, and consistent manner.

The following charts present the source of funds made available to the USPTO in FY 2013, and the use of such funds representing FY 2013 total obligations incurred, as reflect on the Statement of Budgetary Resources.

Sources of Funding
(Dollars in Millions)



Uses of Funding
(Dollars in Millions)



USPTO operations rely on patent maintenance fees to fund a portion of the work being completed each fiscal year. During FY 2013, maintenance fees collected increased $138.7 million, or 19.9 percent, from FY 2012. As maintenance fees are one of the largest sources of budgetary resources and are recognized immediately as earned revenue, any fluctuations in the rates of renewal have a significant impact on the total resources available to the USPTO. To some extent, renewals recoup costs incurred during the initial patent process. As shown on page 79, the renewal rates for all three stages of maintenance fees increased during FY 2013.

As defined earlier, temporarily unavailable fee collections occur when the USPTO is not appropriated the authority to spend all fees collected during a given year. During FY 2013, the USPTO collected fee collections that were designated as temporarily unavailable due to sequestration. As a result, there were $937.8 million in temporarily unavailable fee collections at the end of FY 2013.

The below chart illustrates amounts of fees that Congress has appropriated to the USPTO for spending over the past five fiscal years, as well as the cumulative unavailable fee collections. These cumulative unavailable fee collections remain in the USPTO's general fund account at the U.S. Department of the Treasury (Treasury) until appropriated for use by Congress. In addition to these annual restrictions, collections of $233.5 million are unavailable in accordance with the OBRA of 1990, and deposited in a special fund receipt account at the Treasury.

Statement of Cash Flows

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

Temporarily Unavailable Fee Collections *(Dollars in Millions)*	**FY 2009**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**
Fiscal year fee collections	$ 1,874.2	$ 2,068.5	$ 2,298.9	$ 2,406.8	$ 2,815.7
Fiscal year collections appropriated	(1,874.2)	(2,016.0)	(2,090.0)	(2,406.8)	(2,668.0)
Fiscal year unavailable collections	$ -	$ 52.5	$ 208.9	$ -	$ 147.7
Prior year collections unavailable	528.7	528.7	581.2	790.1	790.1
Subtotal	$ 528.7	$ 581.2	$ 790.1	$ 790.1	$ 937.8
Special fund unavailable receipts	233.5	233.5	233.5	233.5	233.5
Cumulative temporarily unavailable fee collections	$ 762.2	$ 814.7	$ 1,023.6	$ 1,023.6	$ 1,171.3

The USPTO receives fees for its primary activities of issuing patents and registering trademarks and chooses to include information on the sources and amounts of cash provided to assist report users in understanding its operating performance. While the fees received are an increase in cash flow, they may not necessarily be available for spending based on budgetary restrictions. Over half of the Fund Balance with Treasury represents fees the USPTO has collected, but has not been authorized to spend through the annual appropriation process – this includes cumulative temporarily unavailable fees of $937.8 million and unavailable special receipt funds under OBRA of $233.5 million, which total $1,171.3 million in unavailable fees. Cash flow is determined by looking at three components by which cash enters and leaves the USPTO: operations, investing, and financing. Historically at the USPTO, cash flow adjustments to operational activities result in an increase to net income. Depreciation and Accrued Payroll, Leave, and Benefits operate similarly, as the accrued expenses that do not affect the cash flow are adjusted for, thereby increasing net income. Deferred revenue is also a significant factor, as the USPTO has received the fees, but not completed all of the work; in a year when the deferred revenue liability decreases, such as FY 2012, net income increases without a corresponding increase in the cash flow; the increase to net income is removed for determining cash flow. Other adjustments are predominantly comprised of changes in accounts payable balances; in a year when the overall liability balance decreases, then a reader can conclude that an increased amount of cash was disbursed, thereby requiring a reduction to net income/cost; alternately, in a year when the overall liability balance increases, a reader can conclude that a lesser amount of cash was disbursed.

Composition of USPTO Cash Flow *(Dollars in Millions)*	**FY 2009**	**FY 2010**	**FY 2011**	**FY 2012**	**FY 2013**
Cash Flow from Operations					
Net (Cost)/Income	$ (54.8)	$ 94.7	$ 88.3	$ 106.1	$ 179.5
Operating Adjustments					
Depreciation	$ 63.3	$ 59.1	$ 52.7	$ 67.9	$ 71.9
Accrued Payroll, Leave, and Benefits	11.1	43.6	47.2	32.9	5.0
Deferred Revenue	(48.2)	(25.9)	71.4	(14.8)	100.6
Other Adjustments	(15.1)	(17.3)	20.0	4.1	7.3
Total Adjustments	$ 11.1	$ 59.5	$ 191.3	$ 90.1	$ 184.8
Net Cash (Used)/Provided by Operating Activities	$ (43.7)	$ 154.2	$ 279.6	$ 196.2	$ 364.3
Net Cash Used in Investing Activities					
Property, Plant, and Equipment	$ (65.0)	$ (27.6)	$ (84.9)	$ (98.2)	$ (91.4)
Financing Activities					
Non-Expenditure Transfer	$ (2.0)	$ -	$ -	$ (1.0)	$ (2.0)
Accounting Standard Change	(11.9)	-	-	-	-
Net Cash Used in Financing Activities	$ (13.9)	$ -	$ -	$ (1.0)	$ (2.0)
Net Cash Provided/(Used)	$ (122.6)	$ 126.6	$ 194.7	$ 97.0	$ 270.9

The investment of property, plant, and equipment is a cash transaction that has not been accounted for in net income/cost. This investment reduces net income/cost further for calculating cash flow. Investments decreased in FY 2010 as the USPTO chose to refocus IT investing modifications. Since FY 2010, the USPTO has been focused on upgrading our IT systems from end-to-end, which resulted in increases beginning in FY 2011 in IT software and software in development values. In addition, the USPTO began deploying Universal Laptops agency-wide in FY 2011, replacing outdated desktop computers and work-at-home laptops.

Adjustments to financing-type activities are infrequent at the USPTO. Non-expenditure transfers at the USPTO are the movement of appropriated fee collections to other federal governmental entities, without an impact to net income/cost. In addition, due to the implementation of Statement of Federal Financial Accounting Standard (SFFAS) 31, Accounting for Fiduciary Activities, in FY 2009, the presentation of fiduciary funds were removed from the Balance Sheet and are therefore reflected as a decrease of cash.

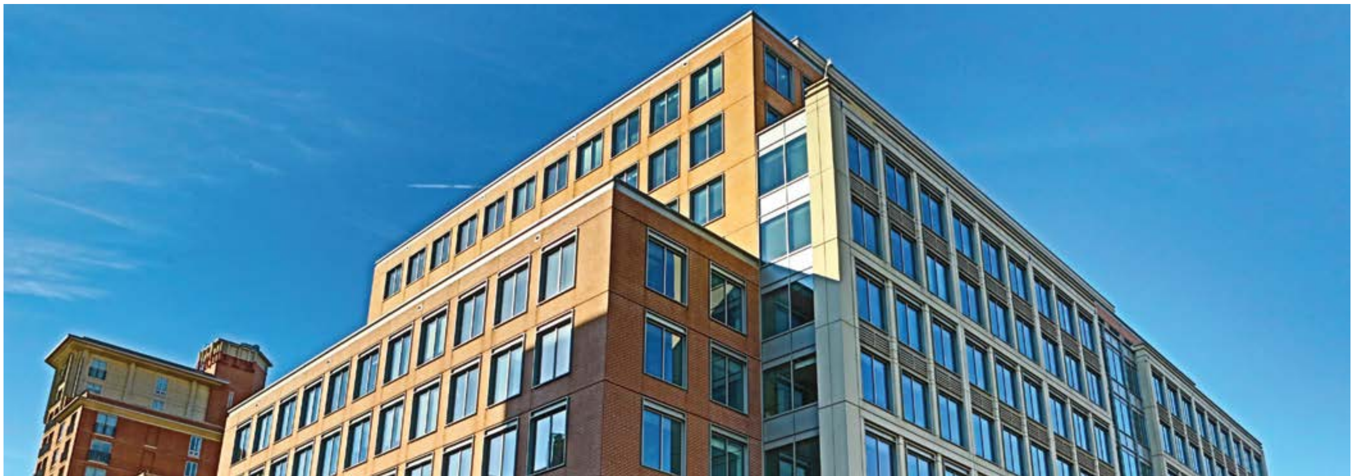
Limitation on Financial Statements

The principal financial statements included in this report have been prepared by USPTO management to report the financial position and results of operations of the USPTO, pursuant to the requirements of 31 U.S.C. §3515(b). While the statements have been prepared from the books and records of the USPTO in accordance with GAAP for federal entities and the formats prescribed by OMB in OMB Circular A-136 (revised), the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the understanding that they are for a component of the U.S. Government, a sovereign entity.

Management Responsibilities

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

Financial Section



Message from the Chief Financial Officer

When confronted with obstacles, any organization has two options: it can grind to a halt or it can keep pushing forward. Within the Office of the Chief Financial Officer, we are facing many challenges: resource constraints, workload growth, and mission expansion. However, each of these challenges, when seen in another light, is also an opportunity. Now more than ever, it is important that we take advantage of every chance to help our organization thrive.

This past fiscal year, we capitalized on our challenges and our opportunities. I am pleased to report the following:

- this fiscal year marks our 21st year of receiving an unmodified opinion on the agency's financial statements[1]; the auditors reported no material weaknesses or significant deficiencies in the design and operation of the USPTO's system of internal control over financial reporting;
- as part of the annual audit, it was determined that our financial system complies with federal financial systems requirements;
- the Association of Government Accountants (AGA) awarded the USPTO the Certificate of Excellence in Accountability Reporting for the 11th consecutive year for our *Fiscal Year 2012 Performance and Accountability Report*; and
- finally, the USPTO won the Certificate of Excellence in Citizen-Centric Reporting for our second *Citizen-Centric Report,* awarded by AGA for 2012, again clearly demonstrating the USPTO's excellence in integrating performance and accountability reporting.

In our *2010 – 2015 Strategic Plan*, the USPTO set forth the ambitious goal of establishing a sustainable funding model. The Leahy-Smith America Invents Act (AIA), which was enacted at the end of FY 2011, granted the USPTO the authority to set its fees by regulation. Using our new fee-setting authority, the USPTO developed a revised patent fee structure that was implemented in March 2013. This fee structure is designed to ensure that the agency generates sufficient patent revenue to recover our patent operating costs, as well as to further key policy considerations, such as fostering innovation and offering patent prosecution options to our stakeholders.

The AIA enactment marked a major milestone for providing the USPTO with the tools to achieve fi-

[1] The Deputy Under Secretary completed her services at the USPTO on November 20, 2013. The CFO letter covers the full audit period up through December 4, 2013 and is considered the official transmittal letter.

nancial stability. However, we are ever cognizant of the need to balance the agency's tremendous opportunities for growth and improvement against its challenges and risks associated with operating in an environment of numerous unknowns and uncertainties. Looking ahead, there are many variables that we cannot predict – changes in the fiscal climate; fluctuations in demand for the USPTO's services; and continued turbulence in economic conditions. As such, the agency is committed to smart, scalable growth that allows us to continually make adjustments and course corrections, which will enable us to achieve our goals without putting the financial and operational health of the USPTO unnecessarily at risk.

We are also mindful of the added responsibility that comes with fee setting authority. More than ever the agency is operating with an eye toward efficiency, cost-consciousness, and improved service and accountability. In the financial management area, this is translating into efforts to enhance outreach and transparency around our Fee Processing Next Generation initiative, which aims to improve our stakeholders' payment experience. We are also looking to facilitate the USPTO's mission success by improving our service to internal stakeholders, through efforts to provide more meaningful financial analysis to decision-makers and to improve the acquisition process with a focus on improving upon the customer-centric service culture.

With so much uncertainty in the funding environment, we had to be particularly vigilant coming into FY 2013. During FY 2012 we worked diligently with business units within the USPTO to ensure that we entered this year with a sufficient operating reserve to help us prepare for multiple funding scenarios. This proved to benefit us this year, especially with the sequestration requirements that went into effect in March. While we were forced to reduce spending and delay certain items that would have improved on our performance results, we have been able to continue executing on the activities critical to our mission – examining patents and registering trademarks.

In addition, our financial management team continues to assist in managing the many challenges of planning for, funding, procuring, staffing, monitoring, and ensuring continued operations at the agency's satellite offices that opened this year in temporary office space – Dallas, Texas; Denver, Colorado; and Silicon Valley, California. Our relocation to permanent office spaces in Dallas and Denver is scheduled for FY 2014; we are currently evaluating the timing and options for opening the permanent office space in Silicon Valley. The many challenges continue to be met successfully.

Our talented and committed employees continue to display great dedication toward producing a high standard of financial management at the USPTO. Our employees approach challenges as opportunities, both for the agency and for themselves. We look to the future with confidence, as we continue to support the strategic direction of the USPTO by working as a trusted partner within the organization and providing sound advice to enable informed program and financial decision-making.

Anthony P. Scardino

Chief Financial Officer

December 4, 2013

Principal Financial Statements and Related Notes

Members of the FY 2013 Performance and Accountability Report Team, *Top right*: David Fitzpatrick; *second row*: Dennis Detar, Walter Schlueter, Karen Strohecker; *front row*: Cheron Green, Shana Willard, Jennifer Jacobs.

United States Patent and Trademark Office

Consolidated Balance Sheets

As of September 30, 2013 and 2012

(Dollars in Thousands)	**2013**	**2012**
ASSETS		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	$ 1,996,736	$ 1,726,955
Accounts Receivable (Note 3)	47	36
Other Assets – Advances and Prepayments (Note 6)	1,726	2,450
Total Intragovernmental	1,998,509	1,729,441
Cash (Note 4)	5,405	4,331
Accounts Receivable, Net (Note 3)	130	715
Property, Plant, and Equipment, Net (Note 5)	257,008	236,980
Other Assets – Advances and Prepayments (Note 6)	7,932	10,656
Total Assets	$ 2,268,984	$ 1,982,123
LIABILITIES		
Intragovernmental:		
Accounts Payable	$ 8,107	$ 5,866
Accrued Payroll and Benefits	7,365	16,969
Accrued Workers' and Unemployment Compensation	1,778	1,822
Customer Deposit Accounts (Note 7)	5,934	5,977
Total Intragovernmental	23,184	30,634
Accounts Payable	72,292	69,320
Accrued Payroll and Benefits	82,184	117,489
Accrued Leave	88,081	82,906
Customer Deposit Accounts (Note 7)	112,747	115,736
Deferred Revenue (Note 9)	931,548	830,955
Actuarial Liability (Note 10)	9,711	8,209
Total Liabilities (Note 8)	$ 1,319,747	$ 1,255,249
Commitments and Contingencies (Note 12)		
NET POSITION		
Cumulative Results of Operations – Funds from Dedicated Collections (Note 14)	$ 949,237	$ 726,874
Total Net Position	$ 949,237	$ 726,874
Total Liabilities and Net Position	$ 2,268,984	$ 1,982,123

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

United States Patent and Trademark Office

Consolidated Statements of Net Cost

For the years ended September 30, 2013 and 2012 (Dollars in Thousands)	2013	2012
Strategic Goal 1: Optimize Patent Quality and Timeliness		
Total Program Cost	$ 2,281,196	$ 2,079,357
Total Program Earned Revenue	(2,458,296)	(2,180,532)
Net Program Income	(177,100)	(101,175)
Strategic Goal 2: Optimize Trademark Quality and Timeliness		
Total Program Cost	213,147	201,307
Total Program Earned Revenue	(261,676)	(246,550)
Net Program Income	(48,529)	(45,243)
Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide		
Total Program Cost	46,084	40,283
Net Income from Operations (Notes 14 and 15)	$ (179,545)	$ (106,135)
Total Entity		
Total Program Cost (Notes 16 and 17)	$ 2,540,427	$ 2,320,947
Total Earned Revenue	(2,719,972)	(2,427,082)
Net Income from Operations (Notes 14 and 15)	$ (179,545)	$ (106,135)

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

United States Patent and Trademark Office

Consolidated Statements of Changes in Net Position

For the years ended September 30, 2013 and 2012

(Dollars in Thousands)	2013	2012
	Funds from Dedicated Collections	Funds from Dedicated Collections
CUMULATIVE RESULTS OF OPERATIONS		
Beginning Balances	$ 726,874	$ 602,260
Budgetary Financing Sources:		
Transfers Out Without Reimbursement	(2,000)	(1,000)
Other Financing Sources:		
Imputed Financing	44,818	19,479
Total Financing Sources	42,818	18,479
Net Income from Operations	179,545	106,135
Net Change	222,363	124,614
Cumulative Results of Operations	$ 949,237	$ 726,874
Net Position, End of Year	$ 949,237	$ 726,874

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

United States Patent and Trademark Office

Combined Statements of Budgetary Resources

For the years ended September 30, 2013 and 2012

(Dollars in Thousands)	2013	2012
BUDGETARY RESOURCES		
Unobligated Balance: Brought Forward, October 1	$ 237,872	$ 177,705
Recoveries of Prior Year Unpaid Obligations	21,351	23,026
Spending Authority from Offsetting Collections (discretionary)	2,672,335	2,411,896
Total Budgetary Resources	$ 2,931,558	$ 2,612,627
STATUS OF BUDGETARY RESOURCES		
Obligations Incurred	$ 2,489,267	$ 2,374,755
Unobligated Balance, End of Year: Apportioned	442,291	237,872
Total Status of Budgetary Resources	$ 2,931,558	$ 2,612,627
CHANGE IN OBLIGATED STATUS		
Unpaid Obligations:		
Unpaid Obligations, Brought Forward, October 1	$ 344,793	$ 325,328
Obligations Incurred	2,489,267	2,374,754
Gross Outlays	(2,547,149)	(2,332,263)
Recoveries of Prior Year Unpaid Obligations	(21,351)	(23,026)
Unpaid Obligations, End of Year	$ 265,560	$ 344,793
Uncollected Payments from Federal Sources:		
Uncollected Customer Payments, Brought Forward, October 1	$ (37)	$ (298)
Change in Uncollected Customer Payments	(10)	261
Uncollected Customer Payments, End of Year	$ (47)	$ (37)
Memorandum (non-add) entries:		
Obligated Balance, Net, Start of Year	$ 344,756	$ 325,030
Obligated Balance, Net, End of Year	$ 265,513	$ 344,756
BUDGET AUTHORITY AND NET OUTLAYS		
Budget Authority, Gross (discretionary)	$ 2,672,335	$ 2,411,896
Actual Offsetting Collections (discretionary)	(2,822,058)	(2,413,157)
Change in Uncollected Customer Payments from Federal Sources (discretionary)	(10)	261
Budget Authority, Net (discretionary)	$ (149,733)	$ (1,000)
Gross Outlays (discretionary)	$ 2,547,149	$ 2,332,263
Actual Offsetting Collections (discretionary)	(2,822,058)	(2,413,157)
Net Collections (discretionary)	$ (274,909)	$ (80,894)

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

*The title was corrected for a typographical error subsequent to the publication of the PAR.

United States Patent and Trademark Office

Consolidated Statements of Cash Flows (Indirect Method)

For the years ended September 30, 2013 and 2012

(Dollars in Thousands)	**2013**	**2012**
CASH FLOWS FROM OPERATING ACTIVITIES		
Net Income from Operations	$ 179,545	$ 106,135
Adjustments Affecting Cash Flow:		
Imputed Financing from Cost Absorbed by Others	44,818	19,479
Decrease/(Increase) of Accounts Receivable	574	(317)
Decrease/(Increase) in Advances and Prepayments	3,448	(968)
Increase/(Decrease) Accounts Payable	4,720	(10,454)
(Decrease)/Increase in Accrued Payroll and Benefits	(44,909)	7,308
Increase in Accrued Leave and Workers' and Unemployment Compensation	5,131	6,053
(Decrease)/Increase in Customer Deposit Accounts	(3,032)	16,129
Increase/(Decrease) in Deferred Revenue	100,593	(14,827)
Increase/(Decrease) in Actuarial Liability	1,502	(197)
Depreciation, Amortization, or Loss on Asset Dispositions	71,882	67,900
Total Adjustments	184,727	90,106
Net Cash Provided by Operating Activities	364,272	196,241
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchases of Property and Equipment	(91,417)	(98,252)
Net Cash Used in Investing Activities	(91,417)	(98,252)
CASH FLOWS FROM FINANCING ACTIVITIES		
Transfers Out Without Reimbursement	(2,000)	(1,000)
Net Cash Used in Financing Activities	(2,000)	(1,000)
Net Cash Provided by Operating, Investing, and Financing Activities	$ 270,855	$ 96,989
Fund Balance with Treasury and Cash, Beginning of Year	$ 1,731,286	$ 1,634,297
Net Cash Provided by Operating, Investing, and Financing Activities	270,855	96,989
Fund Balance with Treasury and Cash, End of Year	$ 2,002,141	$ 1,731,286

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

United States Patent and Trademark Office

Notes to Financial Statements

As of and for the years ended September 30, 2013 and 2012

NOTE 1. Summary of Significant Accounting Policies

Reporting Entity

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

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

The federal budget classifies the USPTO under the Other Advancement of Commerce (376) budget function. The USPTO does not have lending or borrowing authority. The USPTO does not transact business among its own operating units, and therefore, no intra-entity eliminations are necessary.

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

Basis of Presentation

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

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

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

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

Basis of Accounting

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.

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

Funds from Dedicated Collections

Statement of Federal Financial Accounting Standard (SFFAS) 43, *Funds from Dedicated Collections: Amending Statement of Federal Financial Accounting Standards 27, Identifying and Reporting Earmarked Funds*, requires separate identification of the funds from dedicated collections on the Consolidated Balance Sheets (Net Position section), Consolidated Statements of Changes in Net Position, and further disclosures in Note 14.

Funds from dedicated collections are financed by specifically identified revenues, which remain available over time. These specifically identified revenues are required by statute to be used for designated activities, benefits, or purposes, and must be accounted for separately from the government's general revenues. At the USPTO, funds from dedicated collections include the salaries and expenses fund (13X1006), fee reserve fund (13X1008), and the special fund receipts (135127).

Fiduciary Activities

SFFAS 31, *Accounting for Fiduciary Activities*, requires that fiduciary activities not be recognized on the financial statements, but reported on schedules in the notes to the financial statements. Additional details are provided in Note 20.

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

Use of Estimates

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

Revenue and Other Financing Sources

Exchange Revenue: The USPTO has fee setting authority under section 10 of the Leahy-Smith America Invents Act (AIA). Section 10(a) of the AIA authorizes the Director of the USPTO to set or adjust by rule all patent and trademark fees to recover the aggregate estimated cost to the USPTO. Provided that the fees in the aggregate achieve overall aggregate cost recovery, the Director of USPTO may set individual fees under section 10, at, below, or above their respective cost. Since FY 1993, the USPTO's funding has been primarily through the collection of user fees. Fees that are remitted with initial applications and requests for other services are recorded as exchange revenue when received, with an adjustment to defer revenue for services that have not been performed. All amounts remitted by customers without a request for service are recorded as liabilities in customer deposit accounts until services are ordered.

The USPTO also receives financial gifts and gifts-in-kind. All such transactions are included in the consolidated Gifts and Bequests Fund financial statements of the U.S. Department of Commerce. These gifts are not 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.

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

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

an Imputed Financing Source from Cost Absorbed by Others is recognized on the Consolidated Statements of Changes in Net Position.

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

Entity/Non-Entity

Assets that an entity is authorized to use in its operations are termed entity assets, while assets that are held by an entity and are not available for the entity's use are termed non-entity assets. Most of the USPTO's assets are entity assets and are available to carry out the mission of the USPTO, as appropriated by Congress, with the exception of a portion of the Fund Balance with Treasury, cash, and accounts receivable. Additional details are provided in Note 7.

Fund Balance with Treasury

The USPTO deposits fees collected in commercial bank accounts maintained by the Treasury's 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. Additional details are provided in Note 2.

Accounts Receivable

Accounts receivable balances are established for amounts owed to the USPTO from its customers. The USPTO's accounts receivable balances are comprised of amounts due from current and former employees for the reimbursement of education expenses and other benefits, amounts due from foreign intellectual property offices for the reimbursement of services provided, amounts due from other federal agencies for the reimbursement of services provided, and other revenue-related receivables. This balance in accounts receivable remains as a very small portion of the USPTO's assets, as the USPTO requires payment prior to the provision of goods or services during the course of its core business activities. Additional details are provided in Note 3.

The USPTO has written off, but not closed out, certain accounts receivables that are considered not collectible. These offsets are established for receivables older than two years with little or no collection activity that have been transferred to Treasury, subsequently adjusting the gross amount of its employee-related accounts receivable to the net realizable value. The USPTO regards all of the intergovernmental receivables balances as fully collectable.

Advances and Prepayments

The USPTO prepays amounts in anticipation of receiving future benefits. Although a payment has been made, an expense is not recorded until goods have been received or services have been performed. The USPTO has prepayments and advances with non-governmental, as well as governmental vendors. Additional details are provided in Note 6.

Cash

The USPTO's cash balance primarily consists of checks, electronic funds transfer, and credit card payments for deposits that are in transit and have not been credited to the USPTO's Fund Balance with Treasury. The cash balance also consists of undeposited checks for fees that were not processed at the Balance Sheet date due to the lag time between receipt and initial review. All such undeposited check amounts are considered to be cash equivalents. Cash is also held outside the Treasury to be used as imprest funds. Additional details are provided in Note 4.

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

Property, Plant, and Equipment, Net

The USPTO's capitalization policies are summarized below. Costs capitalized are recorded at actual historical cost. Depreciation is expensed on a straight-line basis over the estimated useful life of the asset with the exception of leasehold improvements, which are depreciated over the remaining life of the lease or over the useful life of the improvement, whichever is shorter. Additional details are provided in Note 5.

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

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

Classes of Property, Plant, and Equipment	Capitalization Threshold for Individual Purchases	Capitalization Threshold for Bulk Purchases
IT Equipment	$50 thousand or greater	$250 thousand or greater
Software	$50 thousand or greater	$250 thousand or greater
Software in Progress	$50 thousand or greater	$250 thousand or greater
Furniture	$50 thousand or greater	$ 50 thousand or greater
Equipment	$50 thousand or greater	$250 thousand or greater
Leasehold Improvements	$50 thousand or greater	Not applicable

Workers' Compensation

Claims brought by USPTO employees for on-the-job injuries fall under the Federal Employees' Compensation Act (FECA) administered by the U.S. Department of Labor (DOL). The DOL bills each agency annually as its claims are paid, but payment on these bills is deferred approximately two years to allow for funding through the budget process.

Unemployment Compensation

USPTO employees who lose their jobs through no fault of their own may receive unemployment compensation benefits under the unemployment insurance program administered by the DOL. The DOL bills each agency quarterly as its claims are paid.

Annual, Sick, and Other Leave

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

Employee Retirement Systems and Post-Employment Benefits

USPTO employees participate in either the CSRS or the Federal Employees Retirement System (FERS). The FERS was established by the enactment of Pub. L. No. 99-335. Pursuant to this law, the FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees who had five years of federal civilian service prior to 1984 and who are rehired after a break in service of more than one year may elect to join the FERS and Social Security system or be placed in the CSRS offset retirement system.

The USPTO's financial statements do not report CSRS or FERS assets, accumulated plan benefits, or liabilities applicable to its employees. The reporting of such amounts is the responsibility of the OPM, who administers the plans. While the USPTO reported no liability for future payments to employees under these programs, the federal government is liable for future payments to employees through the OPM who administers these programs. The USPTO financial statements recognize a funded expense for the USPTO's share of the costs to the federal government of providing pension, post- retirement health, and post-retirement life insurance benefits to all eligible USPTO employees. In addition to the funded expense, the USPTO financial

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

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

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

For the years ended September 30, 2013 and 2012, the USPTO made current year contributions through agency payroll contributions and quarterly supplemental payments to OPM equivalent to approximately 19.0 percent of the employee's basic pay for those employees covered by CSRS, based on OPM cost factors. For the years ended September 30, 2013 and 2012, the USPTO made current year contributions through agency payroll contributions equivalent to approximately 11.9 percent of the employee's basic pay for those employees covered by FERS, based on OPM cost factors. As contribution funding increases, imputed costs will correspondingly decrease.

All employees are eligible to contribute to a Thrift Savings Plan. For those employees participating in the FERS, a Thrift Savings Plan is automatically established, and the USPTO makes a mandatory contribution to this plan equal to one percent of the employees' compensation. In addition, the USPTO makes matching contributions ranging from one to four percent of the employees' compensation for FERS-eligible employees who contribute to their Thrift Savings Plans. No matching contributions are made to the Thrift Savings Plans for employees participating in the CSRS. Employees participating in the FERS are also covered under the Federal Insurance Contributions Act (FICA), for which the USPTO contributes a matching amount to the Social Security Administration.

Deferred Revenue

Deferred revenue represents fees that have been received by the USPTO for requested services that have not been substantially completed. Two types of deferred revenue are recorded. The first type results from checks received, accompanied by requests for services, which were not yet deposited due to the lag time between receipt and initial review. The second type of deferred revenue relates primarily to fees for applications that have been partially processed. The deferred revenue calculation is a complex accounting estimate, dependent upon numerous business and administrative processes, workloads, and inventories. The deferred revenue balance is calculated by analyzing the process for completing each service that USPTO provides. The percent incomplete based on the inventory of pending work and completion status is applied to fee collections to estimate the amount for deferred revenue. Determining completion status is a difficult process. The components of the liability are provided in Note 9.

Net Position

Net Position is the residual difference between assets and liabilities, and is composed of Cumulative Results of Operations. Cumulative Results of Operations is the net result of the USPTO's operations since inception.

Environmental Cleanup

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

NOTE 2. Fund Balance with Treasury

As of September 30, 2013 and 2012, Fund Balance with Treasury consisted of the following:

(Dollars in Thousands)	2013	2012
Fund Balances by Treasury Fund Type:		
Special Funds	$ 233,529	$ 233,529
General Funds	1,645,622	1,372,713
Deposit Funds	117,585	120,713
Total Fund Balance with Treasury	$ 1,996,736	$ 1,726,955
Status of Fund Balance with Treasury:		
Obligated Balance Not Yet Disbursed	$ 265,513	$ 344,756
Unobligated Balance Available	442,291	237,872
Temporarily Not Available Pursuant to Public Law	937,818	790,085
Non-Budgetary Fund Balance with Treasury	351,114	354,242
Total Fund Balance with Treasury	$ 1,996,736	$ 1,726,955

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

To help smooth the impact of economic downturns on operations and to help mitigate funding uncertainty, the USPTO has been reserving a portion of the amount Congress makes available annually through appropriations as a designated operating reserve that will be carried over for use in future years. The Unobligated Balance Available amount above is the Agency's current operating reserve. As of September 30, 2013, the Patent operating reserve was $287,211 thousand and the Trademark operating reserve was $155,080 thousand. As of September 30, 2012, the Patent operating reserve was $111,749 thousand and the Trademark operating reserve was $126,123 thousand.

As of September 30, 2013 and 2012, the Non-Budgetary Fund Balance with Treasury includes surcharge receipts of $233,529 thousand for each year presented, and non-entity customer deposit accounts of $117,585 thousand and $120,713 thousand, respectively.

NOTE 3. Accounts Receivable, Net

As of September 30, 2013, USPTO entity accounts receivables consisted of the following:

(Dollars in Thousands)	Accounts Receivable, Gross	Allowance for Uncollectible Accounts	Accounts Receivable, Net
Intragovernmental	$ 47	$ -	$ 47
With the Public	$ 254	$ (124)	$ 130

As of September 30, 2012, USPTO entity accounts receivables consisted of the following:

(Dollars in Thousands)	Accounts Receivable, Gross	Allowance for Uncollectible Accounts	Accounts Receivable, Net
Intragovernmental	$ 36	$ -	$ 36
With the Public	$ 866	$ (151)	$ 715

NOTE 4. Cash

As of September 30, 2013 and 2012, cash consisted of the following:

(Dollars in Thousands)	2013	2012
Deposits in Transit	$ 5,094	$ 3,943
Undeposited Collections	311	388
Total	$ 5,405	$ 4,331

NOTE 5. Property, Plant, and Equipment, Net

As of September 30, 2013, property, plant, and equipment, net consisted of the following:

(Dollars in Thousands)

Classes of Property, Plant, and Equipment	Service Life (Years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
IT Equipment	3-5	$ 388,156	$ 304,537	$ 83,619
Software	3-5	367,670	299,817	67,853
Software in Progress	-	45,113	-	45,113
Furniture	5-7	12,078	10,087	1,991
Equipment	3-8	9,804	9,121	683
Leasehold Improvements	5-20	103,957	46,208	57,749
Total Property, Plant, and Equipment		$ 926,778	$ 669,770	$ 257,008

NOTE 5. Property, Plant, and Equipment, Net *(continued)*

As of September 30, 2012, property, plant, and equipment, net consisted of the following:

(Dollars in Thousands)

Classes of Property, Plant, and Equipment	Service Life (Years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
IT Equipment	3-5	$ 381,368	$ 276,265	$ 105,103
Software	3-5	316,218	278,010	38,208
Software in Progress	-	29,536	-	29,536
Furniture	5-7	15,317	12,996	2,321
Equipment	3-8	10,809	10,499	310
Leasehold Improvements	5-20	101,785	40,283	61,502
Total Property, Plant, and Equipment		$ 855,033	$ 618,053	$ 236,980

NOTE 6. Other Assets

As of September 30, 2013 and 2012, other assets consisted of the following:

(Dollars in Thousands)	2013	2012
Intragovernmental Advances and Prepayments	$ 1,726	$ 2,450
Advances and Prepayments with the Public	7,932	10,656
Total	$ 9,658	$ 13,106

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

The largest prepayments with the public as of September 30, 2013 and 2012 were $6,204 thousand and $6,982 thousand, respectively, for various hardware and software maintenance agreements and $1,578 thousand and $1,569 thousand, respectively, for various library and online database subscriptions.

NOTE 7. Entity and Non-Entity Assets

Non-entity assets are amounts held on deposit for the convenience of the USPTO's customers and finance charges related to employee debts.

Customers have the option of maintaining a deposit account at the USPTO to facilitate the order process. Customers can draw from their deposit account when they place an order and can replenish their deposit account as desired. Funds maintained in customer deposit accounts are not available for the USPTO use until an order has been placed. Once an order has been placed, the funds are reclassified to entity funds.

As of September 30, 2013 and 2012, entity and non-entity assets consisted of the following:

(Dollars in Thousands)	2013	2012
Fund Balance with Treasury:		
Intragovernmental Deposit Accounts	$ 5,934	$ 5,977
Customer Deposit Accounts with the Public	111,651	114,736
Total Fund Balance with Treasury	117,585	120,713
Cash:		
Customer Deposit Accounts with the Public	1,096	1,000
Total Non-Entity Assets	118,681	121,713
Total Entity Assets	2,150,303	1,860,410
Total Assets	$ 2,268,984	$ 1,982,123

NOTE 8. Liabilities Covered and Not Covered by Budgetary Resources

The USPTO records liabilities for amounts that are likely to be paid as the direct result of events that have already occurred. The USPTO considers liabilities covered by three types of resources: realized budgetary resources; unrealized budgetary resources that become available without further Congressional action; and cash and Fund Balance with Treasury. Realized budgetary resources include obligated balances funding existing liabilities and unobligated balances (operating reserve) as of September 30, 2013. Unrealized budgetary resources are amounts that were not available for spending through September 30, 2013, but become available for spending on October 1, 2013 once apportioned by the OMB. In addition, cash and Fund Balance with Treasury cover liabilities that will never require the use of a budgetary resource. These liabilities consist of deposit accounts, refunds payable to customers for fee overpayments, and undeposited collections.

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

As of September 30, 2013 and 2012, liabilities covered and not covered by budgetary resources were as follows:

NOTE 8. Liabilities Covered and Not Covered by Budgetary Resources *(continued)*

(Dollars in Thousands)	2013	2012
Liabilities Covered by Resources		
Intragovernmental:		
Accounts Payable	$ 8,107	$ 5,866
Accrued Payroll and Benefits	7,365	16,969
Accrued Unemployment Compensation	19	7
Customer Deposit Accounts	5,934	5,977
Total Intragovernmental	21,425	28,819
Accounts Payable	72,292	69,320
Accrued Payroll and Benefits	31,229	78,038
Customer Deposit Accounts	112,747	115,736
Deferred Revenue	442,437	238,127
Total Liabilities Covered by Resources	$ 680,130	$ 530,040
Liabilities Not Covered by Resources		
Intragovernmental:		
Accrued Workers' Compensation	$ 1,759	$ 1,815
Total Intragovernmental	1,759	1,815
Accrued Payroll and Benefits	50,955	39,451
Accrued Leave	88,081	82,906
Deferred Revenue	489,111	592,828
Actuarial Liability	9,711	8,209
Total Liabilities Not Covered by Resources	$ 639,617	$ 725,209
Total Liabilities	$ 1,319,747	$ 1,255,249

NOTE 9. Deferred Revenue

As of September 30, 2013, deferred revenue consisted of the following:

(Dollars in Thousands)	Patent	Trademark	Total
Unearned Fees	$ 862,485	$ 68,752	$ 931,237
Undeposited Checks	282	29	311
Total Deferred Revenue	$ 862,767	$ 68,781	$ 931,548

As of September 30, 2012, deferred revenue consisted of the following:

(Dollars in Thousands)	Patent	Trademark	Total
Unearned Fees	$ 764,323	$ 66,244	$ 830,567
Undeposited Checks	348	40	388
Total Deferred Revenue	$ 764,671	$ 66,284	$ 830,955

NOTE 10. Actuarial Liability

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

In FY 2013, the DOL effected a change in accounting estimate to refine the methodology used for selecting the interest rate assumptions and enhance matching between the timing of cash flows and interest rates. For FY 2013, projected annual payments were discounted to present value based on OMB's interest rate assumptions which were interpolated to reflect the average duration in years for income payments and medical payments. In FY 2012 and prior years, projected annual benefit payments were discounted to present value using OMB's economic assumptions for 10-year Treasury notes and bonds; these interest rates were not split for wage benefits and medical benefits. Interest rate assumptions utilized for discounting were as follows:

2013	2012
For wage benefits: 2.73 % in year 1, 3.13 % in year 2, and thereafter **For medical benefits:** 2.33 % in year 1, 2.86 % in year 2, and thereafter	2.29% in year 1, 3.14 % in year 2, and thereafter

Based on information provided by the DOL, the U.S. Department of Commerce estimated the USPTO's liability as of September 30, 2013 and 2012 was $9,711 thousand and $8,209 thousand, respectively.

NOTE 11. Leases

Operating Leases:

The General Services Administration (GSA) negotiates long-term office space leases and levies rent charges, paid by the USPTO, approximate to commercial rental rates. These operating lease agreements for the USPTO's office buildings expire at various dates between FY 2014 and FY 2024. During the years ended September 30, 2013 and 2012, the USPTO paid $94,631 thousand and $94,795 thousand, respectively, to the GSA for rent.

Under existing commitments, the future minimum lease payments as of September 30, 2013 are as follows:

Fiscal Year	(Dollars in Thousands)
2014	$ 66,333
2015	66,990
2016	65,680
2017	64,526
2018	63,582
Thereafter	331,080
Total Future Minimum Lease Payments	$ 658,191

NOTE 11. Leases *(continued)*

The commitments shown above relate primarily to the operating lease for the USPTO headquarters in Alexandria, Virginia, beginning in FY 2004 and extending to FY 2024. The operating lease commitments for the USPTO offices in Shirlington, Virginia and the satellite offices are also included above. The operating leases in Shirlington, Virginia, and Detroit, Michigan, will expire in FY 2019 and FY 2022, respectively. In addition, the temporary leases in Lakewood, Colorado; Menlo Park, California; and Dallas, Texas will expire in FY 2014, at which point the long-term leases in Denver, Colorado and Dallas, Texas are anticipated to be in effect. The solicitation process for a long-term lease in the Silicon Valley, California was suspended due to budget constraints.

NOTE 12. Commitments and Contingencies

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

As of September 30, 2013, management expects it is reasonably possible that approximately $5,900 thousand may be owed for awards or damages involving labor relations claims. As of September 30, 2012, management expects it is reasonably possible that approximately $5,600 thousand may be owed for awards or damages involving labor relations claims.

As of September 30, 2013 and 2012, the USPTO was not subject to any suits where adverse outcomes are probable.

For the years ended September 30, 2013 and 2012, the USPTO was not required to make any payments to the Judgment Fund.

As of September 30, 2013 and 2012, the USPTO did not have any major long-term commitments.

NOTE 13. Post-employment Benefits

For the years ended September 30, 2013 and 2012, the post-employment benefit expenses were as follows:

(Dollars in Thousands)	**2013**			**2012**		
	Funded	**Imputed**	**Total**	**Funded**	**Imputed**	**Total**
CSRS	$ 10,809	$ 3,478	$ 14,287	$ 11,599	$ 2,273	$ 13,872
FERS	136,411	17,268	153,679	122,660	10,378	133,038
FEHB	52,715	1,015	53,730	50,582	4,152	54,734
FEGLI	202	-	202	183	-	183
FICA	85,871	-	85,871	78,223	-	78,223
Total Cost	$ 286,008	$ 21,761	$ 307,769	$ 263,247	$ 16,803	$ 280,050

NOTE 14. Funds from Dedicated Collections

Funds from dedicated collections are financed by specifically identified revenues, which remain available over time. These specifically identified revenues are required by statute to be used for designated activities, benefits, or purposes, and must be accounted for separately from the government's general revenues. At the USPTO, funds from dedicated collections include the salaries and expenses fund, the fee reserve fund, and the special fund receipts. There is no balance shown in the fee reserve fund as of September 30, 2013. Non-entity funds, as disclosed in Note 7, are not funds from dedicated collections and are therefore exclud-ed from the below amounts.

The following tables provide the status of the USPTO's funds from dedicated collections as of and for the years ended September 30, 2013 and 2012.

(Dollars in Thousands)	**Salaries and Expenses Fund**	**Surcharge Fund**	**Total Funds from Ded-icated Collections**
Balance Sheet as of September 30, 2013			
Fund Balance with Treasury	$ 1,645,622	$ 233,529	$ 1,879,151
Cash	4,309	-	4,309
Accounts Receivable, Net	177	-	177
Other Assets	266,666	-	266,666
Total Assets	$ 1,916,774	$ 233,529	$ 2,150,303
Total Liabilities	$ 1,201,066	$ -	$ 1,201,066
Cumulative Results of Operations	715,708	233,529	949,237
Total Liabilities and Net Position	$ 1,916,774	$ 233,529	$ 2,150,303
Statement of Net Cost for the Year Ended September 30, 2013			
Total Program Cost	$ 2,540,427	$ -	$ 2,540,427
Less Program Earned Income	(2,719,972)	-	(2,719,972)
Net Income from Operations	$ (179,545)	$ -	$ (179,545)
Statement of Changes in Net Position for the Year Ended September 30, 2013			
Net Position, Beginning of Year	$ 493,345	$ 233,529	$ 726,874
Budgetary Financing Sources:			
Transfer Out Without Reimbursement	(2,000)	-	(2,000)
Other Financing Sources:			
Imputed Financing	44,818	-	44,818
Net Income from Operations	179,545	-	179,545
Change in Net Position	222,363	-	222,363
Net Position, End of Year	$ 715,708	$ 233,529	$ 949,237

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

(Dollars in Thousands)	Salaries and Expenses Fund	Surcharge Fund	Total Funds from Dedicated Collections
Balance Sheet as of September 30, 2012			
Fund Balance with Treasury	$ 1,372,713	$ 233,529	$ 1,606,242
Cash	3,331	-	3,331
Accounts Receivable, Net	751	-	751
Other Assets	250,086	-	250,086
Total Assets	$ 1,626,881	$ 233,529	$ 1,860,410
Total Liabilities	$ 1,133,536	$ -	$ 1,133,536
Cumulative Results of Operations	493,345	233,529	726,874
Total Liabilities and Net Position	$ 1,626,881	$ 233,529	$ 1,860,410
Statement of Net Cost for the Year Ended September 30, 2012			
Total Program Cost	$ 2,320,947	$ -	$ 2,320,947
Less Program Earned Income	(2,427,082)	-	(2,427,082)
Net Income from Operations	$ (106,135)	$ -	$ (106,135)
Statement of Changes in Net Position for the Year Ended September 30, 2012			
Net Position, Beginning of Year	$ 368,731	$ 233,529	$ 602,260
Budgetary Financing Sources:			
Transfer Out Without Reimbursement	(1,000)	-	(1,000)
Other Financing Sources:			
Imputed Financing	19,479	-	19,479
Net Income from Operations	106,135	-	106,135
Change in Net Position	124,614	-	124,614
Net Position, End of Year	$ 493,345	$ 233,529	$ 726,874

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

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

The **Surcharge Fund** was created through the Patent and Trademark Office Surcharge provision in the Omnibus Budget Reconciliation Act (OBRA) of 1990 (Section 10101, Pub. L. No. 101-508). This required that the USPTO impose a surcharge on certain patent fees and set in statute the amounts of money that the USPTO should deposit in a special fund receipt account at the U.S. Department of the Treasury. This surcharge expired at the end of FY 1998. The USPTO may use moneys from this account only as authorized by Congress, and only as made available by the issuance of a Treasury warrant.

The **Patent and Trademark Fee Reserve Fund** was created through the Leahy-Smith America Invents Act legislation enacted on September 16, 2011 (Pub. L. No. 112-29) modifying 35 U.S.C §42(c). This established a statutory provision allowing the USPTO to collect and retain funds in excess of the appropriated levels for the current fiscal year. This fund was created to deposit all excess collections. The legislation provided further that the fees will be made available without fiscal limitation or until expended. Current fiscal year appropriation language requires that the USPTO submit a reprogramming action to the committee on appropriations prior to the expenditures of funds from the reserve.

NOTE 15. Intragovernmental Costs and Exchange Revenue

Total intragovernmental costs and exchange revenue, by Strategic Goal, for the years ended September 30, 2013 and 2012 were as follows:

(Dollars in Thousands)	2013			
	Patent	Trademark	Intellectual Property Protection	Total
Strategic Goal 1: Optimize Patent Quality and Timeliness				
Intragovernmental Gross Cost	$ 485,208	$ -	$ -	$ 485,208
Gross Cost with the Public	1,795,988	-	-	1,795,988
Total Program Cost	2,281,196	-	-	2,281,196
Intragovernmental Earned Revenue	(8,500)	-	-	(8,500)
Earned Revenue from the Public	(2,449,796)	-	-	(2,449,796)
Total Program Earned Revenue	(2,458,296)	-	-	(2,458,296)
Net Program Income	$ (177,100)	$ -	$ -	$ (177,100)
Strategic Goal 2: Optimize Trademark Quality and Timeliness				
Intragovernmental Gross Cost	$ -	$ 45,336	$ -	$ 45,336
Gross Cost with the Public	-	167,811	-	167,811
Total Program Cost	-	213,147	-	213,147
Intragovernmental Earned Revenue	-	(341)	-	(341)
Earned Revenue from the Public	-	(261,335)	-	(261,335)
Total Program Earned Revenue	-	(261,676)	-	(261,676)
Net Program Income	$ -	$ (48,529)	$ -	$ (48,529)
Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide				
Intragovernmental Gross Cost	$ -	$ -	$ 9,802	$ 9, 802
Gross Cost with the Public	-	-	36,282	36,282
Total Program Cost	$ -	$ -	$ 46,084	$ 46,084
Net (Income)/Cost from Operations	$ (177,100)	$ (48,529)	$ 46,084	$ (179,545)
Total Entity				
Total Program Cost (Notes 16 and 17)	$ 2,281,196	$ 213,147	$ 46,084	$ 2,540,427
Total Earned Revenue	(2,458,296)	(261,676)	-	(2,719,972)
Net (Income)/Cost from Operations	$ (177,100)	$ (48,529)	$ 46,084	$ (179,545)

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

(Dollars in Thousands)	2012			
	Patent	Trademark	Intellectual Property Protection	Total
Strategic Goal 1: Optimize Patent Quality and Timeliness				
Intragovernmental Gross Cost	$ 433,079	$ -	$ -	$ 433,079
Gross Cost with the Public	1,646,278	-	-	1,646,278
Total Program Cost	2,079,357	-	-	2,079,357
Intragovernmental Earned Revenue	(7,434)	-	-	(7,434)
Earned Revenue from the Public	(2,173,098)	-	-	(2,173,098)
Total Program Earned Revenue	(2,180,532)	-	-	(2,180,532)
Net Program Income	$ (101,175)	$ -	$ -	$ (101,175)
Strategic Goal 2: Optimize Trademark Quality and Timeliness				
Intragovernmental Gross Cost	$ -	$ 41,927	$ -	$ 41,927
Gross Cost with the Public	-	159,380	-	159,380
Total Program Cost	-	201,307	-	201,307
Intragovernmental Earned Revenue	-	(389)	-	(389)
Earned Revenue from the Public	-	(246,161)	-	(246,161)
Total Program Earned Revenue	-	(246,550)	-	(246,550)
Net Program Income	$ -	$ (45,243)	$ -	$ (45,243)
Strategic Goal 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide				
Intragovernmental Gross Cost	$ -	$ -	$ 8,390	$ 8,390
Gross Cost with the Public	-	-	31,893	31,893
Total Program Cost	$ -	$ -	$ 40,283	$ 40,283
Net (Income)/Cost from Operations	$ (101,175)	$ (45,243)	$ 40,283	$ (106,135)
Total Entity				
Total Program Cost (Notes 16 and 17)	$ 2,079,357	$ 201,307	$ 40,283	$ 2,320,947
Total Earned Revenue	(2,180,532)	(246,550)	-	(2,427,082)
Net (Income)/Cost from Operations	$ (101,175)	$ (45,243)	$ 40,283	$ (106,135)

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

NOTE 16. Program Costs

Program costs consist of both costs related directly to the individual business lines and overall support costs allocated to the business lines. All costs are assigned to specific programs. Total program or operating costs for the years ended September 30, 2013 and 2012 by cost category were as follows:

(Dollars in Thousands)	2013		
	Direct	Allocated	Total
Personnel Services and Benefits	$ 1,676,358	$ 138,457	$ 1,814,815
Travel and Transportation	2,036	511	2,547
Rent, Communication, and Utilities	88,647	35,041	123,688
Printing and Reproduction	112,492	184	112,676
Contractual Services	182,327	142,502	324,829
Training	484	347	831
Maintenance and Repairs	3,069	39,805	42,874
Supplies and Materials	36,936	793	37,729
Equipment not Capitalized	3,776	4,774	8,550
Insurance Claims and Indemnities	6	-	6
Depreciation, Amortization, or Loss on Asset Dispositions	16,766	55,116	71,882
Total Program Costs	$ 2,122,897	$ 417,530	$ 2,540,427

(Dollars in Thousands)	2012		
	Direct	Allocated	Total
Personnel Services and Benefits	$ 1,521,472	$ 104,879	$ 1,626,351
Travel and Transportation	2,758	757	3,515
Rent, Communication, and Utilities	87,427	33,045	120,472
Printing and Reproduction	97,653	347	98,000
Contractual Services	168,506	142,240	310,746
Training	746	1,670	2,416
Maintenance and Repairs	3,766	41,650	45,416
Supplies and Materials	35,051	1,342	36,393
Equipment not Capitalized	3,566	6,073	9,639
Insurance Claims and Indemnities	10	89	99
Depreciation, Amortization, or Loss on Asset Dispositions	20,538	47,362	67,900
Total Program Costs	$ 1,941,493	$ 379,454	$ 2,320,947

The unfunded portion of personnel services and benefits for the years ended September 30, 2013 and 2012 was $18,126 thousand and $4,374 thousand, respectively.

NOTE 17. Program Costs by Category and Responsibility Segment

The program costs for the years ended September 30, 2013 and 2012 by cost category and business line were as follows:

(Dollars in Thousands)	2013			
	Patent	Trademark	Intellectual Property Protection	Total
Direct Costs				
Personnel Services and Benefits	$ 1,532,243	$ 122,071	$ 22,044	$ 1,676,358
Travel and Transportation	728	132	1,176	2,036
Rent, Communication, and Utilities	77,932	7,715	3,000	88,647
Printing and Reproduction	112,414	68	10	112,492
Contractual Services	157,049	14,335	10,943	182,327
Training	284	159	41	484
Maintenance and Repairs	2,293	657	119	3,069
Supplies and Materials	35,207	1,278	451	36,936
Equipment not Capitalized	2,815	846	115	3,776
Insurance Claims and Indemnities	6	-	-	6
Depreciation, Amortization, or Loss on Asset Dispositions	11,921	4,680	165	16,766
Subtotal Direct Costs	$ 1,932,892	$ 151,941	$ 38,064	$ 2,122,897
Allocated Costs				
Automation	$ 175,987	$ 33,954	$ 2,826	$ 212,767
Resource Management	172,317	27,252	5,194	204,763
Subtotal Allocated Costs	$ 348,304	$ 61,206	$ 8,020	$ 417,530
Total Program Costs	$ 2,281,196	$ 213,147	$ 46,084	$ 2,540,427

The unfunded portion of personnel services and benefits for the year ended September 30, 2013 was $18,126 thousand.

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

(Dollars in Thousands)	2012			
	Patent	Trademark	Intellectual Property Protection	Total
Direct Costs				
Personnel Services and Benefits	$ 1,385,426	$ 117,596	$ 18,450	$ 1,521,472
Travel and Transportation	790	97	1,871	2,758
Rent, Communication, and Utilities	77,339	7,391	2,697	87,427
Printing and Reproduction	97,547	99	7	97,653
Contractual Services	144,366	15,866	8,274	168,506
Training	289	418	39	746
Maintenance and Repairs	2,987	600	179	3,766
Supplies and Materials	33,487	1,172	392	35,051
Equipment not Capitalized	2,890	475	201	3,566
Insurance Claims and Indemnities	10	-	-	10
Depreciation, Amortization, or Loss on Asset Dispositions	16,193	4,200	145	20,538
Subtotal Direct Costs	$ 1,761,324	$ 147,914	$ 32,255	$ 1,941,493
Allocated Costs				
Automation	$ 166,476	$ 31,564	$ 2,600	$ 200,640
Resource Management	151,557	21,829	5,428	178,814
Subtotal Allocated Costs	$ 318,033	$ 53,393	$ 8,028	$ 379,454
Total Program Costs	$ 2,079,357	$ 201,307	$ 40,283	$ 2,320,947

The unfunded portion of personnel services and benefits for the year ended September 30, 2012 was $4,374 thousand.

NOTE 18. Budgetary Resources

Total budgetary resources are primarily comprised of Congressional authority to spend current year fee collections. For FY 2013, the USPTO was appropriated up to $2,933,241 thousand for fees collected during the fiscal year. In FY 2012, the USPTO was appropriated up to $2,706,313 thousand for fees collected during the fiscal year. For the year ended September 30, 2013, the USPTO collected $119,522 thousand less than the amount apportioned through September 30, 2013 (under-collections of fees of $117,540 thousand and under-collections of other budgetary resources of $1,982 thousand). For the year ended September 30, 2012, the USPTO collected $302,391 thousand less than the amount apportioned through September 30, 2012 (under-collections of fees of $299,487 thousand and under-collections of other budgetary resources of $2,904 thousand).

Total budgetary resources also include carryover of prior year budgetary resources (operating reserve). Carryover is derived from year-end fees that have not been obligated. Usage of the fees in the following fiscal year is for compensation and operational requirements on a first-in, first-out basis.

NOTE 18. Budgetary Resources *(continued)*

The USPTO receives an apportionment of Category A funds from OMB, which apportions budgetary resources by fiscal quarter. The USPTO does not receive any Category B funds, or those exempt from apportionment. As of September 30, 2013 and 2012, reimbursable obligations incurred were $2,489,268 thousand and $2,374,755 thousand, respectively.

Permanent Indefinite Appropriations

In addition to the appropriation of fee collections mentioned above, the USPTO received a permanent indefinite appropriation in the America Invents Act (Pub. L. No. 112-29). The permanent indefinite appropriation is comprised of offsetting collections for (1) a 15 percent interim surcharge on certain patent fees that will continue until each fee is adjusted by regulation and (2) fees paid by patent applicants to request expedited, prioritized examination. These offsetting collections are deposited in the salaries and expenses (13X1006) no year fund. The FY 2013 and FY 2012 appropriation language superseded the America Invents Act language, eliminating the permanent indefinite appropriation authority for two one-year periods.

Funding Limitations

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

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

The total temporarily unavailable fee collections pursuant to Public Law as of September 30, 2013 are $1,171,347 thousand. Of this amount, certain USPTO collections of $233,529 thousand were withheld in accordance with the OBRA of 1990, and deposited in a special fund receipt account at the U.S. Department of the Treasury.

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

Undelivered Orders

In addition to the future lease commitments discussed in Note 11, the USPTO is obligated for the purchase of goods and services that have been ordered, but not yet received. Total reimbursable undelivered orders for all of the USPTO's activities were $156,372 thousand and $187,830 thousand as of September 30, 2013 and 2012, respectively. Of these amounts, $146,714 thousand and $174,724 thousand, respectively, were unpaid.

NOTE 19. Incidental Custodial Collections

Custodial collections represent miscellaneous general fund receipts, such as non-electronic patent filing fees, gains on foreign exchange rates, and employee debt finance charges. Non-electronic patent filing fee collections began in November 2011. Custodial collection activities are considered immaterial and incidental to the mission of the USPTO.

(Dollars in Thousands)	**2013**	**2012**
Revenue Activity:		
Sources of Collections:		
Miscellaneous	$ 832	$ 1,059
Total Cash Collections	832	1,059
Accrual Adjustments	-	-
Total Custodial Revenue	832	1,059
Disposition of Collections:		
Transferred to Others:		
Treasury	(832)	(1,059)
(Increase)/Decrease in Amounts Yet to be Transferred	-	-
Net Custodial Activity	$ -	$ -

NOTE 20. Fiduciary Activities

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

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

Schedule of Fiduciary Activity
For the years ended September 30, 2013 and 2012

	2013			2012		
(Dollars in Thousands)	**Patent Cooperation Treaty**	**Madrid Protocol**	**Total Fiduciary Funds**	**Patent Cooperation Treaty**	**Madrid Protocol**	**Total Fiduciary Funds**
Fiduciary Net Assets, Beginning of Year	$ 12,620	$ 400	$ 13,020	$ 12,864	$ 338	$ 13,202
Contributions	162,565	17,451	180,016	153,716	14,361	168,077
Disbursements To and On Behalf of Beneficiaries	(160,821)	(17,367)	(178,188)	(153,960)	(14,299)	(168,259)
Increase/(Decrease) in Fiduciary Net Assets	1,744	84	1,828	(244)	62	(182)
Fiduciary Net Assets, End of Year	$ 14,364	$ 484	$ 14,848	$ 12,620	$ 400	$ 13,020

Fiduciary Net Assets
As of September 30, 2013 and 2012

	2013			2012		
(Dollars in Thousands)	**Patent Cooperation Treaty**	**Madrid Protocol**	**Total Fiduciary Funds**	**Patent Cooperation Treaty**	**Madrid Protocol**	**Total Fiduciary Funds**
Cash and Cash Equivalents	$ 14,364	$ 484	$ 14,848	$ 12,620	$ 400	$ 13,020
Total Fiduciary Net Assets	$ 14,364	$ 484	$ 14,848	$ 12,620	$ 400	$ 13,020

NOTE 21. Reconciliation of Net Cost of Operations to Budget

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

The reconciliation of net cost of operations to budget for the years ended September 30, 2013 and 2012 is as follows:

(Dollars in Thousands)	**2013**	**2012**
RESOURCES USED TO FINANCE ACTIVITIES		
Budgetary Resources Obligated:		
Obligations Incurred	$ 2,489,267	$ 2,374,755
Spending Authority from Offsetting Collections and Recoveries	(2,693,686)	(2,435,922)
Net Obligations	(204,419)	(61,167)
Other Resources		
Imputed Financing from Costs Absorbed by Others	44,818	19,479
Total Resources Used to Finance Activities	(159,601)	(41,688)
RESOURCES USED TO FINANCE ITEMS NOT PART OF THE NET COST OF OPERATIONS		
Change in Budgetary Resources Obligated for Goods, Services, and Benefits Ordered but not yet Provided	31,458	(22,146)
Resources that Fund Costs Recognized in Prior Periods	(189)	(1,836)
Budgetary Offsetting Collections that do not Affect Net Cost of Operations	(50,118)	(15,793)
Resources that Finance the Acquisition of Assets Capitalized on the Balance Sheet	(91,910)	(98,252)
Total Resources Used to Finance Items not Part of the Net Cost of Operations	(110,759)	(138,027)
COMPONENTS OF NET COST OF OPERATIONS THAT WILL NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD		
Components Requiring or Generating Resources in Future Periods:		
Costs that will be Funded by Resources in Future Periods	18,347	6,258
Net Decrease in Revenue Receivables not Generating Resources until Collected	-	70
Total Components of Net Cost of Operations that will Require or Generate Resources in Future Periods	18,347	6,328
Components not Requiring or Generating Resources:		
Depreciation, Amortization, or Loss on Asset Dispositions	71,882	67,900
Other Costs that will not Require Resources	586	(648)
Total Components of Net Cost of Operations that will not Require or Generate Resources	72,468	67,252
Total Components of Net Cost of Operations that will not Require or Generate Resources in the Current Period	90,815	73,580
Net Income from Operations	$ (179,545)	$ (106,135)

Independent Auditors' Report

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

December 12, 2013

MEMORANDUM FOR: Margaret A. Focarino
Commissioner for Patents

FROM: Todd J. Zinser

SUBJECT: FY 2013 Financial Statements
Final Report No. OIG-14-005-A

I am pleased to provide you with the attached audit report, which presents an unqualified opinion on USPTO's fiscal year 2013 financial statements. KPMG LLP, an independent public accounting firm, performed the audit in accordance with U.S. generally accepted government auditing standards and Office of Management and Budget Bulletin 14-02, *Audit Requirements for Federal Financial Statements*.

In its audit of USPTO, KPMG

- determined that the financial statements were fairly presented in all material respects and in conformity with U.S. generally accepted accounting principles;
- identified no instances of internal control over financial reporting that were considered to be a material weakness, as defined in the report; and
- identified no instances of reportable noncompliance with applicable laws, regulations, and contracts.

My office oversaw the audit performance. We reviewed KPMG's report and related documentation and made inquiries of its representatives. Our review disclosed no instances where KPMG did not comply, in all material respects, with generally accepted government auditing standards. However, our review, as differentiated from an audit in accordance with these standards, was not intended to enable us to express, and we do not express, any opinion on USPTO's financial statements, conclusions about the effectiveness of internal control, or conclusions on compliance with laws, regulations, and contracts. KPMG is solely responsible for the attached audit report, dated December 4, 2013, and the conclusions expressed in it.

If you wish to discuss the contents of this report, please call me at (202) 482-4661, or Ann C. Eilers, Principal Assistant Inspector General for Audit and Evaluation, at (202) 482-2754.

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

Attachment

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

Independent Auditors' Report

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

Report on the Financial Statements

We have audited the accompanying consolidated financial statements of the United States Patent and Trademark Office (USPTO), which comprise the consolidated balance sheets as of September 30, 2013 and 2012, and the related consolidated statements of net cost, and changes in net position, and combined statements of budgetary resources for the years then ended, and the related notes to the consolidated financial statements (hereinafter referred to as "consolidated financial statements").

Management's Responsibility for the Financial Statements

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

Auditors' Responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 14-02, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 14-02 require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

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

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

KPMG

United States Patent and Trademark Office
Independent Auditors' Report
December 4, 2013
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Opinion on the Financial Statements

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the United States Patent and Trademark Office as of September 30, 2013 and 2012, and its net costs, changes in net position, and budgetary resources for the years then ended in accordance with U.S. generally accepted accounting principles.

Other Matters

Required Supplementary Information

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

Supplementary and Other Information

Our audits were conducted for the purpose of forming an opinion on the basic consolidated financial statements as a whole. The consolidated statements of cash flows for the years ended September 30, 2013 and 2012, the Message from the Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO section, the Message from the Chief Financial Officer section, and the Other Information section are presented for purposes of additional analysis and are not a required part of the basic consolidated financial statements.

The consolidated statements of cash flows for the years ended September 30, 2012 and 2013 are the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic consolidated financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic consolidated financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic consolidated financial statements or to the basic consolidated financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the consolidated statements of cash flows for the years ended September 30, 2013 and 2012 are fairly stated in all material respects in relation to the basic consolidated financial statements as a whole.

The information in the Message from the Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO section, the Message from the Chief Financial Officer section, and the Other Information section have not been subjected to the auditing procedures applied in the audits of the basic consolidated financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

United States Patent and Trademark Office
Independent Auditors' Report
December 4, 2013
Page 3 of 3

Other Reporting Required by *Government Auditing Standards*

Internal Control Over Financial Reporting

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

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

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

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the USPTO's consolidated financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, and contracts, 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. 14-02. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests of compliance disclosed no instances of noncompliance or other matters that are required to be reported herein under *Government Auditing Standards* or OMB Bulletin No. 14-02.

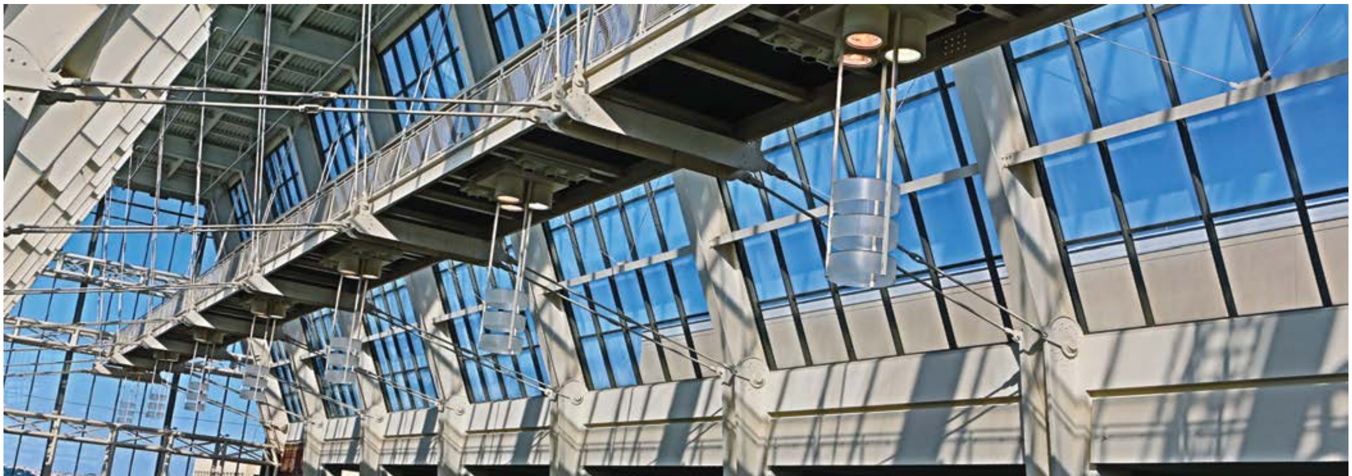
***Purpose of the Other Reporting Required by* Government Auditing Standards**

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

KPMG LLP

Washington, DC
December 4, 2013

Other Information

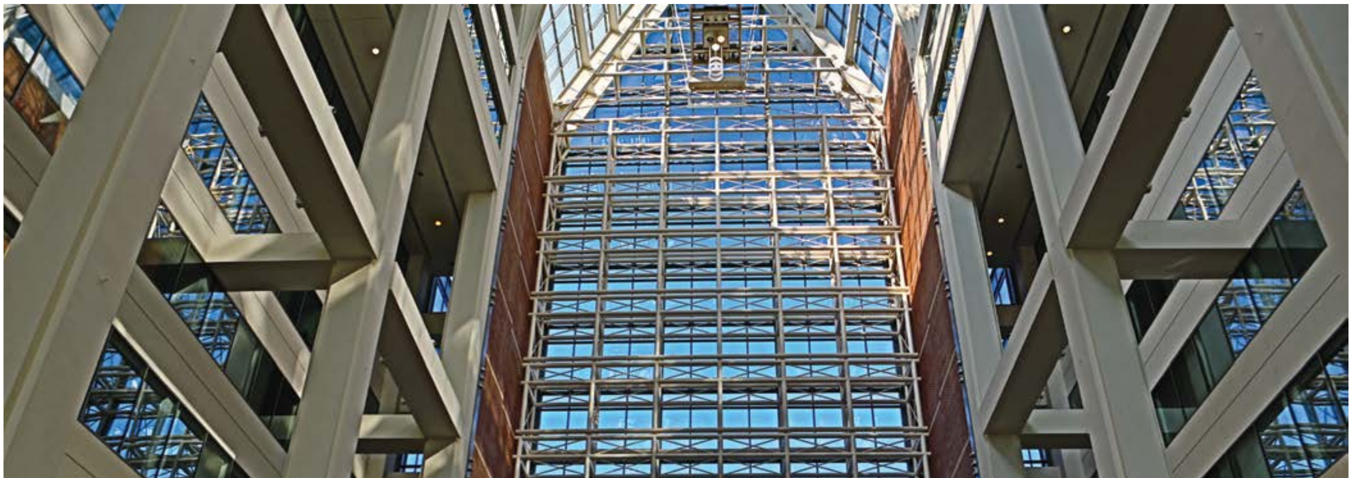


Schedule of Spending

The Schedule of Spending (SOS) provides an overview of how and where the USPTO is spending money. The Schedule of Spending presents amounts agreed to be spent for the current year, how the money was spent, and who received the money. The Schedule of spending is presented on a budgetary basis, the same as the Statement of Budgetary Resources. The *Total Amounts Agreed to be Spent* lines agree with *Obligations Incurred* during the current year, as presented on the Statement of Budgetary Resources.

For the years ended September 30, 2013 and 2012

(Dollars in Thousands)	**2013**	**2012**
What Money is Available to Spend?		
This section presents resources that were available to spend by the USPTO.		
Total Resources	$ 2,931,558	$ 2,612,627
Less Amount Not Agreed to be Spent	442,291	237,872
Total Amounts Agreed to be Spent	**$ 2,489,267**	**$ 2,374,755**
How was the Money Spent?		
This section presents services or items purchased; the items in this section align to OMB budget object class definitions found in OMB Circular No. A-11.		
Personnel Compensation and Benefits	$ 1,758,108	$ 1,607,864
Travel	3,019	5,224
Rent, Communication, and Utilities	121,947	124,685
Printing	114,382	100,055
Contractual Services	373,166	382,720
Supplies	37,913	37,119
Equipment	78,578	114,167
Land, Building, and Structures	225	1,370
Other	1,929	1,551
Total Amounts Agreed to be Spent	**$ 2,489,267**	**$ 2,374,755**
Who did the Money go to?		
This section presents with whom the USPTO is spending money.		
Federal Government	$ 193,312	$ 198,850
Non-Federal	2,295,955	2,175,905
Total Amounts Agreed to be Spent	**$ 2,489,267**	**$ 2,374,755**



Inspector General's Top Management Challenges Facing the USPTO

Each year, the Inspector General provides the management challenges for the Department of Commerce in accordance with the provisions of the Reports Consolidation Act of 2000 (Pub. L. No. 106-531). The IG's statement of management challenges can be found below.

The USPTO is responsible for resolving components of the first Department-wide management challenge – Strengthen Commerce Infrastructure to Support the Nation's Economic Growth. Reducing the patent application backlog, improving processing times, and effectively implementing patent reform will help to support the Department's overarching goals of advancing economic growth. Long waits for application decisions could negatively impact innovation, economic development, and job growth, inhibiting U.S. companies from exporting until they obtain the appropriate patents for their products.

The USPTO is also responsible for continuing to enhance cybersecurity and management of information technology investments in support of resolving the third Department-wide management challenge. The USPTO continues to implement improvements to ensure that an effective security program is in place that will enable us to securely maintain systems in support of USPTO operations.

Recent concerns over government-wide funding constraints have highlighted the importance of strong internal controls and the continued need for effective oversight. The USPTO has begun taking action toward implementing new initiatives to improve internal controls and management oversight of day-to-day operations, actions taken in line with the fifth Department-wide challenge to Continue to Foster a Culture of Management Accountability to Ensure Responsible Spending. In addition, the USPTO continues to review its internal controls with the goal of strengthening its acquisition and contract management practices.

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

November 25, 2013

INFORMATION MEMORANDUM FOR THE SECRETARY

FROM: Todd J. Zinser

SUBJECT: Top Management Challenges Facing the Department of Commerce in Fiscal Year 2014

Enclosed is our report on the Department of Commerce's top management challenges for fiscal year (FY) 2014. Departmental programs were substantially affected by continued fiscal tightening and sequestration. The five top management challenges we reported last year remain the most critical issues facing the Department; however, we have realigned our discussion:

- ***Strengthen Commerce Infrastructure to Support the Nation's Economic Growth.*** Several bureaus, which hold pivotal roles in providing the infrastructure for economic growth, face a variety of challenges. The International Trade Administration plays a leading role as one of 16 executive departments and federal agencies charged, along with the nation, with supporting the National Export Initiative's goal to double 2009 U.S. export levels by the end of 2014. The Bureau of Industry and Security (BIS) has the task of administering and enforcing controls of dual-use exports, which are expected to increase significantly as a result of the current Export Control Reform Initiative. Beginning in October 2013, new rules will transfer many items from the U.S. Munitions List to the Commerce Control List and BIS jurisdiction. The U.S. Patent and Trademark Office must implement remaining provisions of the 2011 America Invents Act—and faces several difficulties in reducing backlogs of applications, requests, and appeals. Due to limited remaining spectrum capacity, the National Telecommunications and Information Administration (NTIA) must open up more commercial wireless broadband spectrum and oversee development of a broadband network for public safety.

Note: The USPTO is required to include the entire Department of Commerce Office of the Inspector General's Top Management Challenges Report. The part of the Top Management Challenges Report directly discussing the USPTO can be found on (PAR) Pages 138 and 139 of this Performance and Accountability Report

- ***Strengthen Oversight of National Oceanic and Atmospheric Administration (NOAA) Programs to Mitigate Potential Satellite Coverage Gaps, Address Control Weaknesses in Accounting for Satellites, and Enhance Fisheries Management.*** Environmental satellites are essential to providing weather forecasting data used to track severe storms and predict climate. However, cost overruns and schedule slippage may delay the replacement of two of NOAA's most vital satellite systems—which, at more than 20 percent of the Department's 2014 budget request, are its largest investments. Separately, during FY 2012, an independent accounting firm noted several control weaknesses in NOAA's accounting for satellites, which must be addressed to ensure integrity, accountability, and transparency. In addition, NOAA must respond to challenges to its fisheries oversight. Commercial and recreational fishing have a value of more than $5 billion and support more than 1 million jobs. However, NOAA must balance the interests of the fishing community with conservation concerns.

- ***Continue Enhancing Cybersecurity and Management of Information Technology Investments.*** Our review of events surrounding the Economic Development Administration's (EDA's) cyber incident, which stemmed from a perceived December 2011 massive malware infection, found that critical incident response decisions were based on inaccurate information—and that deficiencies in the Department's incident response program impeded EDA's incident response. The Department has several enterprise cybersecurity initiatives underway to address mandates from the Office of Management and Budget (OMB). Timely implementation of these initiatives is crucial to the Department's cybersecurity program. While OMB increased the authority of federal CIOs to manage major IT investments,[1] the Department CIO's responsibility to oversee certain satellite IT investments has been diminished. Overall, cost growth and schedule delays of the Department's investment activity exceed the federal government average. More than one-fifth of the Department's high-risk IT investments are 30 percent or more behind schedule.

- ***Exercise Strong Project Management Controls Over 2020 Census Planning to Contain Costs.*** By mid-decade, the Census Bureau must analyze 2020 decennial design alternatives and make timely design decisions based on the results of its research and testing phase. After conducting

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[1] *See* OMB, December 9, 2010. *25 Point Implementation Plan to Reform Federal Information Technology Management*. Washington, DC: OMB, 28. *See also* OMB, August 8, 2011. *Chief Information Officer Authorities*, M-11-29. Washington, DC: OMB.

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several reviews of the Bureau's approach and progress toward the planning and development of the 2020 decennial design, we noted significant schedule slippage in key research and testing programs. If continued, missed deadlines might result in a design similar to last decade's design, which included a massive, costly end-of-decade field operation. In addition, the Bureau must resolve human capital issues related to maintaining a workforce with requisite skills and capabilities. Further, it must complete timely research for making evidence-based design decisions, as well as implement a stable, agile field-testing strategy.

- ***Continue to Foster a Culture of Management Accountability to Ensure Responsible Spending.*** As the government experiences an extended period of tightened budgets, it is imperative to foster a culture of management accountability. OIG operates a complaint hotline for employees and the public to submit information about alleged wrongdoing, misconduct, or mismanagement. OIG's determination to audit, investigate, or provide the complaint information to Departmental or bureau management for appropriate action helps to instill a culture of ethical conduct and ensure that spending is appropriate, complies with laws and regulations, and promotes investments with long-term benefits. The Department must continue to adequately address complaints of mismanagement of federal resources. In addition, the lack of centralized financial reporting capability impedes the Department's ability to oversee and manage Department-wide financial activities. While the Department has developed plans to replace legacy systems, significant financial reporting challenges remain. Other priorities include stricter oversight of the Department's annual acquisition of approximately $2.4 billion in goods and services and the need for appropriately qualified staff to oversee these acquisitions. Finally, an additional challenge is to strengthen bureaus' oversight of Departmental programs that award grants or cooperative agreements due to the potential for misuse of federal funds by award recipients and to maintain professionally certified grant managers.

We remain committed to keeping the Department's decision-makers informed of problems identified through our audits and investigations, so that timely corrective actions can be taken. A copy of this report and the Department's response to it (which appears as an appendix) will be included in the Department's *Performance and Accountability Report*, as required by law.[2]

[2] 31 U.S.C. § 3516(d).

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We appreciate the cooperation received from the Department, and we look forward to working with you and the Secretarial Officers in the coming months. If you have any questions concerning this report, please contact me at (202) 482-4661.

cc: Patrick D. Gallagher, Acting Deputy Secretary of Commerce
Justin Antonipillai, Acting General Counsel
Simon Szykman, Chief Information Officer
Ellen Herbst, Chief Financial Officer and Assistant Secretary for Administration
Bruce Andrews, Chief of Staff to the Secretary
Operating Unit Heads
Operating Unit Audit Liaisons

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U.S. DEPARTMENT OF COMMERCE OFFICE OF INSPECTOR GENERAL

Contents

Challenge 1:

Strengthen Commerce Infrastructure to Support the Nation's Economic Growth

As reflected in the President's FY 2014 proposed budget, the Department is a key player in the federal government's efforts to stimulate economic growth and job creation. Several bureaus, which hold pivotal roles in providing the infrastructure for economic growth, face a variety of challenges.

The International Trade Administration (ITA)—along with 15 other federal government departments and agencies, as well as the nation—is not on track to meet the National Export Initiative's goal of doubling U.S. export levels within 5 years, while the Bureau of Industry and Security (BIS) is planning for the increased licensing and enforcement workload resulting from the Export Control Reform Initiative. The U.S. Patent and Trademark Office (USPTO), in its mission to foster innovation through high-quality patent and trademark examination, must implement several remaining provisions of the 2011 America Invents Act and faces several difficulties in reducing backlogs associated with initial patent applications, requests for continued examination, and appeals. Due to the increase in spectrum demand and the limitations of available spectrum capacity, the National Telecommunications and Information Administration (NTIA) must increase spectrum access for commercial wireless broadband use—via sharing between federal and commercial users or sale of spectrum for commercial use—while protecting federal missions and overseeing development of a broadband network for public safety. In addition to these major initiatives, the Department's National Institute of Standards and Technology (NIST) will face the challenge of implementing the National Network for Manufacturing Innovation,[1] if Congress authorizes this program to innovate and expand advanced manufacturing technologies and processes to bring manufacturing jobs back to the United States.

We have identified two key areas for management attention:

- Promoting U.S. exports while protecting national security interests
- Enhancing economic growth through intellectual property and wireless initiatives

Promoting U.S. Exports While Protecting National Security Interests

Promotion and regulation of U.S. exports are two critical missions of the Department. For FY 2014, the Department has requested $632 million to support agencies that provide export promotion and regulation. ITA's U.S. and Foreign Commercial Service provides a broad range of services and counseling to U.S. exporters while other ITA business units—such as Market Access and Compliance, Import Administration, and Manufacturing and Services—enforce trade agreements and protect domestic industries such as manufacturing and textiles. BIS provides export licensing and enforcement programs to ensure that trade in dual-use exports[2] is

[1] This $1 billion Presidential proposal brings together industry, colleges and universities, and all levels of government to support small- and medium-sized enterprises and start-ups in advanced manufacturing, workforce development, and the transfer of promising new processes and technologies to the marketplace.

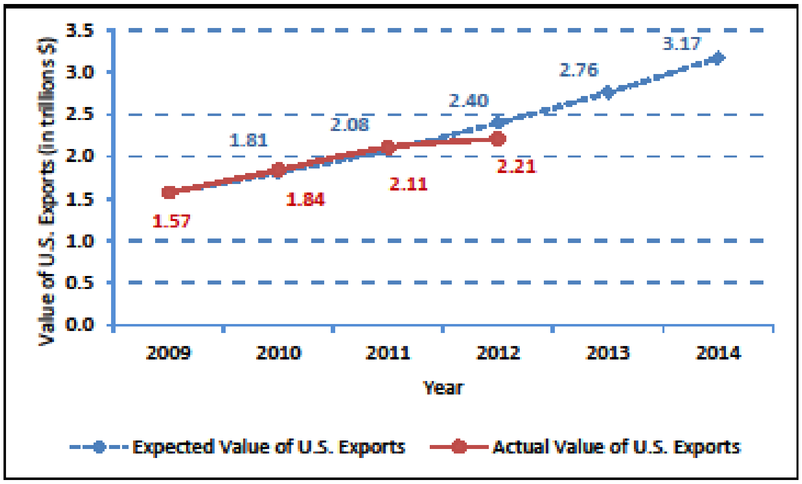
[2] *Dual-use* refers to exports that have both civilian and military applications.

consistent with national security interests. In FY 2014, ITA and BIS will undertake major activities that have potential long-term impact on the U.S. economy.

Implementing the National Export Initiative Under a New Organizational Structure

ITA plays a leading role as one of 16 executive departments and federal agencies that support the National Export Initiative (NEI), which was formalized by executive order in March 2010. The NEI aims to double 2009 U.S. export levels by the end of 2014—from $1.57 trillion to $3.14 trillion[3]—and, in turn, help grow the nation's $16.6 trillion economy.[4] In 2012, the value of U.S. exports grew to a high of $2.2 trillion, representing 13.9 percent of gross domestic product. In the second quarter of 2013, U.S. exports equaled $564 billion, a quarterly record (see figure 1). However, as shown in figure 1, actual export growth has recently fallen below the expected rate of export growth needed to double U.S. exports by the end of 2014. This will require ITA, along with other federal agencies, to intensify their efforts to promote U.S. exports to meet the NEI's goal.

Figure 1. Export Growth—Expected Versus Actual (in Current Dollars)



Source: OIG analysis of Census Bureau export data

To support many of its priorities,[5] the NEI called for enhanced collaboration among federal trade agencies and strategic partnerships with state, local, and other trade organizations. In our

[3] See Export Promotion Cabinet, September 2010. *Report to the President on the National Export Initiative: The Export Promotion Cabinet's Plan for Doubling Exports in Five Years.* Washington, DC: Trade Promotion Coordinating Committee, 1.

[4] DOC Bureau of Economic Analysis. *National Income and Product Accounts Tables: Table 1.1.5 Gross Domestic Product* [Online]. http://www.bea.gov/iTable/iTable.cfm?ReqID=9&step=1#reqid=9&step=1&isuri=1 (revised July 31, 2013). Dollar amounts in this section are in current dollars.

[5] The eight NEI priorities are (1) exports by small and medium-sized enterprises, (2) federal export assistance, (3) trade missions, (4) commercial advocacy, (5) increasing export credit, (6) macroeconomic rebalancing, (7) reducing barriers to trade, and (8) export promotion of services.

2012 review of the U.S. Export Assistance Centers we noted that, while protections of client data inhibited information sharing and guidance on collaboration was limited, fostering partnerships with other federal agencies such as the Small Business Administration and the Export–Import Bank can enhance service to exporters.[6] In FY 2014, ITA will be challenged to improve and build on the coordination and partnership efforts developed to date.

ITA's challenge is to sustain the momentum to increase exports to try to meet the goal of the NEI—and it must do so while, at the same time, managing an internal reorganization. Effective October 1, 2013, the Department consolidated ITA's four existing business units into three to eliminate overlapping functions and streamline operations. ITA states that the functional realignment will consolidate regional expertise, strengthen industry expertise and strategic partnerships, and consolidate trade agreement compliance and trade law enforcement.

Addressing Export Control Reform Changes Through Enhanced Licensing and Enforcement Activities

The task of administering and enforcing dual-use export controls falls on the Bureau of Industry and Security. In FY 2012, BIS processed more than 23,000 license applications for exports valued at more than $200 billion.[7] Future trade in controlled dual-use exports is expected to increase significantly as a result of the current Export Control Reform Initiative. Launched by the Administration in 2010, the initiative aims to streamline the country's export control system and facilitate U.S. export of high-tech goods while protecting U.S. national security interests. In the initiative's first phase, BIS worked with federal partners to reconcile and revise export control policies and regulations. Currently, the bureau is also collaborating with its federal partners to revise the lists of controlled dual-use items (Commerce Control List) and munitions (U.S. Munitions List), which will result in increased trade for less-sensitive munitions. These less-sensitive munitions will transfer from the U.S. Munitions List to the Commerce Control List and BIS jurisdiction, while the Department of State maintains jurisdiction over more sensitive munitions.

Beginning October 15, 2013, new rules will transfer the first of many items from the U.S. Munitions List to the Commerce Control List in a process expected to continue throughout FY 2014.[8] To address the increase of licensable items under its jurisdiction, BIS has requested additional resources in its FY 2014 budget for its licensing and enforcement units. To complete its mission, BIS' challenge is to coordinate with its federal partners, such as the Departments of Defense and State, to revise federal export control regulations to effectively implement export control reform. Such external collaboration can be difficult and time consuming. While BIS is planning and managing its new munitions licensing responsibilities, its current export regulations must continue to be administered and enforced. Finally, BIS will be challenged to enhance its existing outreach and enforcement activities delivered through exporter counseling.

[6] U.S. Department of Commerce Office of Inspector General, November 30, 2012. *U.S. Export Assistance Centers (USEACs) Could Improve Their Delivery of Client Services and Cost Recovery Efforts*, OIG-13-010-I. Washington, DC: DOC OIG.

[7] Fergusson, I.F., and Kerr, P.K. April 19, 2013. *The U.S. Export Control System and the President's Reform Initiative*, R41916. Washington, DC: Congressional Research Service, 3.

[8] Bureau of Industry and Security, April 16, 2013, Revisions to the Export Administration Regulations: Initial Implementation of Export Control Reform, *Federal Register* 78, no. 73: 22660.

teleconferences, and seminars to educate its stakeholders (primarily first-time dual-use exporters) about the detailed changes to the export regulations. Outreach and preventive enforcement will be critical to ensuring that all dual-use exporters understand and follow the revised regulations and avoid unintentional violations.

Enhancing Economic Growth Through Intellectual Property and Wireless Initiatives

Reducing Patent Application Backlogs and Improving Processing Times While Maintaining Quality

USPTO, as the authority for reviewing and adjudicating all patent and trademark applications, must continue to focus on the challenge of reducing the time applicants wait before their patent applications or appeals are reviewed. The agency has stated that the passage and implementation of the America Invents Act (AIA), enacted on September 16, 2011, would allow the agency to process applications faster, reduce the patent backlog, increase patent quality through expedited patent challenges, and improve examiner recruitment and retention.

The AIA included fundamental revisions to patent laws and USPTO practices, such as moving to a "first inventor to file" patent process to align the U.S. system with others worldwide, granting the agency authority to set and retain fees to ensure it has sufficient resources for its operations, and establishing satellite offices. As of August 20, 2013—in the nearly 2 years since the AIA's enactment—USPTO has successfully implemented on time 28 of the 35 provisions they were responsible for; 5 are not yet due, and 2 are overdue.

As USPTO completes its implementation of the remaining AIA provisions, the agency's recent efforts to address its application and appeal backlogs and related pendency issues have yielded mixed results. Both the backlog and pendency for patent applications decreased in FY 2013 (see figure 2a). Between October 2009 and September 2013, the patent backlog decreased from approximately 720,000 unexamined new applications to approximately 585,000. The patent appeals backlog—which we reported on in our 2012 audit[9]—has stabilized and, as of May 2013, stood at approximately 26,000, still more than twice the size of the backlog in October 2010. However, USPTO's backlog for requests for continued examination (RCE) has grown from 17,700 applications in October 2009 to approximately 78,000 in September 2013 (see figure 2b), an increase of more than 340 percent. As a consequence, during the same period, the average waiting time between filing an RCE and receiving an initial decision has grown from 2.2 to 7.8 months (see figure 2b).

[9] U.S. Department of Commerce Office of Inspector General, August 10, 2012. *USPTO's Other Backlog: Past Problems and Risks Ahead for the Board of Patent Appeals and Interferences*, OIG-12-032-A. Washington, DC: DOC OIG.

Figures 2a and 2b. Patent Backlog and Pendency Decreases (2a) and RCE Backlog and Pendency Increases (2b), FYs 2010–2013[a]

Figure 2a

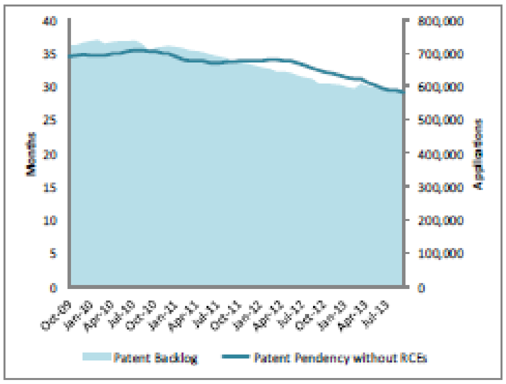
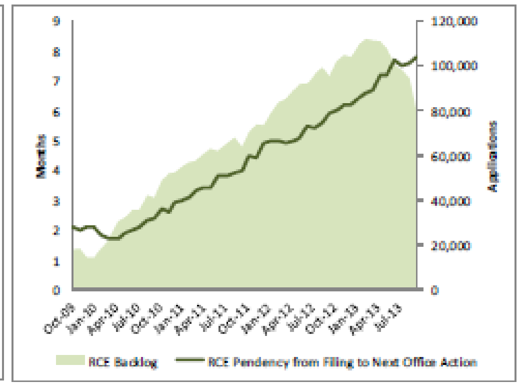


Figure 2b



Source: USPTO data
[a] Graphs present full FY data from October 2010 to September2013.

To address the substantial increases in the RCE backlog and average waiting time, one action USPTO initiated was a series of outreach efforts to identify why applicants file RCEs. In June 2013, OIG initiated an audit to evaluate the reason for the increase in the RCE backlog and review USPTO's efforts to address the issue.

As it works to reduce its patent backlog and pendency (see figure 2a), USPTO's challenge is to ensure that the quality of its patent examination process is not adversely affected and to avoid requiring applicants and the public to file unnecessary and costly challenges to examiners' decisions.

Increasing Spectrum Usage Efficiency

Radio frequency spectrum provides an array of wireless communications services critical to the U.S. economy and supports a variety of government functions.[10] Spectrum capacity is needed to deliver the wireless broadband that stimulates economic growth, spurs job creation, and boosts the nation's capabilities in education, healthcare, homeland security, and other areas.[11] In June 2010, the President requested that 500 megahertz (MHz) of federal or nonfederal spectrum be freed up for commercial wireless broadband. In response, NTIA announced in March 2012 that the federal government intends to repurpose 95 MHz of prime spectrum for commercial use.

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[10] U.S. Government Accountability Office, April 2011. *Spectrum Management: Preliminary Findings on Federal Reallocation Costs and Auction Revenues*, GAO-13-563T. Washington, DC: GAO, 1.

[11] President's Council of Advisors on Science and Technology, July 2012. *Realizing the Full Potential of Government-Held Spectrum to Spur Economic Growth*. Washington, DC: President's Council of Advisors on Science and Technology, 11.

However, the $18 billion that NTIA estimates it will cost to relocate existing federal users to other parts of the spectrum[12] could make this cost prohibitive.

Representing a continuation and expansion of the President's June 2010 directive, a July 2012 report by the President's Council of Advisors on Science and Technology recommended that up to 1,000 MHz of federal spectrum be made available for a "shared use spectrum superhighway" between federal agencies and commercial providers.[13] Recent technology advances will make such shared-use architecture feasible in the near future. NTIA collaborated with industry and government representatives, forming working groups of the Commerce Spectrum Management Advisory Committee. These working groups, along with the Federal Communications Commission and the White House, have made some progress toward finding ways to share spectrum with commercial users. However, many challenges—such as lack of incentive for commercial providers to bid for shared spectrum (that is, the cooperative use of common spectrum by accessing the same frequencies in different geographical areas or at different times), revenue generation, and rights-of-use issues—must be addressed to make this effort a possibility. Another challenge NTIA faces in its handling of federal spectrum involves the accuracy of data submitted by federal agencies on their requirements for and their usage of spectrum. NTIA's efforts to address its challenges through the implementation of the Federal Spectrum Management System, a new data management system that uses IT applications to make the spectrum more effective and efficient, has encountered schedule delays and cost increases.

Overseeing the First Responder Network Authority and the Implementation of the Public Safety Broadband Network

On February 22, 2012, the President signed the Middle Class Tax Relief and Job Creation Act. This reallocated the "D-Block" spectrum and authorized $7 billion in funding for the establishment of an interoperable nationwide Public Safety Broadband Network (PSBN). The law requires NTIA to establish an independent authority called First Responder Network Authority (FirstNet) to oversee the existing public-safety spectrum and the establishment and deployment of the PSBN. FirstNet, which held its first meeting in September 2012, has started to implement and establish an organizational structure, hire staff to handle its day-to-day operations, and establish controls (for example, to develop its rules and regulations). FirstNet faces several challenges in establishing the PSBN, including (1) fostering cooperation among various state and local public-safety agencies, (2) integration of seven Broadband Technology Opportunities Program (BTOP) grants funded by the American Recovery and Reinvestment Act of 2009 into the PSBN, and (3) the physical construction of a nationwide long-term evolution network.

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[12] Ibid, iv, vi.

[13] U.S. Government Accountability Office, *Spectrum Management*, 1.

Challenge 2:

Strengthen Oversight of National Oceanic and Atmospheric Administration (NOAA) Programs to Mitigate Potential Satellite Coverage Gaps, Address Control Weaknesses in Accounting for Satellites, and Enhance Fisheries Management

NOAA plays a critical role in protecting life and property, as well as supporting national economic vitality. To achieve these missions, NOAA must overcome the challenges associated with the acquisition, accounting, and operation of weather satellites and has to balance the competing interests concerning marine fisheries.

Environmental satellites are essential components in weather forecasting. They provide data used to track severe storms and predict climate. However, long-standing cost overruns and schedule delays—as well as the aging of the current constellation of satellites—are threatening adequate coverage of these critical functions. Cost increases and budget shortfalls may delay the development and launch of two of NOAA's most vital satellite systems, the Joint Polar Satellite System (JPSS) and the Geostationary Operational Environmental Satellite-R Series (GOES-R). These two programs are the Department's largest investments, accounting for more than 20 percent of its 2014 budget request. In response to last year's *Top Management Challenges*, NOAA improved its communication with stakeholders, as well as the efficacy of satellite program leadership and staffing, and developed a comprehensive polar satellite data gap mitigation plan. In addition, NOAA warned that the GOES-R program is at a stage in its development where launch delays cannot be avoided if its budget is reduced.

The satellites program also faces accounting challenges. During FY 2012, an independent accounting firm noted several control weaknesses at NOAA related to accounting for satellites. The transactions in question originate in a NOAA line office where personnel do not have sufficient financial accounting experience and training, and the bureau's Finance Office does not have sufficient oversight of the accounting for satellites. Further, satellite accounting involves significant contracts and arrangements with contractors and government agencies.

Finally, NOAA must respond to challenges to its fisheries oversight. Vital to our ocean economy, commercial and recreational fishing have a value of more than $155 billion and support more than 28 million jobs. But coastal development, pollution, overfishing, and destruction by invasive species are contributing to the decline in the health of our oceans and coastal ecosystems. NOAA must balance the interests of the fishing community with conservation concerns regarding long-term sustainability.

To strengthen oversight of NOAA programs, we have identified three areas for management attention:

- **Enhancing weather satellite development and mitigating potential coverage gaps**
- **Addressing material weakness over satellite accounting**
- **Enhancing fisheries management**

Enhancing Weather Satellite Development and Mitigating Potential Coverage Gaps

Managing risks in the acquisition and development of the next generation of environmental satellites is a continuing challenge for the Department. In February 2013, GAO added "Mitigating Gaps in Weather Satellite Data" to its high-risk list.[14] The two most prominent programs,[15] the Joint Polar Satellite System (JPSS) and the Geostationary Operational Environmental Satellite-R series (GOES-R), together account for one-third of NOAA's FY 2014 budget request. They are also the largest investments in the Department, accounting for more than 20 percent of the Department's $8.6 billion budget proposal.

JPSS evolved from a predecessor program fraught with cost overruns and schedule delays. NOAA's JPSS program uses the National Aeronautics and Space Administration (NASA) as its acquisition agent, leveraging that agency's procurement and systems engineering expertise—an arrangement based on previous partnerships between the two agencies. In its FY 2014 budget submission, NOAA requested $824 million and reported that the JPSS program, running through 2025, would cost $11.3 billion. The first JPSS-developed satellite (JPSS-1) is scheduled for launch no later than the second quarter of FY 2017. GOES-R, with scope and importance comparable to JPSS, is experiencing development and budgetary challenges that could delay the launch of its first satellite from the first to the second quarter of FY 2016. NOAA requested $955 million for FY 2014 for the GOES-R series of satellites that will provide uninterrupted short-range severe weather warning and "now-casting" capabilities through 2036. With four satellites (the GOES-R, -S, -T, and -U), the program is estimated to cost $10.9 billion over the course of its life cycle.

The satellites will provide data and imagery for weather forecasting—including severe-storm tracking and alerting—and the study of climate change. NOAA's environmental satellite operations and weather forecasting are designated as primary, mission-essential functions of the Department because they help lead and sustain the nation during severe weather events. However, because of cost overruns, schedule delays, and the aging of NOAA's current constellation of satellites, NOAA has had to take steps to mitigate potential coverage gaps for these critical assets.

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[14] U.S. General Accountability Office, February 2013. *High-Risk Series: An Update*, GAO-13-283. Washington, DC: GAO, 155-160.

[15] Other satellite acquisitions include Jason-3, which will measure sea surface height, and Deep Space Climate Observatory, which will provide advance warnings of solar storms affecting Earth.

Reducing Program Risks Associated with JPSS-1 Development

Strong program management and close oversight of these programs are needed to reduce risks associated with their development. For JPSS, this requires that the program successfully execute to cost, schedule, and performance baselines established August 1, 2013. The program must also ensure that its flight and ground segments' schedules are fully integrated. JPSS must also effectively coordinate with the newly established NOAA Polar Free Flyer program, the planned NASA climate instrument project,[16] and NOAA's data distribution and archive systems.

NOAA needs to mitigate any degradation to weather forecasting capabilities during polar-orbit data coverage gaps through efficient use of supplemental funding it received as part of the Disaster Relief Appropriations Act, 2013. The bureau has developed a mitigation plan for polar satellite coverage gaps, but obtaining support from other reliable sources—one of its options—could be time-consuming. [17] NOAA should ensure that the mitigation plan is executed before the November 2016 design-life end of Suomi National Polar-orbiting Partnership (NPP), a risk-reduction satellite launched in October 2011 that is flying the first versions of JPSS sensors.

Over the course of the JPSS program, we have analyzed Suomi NPP and JPSS schedules to assess potential gaps in weather forecast data. Consistent with our September 2012 JPSS audit report,[18] we continue to project a 10–16-month gap between Suomi NPP's end of design life and when JPSS-1 satellite data become available for operational use (see figure 3). NOAA's medium-range weather forecasting (3–7 days) could be significantly degraded during the period of time JPSS data are unavailable.

[16] With the FY 2014 President's Budget, NOAA removed five instruments from the JPSS budget and created a separate program, Polar Free Flyer, to develop and launch three of the instruments. It transferred to National Aeronautics and Space Administration (NASA) responsibility for two climate instruments. The JPSS ground system will still support the Polar Free Flyer satellite, and the two NASA climate instruments will be accommodated on the JPSS-2 satellite if their development schedules align with the satellite's development.

[17] For example, using new or different data from the European Organization for the Exploitation of Meteorological Satellites or Japan Aerospace Exploration Agency requires establishing agreements, implementing communication links, updating data processing systems, and assimilating the data.

[18] U.S. Department of Commerce Office of Inspector General, September 27, 2012. *Audit of the Joint Polar Satellite System: Continuing Progress in Establishing Capabilities, Schedules, and Costs Is Needed*, OIG-12-038-A. Washington, DC: Department of Commerce OIG.

Figure 3. Potential Continuity Gaps for Polar-Satellite Operational Forecast Data

Satellite Launch Date (Note: Actual launch date shown for Suomi NPP and estimated launch date for JPSS-1)

Satellite Checkout Period - Planned time before all operational data available (6-18 month window depending on satellite)

Satellite Operational Period - Expected period to receive operational data from satellite based on design life (Note: Some data are available during the satellite checkout period.)

Potential Continuity Gap - Potential gap between Suomi NPP and JPSS-1 is a minimum of 10 months based on 4 months between end of Suomi NPP operations and JPSS-1 launch plus a 6-month checkout period

Maximum Continuity Gap - The gap between Suomi NPP and JPSS-1 would be 16 months if post-launch checkout extends to 12 months. Actual gap, if any, depends on actual life of satellites, how well instruments are operating, and other factors (such as checkout)

Source: OIG analysis of NOAA data

Reducing Program Risks Associated with GOES-R Development

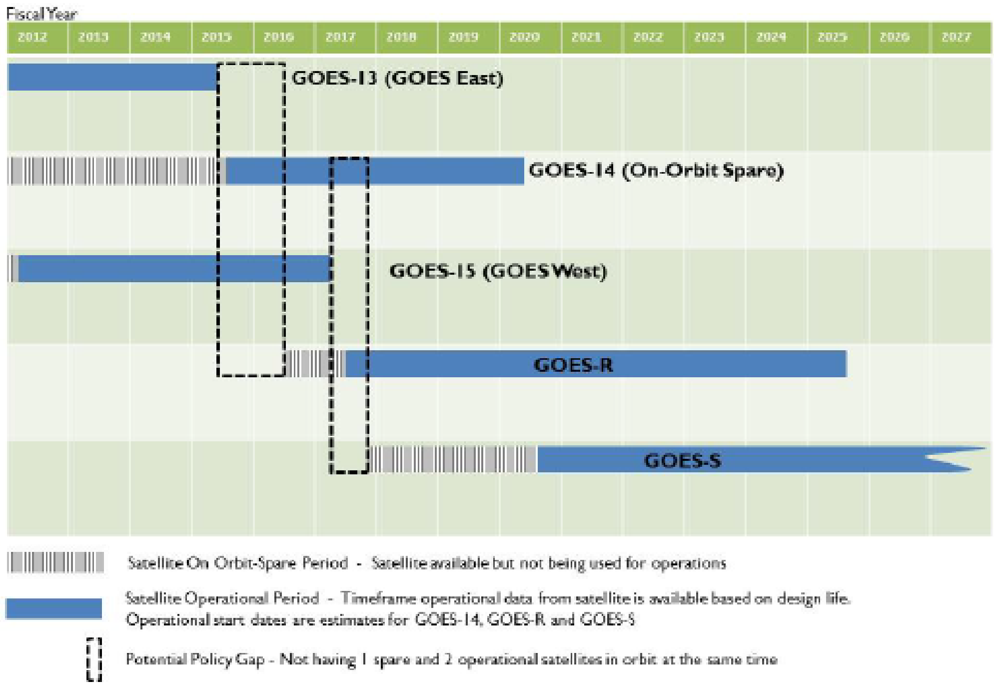
The GOES-R program must continue to manage its development to meet requirements within its long-standing baselines. The program also needs to ensure sufficient ground system, instrument, and spacecraft development maturity to enter and successfully complete the integration and test phase. In addition, the program must effectively manage activities between flight and ground projects in a compressed development schedule and constrained budget environment.

In our 2013 GOES-R audit report,[19] we found that schedule slips and a potential reduction in testing activities have raised concerns about the satellite's readiness to launch. Funding stability is the program's top risk; an appropriation amount below the FY 2014 requested level may delay launch. Scope reductions are diminishing the satellite's operational capabilities. For these reasons, NOAA needs to implement a comprehensive plan to mitigate the risk of potential launch delays and communicate to users (e.g., in the National Weather Service and Department of Defense) and other stakeholders (e.g., the Administration, Congress) the changes that may be necessary to maintain GOES-R's launch readiness date.

[19] U.S. Department of Commerce Office of Inspector General, April 25, 2013. *Audit of Geostationary Operational Environmental Satellite-R Series: Comprehensive Mitigation Approaches, Strong Systems Engineering, and Cost Controls Are Needed to Reduce Risks of Coverage Gaps*, OIG-13-024-A. Washington, DC: Department of Commerce OIG.

NOAA's policy for its geostationary satellites is to have three satellites in orbit—two operational satellites with overlapping coverage and one spare for backup. Currently, GOES-13, GOES-14, and GOES-15 are in orbit (see figure 4). However, GOES-13 is due to be retired in FY 2015, at which time GOES-14 is projected to become operational. GOES-15 is due to be retired in FY 2017. GOES-R is scheduled to be launched in October 2015, but there is a risk of launch delay. NOAA may not be able to meet its policy of having an on-orbit spare, even without a GOES-R launch delay, based on current GOES satellites' projected retirement dates. Furthermore, a launch delay for GOES-R beyond October 2015 increases the risk that only one geostationary imager will be in orbit—which would severely limit NOAA's capability to visualize and track severe weather events.

Figure 4. Potential Policy Gaps for Geostationary Operational Satellites



Source: OIG analysis of NOAA data

Addressing Material Weakness over Satellite Accounting

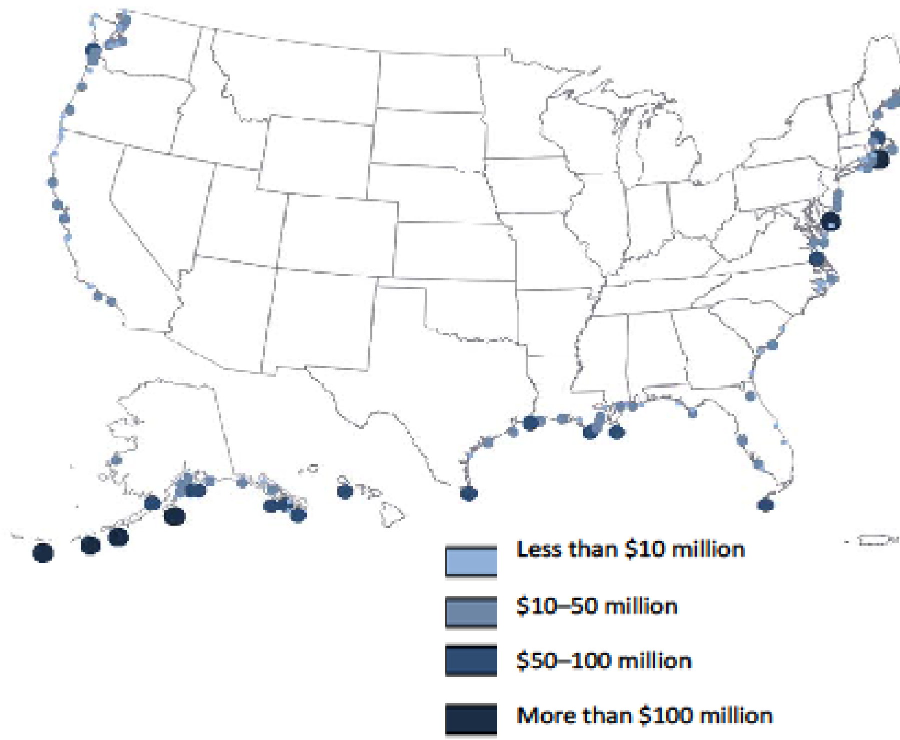
During FY 2012, the accounting firm KPMG noted several material control weaknesses at NOAA related to accounting for satellites. NOAA has a large investment in satellites and, as of the end of FY 2012, satellite construction work-in-progress amounted to $6.1 billion, with completed satellites and ground systems costing another $0.6 billion, totaling approximately more than one-fifth of the Department's assets. In addition, NOAA's accounting for satellites is highly complex. Such transactions originate in a NOAA line office where personnel do not have sufficient financial accounting experience and training, and NOAA's Finance Office does not have sufficient oversight of the accounting for satellites. Further, satellite accounting involves significant contracts and arrangements with contractors and other government agencies.

These challenges have resulted in material deficiencies in NOAA's satellite accounting during FY 2012. Specifically, KPMG identified the incorrect classification of a satellite ground system, unrecorded transfer of a satellite from another federal agency, and corrections to the satellite impairment amount. These errors resulted in approximately $900 million in adjustments to correct the amount of satellites included in NOAA's accounting records. In addition, KPMG identified uncapitalizable costs included in construction work-in-progress, as well as a lack of documentation evidencing review and approval of intragovernmental payments related to satellites. Although NOAA has developed a corrective action plan to address these conditions during FY 2013, we believe that these deficiencies highlight more than accounting challenges. The operation and management of NOAA's satellite program needs strengthening to ensure integrity, accountability, and transparency. Public and Congressional confidence in the Department depends on these basic principles of stewardship. Therefore, program and finance officials must work together to ensure that satellite investments are accurately identified, recorded, and reported—a basic principle of asset management. We also identified additional challenges related to NOAA's accounting and budgetary controls of funds in challenge 5 (see *Continue to Foster a Culture of Management Accountability to Ensure Responsible Spending*).

Enhancing Fisheries Management

In 2011, there were 51 million jobs in U.S. coastal shoreline counties. Of those, the commercial fishing industry accounted for approximately 1 million jobs and the recreational fishing industry accounted for 327,000 jobs. U.S. fishermen at ports in the 50 states brought in 9.9 billion pounds of fish valued at $5.3 billion in 2011—an increase of 1.63 billion pounds (up 19.7 percent) and $769 million (up 17 percent) compared to 2010. Fishing is an important industry in our nation's economy as a whole and in the many coastal communities and port towns, as shown in figure 5.

Figure 5. Dollar Value of Fish Landings at U.S. Ports



Source: NOAA Office of Science and Technology, National Marine Fisheries Service

However, NOAA must also consider the health of our oceans and coastal ecosystems, which are impacted by coastal development, pollution, overfishing, and the destructive impact of invasive species. In U.S. waters, there are 74 listed endangered species and 62 marine mammals under the Marine Mammal Protection Act. There are 219 species under review or of concern to the National Marine Fisheries Service's (NMFS's) Office of Protected Resources.

For several years, we have reported on NOAA's challenges in balancing two competing interests: promoting commercial and recreational fishing as vital elements of our national economy and preserving populations of fish and other marine life. In recent years, members of the fishing industry and elected officials from the New England region have repeatedly questioned certain fishery regulations and whether NOAA has abandoned a core mission to develop the commercial fishing industry and increase industry participation.

In January 2013, we reported on NOAA's controls and processes surrounding fisheries rulemaking as the first phase of our assessment of transparency and the role of fishery management councils (FMCs[20]) in rulemaking. An effective regulatory environment requires a fair and transparent rulemaking process. We learned that FMC members' financial disclosures do little to increase transparency of the process—and NOAA performs minimal reviews of the information on the financial disclosure forms. NMFS has not implemented many of the regulatory changes designed to streamline its rulemaking, and rules packages and administrative records are inconsistently maintained among its regional offices. In response to last year's challenge pertaining to fisheries management, NOAA reported that it continues to make progress in streamlining the rulemaking process and improving the transparency and consistency of fisheries management by addressing the relevant OIG recommendations.

We also issued the results of our survey of fishery management council members and staff—who, in general, supplied positive responses to the survey. Most survey participants were satisfied with their interactions with NMFS, as well as with the fishing industry and nongovernment organizations. Suggestions to improve collaboration between NMFS and FMCs mainly involved occurrence and methods of communication, participation from NOAA's Office of the General Counsel, and outreach and transparency to stakeholders.

We are currently reviewing several of NOAA's catch share programs to determine whether there are (1) adequate controls in place to prevent excessive ownership of limited shares and (2) adequate tools and processes in place to collect information needed to make decisions and to ensure adequate competition.

Considering the importance of fisheries to the U.S. economy, it is critical that NOAA and the FMCs balance the interests of the fishing community with conservation concerns. Regardless of long-term sustainability and conservation concerns, many stakeholders claim that measures such as limiting catch in fisheries and enforcing limited access privilege programs have had a negative impact on some local fishing communities. NOAA's challenge is to effectively balance those interests—and effectively communicate to stakeholders how the agency's efforts serve the long-term economic interests of the fishing industry.

[20] FMCs allow for regional, participatory governance by knowledgeable stakeholders. NMFS partners with FMCs—along with state agencies and other federal bureaus—to develop fishery management strategies and rules for the commercial and recreational fishing industries. There are currently 46 fishery management plans, developed by the eight regional FMCs or the Office of the Secretary under certain circumstances, to manage fishery resources.

Challenge 3:

Continue Enhancing Cybersecurity and Management of Information Technology Investments

Pervasive and sustained cyber attacks against the United States could have a devastating effect on federal and nonfederal systems, disrupt the operations of governments and businesses, and impact the lives of the American people. The President's FY 2014 budget requires that agencies eliminate duplicative or low-value IT investments while expanding efforts to counter current and evolving cyber threats. The administration has identified cybersecurity as among the most serious economic and national security challenges we face. To bolster the national cybersecurity program, federal agencies have been asked to implement cross-agency cybersecurity priorities—including strong authentication, Trusted Internet Connections (TIC), and continuous monitoring. In addition, the President has directed the National Institute of Standards and Technology (NIST) to develop a voluntary framework for reducing cyber risks to our nation's critical infrastructure.

We reported our concerns about the Department's fragmented IT governance in previous years. In response to OMB direction, the Acting Secretary issued a June 2012 memorandum that described a strategy to strengthen the Department's Chief Information Officer's (CIO's) ability to oversee the bureaus' annual $2.5 billion IT investments.[21] The CIO has leveraged this increased authority to lead the effort to consolidate commodity IT Department-wide—and continues to strengthen IT oversight through the Commerce IT Review Board. However, the CIO's responsibility to oversee satellite IT investments has been diminished, and IT investments still need to close the gap between planned and actual schedule and cost performance.

To help the Department counter current and evolving cybersecurity threats, as well as maximize the consolidation and oversight of its IT investments, we have identified five areas for management attention:

- Establishing a robust capability to respond to cyber incidents
- Continuing sustainable implementation of enterprise cybersecurity initiatives
- Preserving the CIO's oversight responsibility of satellite-related IT investments
- Continuing vigilant oversight of IT investments
- Maintaining momentum in consolidating commodity IT[22] to cut costs

[21] U.S. Department of Commerce, Office of Secretary, June 21, 2012. *Department IT Portfolio Management Strategy*. Washington, DC: DOC OS.

[22] According to OMB, *commodity IT* includes "IT infrastructure (data centers, networks, desktop computers and mobile devices); enterprise IT systems (e-mail, collaboration tools, identity and access management, security, and web infrastructure); and business systems (finance, human resources, and other administrative functions)." *See* Office of Management and Budget, August 8, 2011. *Chief Information Officer Authorities*, Memorandum M-11-29. Washington, DC: OMB, 2.

Establishing a Robust Capability to Respond to Cyber Incidents

In our FY 2013 *Top Management Challenges* report,[23] we noted that, in January 2012, as a result of a perceived massive malware infection, the Economic Development Administration (EDA) disconnected its systems from the Internet, significantly affecting its ability to maintain normal business operations. Since issuing that report, we completed our review[24] of the events surrounding EDA's cyber incident and found that critical incident response decisions were based on inaccurate information—and that deficiencies in the Department's incident response program impeded EDA's incident response. Because of a series of missteps in responding to this incident, a common malware infection originally found on two EDA computers was portrayed as a widespread cyber attack on EDA's IT infrastructure. This resulted in a prolonged disruption of normal business operations and the unnecessary expense of more than $2.7 million for recovery activities.

Our review also highlighted challenges for the Department when responding to a cyber incident. We made recommendations to improve the Department's Computer Incident Response Team (DOC CIRT), which provides response services to the seven bureaus located in the Department's headquarters at the Herbert C. Hoover Building (HCHB). To begin addressing deficiencies in DOC CIRT incident response capabilities, the Department's CIO conducted an internal review of DOC CIRT's practices and processes. The review identified areas for improvement and focused on strengthening DOC CIRT's organizational structure; its roles and responsibilities; and operating unit procedures for incident identification, analysis, response, and reporting. The Department's CIO has also taken steps to ensure that DOC CIRT staff members receive appropriate training, update DOC CIRT's incident response procedures, develop agreements with external agencies to gain incident response expertise, and hire experienced incident response staff.

The President has identified the cybersecurity threat as one of the most serious national security, public safety, and economic challenges we face. To deal successfully with the cyber threat, the Department needs to establish a robust incident response capability at DOC CIRT. Furthermore—because DOC CIRT primarily provides incident response services to bureaus located at HCHB—ensuring productive collaboration among all bureaus is critical for the Department to effectively respond to a cyber event. This includes bureaus that have their own CIRT capabilities, such as the Census Bureau, the International Trade Administration (ITA), NIST, the National Oceanic and Atmospheric Administration (NOAA), and the U.S. Patent and Trademark Office (USPTO). OIG is currently conducting an audit of the incident detection and response capabilities of several bureaus within the Department. Our audit should complement work already done by the Department and help to further improve its incident response program.

[23] DOC Office of Inspector General, November 9, 2012. *Top Management Challenges Facing the Department of Commerce*, OIG-13-003. Washington, DC: OIG, 15.

[24] DOC OIG, June 26, 2013. *Malware Infections on EDA's Systems Were Overstated and the Disruption of IT Operations Was Unwarranted*, OIG-13-027-A. Washington, DC: DOC OIG.

Continuing Sustainable Implementation of Enterprise Cybersecurity Initiatives

The Department has three enterprise cybersecurity initiatives underway to address mandates from the Office of Management and Budget (OMB). The Enterprise Cybersecurity Monitoring and Operations (ECMO) and Enterprise Security Oversight Center (ESOC) initiatives support OMB's mandate[25] to continuously monitor security-related information from across the enterprise. The TIC initiative supports the mandate[26] that federal agencies optimize and standardize their individual external network connections, including connections to the Internet. Collectively, these undertakings should significantly improve the Department's cybersecurity posture. Table 1, below, provides the goal, implementation status, and issues for each:

[25] Executive Office of the President Office of Management and Budget, April 21, 2010. *FY 2010 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management*, Memorandum M-10-15. Washington, DC: OMB, 1.

[26] OMB, November 20, 2007. *Implementation of Trusted Internet Connections (TIC)*, Memorandum M-08-05. Washington, DC: OMB, page 1. Also, see OMB, September 17, 2009. *Update on the Trusted Internet Connections Initiative*, Memorandum M-09-32. Washington, DC: OMB, 1.

Table 1. Department's Enterprise Cybersecurity Initiatives

Enterprise Initiatives	Initiative Goal	Implementation Status	Issues
ECMO	Provide nearly real-time security status, support for patch management, and remediation of software configuration issues for Department-wide system components	• Initial capability has been implemented on more than 8,500 system components across HCHB operating units. • Upon full deployment in September 2014, ECMO will support more than 100,000 system components throughout the Department.	Delays in obtaining funding and participation commitments from USPTO and the Census Bureau in FY 2013 may result in missing the September 2014 deadline.
ESOC	Provide Department-wide security situational awareness to senior Departmental and operating unit managers	Currently in the planning stage, the Department is: • Doing a detailed assessment of incident handling capabilities in HCHB and NOAA, and a high-level assessment across the Department. • Conducting a technical capabilities study.	The initiative faces challenges acquiring project resources.
TIC	Consolidate Department external network connections and provide better monitoring of cyber threats from the Internet	• All bureaus—except the Bureau of Industry and Security (BIS), the Census Bureau, and NOAA—have acquired a TIC service. • BIS will acquire TIC services by March 2014. • The Census Bureau has not implemented TIC because of concerns about third-party access to sensitive Title 13[27] data. • NOAA has made progress becoming its own TIC access provider and will do so by March 2015.	BIS is working with its selected service provider to resolve technical issues. Census is working with the Department of Homeland Security to develop a memorandum of understanding that would ensure that the confidentiality of Title 13 data is protected.

Source: Department of Commerce

Timely implementation of these initiatives is crucial to the Department's cybersecurity program, particularly in light of the ever-increasing cyber threats facing government systems. The ECMO and ESOC initiatives are critical to maintaining cybersecurity best practices to protect network components, implementing continuous monitoring, and providing timely cyber situational awareness across the Department. Thus, the Department needs to ensure that current efforts

[27] Title 13 guarantees the confidentiality of information obtained by the Census Bureau and establishes penalties for disclosing this information.

for these initiatives move forward as planned and that operating units cooperate and participate to the fullest extent.

Since last year, NOAA has made progress toward becoming its own TIC provider by implementing about 72 percent of the required TIC capabilities. However, the Census Bureau and BIS have yet to acquire TIC services. The TIC initiative should significantly reduce the risks associated with external network and Internet connections. Accordingly, the Department needs to encourage NOAA to complete its TIC implementation quickly and should make every effort to enable the Census Bureau and BIS to expeditiously resolve their TIC issues.

Preserving the CIO's Oversight Responsibility of Satellite-Related IT Investments

Under the OMB IT reform plan[28] and subsequent OMB guidance,[29] agencies have been directed to expand federal CIO responsibility from a traditional role of policymaking and infrastructure maintenance to managing the agency's *entire* major IT investment portfolio. The Department of Commerce CIO oversees major IT investment in three ways: (1) reviewing the capital asset plan (Exhibit 300) for the initiation or re-planning of each investment; (2) comparing the investment's status against the asset plan monthly and submitting the assessment to the OMB IT Dashboard for public exposure; and (3) holding Commerce IT Review Board sessions periodically for an in-depth look at the investment and gauging when an investment is in trouble because it has significantly deviated from its plan.

However, the CIO oversaw about a quarter fewer IT investments in FY 2013 than in FY 2012. In particular, in an effort to streamline oversight, the Department has waived the requirement to follow CIO oversight practices for six satellite-related investments totaling $642 million in FY 2013 spending.[30] Two of these investments, the development of the Geostationary Operational Environmental Satellite–R Series and Joint Polar Satellite System ground systems, are part of the acquisition of two new satellite series that undergo substantial oversight as part of the satellite acquisition process, including comprehensive milestone reviews by independent satellite experts. The other four satellite-related investments— the maintenance and enhancement of two satellite ground systems and two satellite data processing and distribution systems—do not receive such extensive oversight. Although the Department has established quarterly reviews for executives to discuss high-level investment issues, the reviews do not replace the CIO's in-depth tracking and evaluation of these satellite investments.[31] The four satellite-related maintenance and enhancement investments are similar to other major IT investments overseen

[28] OMB, December 9, 2010. *25 Point Implementation Plan to Reform Federal Information Technology Management.* Washington, DC: OMB, 28.

[29] OMB, August 8, 2011. *Chief Information Officer Authorities*, M-11-29. Washington, DC: OMB.

[30] The satellite-related IT investments include (1) two satellite ground system development projects (Geostationary Operational Environmental Satellite–R series and Joint Polar Satellite System), (2) two ground system maintenance projects (Geostationary Operational Environmental Satellite and Polar Operational Environmental Satellite), and (3) maintenance of two systems that process and distribute satellite data products (NPOESS Data Exploitation Ground System and Environmental Satellite processing center).

[31] The Department has also established a Milestone Review Board for high-profile programs; however, it will only review the two new satellite series acquisitions, not the four satellite-related maintenance and enhancement investments.

by the CIO. The Department should reinstate the CIO oversight process for these four investments.

Continuing Vigilant Oversight of IT Investments

We reported in our FY 2013 *Top Management Challenges* that the IT Review Board has improved its reviews of IT investments, leading to a greater likelihood that investments will progress more satisfactorily.[32] The number of IT investments assessed as high-risk has substantially decreased, falling from six last year to only one investment this year: the National Weather Service (NWS) Telecommunication Gateway. Table 2 presents the current risk evaluation of investments that were at high risk in FY 2012:

Table 2: Disposition of the Department's FY 2012 High-Risk Investments

Investment	Current Risk Disposition
Census Bureau American Community Survey	Medium risk
Census Bureau 2010 Decennial system design, integration, and evaluation	Completed
Census Bureau IT infrastructure	Low risk
NOAA National Weather Service Telecommunication Gateway	High risk
NOAA Joint Polar Satellite System Ground System	Risk not evaluated by CIO due to oversight streamlining
NOAA Weather Radio Improvement Project	Risk not evaluated by CIO due to restructuring and the merging of this project with other investments

Source: OIG, *Top Management Challenges Facing the Department of Commerce*, October 24, 2011, and OMB IT Dashboard, August 2013

We remain concerned, as we reported last year, about IT investments with a history of being high-risk. For example, in December 2010, the Department's CIO assessed the NWS Telecommunication Gateway and designated it a high-risk project. In that same year, OMB designated the Bureau of Industry and Security's Commerce USXPORTS Exporter Support System as a high-risk Departmental project. Although both investments have made some progress since 2010, the Telecommunication Gateway is still assessed as a high-risk investment and USXPORTS recently ran into significant development roadblocks and was again evaluated high-risk for a short period in FY 2013 (see table 3). Both investments now require re-planning to move forward.

[32] DOC OIG, November 9, 2012. *Top Management Challenges Facing the Department of Commerce*, OIG-13-003. Washington, DC: OIG, 18.

Table 3: Department FY 2013 Investments with a High-Risk History

Investments	FY 2013 Spend Plan ($ Millions)	FY 2014 to Completion ($ Millions)	Total Life-Cycle Costs ($ Millions)
NOAA NWS Telecommunication Gateway	21	165	403
BIS Commerce USXPORTS Exporter Support System	6	5	17

Source: Exhibit 300s for FY 2013

The number of investment work activities that are behind schedule is somewhat reduced but more than one-fifth of them are still 30 percent or more behind schedule (see table 4). Overall, cost growth and schedule delays of the Department's investment activities exceed the federal government average.

Table 4: Investment Activity Cost and Schedule Variance

	Department of Commerce	Federal Government
Percentage of activities with cost growth greater than 30 percent	19	12
Percentage of activities with schedule delays greater than 30 percent	22	15

Source: OMB IT Dashboard (August 2013)

The challenge for Departmental IT investment oversight (CIO, IT Review board, and Milestone Review board) is to identify the fundamental reasons that high-risk projects continue not to make adequate progress; implement necessary changes to their acquisition approach, management structure, and development plans; and, if necessary, bring in outside expertise to identify weaknesses and recommend mitigation actions.

Maintaining Momentum in Consolidating Commodity IT to Cut Costs

The Department CIO is leading the effort to reduce commodity IT costs per full-time equivalent by about 25 percent annually[33] to be more in line with costs at comparable agencies. Departmental and bureau CIOs are employing three basic approaches to break down costly and inefficient IT:

1. *Consolidating infrastructure*, including data centers and services (e.g., the Census Bureau is operating centralized Bureau-wide collaboration and content management services)

2. *Sharing procurement vehicles* to leverage economies of scale (e.g., the use of Department-wide Microsoft Office and McAfee SafeBoot contracts)

[33] In FY 2011, the Department spent $8,884 per full-time equivalent, about $2,300 more than comparable agencies.

3. *Hosting services* for other Department bureaus (e.g., the Office of Secretary and NOAA are hosting all IT services for the Economic Development Administration)

Department and bureau heads must ensure that their respective CIOs continue to have full cooperation in overcoming bureaucratic impediments to consolidating and sharing IT commodity resources.

Challenge 4:

Exercise Strong Project Management Controls over 2020 Census Planning to Contain Costs

The decennial census is a highly visible, decade-long program that requires extensive planning and testing. The 2020 Census process has already started building on 2010 Census lessons learned about late-stage design changes and higher-than-expected contractor expenses. Both contributed to pushing the final cost of the 2010 Census to more than $12 billion—nearly twice that of the 2000 Census (in nominal dollars). The Census Bureau has promised bold design changes for the 2020 Census, seeking to reduce per household costs (on an inflation-adjusted basis) to an amount lower than the 2010 Census. To reach this goal, the Bureau must complete research and testing early enough in the decade to plan and build the necessary infrastructure for the projected workload and workforce. The Bureau will be making key 2020 Census design decisions during FYs 2015–16 that drive the program's methodology, quality, and cost for producing congressional apportionment data by December 31, 2020, and redistricting data by March 31, 2021.[34]

As a result of our 2010 Census oversight, we noted challenges the Census Bureau faces to innovate its 2020 Census design.[35] Overcoming these challenges calls for fundamental improvements in decennial planning, management, testing, and transparency to help ensure that the missed opportunities of previous decades are not repeated in 2020. We identified 19 recommendations categorized into 7 areas of improvement:

1. Revamp cost estimation and budget processes to increase accuracy, flexibility, and transparency.
2. Use the Internet and administrative records to contain costs and improve accuracy.
3. Implement a more effective decennial test program using the American Community Survey as a test environment.
4. Effectively automate field data collection.
5. Avoid a massive end-of-decade field operation through continuous updating of address lists and maps.
6. Implement improved project planning and management techniques early in the decade.
7. Establish a Census Bureau director position that spans presidential administrations.

The Census Bureau has made improvements since its 2010 decennial operation, including early monitoring of 2020 decennial risks, more open communication about progress and problems with stakeholders, and efforts to implement an Internet response option to its American Community Survey (ACS) that can serve as a model for 2020 decennial responses. In addition,

[34] These delivery dates are mandated by law; see 13 U.S.C. § 141.

[35] U.S. Department of Commerce Office of Inspector General, June 27, 2011. *Census 2010: Final Report to Congress*, OIG-11-030-I. Washington, DC: DOC OIG.

Congress authorized a term-appointed Census Bureau director to oversee timely, critical decennial design decisions. A new director was appointed to this term position in July 2013. The Bureau has partially addressed some of our recommendations; however, more work remains. As the Bureau innovates a 2020 decennial design, we have identified two areas for management attention:

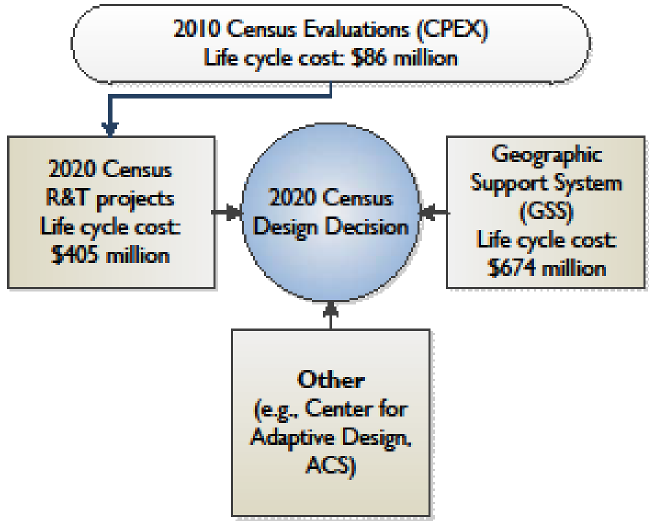
- Ensuring timely design decision making
- Focusing on human capital management, timely research, and testing implementation

Ensuring Timely Design Decision Making

The Census Bureau is approaching critical 2020 Census design decision points that require planning and developing a decennial census in a significantly more constrained budget environment than experienced during the 2010 Census. Soon, the Bureau must rapidly analyze 2020 decennial design alternatives and make key design decisions based on the results of its research and testing phase. Components of this more than $1 billion effort (see figure 6) include:

- *2010 Census evaluations*, referred to as the Census Program Evaluation and Experiments (CPEX)
- *The Geographic Support System (GSS)*, which provides the maps, address lists, geographic reference files, and associated processing systems to meet the geographic requirements of all Census Bureau programs. GSS priorities related to the decennial census include maintaining and updating the integrated database that contains the Master Address File (MAF)—an inventory of the nation's addresses—as well as the Topologically Integrated Geographic Encoding and Referencing (TIGER), a national inventory of streets and map features. The GSS also includes an initiative intended to inform the Bureau on the viability of conducting a targeted rather than a full address canvassing operation in 2019 in support of the 2020 Census.
- *2020 Census research and testing (R&T) projects* that test new enumeration methods, new processes to support field operations, more cost-effective IT systems, and address and map improvements needed for the 2020 Census to supplement GSS efforts
- *Other Census Bureau-wide efforts*, including development and processing infrastructure that supports Bureau surveys and leveraging work conducted on the ACS (e.g., adapting an online response option)

Figure 6. 2020 Census Design Decision Process



Source: OIG analysis of Census Bureau documents available May 2013

Our office has conducted several reviews of the Census Bureau's approach and progress toward the planning and development of a new cost-effective 2020 decennial design (e.g. the CPEX,[36] GSS,[37] and R&T[38] programs). We found that, as research and testing continues, the Bureau must contend with and plan for several challenges that could adversely impact the next decennial census. Like the rest of the federal government, the Bureau is operating in a constrained budget environment. It must therefore be strategic in how it spends available funding and provide the Secretary and Congress reliable and transparent budget requests. The Bureau must devote careful attention to its FYs 2015 and 2016 budget submissions, which will fund testing of new decennial design options that ultimately drive the cost trajectory for the 2020 Census.

Focusing on Human Capital Management, Timely Research, and Testing Implementation

During our current 2020 Census redesign evaluation, we noted significant schedule slippage in the Census Bureau's key research and testing programs. If continued, missed deadlines will translate into an untenable continuation of an already expensive design. The cost (in constant dollars) of counting each housing unit could reach $151, compared with $97 for 2010. Through

[36] DOC OIG, April 5, 2012. *2020 Census Planning: Delays with 2010 Census Research Studies May Adversely Impact the 2020 Decennial Census*, OIG-12-023-I. Washington, DC: OIG.

[37] DOC OIG, May 10, 2012. *High-Quality Maps and Accurate Addresses Are Needed to Achieve Census 2020 Cost-Saving Goals*, OIG-12-024-I. Washington, DC: OIG.

[38] DOC OIG, September 17, 2013. *2020 Census Planning: Research Delays and Program Management Challenges Threaten Design Innovation* (draft report). Washington, DC: OIG.

our ongoing work on the Bureau's approach to and progress on planning for 2020 decennial census we have identified three time-sensitive Bureau management priorities:

- Managing human capital to align with the Bureau's mission and programmatic goals
- Completing timely research for making evidence-based design decisions
- Implementing a stable, agile field-testing strategy

Managing Human Capital to Align with Bureau Mission and Programmatic Goals

As part of the decennial census planning effort, the Census Bureau is striving to improve the management and culture of the decennial directorate. The Bureau's two-pronged effort entails collaboration between its 2020 Census directorate and Human Resources division to (1) review required skills and competencies and (2) conduct a formal analysis to compare those requisite skills to the skills and capabilities of their current workforce.

An objective and informative assessment of the Census Bureau's current workforce is critical to containing 2020 Census costs. Like many federal agencies facing mandatory budget reductions, the Bureau must balance meeting critical mission requirements against ensuring the maintenance of its existing human capital. To implement the FY 2013 budget reductions, the Bureau (1) sought to "minimize the impact on our employees, seeking to avoid furloughs, while sustaining our core mission and preserving our most important programs within the limited flexibility provided,"[39] (2) canceled or reduced the scope of, or decided not to award, more than $30 million in contracts for the second half of FY 2013, (3) froze hiring on all but the most mission-critical positions, and (4) did not fill more than 100 "critical vacancies." With more budget reductions projected, the Bureau's workforce assessment should help inform its long-term strategy to implement a decennial census that costs less than the 2010 Census.

Completing Timely Research for Making Evidence-Based Design Decisions

The Bureau's research agenda includes capturing lessons learned from the last decennial census and conducting research and testing projects that emphasize containing costs without diminishing information quality (see table 5.)

[39] Census Director's blog on June 19, 2013; *available at:* http://directorsblog.blogs.census.gov/2013/06/19/census-bureau-budget-update-2/.

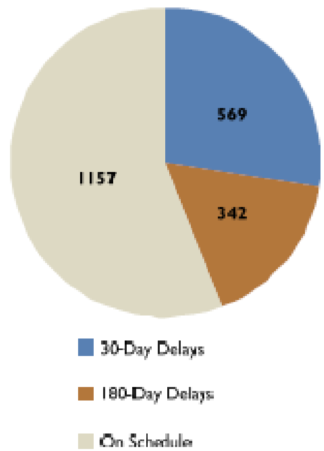
Table 5. Costly 2010 Census Operations and 2020 Research Efforts to Address Them

2010 Census Cost and Operation		2020 Research Aimed to Reduce Costs
$2 billion	Enumerating nonresponding households	*Can the number of household visits be reduced by finding an alternative, less costly response option?* *Can existing government records fill in missing information?*
$790 million	Building a one-time-use field data collection automation system	*Can reusable enterprise-wide solutions be built and expanded to meet decennial needs?*
$473 million	Ensuring that labor, systems, and development are in place to process and capture the data for more than 164 million paper questionnaires at three data centers	*Can the number of paper questionnaires be reduced through an Internet response option?* *Can an automated field data collection reduce the paper workload?* *Can the reduced paper workload result in fewer data capture centers?*
$444 million	Having an end-of-decade address and geography updating operation	*Can Census maps and addresses be efficiently updated throughout the decade, with areas experiencing change accurately targeted to reduce the amount of end-of-decade canvassing?*
$330 million	Leasing 494 local and 12 regional Census offices	*Can distance management, training, and automated processes allow the Census Bureau to reduce the number of temporary Census offices?*

Source: OIG analysis of Census Bureau documents

In addition to the cancellation of 20 of the original 109 studies aimed to measure the Bureau's performance in the 2010 decennial, we found that the CPEX program results were often not implemented as designed to inform the 2020 R&T program. We also found the Census Bureau is experiencing schedule slippage and project delays in its R&T program that affect subsequent research phases and design decision points (see figure 7). The multifaceted and interrelated nature of the research program underscores the necessity of adhering to a schedule to make timely, evidence-based design decisions.

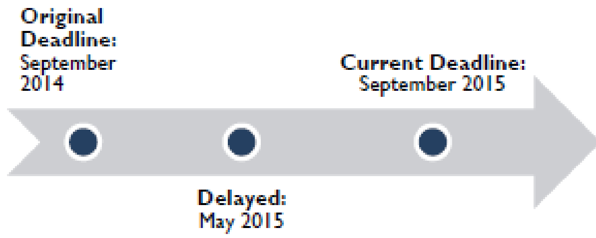
Figure 7. Research and Testing Activity Delays



Source: OIG from Census Bureau data

Another challenge identified in our recent report is to develop a schedule that provides managers and oversight stakeholders with valid, timely, accurate, and auditable performance information on which to base critical decisions. The Census Bureau alters baselines (i.e., re-baselines), which can conceal delays and give the appearance that schedules are met. For example, major decision points for the 2020 Census have been re-baselined three times, with original deadlines pushed back from September 2014 to September 2015 (see figure 8).

Figure 8. Shifting Deadlines: The 2020 Census Design Decision



Source: OIG analysis of Census Bureau documents

Implementing a Stable, Agile Field-Testing Strategy

Testing operations in real-life situations is critical to ensuring that research results yield improvements in the decennial census. However, field test plans are in flux: their schedule has been pushed back three times, with an FY 2016 completion date reflecting a year-and-a-half delay. Further, the Census Bureau canceled 13 of 25 scheduled field tests. Frequent schedule changes, testing delays, and cancellations threaten the Bureau's ability to incorporate test results into subsequent research and design decisions. The Bureau cites the major impacts of the Congressional budget cut and sequestration as a cause for the changes in content and timing of its research and testing efforts. Nevertheless, budget reductions, continuing resolutions, and the sequestration (signed into law in August 2011) should have been planned for.

To increase opportunities for testing, both the National Academy of Sciences and OIG have recommended using the ACS as a test environment for smaller trials of new processes, procedures, and systems for the decennial. The Census Bureau recently developed a small test that uses a modified ACS infrastructure—including ACS's systems, questionnaire, and training materials. Previously, using the ACS as a test environment had been delayed to January 2015. In addition, several legislative proposals to eliminate or alter the quality of the data collected by the ACS threaten its use for decennial testing. The Bureau faces the challenge of implementing the ACS while conducting cost-effective, small-scale tests—or implementing separate large-scale, more costly 2020 Census field tests—to evaluate new design features. With the 2020 Census design still under development, it is unknown how legislatively-mandated changes to the ACS will impact the Bureau's goal of containing the cost of the decennial census while preserving data quality.

Challenge 5:

Continue to Foster a Culture of Management Accountability to Ensure Responsible Spending

As the government experiences an extended period of tightened budgets, it is imperative to foster a culture of management accountability. OIG operates a complaint hotline for employees and the public to submit information about alleged wrongdoing, misconduct, or mismanagement. OIG's determination to audit, investigate, or provide the complaint information to Departmental or bureau management for appropriate action helps to instill a culture of ethical conduct and ensure that spending is appropriate, complies with laws and regulations, and promotes investments with long-term benefits.

While the Department has improved its ability to deal with hotline complaints, there has been an increasing number of complaints to OIG. In FY 2013, NOAA-related complaints represented the largest increase; those complaints comprise almost 40 percent of total complaints. OIG's hotline also receives complaints related to the use of appropriated funds by other bureaus. These issues highlight the Department's need to implement stricter control over funds Department-wide. The Department and most of its bureaus use outdated financial management systems. Limited system functionality and high support costs impede the Department's ability to oversee and manage Department-wide financial activities. Plans to replace the legacy systems by FY 2018 face significant challenges.

The Department's annual acquisitions total approximately $2.4 billion and range from satellites, public safety networks and broadband technology opportunities to the construction of facilities. Last year the Department reported it exceeded its goals in reducing the dollar amount of high-risk contracts, per 2009 Office of Management and Budget guidance. However, our audits indicate that reducing the use of several types of high risk contracts remains a critical challenge. Oversight of these goods and services requires a qualified staff of appropriate numbers. However, budget constraints and uncertainties present significant roadblocks to recruiting competent staff, retaining mid-level staff, and adjusting to attrition.

Finally, the potential misuse of federal funds by award recipients requires stronger oversight of Departmental programs that award grants or cooperative agreements. These awards amounted to $6.5 billion in the 3-year period ending June 30, 2013. In addition, American Recovery and Reinvestment Act of 2009 (Recovery Act)-funded Broadband Technology Opportunities Program (BTOP) awards, a $3.8 billion program, require oversight as they are closed out.

We have identified five key areas for management attention:

- Responding to concerns of mismanagement and ethical violations
- Implementing stricter controls over funds
- Modernizing the enterprise financial management system to strengthen financial oversight
- Strengthening controls over high-risk contract actions and developing the acquisition workforce
- Addressing grant management issues

Responding to Concerns of Mismanagement and Ethical Violations

According to the Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control*, federal departments' managements are responsible for establishing, maintaining, implementing, and continuously monitoring and improving internal control systems. Each year, in the Department's financial statement audit, the Secretary and other management officials certify their responsibility for the design and implementation of programs and controls to prevent, deter, and detect fraud. OIG's compliance and ethics hotline has helped the Department make progress toward this responsibility.

Addressing Hotline Complaints

OIG operates a hotline for employees and members of the public to report information about alleged wrongdoing, misconduct, waste, or mismanagement. Many hotline complaints become the basis of OIG audits and investigations. Complaints that detail management issues are provided promptly to Departmental and bureau leadership for inquiry and action. These referrals provide Departmental leadership with information regarding possible issues with their programs and operations and an opportunity to confront discrete issues before they develop into larger problems.

Over the past year, bureaus have worked closely with OIG to look into and resolve many management issues raised through OIG's hotline. Timely and thorough action to resolve these issues helps to create a culture of compliance and accountability in the Department. Examples of successful efforts to resolve such problems during FY 2013 include:

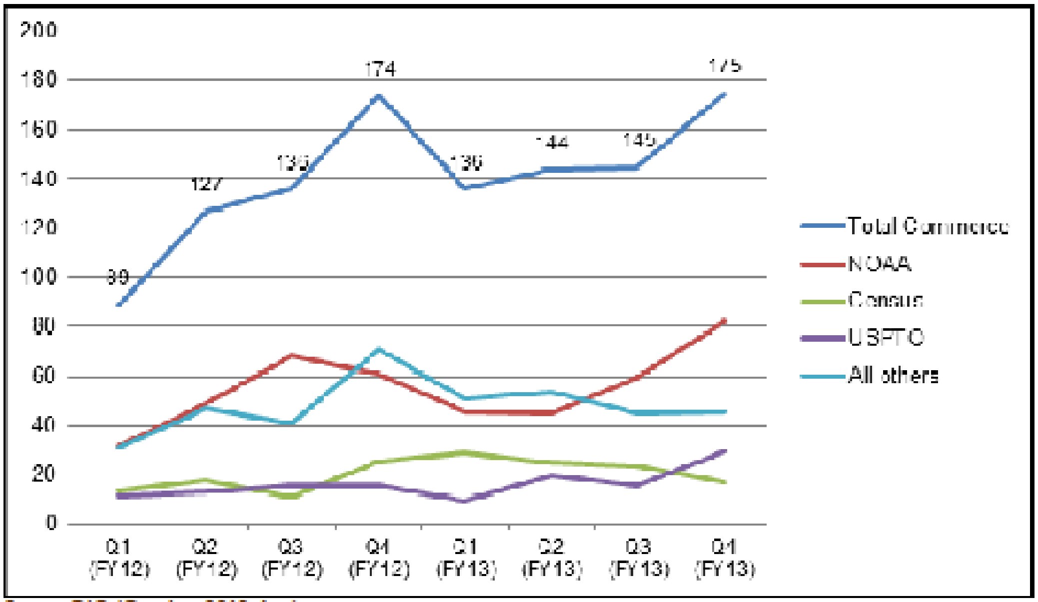
- In March 2013, the National Oceanic and Atmospheric Administration (NOAA) confirmed information provided by OIG indicating that a team of university researchers had been improperly occupying space in a federal facility, subjecting NOAA to potential security and appropriations law issues. NOAA informed OIG that it discovered eight university employees improperly occupying space in a research facility since 2009 and, because an official agreement could not be reached with the university, the team vacated that space.
- In November 2012, the Department, working through OIG's complaint process, looked into and confirmed that an employee, using the identity of a former employee, applied for and received a Department of Commerce ID badge. The individual, granted access to a federal facility under a false identity, proceeded to access the facility using the

assumed identity repeatedly after normal business hours. The individual, when confronted by Department officials, lied about this activity and later resigned.

- In January 2013, NOAA looked into, and substantiated, an OIG hotline allegation that employees in NOAA's Office of Marine and Aviation Operations (OMAO) sold scrap metal and expired pharmaceutical drugs and used the money to fund an employee social group. In November 2012, OMAO issued new policy and procedures to address the issues discovered during this inquiry to prevent future recurrence. NOAA is in the process of recovering almost $43,000 for return to the Treasury.

While the Department's management has increased its capacity and ability to deal with hotline complaints, employees and members of the public have provided an increasing volume of complaints to OIG. During FY 2013, OIG received 600 Department-related complaints, a 14 percent increase over the previous year (526 complaints). Figure 9 shows the total volume of Department-related complaints over FYs 2012–2013; in FY 2013, 39 percent of total complaints related to NOAA.

Figure 9. Department-Related Complaints Received by OIG (First Quarter, FY 2012–Fourth Quarter, FY 2013)



Source: OIG (October 2013 data)

In order to continue managing potential issues and resolving problems, Departmental management must remain vigilant in its efforts to seriously look into and address hotline complaints.

Results from OIG Investigations

In addition to awarding funds to contractors and grantees, Departmental management is responsible for providing oversight and ensuring that these funds are properly spent. The following examples from OIG investigations underscore the need for stronger controls and more vigilant oversight to prevent fraud, waste, and abuse within the Department and among its grant recipients and contractors:

- Two former executive directors of the Alaska Eskimo Whaling Commission were sentenced to 41 months and 6 months in prison, respectively, for their roles in defrauding the commission, a NOAA grantee, by money laundering and embezzlement. One of the former executive directors was convicted of misapplying almost $400,000 in funds from the Commission.
- An engineering consultant on a National Telecommunications and Information Administration (NTIA) grant pled guilty to a felony count of theft of grant funds, which the consultant used for personal purposes. The consultant—who pled guilty and was sentenced to serve almost 4 months in jail—agreed to repay the Department of Commerce and the Indian Health Service more than $240,000 in restitution.
- Former employees of the Upper Cumberland Development District in Tennessee, an Economic Development Administration (EDA) grantee, were indicted and await trial for substantial theft of government property, bank fraud, and an unlawful monetary transaction, as well as making false statements.

Implementing Stricter Controls over Funds

In response to hotline complaints about mismanagement of appropriated funds within National Oceanic and Atmospheric Administration's (NOAA's) National Weather Service (NWS) in 2010 and 2011, the Department conducted a review that highlighted mismanagement of budgetary resources throughout NWS, including specific instances where accounting records were manipulated and the Antideficiency Act (ADA) was violated. The Department's review, *Internal Inquiry into Alleged Mismanagement of Funds at National Weather Service* (May 11, 2012), found significant management, leadership, budget, and financial control problems at NWS. Further, the Department's independent auditor reported a material weakness in internal controls over financial reporting in FY 2012, in part because NWS circumvented budgetary controls by inappropriately moving expenses between accounts to prevent budget authority from being exceeded.

Addressing Issues Related to the Unauthorized Reprogramming of Funds

Following the release of the May 11, 2012 report, then-Deputy Secretary Rebecca Blank and then-Under Secretary of Commerce for Oceans and Atmosphere Jane Lubchenco issued separate decision memorandums on May 24, 2012. Their memorandums required a total of 20 specific actions for correcting the conditions that led to the report's findings, including audits, organizational reporting adjustments, and budget formulation and execution process changes. In a recent review of these actions, we found that the Department and NOAA have taken steps to address the findings identified in the Department's internal inquiry and completed many action items, but additional work is needed to complete several key action plan items and ensure proper stewardship of funds and compliance with laws and regulations. Continued Departmental leadership attention is essential to ensuring a culture of transparency, accountability, and effective oversight.

Modernizing the Enterprise Financial Management System to Strengthen Financial Oversight

The financial control problems at NWS highlight the Department's need to implement stricter control over funds Department-wide. A lack of centralized data systems poses reporting and oversight challenges to the Department, such as effectively reporting financial data and monitoring financial activity across its bureaus.

The Department and most of its bureaus use a financial system developed with aging technology and augmented with in-house software that is increasingly difficult to maintain. This system currently addresses core financial accounting, financial management, grants management, acquisition management, and property management. However, limitations such as high support costs and a lack of system integration and lack of centralized reporting capability impede the Department's ability to oversee and manage Department-wide financial activities.

The Department plans to replace these legacy systems—collectively known as the Commerce Business System (CBS)—with Business Application Solutions (BAS), a commercially available system, by FY 2018. While the Department has provided OIG with regular updates on the status of this modernization project, significant challenges remain:

- *The implementation timetable is aggressive.* The Department plans to implement the BAS component that handles the bulk of financial statement reporting at NOAA, the Census Bureau, and NIST—the only 3 bureaus that use CBS—in stages. Its aim is to complete NOAA by the end of FY 2015, the Census Bureau by the end of FY 2016, and NIST by the end of FY 2017. This modernization affects multiple bureaus and will involve defining new system requirements and identifying potential changes to business operations and processes across the Department.

- *The Census Bureau's successful conversion is critical to its 2020 decennial readiness.* The Census Bureau plans to implement BAS by the end of FY 2016. Any delays to this time frame could necessitate pushing back the implementation dramatically. Having a functional financial system in place prior to the 2020 decennial will be critical, as the decennial will likely monopolize available resources.

- *The Department plans to host the system with a shared-service provider instead of hosting it internally.* The existing system is currently hosted and managed internally at each of the three bureaus that utilize CBS. Following OMB's strategy for federal financial management systems, the Department plans to use the Department of Transportation Enterprise Service Center, which has been designated a "Center of Excellence" provider. As the Department moves to using this external shared-service provider, it faces the challenge of adapting to a new accounting environment within its bureaus and a modified role in responding to necessary system changes.

- *CBS modernization will result in BAS, but there will continue to be separate component systems that will require interfacing with BAS.* For example, CBS modernization will not integrate the U.S. Patent and Trademark Office and National Technical Information Service financial systems into BAS. Also, NOAA's grants management system, which will serve all bureaus, will remain a separate system—although the plan is to interface the grants management system with BAS. The current acquisition system will be replaced with a system that will be integrated into BAS.

- *The modernization requires adequate funding.* Inadequately funding the modernization project could result in implementation delays—and in the Department being forced to continue using its legacy systems for longer than anticipated. This would lead to a much longer delay at the Census Bureau—which, constrained by decennial responsibilities, would take longer to begin focusing on its migration to BAS. As a result, the Bureau would need to maintain both the new and old systems concurrently.

Strengthening Controls over High-Risk Contract Actions and Developing the Acquisition Workforce

In FY 2012, the Department obligated about $2.4 billion for goods and services that include satellite acquisitions, intellectual property protection, broadband technology opportunities, management of coastal and ocean resources, information technology, and construction and facilities management. Although the Department's requirements have not diminished, available funding resources likely will. Continuing to address high-risk contracts and maintaining a qualified acquisition workforce will enable better management of the Department's day-to-day spending.

Incurring Risk from the Use of High-Risk Contracts

In July 2009, the Office of Management and Budget's (OMB's) Office of Federal Procurement Policy issued contracting guidance to chief acquisition officers and senior procurement executives. The guidance—stating that time and materials/labor hour (T&M/LH) contracts, cost-reimbursement contracts, and noncompetitive contracting pose special risks of overspending (see table 6)—directed agencies to reduce by at least 10 percent the use of high-risk contracting authorities for new contract actions. For FY 2012, the Department reported that it exceeded its goals in reducing the dollar amount of high-risk contracts, and it continues to track its goal based on OMB's 2009 guidance. However, our audit results indicate that a critical challenge remains in the use of high-risk contracts such as T&M/LH contracts.

Table 6. High-Risk Contracts

Type of Contract	Definition	High-Risk Factor
T&M/LH	These contracts require contractors to provide their best effort to accomplish contract objectives up to the maximum number of hours authorized. Each hour of work authorizes a contractor to charge the government an established labor rate, which includes profit, along with reimbursement for the actual cost of materials used.	The contractor's profit is tied to the number of hours worked. As a result, these contracts pose a risk of overspending.
Cost Reimbursement	This type of contract provides for payment of allowable incurred costs, to the extent prescribed in the contract.	Under this contract type, the contractor has minimal responsibility for the performance costs. There is no incentive for the contractor to control costs.
Noncompetitive Contracts	These procurements are awarded to a single contractor without requiring any competition.	The government enters (or proposes to enter) into purchases of supplies or services after soliciting and negotiating with only one source. There is no direct market mechanism for setting the contract price.

Source: OIG

In a report issued in November 2013,[40] we reported weaknesses in the awarding and administering of T&M/LH contracts. We found that Departmental contracting officers did not award T&M/LH contract actions in accordance with the requirements of the Federal Acquisition Regulation and the Commerce Acquisition Manual. T&M/LH contracts are considered high risk because the contractor's profit is tied to the number of hours worked. We also noted that contract actions in our sample were incorrectly coded in the Federal Procurement Data System (FPDS).

The Department's challenge is to better monitor and evaluate its T&M/LH contracts through the acquisition review board and investment review board processes, which are used to manage the Department's major acquisitions of goods and services. A further challenge it faces is to improve the processes for entering accurate and complete data in FPDS. Effective implementation of the Department's measures will be crucial to ensuring that the Department properly awards, administers, and reports high-risk T&M/LH contracts.

[40] DOC OIG, November 8, 2013. *The Department's Awarding and Administering of Time-and-Materials and Labor-Hours Contracts Needs Improvements*, OIG-14-001-A. Washington, DC: OIG.

Needing a Sufficiently Staffed and Qualified Acquisition Workforce

In a March 2009 memorandum,[41] the President acknowledged that the federal government must maintain the workforce needed to carry out robust and thorough oversight of contracts to help program management achieve goals, avoid significant overcharges, and curb wasteful spending. However, the Department's acquisition workforce faces major challenges to its capacity and capability to oversee and manage contracts because of budget constraints and uncertainties affecting recruitment. Although the Department has 215 contracting officers and specialists, 15 more than projected, it could face an attrition of 70 retiring members by the end of 2014. Many of the bureau procurement officer corps consider the potential loss of approximately one-third of the workforce through attrition a catastrophic risk to their ability to support the Department's mission. To develop mid-level staff under current budget conditions, the Department needs to continue recruitment at the entry levels and seek to retain that staff at higher certification levels.

Addressing Grant Management Issues

OIG also provides oversight of the Department's management of more than 70 programs authorized to award grants or cooperative agreements. Each program has its own rules, regulations, and eligibility requirements. For the period July 1, 2010–June 30, 2013, these programs issued approximately 4,353 awards amounting to $6.5 billion. We review an average of 340 finding reports a year; of those, about 7–8 percent will have significant procedural or internal control findings.

Tightening Controls over Use of Federal Funds by Award Recipients

Grant oversight requires that recipients of awards meeting certain dollar thresholds submit either a Circular A-133 single audit report or a program-specific audit report. These types of awards pose particular oversight challenges for the Department. OIG continues to review these audit reports to identify trends in findings across bureau programs, as well as to monitor whether findings are resolved in a timely manner.

Table 7 presents averages of the single audit and program-specific audit reports that OIG reviewed during the period July 1, 2010–June 30, 2013, the number of material findings, and amounts of questioned costs and funds to be put to better use reported. We have noted a problematic indicator in the Economic Development Administration's (EDA's) revolving loan fund program, NTIA's BTOP, and the National Institute of Standards and Technology's (NIST's) Advanced Technology/Technology Innovation Program. The most common types of findings across all Departmental programs involved violations of reporting requirements (e.g., deficient, late, or unfiled reports); noncompliance with cost principles pertaining to allowable costs; inadequate preparation of financial statements; the lack of, inadequate, or deficient internal control policies concerning segregation of duties; and not following, lacking, or having deficient policies and procedures on cash management. It is important that all Departmental program and grants management offices review these findings and implement internal controls to address

[41] The White House, Office of the Press Secretary, March 4, 2009, "Memorandum for the Heads of Executive Departments and Agencies: Government Contracting."

the root causes of the findings, which may require program or grant operations changes in order to improve grant recipients' compliance with laws and regulations.

Table 7. Analysis, by Bureau, of OIG-Reviewed Single Audit Reports: Annual Average (from July 1, 2010, Through June 30, 2013)[a]

Bureau	Reports Reviewed	Reports with Material Findings[b]	Material Findings	Questioned Costs[c]	Funds Put to Better Use[d]
EDA	105	7	20	1,154	1,990
NOAA	43	4	13	2,269	0
NTIA	46	5	20	1,441	0
NIST	76	10	23	1,045	96
Other[e]	72	0	0	0	0
TOTAL	342	26	76	5, 909	2,086

Source: OIG

[a] The table does not include less significant procedural or internal control findings, the resolution of which OIG does not monitor; [b] *material findings* are those with questioned costs greater than or equal to $10,000 and/or significant nonfinancial findings; [c] *questioned costs*, shown here in thousands of dollars, are subject to change during the audit resolution/appeal process; [d] *funds to be put to better use*, shown here in thousands of dollars, are subject to change during the audit resolution/appeal processes; [e] *other* includes the International Trade Administration (ITA), the Minority Business Development Agency (MBDA), and *multiple*, which are single audit reviewed programs from more than one bureau.

To improve controls over award recipients' use of federal funds, bureaus need to review these single audit and program-specific audit reports and take action on the report findings.

Maintaining Focus on the Broadband Technology Opportunities Program (BTOP) Through Grant Closeouts

With approximately $3.8 billion in grant awards, BTOP—funded by the Recovery Act—represents the Department's largest grant program. As of August 31, 2013, about 20 percent of BTOP funds remain to be disbursed. As these projects near their completion dates (as of June14, 2013, only 7 of approximately 230 projects had been closed, with another 36 in the closeout process), the potential lingers for fraud, waste, and abuse associated with such large-dollar-amount awards (many of which are more than $25 million). Management must remain committed to monitoring BTOP recipient compliance with grant award terms and achievement of intended benefits. Awards for which the grantee has requested extensions to complete projects also merit close attention.

The audit closeout process—how the award recipient and the grants office ensure that project activity is complete and the award recipient has met all the requirements under applicable laws, regulations, OMB circulars, and award terms and conditions—calls for particular attention.

OIG's ongoing work indicates that the completion dates for many of the awards (112 as of September 13, 2013) have been extended and the BTOP award closeout process (a) is taking longer than expected, particularly with infrastructure projects and (b) could be improved by strengthening closeout policies and procedures and ensuring the consistent implementation of those policies and procedures in place.

Potential consequences of not strengthening the closeout process at NTIA and the grants offices (NOAA and NIST) supporting NTIA in the implementation of BTOP include an increased likelihood that grants are closed without (a) obtaining and reviewing all required closeout documentation and determining that all award activity was completed and laws and regulations were complied with or (b) ensuring that the federal government's interest in BTOP property was protected. In addition, the closeout process should help identify unused funds or funds not used in compliance with grant terms—both of which must be returned to the government. NTIA, NOAA, and NIST, in responding to our September 23, 2013, draft report, concurred with our findings and identified improvements they had taken or were in the process of taking to strengthen the closeout process.

Maintaining a Professionally Certified Grants Management Workforce

The quality and effectiveness of the grants management process depends on the development and maintenance of a qualified workforce. The Department's grants management office (GMO) and grants program office (GPO) personnel have a fiduciary responsibility to manage resources appropriately, with assurance that proposed work is feasible and has verifiable merit. However, unlike acquisitions personnel, the approximately 1,119 personnel who monitor grants and cooperative agreements do not maintain their professional education through a formal, standardized certification program.

In October 2008, the Office of Personnel Management initiated a government-wide study to identify critical competencies for grants management work. Based on this effort, the Grants Policy Committee[42] developed a set of competencies for grants personnel serving as officers, government technical representatives, and program office staff. The resulting competency model forms the foundation upon which the Department based its Grants Management Certification Program[43]—which, once implemented,[44] would establish policies and procedures for certification of GMO and GPO personnel.

[42] The Chief Financial Officers Council, which represents the 24 largest federal agencies, established a *Grants Policy Committee* to lead implementation of Public Law 106-107. With OMB providing oversight and technical assistance, the Committee's workgroups of agency staff work to accomplish the grants streamlining required by the legislation.

[43] The *GMCP* develops and maintains a Departmental grants workforce through a formal, standardized grants education and certification program. Through the program, the grants workforce learns federal and Departmental requirements and regulations, as well as grants management best practices.

[44] The implementation of this important initiative may be delayed if bureaus do not have adequate funds for training.

Acronym List

ACS	American Community Survey
AIA	America Invents Act
BAS	Business Application Solutions
BIS	Bureau of Industry and Security
BTOP	Broadband Technology Opportunities Program
CBS	Commerce Business System
CIO	Chief Information Officer
CPEX	Census Program Evaluation and Experiments
DOC CIRT	Department of Commerce Computer Incident Response Team
ECMO	Enterprise Cybersecurity and Monitoring Operations
EDA	Economic Development Administration
ESOC	Enterprise Security Oversight Center
FirstNet	First Responder Network Authority
FMC	fishery management council
FPDS	Federal Procurement Data System
FY	fiscal year
GMO	grants management office
GOES-R	Geostationary Operational Environmental Satellite–R series
GPO	grants program office
GSS	Geographic Support System
HCHB	Herbert C. Hoover Building
IT	information technology
ITA	International Trade Administration

JPSS	Joint Polar Satellite System
MAF	Master Address File
MHz	megahertz
NASA	National Aeronautics and Space Administration
NEI	National Export Initiative
NIST	National Institute of Standards and Technology
NMFS	National Marine Fishery Service
NOAA	National Oceanic and Atmospheric Administration
NPP	National Polar-orbiting Partnership
NTIA	National Telecommunications and Information Administration
NWS	National Weather Service
OIG	Office of Inspector General
OMB	Office of Management and Budget
PSBN	Public Safety Broadband Network
R&T	research and testing
RCE	request for continued examination
T&M/LH	time and materials/labor hour
TIC	Trusted Internet Connection
TIGER	Topologically Integrated Geographic Encoding and Referencing
USPTO	U.S. Patent and Trademark Office

Appendix A: Related OIG Publications

This list presents OIG's past and current work related to FY 2014's top management challenges. These products can be viewed at www.oig.doc.gov. If the product contains information that cannot be released publicly, a redacted version or an abstract will be available on the website.

Challenge 1: Strengthen Commerce Infrastructure to Support the Nation's Economic Growth

- *USPTO Successfully Implemented Most Provisions of the America Invents Act, but Several Challenges Remain* (OIG-13-032-A, September 30, 2013)
- *U.S. Export Assistance Centers Could Improve Their Delivery of Client Services and Cost Recovery Efforts* (OIG-13-010-I, November 30, 2012)

Challenge 2: Strengthen Oversight of National Oceanic and Atmospheric Administration (NOAA) Programs to Mitigate Potential Satellite Coverage Gaps, Address Control Weaknesses in Accounting for Satellites, and Enhance Fisheries Management

- *Audit of Geostationary Operational Environmental Satellite-R Series: Comprehensive Mitigation Approaches, Strong Systems Engineering, and Cost Controls Are Needed to Reduce Risks of Coverage Gaps* (OIG-13-024-A, April 25, 2013)
- IG's Testimony on Commerce Department's FY 2014 Budget Request: Senate Appropriations Committee (OIG-13-023-T, April 11, 2013)
- Results of Commerce OIG's Online Survey of Fishery Management Council Members and Staff (OIG-13-022-I, April 5, 2013)
- Deputy IG's Testimony on Top Challenges for Science Agencies: House Science, Space, and Technology Committee (OIG-13-018-T, February 28, 2013)
- *NOAA Needs to Continue Streamlining the Rulemaking Process and Improve Transparency and Consistency in Fisheries Management* (OIG-13-011-I, January 16, 2013)

Challenge 3: Continue Enhancing Cybersecurity and Management of Information Technology Investments

- *Malware Infections on EDA's Systems Were Overstated and the Disruption of IT Operations Was Unwarranted* (OIG-13-027-A, June 26, 2013)
- *USPTO Deployed Wireless Capability with Minimal Consideration for IT Security* (OIG-13-014-A, February 1, 2013)

Challenge 4: Exercise Strong Project Management Controls over 2020 Census Planning to Contain Costs

- IG's Testimony on Top Management Challenges Facing the Department of Commerce in FY 2013: House Appropriations Committee (OIG-13-019-T, March 5, 2013)
- Letter to Senator Coburn re: Improving the 2020 Census Through Administrative Records and Geospatial Information (OIG-13-002-M, October 25, 2012)

Challenge 5: Continue to Foster a Culture of Management Accountability to Ensure Responsible Spending

- *The Department's Awarding and Administering of Time-and-Materials and Labor-Hours Contracts Needs Improvements* (OIG-14-001-A, November 8, 2013)
- *Status of Departmental Actions to Correct NWS Mismanagement of Funds* (OIG-13-029-I, September 13, 2013)
- Nonfederal Audit Results for the 6-Month Period Ending June 30, 2013 (OIG-13-030-M, September 9, 2013)
- *Monitoring of Obligation Balances Needs Strengthening* (OIG-13-026-A, June 18, 2013)
- *Internal Controls for Purchase Card Transactions Need to Be Strengthened* (OIG-13-025-A, May 2, 2013)
- *FY 2012 Compliance with Improper Payment Requirements* (OIG-13-020-I, March 15, 2013)
- Principal Asst. IG's Testimony on Broadband Stimulus: House Energy and Commerce Committee (OIG-13-017-T, February 27, 2013)
- *Fourth Annual Assessment of the PSIC Grant Program* (OIG-13-016-A, February 22, 2013)
- Nonfederal Audit Results for the 6-Month Period Ending December 31, 2012 (OIG-13-015-M, February 11, 2013)
- *Proper Classification and Strengthened Monitoring of Subrecipients Are Needed for the Broadband Technology Opportunities Program* (OIG-13-013-A, January 31, 2013)
- Letter to Chairmen Walden and Shimkus in response to their request to review the National Telecommunications and Information Administration's (NTIA's) Broadband Technology Opportunities Program (BTOP) grant awarded to the Executive Office of the State of West Virginia (OIG-13-012-I, January 23, 2013)
- *Quarterly Conference Reporting Processes Need Improvement* (OIG-13-001-I, October 17, 2012)

Appendix B: Comparison Between FY 2013 and FY 2014 Challenges

FY 2014	FY 2013
Strengthen Commerce infrastructure to support the nation's economic growth: • *Promoting U.S. exports while protecting national security interests* • *Enhancing economic growth through intellectual property and wireless initiatives*	Stimulate economic growth in key industries, increase exports, and enhance stewardship of marine fisheries: • *Growth in manufacturing, intellectual property, and wireless industries* • *Export promotion and regulation* • *Protection and promotion of marine fisheries*
Strengthen oversight of National Oceanic and Atmospheric Administration (NOAA) programs to mitigate satellite coverage gaps, address control weaknesses in accounting for satellites, and enhance fisheries management: • *Enhancing weather satellite development and mitigating potential coverage gaps* • *Addressing material weakness over satellite accounting* • *Enhancing fisheries management*	Increase oversight of resources entrusted by the public and invest for long-term benefits: • *Internal controls and oversight* • *Investment for long-term benefits* • *Design changes to contain 2020 decennial costs*
Continue enhancing cybersecurity and management of information technology (IT) investments: • *Establishing a robust capability to respond to cyber incidents* • *Continuing sustainable implementation of enterprise cybersecurity initiatives* • *Preserving the CIO's oversight responsibility of satellite-related IT investments* • *Continuing vigilant oversight of IT investments* • *Maintaining momentum in consolidating commodity IT to cut costs*	Strengthen security and investments in IT: • *Addressing persistent IT security weaknesses* • *Incident response and recovery capabilities* • *IT governance for portfolio management* • *Oversight of IT investments*
Exercise strong project management controls over 2020 Census planning to contain costs: • *Ensuring timely design decision making* • *Focusing on human capital management, timely research, and testing implementation*	Implement framework for acquisition project management and improve contract oversight: • *Planned framework for acquisition management* • *Oversight of high-risk contracts* • *Acquisition workforce maintenance* • *Implementation of suspension and debarment program*
Continue to foster a culture of management accountability to ensure responsible spending: • *Responding to concerns of mismanagement and ethical violations* • *Implementing stricter controls over funds* • *Modernizing the enterprise financial management system to strengthen financial oversight* • *Strengthening controls over high-risk contract actions and developing the acquisition workforce* • *Addressing grant management issues*	Reduce risks of cost overruns, schedule delays, and coverage gaps for NOAA's satellite programs: • *JPSS capabilities, schedule, and costs* • *Leadership and governance structure over JPSS* • *Weather forecasting during JPSS coverage gaps* • *Risks associated with GOES-R development*

U.S. DEPARTMENT OF COMMERCE OFFICE OF INSPECTOR GENERAL

Appendix C: Management Response to OIG Draft Report

UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

MEMORANDUM FOR: Todd J. Zinser
Inspector General

FROM: Penny Pritzker
Secretary of Commerce

SUBJECT: Response to the OIG Report, "Top Management Challenges Facing the Department of Commerce" in FY 2014

Thank you for the opportunity to review the Office of the Inspector General's report, "Top Management Challenges Facing the Department of Commerce." Every day the Department's bureaus work with American businesses, communities, and private citizens to spur innovation, promote trade and investment, foster use of data, and ensure production of critical environmental products and services—and we want to do so in the most effective and efficient way possible.

We are aware that we have challenges in the areas discussed in your report, and we realize that these areas require continued oversight, planning, and work. To that end, I have directed Ellen Herbst, our CFO and ASA, to focus on improving our oversight processes and internal controls at both the bureau and Department levels. Such oversight is critical to the success of our mission.

We look forward to working with you to address the challenges identified in this year's OIG report, and we will document our progress in our Agency Financial Report for FY 2014.

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Summary of Financial Statements Audit and Management Assurances

Table 1. Summary of Financial Statement Audit

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

Table 2. Summary of Management Assurances

Effectiveness of Internal Control over Financial Reporting (FMFIA §2)						
Statement of Assurance	Unqualified					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Effectiveness of Internal Control over Operations (FMFIA §2)						
Statement of Assurance	Unqualified					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Conformance with financial management system requirements (FMFIA §4)						
Statement of Assurance	Systems conform to financial management system requirements					
Non-Conformances	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
NONE	0	0	0	0	0	0
Total Non-Conformances	0	0	0	0	0	0

Compliance with Federal Financial Management Improvement Act (FFMIA)		
	Agency	**Auditor**
Overall Substantial Compliance	Yes	Yes
1. System Requirements	Yes	Yes
2. Accounting Standards	Yes	Yes
3. USSGL at Transaction Level	Yes	Yes

Improper Payments Information Act (IPIA) of 2002, as amended

The IPIA of 2002, as amended by the Improper Payments Elimination and Recovery Act (IPERA) of 2010 and Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012, requires agencies to annually estimate and report on improper payments and agency actions to reduce them to the President and Congress, as well as review prepayment and pre-award procedures to ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any federal funds. A review of all programs and activities that the USPTO administers is performed annually to assist in identifying, reporting, and/or preventing erroneous or improper payments. In addition, during FY 2013 the USPTO implemented a periodic vendor record eligibility validation process using Do Not Pay Initiative databases to prevent improper payments. The USPTO has not identified any significant problems with improper payments. However, the USPTO recognizes the importance of maintaining adequate internal controls to ensure the accuracy and integrity of payments made by the agency, and the USPTO maintains a strong commitment to continuous improvement in the overall disbursement management process. For FY 2013 and beyond, the USPTO will continue its efforts to ensure the integrity of its disbursements.

The USPTO annually conducts an assessment of the effectiveness of internal control over financial reporting, in compliance with OMB Circular A-123, *Management's Responsibility for Internal Control*. Furthermore, the FY 2013 assessment included a review of internal controls over disbursement processes, which indicated that current internal controls over disbursement processes are sound.

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

The results of the USPTO assessments revealed no risk-susceptible programs, and demonstrated that, overall, the USPTO has strong internal controls over disbursement processes, the amount of improper payments by the USPTO is immaterial, and the risk of improper payments is low. An estimated improper payment rate, accordingly, was deemed not necessary.

During FY 2013, the USPTO did not have any erroneous payments that exceeded the ten million dollar threshold. The USPTO continuously seeks to identify overpayments and erroneous payments by reviewing (1) credit memos and refund checks issued by vendors or customers and (2) undelivered electronic payments returned by financial institutions.

During FY 2008, the USPTO initiated an internal recovery audit program. Under this program, a letter similar to that sent by our recovery audit contractor is sent to vendors on a rotational basis. This program excludes grants, travel payment, purchase card transactions, inter-agency agreements, government bills of lading, and gift and bequest transactions. This program continued through FY 2013. There were no items identified as recoverable. We do not plan to continue this program into FY 2014, as it has not yielded any meaningful results.

During FY 2012, the USPTO entered into an agreement with the DOC to use an existing contract for recovery audit services. The audit was limited to obligations closed after September 30, 2009 and through April 30, 2012, and greater than $0.1 million. Further excluded were grants, travel payments, payments to employees, purchase card transactions, inter-agency agreements, government bills of lading, and gift and bequest transactions. The audit was completed in FY 2013 and resulted in zero invoices that were identified as recoverable improper payments. Accordingly, no recovery audit services were conducted in FY 2013.

In FY 2013, the USPTO continued its reporting procedures to senior management and to the Department of Commerce on improper payments, identifying the nature and magnitude of any improper payments, along with any necessary control enhancements to prevent further occurrences of the types of improper payments identified.

FY 2012 Summary of Recovery Audit Effort ***(Dollars in millions)***	
Amount subject to review	$ 578.2
# of invoices	9,489

Improper Payment Reduction Outlook *(Dollars in Millions)*

Program	FY 2012			FY 2013			FY 2014	FY 2015	FY 2016
	Outlays	Improper Payment Percent	Improper Payment Dollars	Outlays	Improper Payment Percent	Improper Payment Dollars	Estimated Outlays	Estimated Outlays	Estimated Outlays
Patent	$ 2,090	0.05%	$ 1.10	$ 2,290	0.02%	$ 0.44	$ 2,613	$ 2,802	$ 2,895
Trademark	202	0.05%	0.10	212	0.02%	0.04	242	259	268
Intellectual Property	40	0.05%	0.02	46	0.02%	0.01	52	56	58
Total	$ 2,332	0.05%	$ 1.22	$ 2,547	0.02%	$ 0.49	$ 2,907	$ 3,116	$ 3,221

The Nature of the Training Provided to USPTO Examiners

Achieving organizational excellence demands a high-performance workforce that delivers high quality work products and provides customer service excellence. Training is a critical component in achieving consistently high quality products and services. Patent examiners and trademark examining attorneys received extensive legal, technical, and automation training in FY 2013. The USPTO has a comprehensive training program for new patent examiners and trademark examining attorneys, embedding a well-established curriculum including initial legal training, automation training, and training in examination practice and procedure. Automation training is provided to all examiners as new systems are deployed and existing systems are enhanced. New technology-specific legal and technical training was conducted throughout the examining operations. This specific training either focuses on practices particular to a technology or was developed to address training needs identified through patent and trademark examination reviews or staff requests.

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

This training provides examiners with a working knowledge of the reforms under the America Invents Act. The training covers several new statutory provisions of patent law including first-inventor-to-file, preissuance submissions, supplemental examination, and inventor's oath and declaration. The first-inventor-to-file in person or WebEx training was delivered in three phases: (i) an introductory overview training with videos; (ii) a comprehensive training session with videos, and (iii) a hands-on workshop designed to introduce examiners to situations that may arise in prosecution. A computer-based training library also was developed to cover more nuanced first-inventor-to-file specific topics not covered in the live/WebEx sessions along with a specialized internal website housing lecture materials, slides, and frequently asked questions. For the other provisions of law, computer-based training is available.

<table>
<tr><th colspan="2">PATENT EXAMINER TRAINING</th></tr>
<tr><td>U.S. Patent Training Academy

– Mandatory training for first year patent examiners</td><td>Training in the Academy

Two new patent examiner training programs: Intellectual Property Experienced Examiner Training and an Entry Level Training, a two-phased program completed in 12 months.

• Intellectual Property Experienced Examiner Training Curriculum

This curriculum includes enhanced instruction in legal, procedural, and automation training, in areas such as: more than a dozen specialized applications used in patent examination, multiple search systems, databases, and commonly used office applications such as: Classification Systems, Searching (classification, text), Claim Interpretation, Advanced Text Searching, Technology Center (TC) Specific tools such as STN and Dialog, Writing an Effective Examiner's Answer, Appeal Procedure, and Practice (Appeal Conference and Pre-Conference; Prevent Administrative Remand).

• Entry Level Two-Phased 12-Month New Examiner Training Curriculum

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

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

Automation training includes classes in more than a dozen specialized applications used in patent examination, multiple search systems, databases, and commonly-used office applications.

Life skills training includes: time management, ethics training, stress management, balancing quality and production, professionalism, benefits and financial planning basics, balancing work and personal life, diversity training, and negotiating conflict.

• Individual Development Plan

The Academy training program includes creating an Individual Development Plan (IDP) for each examiner. The IDP is composed of formal training courses, development assignments, and on-the-job training. The IDP is designed to assist the examiner from day one, through the first 12 months of employment. When the examiner graduates from the Academy, and is transferred to a TC, the IDP will continue to enable the examiner to acquire the competencies essential to perform assigned duties and to prepare for further development.</td></tr>
</table>

PATENT EXAMINER TRAINING	
Programs for all Patent Examiners	**Legal Practice and Procedure Training** • **Patent Examiner Refresher Training** Courses developed to enhance patent examiners' knowledge and skills in procedural and legal topics pertaining to patent examination. Participants may enroll in one or more courses in consultation with their supervisor. • **Advanced Patent Examiner Training** This is a program for examiners who have several years of patent examining experience. The program provides training in specific legal areas such as unexpected results and actual reduction to practice found in affidavit practice. • **Legal Lecture Series** Training offered periodically to patent examiners based on major court decisions and office policies. • **In-House Patent Law and Evidence Course** Training for Patent examiners on authoritative court decisions on statutory issues under 35 U.S.C. §§ 101, 102, 103, and 112 and the handling of evidence during the examination of applications. • **Patent Examiner Technical Training Program** This program seeks public assistance in providing technical training to patent examiners within all technology centers. The Patent Examiner Technical Training Program is intended to provide scientists and experts as lecturers to patent examiners in order to update them on technical developments, the state of the art, emerging trends, maturing technologies, and recent innovations in their fields. Such guest lecturers must have relevant technical knowledge, as well as familiarity with prior art and industry practices/standards in areas of technologies where such lectures would be beneficial. • **Site Experience Education (SEE) Program** The SEE program provides examiners the opportunity to visit real-world sites, such as universities or industries. They receive direct hands-on education specific to the technology area they work in. This program seeks to put experts such as innovators, experts, scientists, and engineers together with the examiners at the sites where innovation is happening. • **Continuing Education Series** Training for patent examiners to enhance their technical and legal knowledge in the examination of patent applications. ***Courses Offered:*** • Non-Duty Hours Legal Studies Program (Budget Dependent)[1] • Non-Duty Hours Technical Training Program (Budget Dependent)[1] • Technology Center Specific Technological Training (Budget Dependent)[1] • Updated Automation Tools Training (in coordination with Office of Patent Information Management) • Brown Bag Informational Seminars • Patent Administrative Professional Training • Patent Examiner's Initial Training for Non-Examiners • Legal Secretaries and Administrators Conference
	[1] These programs remained suspended during FY 2013 due to budget constraints.

TRADEMARK EXAMINING ATTORNEY TRAINING

In FY 2013 the Trademark organization prepared, using data gathered from the results of quality reviews that were analyzed, the content of online e-learning training materials for trademark examining attorneys. Live and web cast Training Sessions and Modules were developed and released covering the following list of topics.

- TMEP October 2012 Update Overview
- New USPTO Ethics Rules
- Examiner-Led Trade Dress Workshop
- INTA Industry Training – Trademark Issues in the Entertainment Industry
- Trademarks in China
- INTA/USPTO Seminar on Understanding Trademark Rights & ICANN's gTLD Expansion
- Recent Developments in Trademark Law
- TEALE – New Examining Attorney Training

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

- 2(d) Refusals
- Webpage specimens for goods

One Exam Guide published:

- Exam Guide on Webpage Specimens for Goods (December 2012)

Other Guidance covering the following topics was also released.

- 2(a) & 2(e)(3) Excellent Office Actions
- Four issues of guidance newsletter (Two Quick Reminders)
- Suspension Practice and Procedure (April 2013)
- Processing Amendments to Allege Use (January 2013)
- Trademark Style Guidelines (February 2013)

FY 2013 USPTO Workload Tables

Index of Tables **Page**

TABLE 1

SUMMARY OF PATENT EXAMINATION ACTIVITIES (FY 2009 FY 2013)

(PRELIMINARY FOR FY 2013)

Patent Examination Activity	2009	2010	2011	2012	2013
Applications filed, total[1,2]	**486,499**	**509,367**	**537,171**	**565,406**	**601,317**
Utility[3]	458,901	478,649	504,663	530,764	563,853
Reissue	1,035	1,144	1,158	1,201	1,067
Plant	988	1,015	1,103	1,183	1,320
Design	25,575	28,559	30,247	32,258	35,077
Provisional applications filed[2,4]	**134,438**	**140,551**	**150,187**	**163,031**	**177,942**
First actions					
Design	27,858	26,051	25,042	26,578	27,669
Utility, Plant, and Reissue	469,946	447,485	505,651	542,081	595,110
PCT/Chapter	20,797	15,574	13,297	18,400	15,060
Patent application disposals, total	**487,140**	**553,549**	**533,943**	**574,854**	**605,994**
Allowed patent applications, total	**214,523**	**264,119**	**266,580**	**305,840**	**334,560**
Design	25,403	23,681	22,683	24,231	24,967
Utility, Plant, and Reissue	189,120	240,438	243,897	281,609	309,593
Abandoned, total	**272,607**	**289,419**	**267,353**	**269,009**	**271,424**
Design	3,840	3,101	2,701	2,567	2,705
Utility, Plant, and Reissue	268,767	286,318	264,652	266,442	268,719
Statutory invention registration disposals, total	**10**	**11**	**10**	**5**	**10**
PCT/Chapter II examinations completed	**3,468**	**2,265**	**3,191**	**2,671**	**2,016**
Applications published[5]	**325,988**	**338,452**	**321,115**	**328,620**	**339,775**
Patents issued[2,6]	**190,122**	**233,127**	**244,430**	**270,258**	**290,083**
Utility	165,213	207,915	221,350	246,464	265,979
Reissue	398	861	969	921	809
Plant	1,096	978	816	920	842
Design	23,415	23,373	21,295	21,953	22,453
Pendency time of average patent application[7]	34.6	35.3	33.7	32.4	29
Reexamination certificates issued	698	776	909	893	819
PCT international applications received by USPTO as receiving office	47,572	45,701	48,285	52,417	56,226
National requirements received by USPTO as designated/elected office	57,879	61,587	65,463	67,573	73,488
Patents renewed under Pub. L. No. 102-204 [8]	304,096	361,668	378,830	308,812	348,658
Patents expired under Pub. L. No. 102-204 [8]	66,330	79,993	82,146	80,050	79,689

1 *FY 2013 filing data are preliminary and will be finalized in the FY 2014 PAR.*

2 *FY 2012 application data has been updated with final end of year numbers.*

3 *Utility patents include chemical, electrical and mechanical applications.*

4 *Provisional applications provided for in Pub. L. No. 103-465.*

5 *Eighteen-month publication of patent applications provided for the American Inventors Protection Act of 1999, Pub. L. No.106-113.*

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

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

8 *The provisions of Pub. L. No.102-204 regarding the renewal of patents superseded Pub. L. No. 96-517 and Pub. L. No. 97-247.*

TABLE 2

PATENT APPLICATIONS FILED
(FY 1993 FY 2013)

(PRELIMINARY FOR FY 2013)[1]

Year	Utility	Design	Plant	Reissue	Total
1993	173,619	13,546	362	572	188,099
1994	185,087	15,431	430	606	201,554
1995	220,141	15,375	516	647	236,679
1996	189,922	15,160	557	637	206,276
1997	219,486	16,272	680	607	237,045
1998	238,850	16,576	658	582	256,666
1999	259,618	17,227	759	664	278,268
2000	291,653	18,563	786	805	311,807
2001	324,211	18,636	914	956	344,717
2002	331,580	19,706	1,134	974	353,394
2003	331,729	21,966	785	938	355,418
2004	353,319	23,457	1,212	996	378,984
2005	381,797	25,304	1,288	1,143	409,532
2006	417,453	25,853	1,204	1,103	445,613
2007	439,578	26,693	1,002	1,057	468,330
2008	466,258	28,217	1,331	1,080	496,886
2009	458,901	25,575	988	1,035	486,499
2010	478,649	28,559	1,015	1,144	509,367
2011	504,663	30,247	1,103	1,158	537,171
2012[2]	530,764	32,258	1,183	1,201	565,406
2013[1]	**563,853**	**35,077**	**1,320**	**1,067**	**601,317**

[1] *FY 2013 data are preliminary and will be finalized in the FY 2014 PAR.*

[2] *FY 2012 application data has been updated with final end of year numbers.*

TABLE 3

PATENT APPLICATIONS PENDING PRIOR TO ALLOWANCES[1]
FY 1993 FY 2013

Year	Awaiting action by Examiner	Total Applications Pending[2]
1993	99,904	244,646
1994	107,824	261,249
1995	124,275	298,522
1996	139,943	303,720
1997	112,430	275,295
1998	224,446	379,484
1999	243,207	414,837
2000	308,056	485,129
2001	355,779	542,007
2002	433,691	636,530
2003	471,382	674,691
2004	528,685	756,604
2005	611,114	885,002
2006	701,147	1,003,884
2007	760,924	1,112,517
2008	771,529	1,208,076
2009	735,961	1,207,794
2010	726,331	1,163,751
2011	690,967	1,168,928
2012	633,812	1,157,147
2013	**616,409**	**1,148,823**

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

2 Applications under examination, including those in preexamination processing.

TABLE 4

PATENT PENDENCY STATISTICS
(FY 2013)

UPR Pendency Statistics by Technology Center (in months)	Average First Action Pendency	Total Average Pendency
Total UPR Pendency	**18.2**	**29.1**
Tech Center 1600 - Biotechnology & Organic Chemistry	13.4	27.5
Tech Center 1700 - Chemical and Materials Engineering	17.9	29.7
Tech Center 2100 - Computer Architecture, Software & Information Security	19.6	32.3
Tech Center 2400 - Networks, Multiplexing, Cable & Security	18.7	34.2
Tech Center 2600 - Communications	19.7	32.1
Tech Center 2800 - Semiconductor, Electrical, Optical Systems & Components	17.6	27.2
Tech Center 3600 - Transportation, Construction, Agriculture & Electronic Commerce	17.3	28.4
Tech Center 3700 - Mechanical Engineering, Manufacturing & Products	20.7	32.7

TABLE 5

SUMMARY OF TOTAL PENDING PATENT APPLICATIONS (FY 2013)

Stage of Processing	Utility, Plant, and Reissue Applications	Design Applications	Total Patent Applications
Pending patent applications, total	**1,213,723**	**44,860**	**1,258,583**
In preexamination processing, total	**121,038**	**3,626**	**124,664**
Under examination, total	**990,507**	**33,312**	**1,023,819**
Undocketed	55,810	4,464	60,274
Awaiting first action by examiner	408,150	23,321	431,471
Subtotal applications awaiting first action by examiner[3]	**584,998**	**31,411**	**616,409**
RCE Awaiting First Action	78,272	-	78,272
Rejected, awaiting response by applicant	312,628	4,472	317,100
Amended, awaiting action by examiner	93,222	898	94,120
In interference	98	-	98
On appeal, and other[1]	42,327	157	42,484
In post-examination processing, total	**102,178**	**7,922**	**110,100**
Awaiting issue fee	81,022	5,827	86,849
Awaiting printing[2]	17,825	2,089	19,914
D-10s (secret cases in condition for allowance)	3,331	6	3,337

- Represents zero

[1] *Includes cases on appeal and undergoing petitions.*

[2] *Includes withdrawn cases.*

[3] *Subtotal is not included in pending patent applications total.*

TABLE 6

PATENTS ISSUED
(FY 1993 FY 2013)[1]

Year	Utility[2]	Design	Plant	Reissue	Total
1993	96,675	9,946	408	302	107,331
1994	101,270	11,138	513	346	113,267
1995	101,895	11,662	390	294	114,241
1996	104,900	11,346	338	291	116,875
1997	111,977	10,331	400	267	122,975
1998	139,297	14,419	577	284	154,577
1999	142,852	15,480	436	393	159,161
2000	164,486	16,718	453	561	182,218
2001	169,571	17,179	563	504	187,817
2002	160,839	15,096	912	465	177,312
2003	171,493	16,525	1,178	394	189,590
2004	169,295	16,533	998	343	187,169
2005	151,077	13,395	816	195	165,483
2006	162,509	19,072	1,106	500	183,187
2007	160,306	22,543	979	548	184,376
2008	154,699	26,016	1,179	662	182,556
2009	165,213	23,415	1,096	398	190,122
2010	207,915	23,373	978	861	233,127
2011	221,350	21,295	816	969	244,430
2012	246,464	21,953	920	921	270,258
2013	**265,979**	**22,453**	**842**	**809**	**290,083**

[1] *Past years' data may have been revised from prior year reports.*
[2] *Includes chemical, electrical, and mechanical applications.*

TABLE 7

PATENT APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES[1] (FY 2009 – FY 2013)

State/Territory	2009	2010	2011	2012[2]	2013[3]	State/Territory	2009	2010	2011	2012[2]	2013[3]
Total	**246,777**	**254,895**	**266,243**	**282,466**	**N/A**	Nebraska	504	600	639	698	N/A
						Nevada	1,680	1,785	1,726	2,113	N/A
Alabama	912	977	986	988	N/A	New Hampshire	1,510	1,547	1,690	1,656	N/A
Alaska	95	85	96	88	N/A	New Jersey	9,622	9,861	9,669	9,919	N/A
Arizona	3,927	4,024	4,407	4,544	N/A	New Mexico	814	863	873	850	N/A
Arkansas	418	456	417	502	N/A	New York	15,098	15,279	15,935	17,594	N/A
California	66,132	66,287	70,720	77,273	N/A	North Carolina	5,803	6,053	6,205	6,720	N/A
Colorado	5,019	5,244	5,554	5,677	N/A	North Dakota	207	168	200	215	N/A
Connecticut	4,009	4,229	4,413	4,940	N/A	Ohio	7,528	8,139	8,086	7,934	N/A
Delaware	904	993	1,006	947	N/A	Oklahoma	1,052	1,138	1,107	1,090	N/A
District of Columbia	261	261	322	344	N/A	Oregon	3,911	4,203	4,473	4,686	N/A
						Pennsylvania	7,568	8,068	8,085	8,297	N/A
Florida	7,839	8,624	8,580	9,476	N/A	Rhode Island	666	739	753	834	N/A
Georgia	5,051	5,214	5,307	5,390	N/A	South Carolina	1,596	1,669	1,935	2,011	N/A
Hawaii	293	267	295	330	N/A	South Dakota	220	224	254	250	N/A
Idaho	1,544	1,635	1,664	1,566	N/A	Tennessee	2,034	2,287	2,275	2,194	N/A
Illinois	8,985	9,278	9,770	10,450	N/A	Texas	15,667	16,568	17,310	18,732	N/A
Indiana	3,181	3,515	3,726	3,861	N/A	Utah	2,594	2,782	2,907	2,992	N/A
Iowa	1,481	1,581	1,585	1,577	N/A	Vermont	616	679	804	791	N/A
Kansas	1,671	1,678	1,688	1,833	N/A	Virginia	3,402	3,582	3,806	4,106	N/A
Kentucky	1,132	1,124	1,364	1,271	N/A	Washington	12,619	12,815	13,764	14,425	N/A
Louisiana	795	882	835	839	N/A	West Virginia	300	292	316	271	N/A
Maine	344	415	440	437	N/A	Wisconsin	4,054	3,991	4,179	4,337	N/A
Maryland	3,503	3,551	3,760	3,786	N/A	Wyoming	158	198	180	218	N/A
Massachusetts	11,417	12,376	12,931	13,356	N/A	Puerto Rico	82	67	74	84	N/A
Michigan	7,881	7,834	8,243	8,956	N/A	Virgin Islands	11	13	5	12	N/A
Minnesota	7,805	7,852	7,984	7,981	N/A	U.S. Pacific Islands[4]	1	1	3	2	N/A
Mississippi	337	338	336	313	N/A						
Missouri	2,285	2,314	2,286	2,445	N/A	United States[5]	-	1	2	1	N/A
Montana	239	249	273	264	N/A	Other	-	-	-	-	N/A

- *Represents zero.*
1 *Data include utility, plant, design, and reissue applications.*
2 *Finalized data for FY 2009 to 2012 provided.*
3 *FY 2013 preliminary data should be available January 2014 at www.uspto.gov, and finalized in the FY 2014 PAR.*
4 *Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.*
5 *State/Territory information not available.*

TABLE 8

PATENT ISSUED TO RESIDENTS OF THE UNITED STATES[1] (FY 2012 – FY 2013)[4]

State/Territory	2012[3]	2013	State/Territory	2012[3]	2013
Total	**131,651**	**140,073**	Nebraska	302	351
			Nevada	845	936
Alabama	453	554	New Hampshire	824	825
Alaska	42	48	New Jersey	4,529	4,923
Arizona	2,294	2,404	New Mexico	434	451
Arkansas	218	241	New York	8,395	8,813
California	33,886	36,814	North Carolina	3,137	3,252
Colorado	2,598	3,002	North Dakota	104	130
Connecticut	2,212	2,312	Ohio	4,129	4,116
Delaware	503	469	Oklahoma	493	578
District of Columbia	134	140	Oregon	2,470	2,556
Florida	4,364	4,532	Pennsylvania	3,851	4,134
Georgia	2,471	2,709	Rhode Island	378	421
Hawaii	126	141	South Carolina	938	1,003
Idaho	1,023	968	South Dakota	121	128
Illinois	5,025	5,098	Tennessee	1,083	1,079
Indiana	1,931	2,067	Texas	8,731	9,289
Iowa	949	901	Utah	1,336	1,392
Kansas	1,034	1,077	Vermont	495	505
Kentucky	614	621	Virginia	1,794	1,926
Louisiana	433	420	Washington	5,839	6,169
Maine	211	228	West Virginia	145	151
Maryland	1,693	1,813	Wisconsin	2,313	2,354
Massachusetts	5,983	6,349	Wyoming	101	138
Michigan	4,950	5,425	Puerto Rico	43	18
Minnesota	4,229	4,556	Virgin Islands	3	5
Mississippi	168	171	U.S. Pacific Islands[5]	-	3
Missouri	1,150	1,238	United States[2]	-	2
Montana	124	127			

\- *Represents zero.*

[1] *Data include utility, design, plant, and reissue patents.*

[2] *No State indicated in database.*

[3] *Finalized data for FY 2012 provided.*

[4] *Past year's data may have been revised from prior year reports.*

[5] *Represents residents of American Samoa, Guam, and miscellaneous U.S Pacific*

TABLE 9

UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES (FY 2009 – FY 2013)[1]

State/Territory	2009	2010	2011	2012	2013
Total	**239,722**	**255,165**	**270,928**	**283,100**	**N/A**
Afghanistan	1	1	1	-	N/A
Albania	1	-	-	-	N/A
Algeria	-	1	-	-	N/A
Andorra	5	4	3	5	N/A
Angola	-	-	2	1	N/A
Anguilla	3	-	-	-	N/A
Antigua & Barbuda	1	2	3	2	N/A
Argentina	151	141	159	167	N/A
Armenia	2	8	8	11	N/A
Aruba	-	-	2	-	N/A
Australia	4,211	4,111	4,174	3,964	N/A
Austria	1,713	1,872	1,964	2,124	N/A
Azerbaijan	3	5	1	1	N/A
Bahamas	16	15	8	13	N/A
Bahrain	2	5	1	5	N/A
Bangladesh	-	2	5	2	N/A
Barbados	6	8	2	-	N/A
Belarus	7	11	7	12	N/A
Belgium	1,917	2,186	2,344	2,262	N/A
Belize	1	-	-	-	N/A
Bermuda	8	5	11	11	N/A
Bolivia	4	1	1	3	N/A
Bonaire, Sint Eustatius, and Saba[4]	-	-	2	-	N/A
Bosnia & Herzegovina	-	1	2	1	N/A
Brazil	497	584	684	683	N/A
British Virgin Islands	11	3	3	2	N/A
Brunei Darussalam	1	1	-	-	N/A
Bulgaria	114	89	70	72	N/A
Cameroon	9	5	2	4	N/A
Canada	11,250	12,203	12,921	14,256	N/A
Cayman Islands	10	25	17	10	N/A
Chad	-	-	1	-	N/A
Chile	65	68	122	117	N/A
China (Hong Kong)	1,254	1,267	1,379	1,380	N/A
China (Macau)	5	7	16	10	N/A
China (People's Republic)	5,301	8,358	10,562	13,371	N/A
Colombia	28	53	68	49	N/A
Costa Rica	18	28	21	24	N/A
Croatia	35	31	38	38	N/A
Cuba	23	26	19	18	N/A
Curacao	-	-	1	1	N/A
Cyprus	12	18	16	17	N/A
Czech Republic	245	279	277	398	N/A
Denmark	1,783	1,852	2,162	2,323	N/A
Dominican Republic	5	7	8	7	N/A
Ecuador	9	5	18	9	N/A
Egypt	33	55	58	59	N/A
El Salvador	1	1	1	5	N/A
Estonia	36	52	62	79	N/A
Ethiopia	-	1	-	1	N/A
Faroe Islands	-	1	-	-	N/A
Fiji	1	-	-	-	N/A
Finland	2,793	2,908	2,574	2,819	N/A
French Polynesia	-	-	1	-	N/A
France	9,726	10,641	11,436	11,310	N/A
Gabon	-	-	-	1	N/A
Georgia	2	5	6	5	N/A
Germany	26,855	28,157	29,543	30,250	N/A
Ghana	3	2	4	1	N/A
Gibraltar	7	7	7	8	N/A
Greece	118	138	139	168	N/A
Greenland	-	-	-	1	N/A
Guatemala	2	8	2	2	N/A
Guernsey	-	-	1	5	N/A
Guinea	1	-	-	1	N/A
Haiti	-	1	1	-	N/A
Honduras	1	1	1	-	N/A
Hungary	234	251	245	285	N/A
Iceland	49	52	63	80	N/A
India	2,878	3,696	4,482	5,515	N/A
Indonesia	19	27	21	29	N/A
Iran	29	67	87	69	N/A
Iraq	1	-	-	3	N/A
Ireland	711	785	901	913	N/A
Isle of Man	-	2	4	9	N/A
Israel	4,772	5,119	5,666	6,414	N/A
Italy	4,460	4,576	4,947	5,086	N/A
Jamaica	11	3	7	14	N/A
Japan	86,456	84,842	88,861	90,240	N/A
Jersey	-	9	9	5	N/A
Jordan	14	5	16	16	N/A
Kazakhstan	3	8	4	5	N/A
Kenya	4	2	10	7	N/A
Korea, Democratic. Republic of	1	-	-	-	N/A
Korea, Republic of	24,066	26,648	28,474	30,618	N/A
Kuwait	39	49	71	98	N/A
Latvia	15	19	10	8	N/A
Lebanon	17	8	28	23	N/A
Liberia[4]	-	-	-	1	N/A
Libya	1	-	-	-	N/A
Liechtenstein	42	40	39	47	N/A
Lithuania	13	13	16	15	N/A
Luxembourg	94	92	112	125	N/A

TABLE 9 CONT

UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES (FY 2009 – FY 2013)[1]

State/Territory	2009	2010	2011	2012	2013	State/Territory	2009	2010	2011	2012	2013
Madagascar	-	-	-	1	N/A	Senegal[4]	-	-	-	1	N/A
Macedonia	2	-	-	-	N/A	Serbia	5	27	23	22	N/A
Malaysia	325	387	426	375	N/A	Seychelles	1	1	4	9	N/A
Malta	11	10	5	12	N/A	Singapore	1,278	1,490	1,655	1,710	N/A
Mauritius	-	1	1	-	N/A	Slovakia	30	42	36	42	N/A
Mexico	244	316	351	407	N/A	Slovenia	69	111	98	107	N/A
Moldova	1	1	-	-	N/A	South Africa	323	356	361	338	N/A
Monaco	21	21	43	37	N/A	Spain	1,224	1,470	1,597	1,704	N/A
Mongolia[4]	-	-	4	-	N/A	Sri Lanka	12	14	9	13	N/A
Morocco	6	4	6	3	N/A	Sweden	3,610	3,906	4,319	4,576	N/A
Namibia	-	-	1	1	N/A	Switzerland	3,714	4,168	4,328	4,583	N/A
Nepal	2	-	1	2	N/A	Syria Arab Rep	2	-	3	3	N/A
Netherlands	4,510	4,639	4,893	4,764	N/A	Taiwan	17,974	21,282	21,678	21,310	N/A
Netherlands Antilles	4	1	-	-	N/A	Thailand	116	111	148	173	N/A
New Zealand	579	658	613	600	N/A	Trinidad & Tobago	8	12	8	12	N/A
Nicaragua[4]	-	-	-	1	N/A	Tunisia	5	5	6	10	N/A
Niger	-	1	-	-	N/A	Turkey	113	142	189	231	N/A
Nigeria	2	7	5	2	N/A	Turkmenistan	1	-	-	1	N/A
Norway	871	1,024	1,026	1,151	N/A	Turks and Caicos Islands	1	2	-	3	N/A
Oman	4	7	5	5	N/A						
Pakistan	7	20	29	14	N/A	Uganda[4]	-	-	-	1	N/A
Panama	6	3	6	6	N/A	Ukraine	61	67	92	132	N/A
Paraguay	-	-	2	1	N/A	United Arab Emirates	54	45	58	91	N/A
Peru	5	8	16	3	N/A	United Kingdom	11,205	11,852	12,149	13,015	N/A
Philippines	61	84	99	76	N/A	Uruguay	27	16	16	23	N/A
Poland	150	178	249	279	N/A	Uzbekistan	1	-	-	1	N/A
Portugal	87	113	115	114	N/A	Vanuatu (New Hebrides)	-	2	1	2	N/A
Qatar	4	2	20	17	N/A						
Romania	58	64	102	86	N/A	Venezuela	32	35	26	51	N/A
Russian Federation	498	600	741	837	N/A	Vietnam	4	10	9	26	N/A
Saint Kitts and Nevis[4]	-	-	-	1	N/A	West Bank/Gaza	-	1	-	1	N/A
Samoa	1	2	-	-	N/A	Zimbabwe	2	-	4	3	N/A
San Marino	3	1	1	1	N/A	Other[5]	-	-	-	-	N/A
Saudi Arabia	153	267	337	397	N/A						

- Represents zero.

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

[2] FY 2012 data are updated and final.

[3] FY 2013 preliminary data should be available in January 2014 at www.uspto.gov, and finalized in the FY 2014 PAR.

[4] Countries/Territories not previously reported.

[5] Country of origin information not available.

TABLE 10

PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES[1,3] (FY 2009 – FY 2013)[2]

State/Territory	2009	2010	2011	2012	2013
Total	**96,395**	**117,264**	**124,252**	**138,607**	**150,010**
Afghanistan[4]	-	-	-	-	1
Albania	-	-	1	-	1
Algeria	-	1	-	-	-
Andorra	2	8	4	2	1
Angola	-	-	-	1	1
Anguilla	1	-	1	1	-
Antigua and Barbuda	-	1	-	6	1
Argentina	47	60	49	58	76
Armenia	1	2	4	5	4
Aruba[4]	-	-	-	-	2
Australia	1,717	1,940	2,213	1,777	1,877
Austria	729	850	916	986	1,065
Azerbaijan	-	-	1	2	1
Bahamas	6	9	12	7	5
Bahrain	-	1	-	1	1
Bangladesh	-	-	-	1	2
Barbados	3	2	2	-	-
Belarus	6	7	4	6	10
Belgium	677	853	945	996	1,110
Belize	1	-	-	-	-
Bermuda	-	2	5	4	2
Bolivia	-	1	1	-	-
Bosnia and Herzegovina	2	-	-	2	1
Brazil	146	209	232	261	264
British Virgin Islands	4	-	1	-	2
Brunei Darussalam	1	-	1	-	-
Bulgaria	31	57	45	30	24
Burkina Faso	1	-	-	-	-
Cameroon	1	4	-	2	5
Canada	4,361	5,225	5,687	6,197	6,914
Cayman Islands	1	3	4	7	18
Chile	28	23	30	41	54
China (Hong Kong)	576	726	680	715	732
China (Macau)	1	2	6	2	7
China (Mainland)	2,195	3,059	3,465	5,044	6,179
Colombia	11	10	15	18	23
Costa Rica	14	13	14	12	14
Croatia	19	9	18	23	17
Cuba	5	8	4	5	12
Cyprus	2	5	3	2	11
Czech Republic	48	79	76	137	173
Denmark	512	706	837	941	1,010
Dominican Republic	5	3	2	2	6
Ecuador	3	5	1	4	9
Egypt	2	14	19	32	32

State/Territory	2009	2010	2011	2012	2013
El Salvador	-	1	-	-	2
Estonia	4	11	14	37	37
Faroe Islands [4]	-	-	-	-	1
Finland	974	1,223	1,030	1,111	1,206
France	3,836	4,835	5,024	5,616	6,245
French Polynesia	1	-	-	-	-
Georgia	1	2	2	2	3
Germany	10,279	12,916	13,020	14,569	15,798
Ghana	-	1	1	3	2
Gibraltar	1	-	3	6	3
Greece	26	59	57	80	81
Greenland	3	-	-	-	-
Guatemala	1	2	-	2	-
Guernsey	1	1	2	5	2
Haiti	-	-	-	1	1
Honduras	-	-	1	-	1
Hungary	53	92	103	107	134
Iceland	26	22	27	26	22
India	678	1,076	1,195	1,599	2,222
Indonesia	20	5	10	12	15
Iran	6	7	15	26	38
Ireland	180	259	313	329	435
Isle of Man	11	11	13	17	12
Israel	1,426	1,828	2,054	2,432	2,940
Italy	1,842	2,150	2,322	2,458	2,833
Jamaica	4	4	2	3	4
Japan	37,879	44,893	47,674	51,609	53,359
Jersey	0	1	3	5	8
Jordan	1	-	4	5	3
Kazakhstan	2	1	-	1	2
Kenya	6	4	1	2	2
Korea, Democratic People's Rep of	-	-	1	1	-
Korea, Republic of	9,401	11,811	12,858	13,956	15,058
Kuwait	12	17	23	26	72
Latvia	4	5	3	5	4
Lebanon	4	5	8	21	8
Liechtenstein	20	18	15	16	22
Lithuania	4	7	10	3	7
Luxembourg	55	50	41	51	56
Macedonia	1	-	1	1	-
Malaysia	173	230	175	199	247
Malta	7	3	4	2	9
Mexico	82	105	116	138	190
Monaco	8	9	8	9	11
Mongolia[4]	-	-	-	-	1
Morocco	4	1	2	3	2
Netherlands	1,634	1,823	1,959	2,205	2,391

TABLE 10 CONT.

PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES[1,3]
(FY 2009 – FY 2013)[2]

State/Territory	2009	2010	2011	2012	2013	State/Territory	2009	2010	2011	2012	2013
Netherlands Antilles	-	1	-	-	-	Slovenia	27	26	30	42	47
New Zealand	179	243	238	295	285	South Africa	148	143	134	156	179
Nicaragua [4]	-	-	-	-	1	Spain	415	484	528	708	739
Nigeria	-	-	1	1	3	Sri Lanka	6	4	8	3	5
Norway	303	414	411	441	510	Sweden	1,230	1,509	1,757	2,207	2,309
Oman	4	2	3	1	5	Switzerland	1,428	1,833	1,825	2,016	2,282
Pakistan	5	2	2	11	14	Syrian Arab Rep	-	-	1	-	1
Panama	3	4	1	4	3	Taiwan	7,958	9,202	9,584	11,309	12,169
Paraguay	-	1	-	1	2	Thailand	32	58	65	57	87
Peru	8	1	5	4	1	Trinidad and Tobago	3	5	1	3	9
Philippines	24	33	37	38	35	Tunisia	-	2	2	5	2
Poland	50	48	61	108	101	Turkey	32	49	45	48	78
Portugal	18	28	34	47	58	Turks and Caicos Islands	-	-	-	-	2
Qatar	1	1	1	3	6						
Romania	7	17	24	47	52	Ukraine	21	12	13	42	35
Russian Federation	206	246	311	335	410	United Arab Emirates	10	7	11	22	20
Samoa	-	2	-	-	-	United Kingdom	3,892	4,817	4,907	5,607	6,295
San Marino[4]	-	-	-	-	1	Uruguay	5	5	4	7	9
Saudi Arabia	20	51	56	152	206	Uzbekistan	-	-	-	1	-
Senegal	-	1	-	-	-	Vanuatu	-	-	1	-	-
Serbia	5	4	5	11	8	Venezuela	11	16	19	22	16
Seychelles	-	-	-	1	1	Vietnam	2	2	-	1	11
Singapore	496	591	693	800	840	Zimbabwe	4	-	-	1	3
Slovakia	13	15	22	21	14						

- Represents zero.

[1] Data includes utility, design, plant, and reissue patents.

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

[3] Each patent grant is listed under only one country of residence. Country listings include possessions and territories of that country unless separately listed in the table.

[4] Countries/Territories not previously reported.

TABLE 11

UTILITY PATENTS ISSUED TO SMALL ENTITIES
(FY 2009 – FY 2013)

Fiscal Year of Grant	2009	2010	2011	2012	2013
Percentage Small Entity	**19.76%**	**19.87%**	**19.80%**	**20.32%**	**21.07%**
US Origin[1]	27.54%	27.76%	27.87%	28.21%	29.01%
Foreign Origin[1]	12.27%	12.22%	12.16%	13.04%	13.86%
Percentage Large Entity	**80.24%**	**80.13%**	**80.19%**	**79.68%**	**78.93%**
US Origin[1]	72.46%	72.24%	72.13%	71.79%	70.99%
Foreign Origin[1]	87.73%	87.78%	87.84%	86.96%	86.14%

[1] Patent origin is based on residence of the first-named inventor.

TABLE 12

STATUTORY INVENTION REGISTRATIONS PUBLISHED (FY 2009 – FY 2013)

Assignee	2009	2010	2011	2012	2013
Air Force	2	-	1	-	-
Navy	3	5	7	3	8
Veterans Affairs	-	-	1	-	-
Other Than U.S Government	4	12	6	4	6
Total	**9**	**17**	**15**	**7**	**14**

- Represents zero.

TABLE 13

UNITED STATES GOVERNMENT AGENCY PATENTS[1] (FY 2009 – FY 2013)[3]

Activity	2009	2010	2011	2012	2013	Total
Agriculture	24	39	44	52	54	213
Air Force	45	51	40	51	44	231
Army	119	136	141	146	155	697
Attorney General	-	1	1	-	-	2
Commerce	5	10	15	11	12	53
Energy	17	42	25	36	41	161
Environmental Protection Agency	9	9	12	16	17	63
Health, Education, and Welfare/ Health and Human Services	105	128	146	137	131	647
Interior	4	4	1	3	2	14
National Aeronautics and Space Administration	86	89	106	106	94	481
Navy	230	284	300	366	383	1,563
National Security Agency	15	24	11	10	11	71
National Science Foundation	-	1	-	1	2	4
Postal Service	14	37	25	39	27	142
State Department	-	-	-	1	-	1
Transportation	-	1	-	-	-	1
Tennessee Valley Authority	-	1	-	-	-	1
USA[2]	3	5	3	6	8	25
Veterans Affairs	10	9	13	9	8	49
Total	**686**	**871**	**883**	**990**	**989**	**4,419**

- Represents zero.

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

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

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

TABLE 14A EX PARTE REEXAMINATION (FY 2009 – FY 2013)					
Fiscal Year of Grant	**2009**	**2010**	**2011**	**2012**	**2013**
Requests filed, total	**658**	**780**	**759**	**747**	**298**
By patent owner	67	63	104	64	13
By third party	591	717	654	683	285
Commissioner ordered	-	-	1	-	-
Determinations on requests, total	**614**	**662**	**773**	**548**	**526**
Requests granted:					
By examiner	574	606	685	502	486
By petition	-	1	6	4	2
Requests denied	40	55	82	42	38
Requests known to have related litigation	**372**	**347**	**349**	**311**	**381**
Filings by discipline, total	**658**	**780**	**759**	**747**	**298**
Chemical	120	137	143	149	61
Electrical	335	414	395	398	174
Mechanical	203	229	221	192	55
Design	-	-	-	8	8

- Represents zero.

TABLE 14B INTER PARTES REEXAMINATION (FY 2009 – FY 2013)					
Fiscal Year of Grant	**2009**	**2010**	**2011**	**2012**	**2013**
Requests filed, total	**258**	**281**	**374**	**640**	**-**
Determinations on requests, total	**229**	**231**	**366**	**354**	**347**
Requests granted:	218	224	344	325	322
By examiner	217	224	342	320	320
By petition	1	-	2	5	2
Requests denied	11	7	22	29	25
Requests known to have related litigation	**220**	**196**	**280**	**311**	**260**
Filings by discipline, total	**258**	**281**	**374**	**640**	**-**
Chemical	35	45	57	116	-
Electrical	153	174	216	316	-
Mechanical	70	62	101	204	-
Design	-	-	-	4	-

- Represents zero.
**Inter Partes Reexamination were not available after September 16, 2012*

TABLE 14C

SUPPLEMENTAL EXAMINATION (SE)[1]
(FY 2013)

Fiscal Year of Grant	2013
SEs filed, total	**33**
SEs granted a filing date, total	**25**
Determination on SE granted a filing date, total	**23**
SNQ found:	19
SNG not found:	4
Requests known to have related litigation	**N/A**
Filings by discipline, total	**33**
Chemical	7
Electrical	11
Mechanical	12
Design	3

[1]*This is the first year to report this information*

TABLE 15

SUMMARY OF CONTESTED PATENT CASES
(Within the USPTO, as of September 30, 2013)

Items	Total
Ex parte cases	
Appeals	
Cases pending as of 9/30/12	26,570
Cases filed during FY 2013	11,090
Disposals during FY 2013, total	
Decided, total	12,223
Affirmed	6,576
Affirmed-in-Part	1,692
Reversed	3,585
Dismissed/Withdrawn	246
Remanded	124
Case pending as of 9/30/13	**25,437**
Rehearings	
Case pending as of 9/30/13	32
Inter partes cases	
Cases pending as of 9/30/12	53
Cases declared or reinstituted during FY 2013	50
Inter partes cases, FY 2013 total	**103**
Cases terminated during FY 2013	52
Case pending as of 9/30/13	**51**

TABLE 16

SUMMARY OF TRADEMARK EXAMINING ACTIVITIES (FY 2009 – FY 2013)

Item	2009	2010	2011	2012	2013
Applications for Registration:					
Applications including Additional Classes	352,051	368,939	398,667	415,026	433,654
Applications Filed	266,939	280,649	301,826	311,627	321,055
Disposal of Trademark Applications:					
Registrations including Additional Classes	241,637	221,090	237,586	243,459	259,681
Abandonments including Additional Classes	189,687	151,027	141,908	139,832	145,731
Trademark First Actions including Additional Classes	372,830	367,027	389,084	420,621	441,615
Applications Approved for Publication including Additional Classes	320,246	307,001	323,072	345,649	360,958
Certificates of Registration Issued: [1]					
1946 Act Principal Register					
Principal Register	102,607	93,238	103,233	110,000	116,420
ITU-Statements of Use Registered	69,920	64,086	66,796	64,057	67,952
1946 Act Supplemental Register	7,993	7,006	7,632	8,704	8,749
Total Certificates of Registration	180,520	164,330	177,661	182,761	193,121
Renewal of Registration:*	43,953	48,214	49,000	63,636	74,280
Section 9 Applications Filed					
Section 8 Applications Filed**	43,868	48,275	49,037	63,642	74,283
Registrations Renewed	42,282	46,734	44,873	59,871	63,709
Affidavits, Sec. 8/15:	65,322	61,499	65,771	76,646	93,174
Affidavits Filed					
Affidavits Disposed	63,483	58,510	58,341	72,346	76,731
Amendments to Allege Use Filed	8,633	7,629	7,647	7,999	7,721
Statements of Use Filed	90,493	80,927	86,159	86,935	85,004
Notice of Allowance Issued	181,702	169,085	166,035	172,122	183,030
Total Active Certificates of Registration	**1,547,168**	**1,614,121**	**1,719,247**	**1,838,007**	**1,903,849**
Pendency - Average Months:					
Between Filing and Examiner's First Action	2.7	3.0	3.1	3.2	3.1
Between Filing, Registration (Use Applications) Abandonments, and NOAs - including suspended and inter partes proceedings	13.5	13.0	12.6	12.0	11.7
Between Filing, Registration (Use Applications) Abandonments, and NOAs - excluding suspended and inter partes proceedings	11.2	10.5	10.5	10.2	10.0

- Represents zero.

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

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

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

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

TABLE 17

TRADEMARK APPLICATIONS FILED FOR REGISTRATION AND RENEWAL AND TRADEMARK AFFIDAVITS FILED (FY1993 – FY 2013)

Year	For Registration	For Renewal[1]	Section B Affidavit
1993	139,735	7,173	21,999
1994	155,376	7,004	20,850
1995	175,307	7,346	23,497
1996	200,640	7,543	22,169
1997	224,355	6,720	20,781
1998	232,384	7,413	33,231
1999	295,165	7,944	33,104
2000	375,428	24,435	28,920
2001	296,388	24,174	33,547
2002	258,873	34,325	39,484
2003	267,218	35,210	43,151
2004	298,489	32,352	41,157
2005	323,501	39,354	47,752
2006	354,775	36,939	48,444
2007	394,368	40,786	49,241
2008	401,392	42,388	68,470
2009	352,051	43,953	65,322
2010	368,939	48,214	61,499
2011	398,667	49,000	65,771
2012	415,026	63,636	76,646
2013	**433,654**	**74,280**	**93,174**

[1] *Renewal of registration term changed with implementation of the Trademark Law Reform Act (Pub. L. No. 100-667) beginning November 16, 1989 (FY 1990).*

TABLE 18

SUMMARY OF PENDING TRADEMARK APPLICATIONS (FY 2013)

Stage of Processing	Application Files	Classes
Pending trademark applications, total	**428,872**	**602,242**
In preexamination processing	**74,518**	**95,593**
Under examination, total	**274,223**	**395,233**
Applications under initial examination	**88,478**	**131,165**
Amended, awaiting action by Examiner	84,400	125,665
Awaiting first action by examiner	4,078	5,500
Intent-To-Use applications pending Use	**148,056**	**208,735**
Applications under second examination	**7,035**	**9,766**
Administrative processing of Statements of Use	60	70
Undergoing second examination	1,771	2,356
Amended, awaiting action by Examiner	5,204	7,340
Other pending applications[1]	**30,654**	**45,567**
In post-examination processing (Includes all applications in all phases of publication and issue and registration)	**80,131**	**111,416**

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

TABLE 19

TRADEMARK REGISTERED, RENEWED, AND PUBLISHED UNDER SECTION 12(c)[1] (FY 1993 – FY 2013)

Year	Certificates of Regis. Issued	Renewed[2]	Registrations (incl Classes)
1993	74,349	6,182	86,122
1994	59,797	6,136	68,853
1995	65,662	6,785	75,372
1996	78,674	7,346	91,339
1997	97,294	7,389	112,509
1998	89,634	6,504	106,279
1999	87,774	6,280	104,324
2000	106,383	8,821	127,794
2001	102,314	31,477	124,502
2002	133,225	29,957	164,457
2003	143,424	34,370	185,182
2004	120,056	34,735	155,991
2005	112,495	32,279	143,396
2006	147,118	37,305	188,899
2007	150,064	47,336	194,327
2008	209,904	42,159	274,250
2009	180,520	42,282	241,637
2010	164,330	46,734	221,090
2011	177,661	44,873	237,586
2012	182,761	59,871	243,459
2013	**193,121**	**63,709**	**259,681**

\- *Represents zero.*

[1] *Includes withdrawn numbers.*

[2] *Includes Renewal of registration term changed with implementation of the Trademark Law Reform Act (Pub. L. No. 100-667) beginning November 16, 1989 (FY 1990).*

TABLE 20

TRADEMARK APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES (FY 2013)

State/Territory	2013	State/Territory	2013	State/Territory	2013
Total	**333,705**	Kentucky	1,748	Oklahoma	1,625
		Louisiana	2,293	Oregon	3,849
Alabama	1,962	Maine	688	Pennsylvania	9,231
Alaska	301	Maryland	5,816	Rhode Island	1,225
Arizona	1,091	Massachusetts	9,146	South Carolina	2,649
Arkansas	5,829	Michigan	6,933	South Dakota	418
California	70,806	Minnesota	5,931	Tennessee	4,589
Colorado	7,250	Mississippi	690	Texas	21,074
Connecticut	4,870	Missouri	4,385	Utah	3,511
Delaware	2,963	Montana	615	Vermont	616
District of Columbia	3,309	Nebraska	1,227	Virginia	7,648
Florida	24,736	Nevada	5,541	Washington	7,129
Georgia	8,756	New Hampshire	1,178	West Virginia	301
Hawaii	1,029	New Jersey	12,599	Wisconsin	4,219
Idaho	1,028	New Mexico	880	Wyoming	565
Illinois	13,843	New York	35,030	Puerto Rico	475
Indiana	3,613	North Carolina	6,871	Virgin Islands	75
Iowa	1,604	North Dakota	258	U.S. Pacific Islands[1]	34
Kansas	1,528	Ohio	8,004	United States[2]	121

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

[2] *No state indicated in database, includes Army Post Office filings*

TABLE 21

TRADEMARKS REGISTERED TO RESIDENTS OF THE UNITED STATES (FY 2013)[1]

State/Territory	2013	State/Territory	2013	State/Territory	2013
Total	**156,205**	Kentucky	640	Oklahoma	629
		Louisiana	696	Oregon	1,424
Alabama	575	Maine	302	Pennsylvania	3,023
Alaska	110	Maryland	1,713	Rhode Island	359
Arizona	1,886	Massachusetts	2,248	South Carolina	737
Arkansas	362	Michigan	2,490	South Dakota	173
California	17,156	Minnesota	2,521	Tennessee	1,336
Colorado	2,440	Mississippi	237	Texas	6,812
Connecticut	1,362	Missouri	1,751	Utah	1,287
Delaware	28,819	Montana	249	Vermont	212
District of Columbia	1,027	Nebraska	533	Virginia	2,457
Florida	8,329	Nevada	3,230	Washington	2,439
Georgia	2,793	New Hampshire	391	West Virginia	111
Hawaii	299	New Jersey	3,476	Wisconsin	1,768
Idaho	371	New Mexico	286	Wyoming	345
Illinois	4,594	New York	9,051	Puerto Rico	160
Indiana	1,431	North Carolina	1,999	Virgin Islands	39
Iowa	733	North Dakota	137	U.S. Pacific Islands[2]	22
Kansas	642	Ohio	3,307	United States[3]	24,686

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

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

[3] *No state indicated in database, includes APO filings.*

TABLE 22

TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES (FY 2009 – FY 2013)

State/Territory	2009	2010	2011	2012	2013	State/Territory	2009	2010	2011	2012	2013
Total	**77,448**	**79,664**	**85,101**	**89,100**	**99,949**	Dominican Republic	50	79	51	71	63
						Ecuador	32	27	47	34	35
Afghanistan	9	3	11	4	8	Egypt	14	27	38	18	58
Albania	-	-	6	1	2	El Salvador	34	36	36	25	56
Algeria	-	-	-	2	-	Estonia	48	64	37	56	86
Andorra	8	7	-	20	3	Ethiopia	1	-	1	4	3
Angola	-	11	11	1	3	Faroe Islands	1	-	2	-	4
Anguilla	23	3	17	34	22	Fiji	-	6	5	15	26
Antigua & Barbuda	4	18	s	6	-	Finland	547	746	675	714	1,117
Argentina	223	279	283	268	266	France	5,620	6,176	5,868	6,375	6,575
Armenia	10	7	32	16	32	French Polynesia	2	-	11	-	4
Aruba	3	3	1	3	4	Gabon	-	-	10	-	-
Australia	3,025	3,004	3,154	3,381	3,960	Georgia	11	8	27	9	18
Austria	1,181	980	1,212	1,155	1,292	Germany	11,345	10,300	10,603	10,525	11,504
Azerbaijan	-	-	8	3	1	Ghana	1	-	1	1	4
Bahamas	121	99	153	331	191	Gibraltar	52	30	61	63	49
Bahrain	19	20	31	21	10	Greece	137	209	166	135	203
Bangladesh	4	1	7	6	1	Grenada	-	-	1	4	3
Barbados	164	274	161	198	116	Guadeloupe	-	3	-	-	1
Belarus	10	46	35	43	30	Guatemala	29	27	16	44	44
Belgium	997	788	760	917	1,093	Guinea	-	3	-	-	-
Belize	20	20	30	33	32	Guyana	1	-	1	5	4
Benin	-	-	1	1	-	Haiti	-	5	2	8	3
Bermuda	178	164	182	222	253	Honduras	17	15	2	4	7
Bolivia	8	3	4	5	1	Hungary	155	118	87	102	161
Bosnia & Herzegovina	1	1	1	-	1	Iceland	87	67	62	65	100
Botswana	3	1	48	6	-	India	461	645	717	606	684
Brazil	477	546	548	608	676	Indonesia	64	51	56	91	70
British Virgin Islands	498	558	597	825	1,087	Iran	27	38	28	11	31
Brunei Darussalam	8	13	2	4	8	Iraq	4	-	1	-	1
Bulgaria	95	77	72	109	178	Ireland	441	567	615	619	699
Burkina Faso	-	1	-	-	-	Isle of Man	36	82	56	48	113
Cambodia	2	1	-	-	-	Israel	679	598	677	795	1,025
Cameroon	-	-	1	1	-	Italy	4,203	3,770	4,284	3,960	4,382
Canada	8,354	8,707	9,257	9,823	9,984	Jamaica	53	14	20	42	46
Cayman Islands	390	263	292	400	351	Japan	4,832	4,633	5,054	5,358	6,110
Channel Islands	37	73	127	58	-	Jordan	21	28	33	30	32
Chile	185	193	263	178	170	Kazakhstan	-	-	3	-	12
China (Hong Kong)	1,162	1,190	1,492	1,768	1,785	Kenya	2	9	1	12	2
China (Macau)	-	1	-	8	-	Korea, Democratic. Republic of	1	6	-	-	-
China (mainland)	2,096	2,808	3,652	3,735	4,756						
Colombia	183	185	184	300	296	Korea, Republic of	1,554	2,069	2,028	2,323	3,160
Cook Islands	5	4	-	-	-	Kuwait	16	20	10	14	21
Costa Rica	66	91	65	59	44	Kyrgyzstan	-	-	-	3	2
Croatia	42	33	14	40	64	Latvia	30	48	33	40	45
Cuba	6	1	3	5	2	Lebanon	24	28	34	32	57
Curacao	-	-	60	65	41	Liberia	-	-	1	1	1
Cyprus	115	151	210	718	333	Liechtenstein	240	99	182	152	105
Czech Republic	266	164	256	201	307	Lithuania	17	10	30	26	41
Denmark	997	884	827	869	1,120	Luxembourg	499	888	807	831	1,044
Dominica	-	2	2	-	6	Macao	12	5	10	-	126

TABLE 22 CONT

TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES (FY 2009 – FY 2013)

State/Territory	2009	2010	2011	2012	2013
Macedonia	-	8	4	27	11
Madagascar	7	-	-	1	-
Malaysia	126	122	89	89	131
Malta	81	34	63	99	424
Marshall Island	4	4	12	7	3
Martinique	-	-	1	1	-
Mauritania	1	-	-	-	-
Mauritius	28	39	64	29	74
Mexico	1,393	1,790	1,792	1,990	1,898
Micronesia	2	-	1	1	-
Moldova, Republic of	9	14	9	7	15
Monaco	81	96	168	135	144
Mongolia	7	2	30	3	1
Montserrat	-	-	6	-	-
Morocco	35	48	23	50	43
Myanmar	-	1	-	-	-
N. Mariana Island	5	9	2	7	4
Namibia	2	-	2	4	-
Nepal	2	-	5	1	1
Netherlands	2,220	2,387	2,357	1,851	2,419
Netherlands Antilles	68	113	41	-	-
New Zealand	486	482	520	522	520
Nicaragua	5	7	8	16	6
Nigeria	25	8	4	6	11
Norway	835	556	638	434	813
Oman	11	5	6	-	-
Pakistan	19	17	17	12	31
Palau	1	-	-	-	-
Panama	114	167	148	126	159
Papua New Guinea	1	3	-	-	3
Paraguay	7	4	12	6	18
Peru	49	38	69	62	84
Philippines	66	54	65	128	88
Poland	300	225	240	330	381
Portugal	318	335	261	232	301
Qatar	10	20	43	26	56
Romania	37	78	83	61	94
Russian Federation	676	650	591	1,036	1,025
Rwanda	1	-	-	-	-
Saint Christ-Nevis	16	6	-	-	-
Saint Kitts & Nevis	-	-	31	18	22
Saint Lucia	12	21	12	8	15
Saint Marten	-	-	2	3	5
Saint Vincent/ Grenadines	6	17	1	4	5
Samoa	5	15	11	11	10

State/Territory	2009	2010	2011	2012	2013
San Marino	17	10	8	13	16
Sao Tome/Principe	-	1	1	-	-
Saudi Arabia	49	61	66	108	71
Scotland	18	27	56	57	46
Senegal, Republic of	-	-	7	-	-
Serbia/Montenegro	14	38	47	38	30
Seychelles	26	19	38	27	37
Singapore	526	470	695	627	880
Slovakia	46	56	65	84	90
Slovenia	152	82	129	89	98
South Africa	183	232	253	271	294
Spain	1,798	1,789	2,200	2,097	1,881
Sri Lanka	15	17	19	21	13
Suriname	-	1	-	2	-
Swaziland	-	-	1	-	-
Sweden	1,222	1,467	1,536	1,709	1,804
Switzerland	3,883	4,750	4,770	4,901	5,613
Syria	7	14	7	-	-
Taiwan	1,221	1,359	1,525	1,661	1,464
Tanzania	-	1	2	-	3
Thailand	146	105	174	190	167
Timor-Leste	-	-	1	-	-
Togo	-	-	8	2	14
Trinidad & Tobago	23	13	5	13	10
Tunisia	7	14	17	6	30
Turkey	511	363	571	610	868
Turkmenistan	-	-	-	6	-
Turks and Caicos Islands	10	30	18	48	34
Uganda	1	-	3	2	1
Ukraine	63	102	92	118	155
United Arab Emirates	212	135	172	224	192
United Kingdom	7,624	7,727	8,451	8,939	10,629
Uruguay	35	47	35	14	53
Uzbekistan	3	-	-	2	3
Vanuatu (New Hebrides)	-	-	-	1	9
Venezuela	35	38	62	46	52
Vietnam	101	71	61	99	108
West Bank/Gaza	-	3	1	2	-
Yemen	-	1	4	1	2
Yugoslavia	-	3	-	-	-
Zambia	-	-	-	-	1
Zimbabwe	1	-	-	4	-
Other [1]	33	11	8	3	-

- Represents zero.

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

TABLE 23

TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES (FY 2009 – FY 2013)

State/Territory	2009	2010	2011	2012	2013	State/Territory	2009	2010	2011	2012	2013
Total	34,648	31,855	33,752	34,003	36,916	Cuba	6	7	7	4	8
						Curacao	-	-	1	9	18
Afghanistan	2	3	4	2	8	Cyprus	37	44	78	80	135
Albania	6	4	-	3	-	Czech Republic	69	68	57	94	107
Algeria	3	3	2	1	2	Denmark	424	378	372	333	377
Andorra	1	1	4	3	4	Djibouti	-	-	-	1	-
Angola, Republic of	2	-	2	2	1	Dominica	1	1	2	1	1
Anguilla	5	7	7	25	17	Dominican Republic	25	26	47	29	24
Antigua & Barbuda	13	4	3	4	5	Ecuador	17	15	23	19	14
Argentina	131	127	161	150	158	Egypt	6	6	8	16	16
Armenia	6	8	17	11	12	El Salvador	38	36	20	26	17
Aruba	5	-	2	2	-	Estonia	13	16	15	14	33
Australia	1,383	1,295	1,338	1,331	1,385	Ethiopia	1	4	3	-	1
Austria	367	322	337	361	361	Faroe Islands	1	-	1	1	1
Azerbaijan	-	-	1	2	1	Fiji	2	-	1	2	1
Bahamas	56	44	60	71	60	Finland	221	196	225	212	217
Bahrain	2	3	18	6	9	France	2,278	2,154	2,353	2,160	2,390
Bangladesh	1	3	1	6	1	French Guiana	-	-	-	-	-
Barbados	92	62	89	67	51	French Polynesia	2	-	2	-	2
Belarus	10	6	13	17	18	Gabon	-	-	-	1	1
Belgium	337	309	287	302	362	Georgia	-	3	4	14	8
Belize	5	20	12	29	25	Germany	,409	3,759	3,730	3,660	3,641
Benelux Convention	13	9	18	8	12	Ghana	2	3	2	5	5
Benin	1	1	-		1	Gibraltar	30	10	29	38	43
Bermuda	197	161	105	95	128	Greece	53	52	42	67	55
Bhutan	-	-	-	1	-	Greenland	-	1	-	-	-
Bolivia	5	7	1	3	2	Grenada	-	-	-	-	1
Bosnia & Herzegovina	1	-	1	2	1	Guatemala	-	24	-	-	-
Botswana	-	-	-	2	1	Guinea	-	-	-	1	-
Brazil	227	188	180	209	242	Guinea (Equatorial)	-	-	1	1	-
British Virgin Islands	323	302	315	258	396	Guinea-Bissau	-	-	1	3	1
Brunei Darussalam	-	1	-	-	3	Guyana	5	-	4	3	3
Bulgaria	26	24	21	28	45	Haiti	2	5	2	4	3
Burkina Faso	-	-	1	-	-	Honduras	8	17	4	7	5
Burundi	-	-	-	-	-	Hungary	36	64	36	34	52
Cambodia	-	1	1	1	-	Iceland	66	48	17	29	37
Cameroon	2	2	3	2	4	India	213	202	252	259	294
Canada	4,084	3,714	4,069	3,888	3,944	Indonesia	29	36	23	40	34
Cape Verde	3	-	-	-	-	Iran	13	9	4	17	8
Cayman Islands	170	151	133	124	155	Iraq	-	1	2	-	-
Channel Islands	2	15	25	29	-	Ireland	260	211	212	227	257
Chile	84	97	100	122	92	Isle of Man	7	-	24	13	25
China (Hong Kong)	521	502	562	601	775	Israel	319	348	341	412	462
China (Macau)	2	5	2	1	1	Italy	1,819	1,556	1,733	1,657	1,821
China (mainland)	1,459	1,356	1,705	2,024	2,444	Jamaica	23	24	21	28	27
Colombia	115	105	94	134	132	Japan	2,453	2,344	2,272	2,198	2,568
Congo	-	1	-	-	-	Jordan	13	7	16	20	14
Cook Islands	1	1	-	1	2	Kazakhstan	1	-	1	1	3
Costa Rica	27	36	21	25	51	Kenya	4	5	3	1	4
Cote D'Ivoire	1	-	1	4	1	Korea, Democratic. Republic of	7	4	2	9-	7
Croatia	8	10	14	7	16						

TABLE 23 CONT

TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES (FY 2009 – FY 2013)

State/Territory	2009	2010	2011	2012	2013
Korea, Republic of	760	773	904	1,043	1,153
Kuwait	6	6	3	7	8
Kyrgyzstan	-	1	-	1	2
Laos	-	-	1	-	-
Latvia	6	8	14	10	18
Lebanon	6	12	15	15	16
Liberia	22	12	8	6	4
Liechtenstein	75	48	37	45	56
Lithuania	8	7	11	16	15
Luxembourg	184	177	246	270	271
Macedonia	1	-	3	2	3
Madagascar	-	-	-	-	1
Malawi	-	-	1	-	-
Malaysia	57	63	78	76	45
Mali	-	1	-	-	-
Malta	5	11	20	24	28
Marshall Islands	3	6	3	5	3
Martinique	-	-	1	-	2
Mauritius	25	13	15	28	15
Mexico	830	736	954	897	1,040
Micronesia	1	3	2	-	-
Monaco	24	19	25	19	29
Mongolia	1	-	3	1	1
Montenegro	-	1	-	1	2
Montserrat				1	-
Morocco	7	8	9	8	10
Mozambique	-	-	-	-	-
Myanmar	-	-	1	-	-
N. Mariana Island	-	3	5	1	2
Namibia	-	-	-	1	3
Nauru	-	-	-	-	1
Nepal	1	-	2	2	1
Netherlands	931	883	831	897	810
Netherlands Antilles	32	39	30	21	8
New Zealand	265	267	285	223	219
Nicaragua	5	2	6	10	7
Nigeria	10	4	6	12	14
Norway	175	212	197	195	167
Oman	-	1	6	2	-
Pakistan	11	15	20	11	12
Palistinian Authority	-	-	3		2
Panama	58	68	88	53	92
Papua New Guinea	1	-	-	-	-
Paraguay	4	5	7	2	3
Peru	57	26	31	33	32
Philippines	50	41	38	34	37
Poland	103	74	87	98	102
Portugal	136	123	130	91	106
Qatar	6	9	5	1	9
Republic Moldova	3	2	4	1	6
Romania	20	11	17	15	28
Russian Federation	162	154	206	252	281
Rwanda	-	-	1	-	-

State/Territory	2009	2010	2011	2012	2013
Saint Christ & Nevis	26	26	10	31	36
Saint Lucia	8	2	6	1	10
Saint Martin	-	-	-	3	1
Saint Vincent/ Grenadines	2	1	2	2	2
San Marino	2	7	-	1	1
Saudi Arabia	13	14	10	38	22
Scotland	50	15	17	12	16
Senegal	-	3	2	1	1
Serbia	-	4	6	9	7
Serbia/Montenegro	-	-	-	-	2
Seychelles	8	12	14	18	17
Sierra Leone	-	-	2	1	1
Singapore	174	220	230	239	324
Slovakia	26	12	17	17	17
Slovenia	33	15	29	31	30
South Africa	104	140	119	93	138
Spain	821	780	797	885	965
Sri Lanka	21	13	16	12	15
St Kitts & Nevis	-	-	-	-	36
Swaziland	4	-	-	3	1
Sweden	603	566	524	655	661
Switzerland	1,672	1,338	1,566	1,560	1,623
Syria	2	-	5	3	1
Taiwan	845	782	843	820	957
Tajikistan	-	-	-	-	-
Tanzania	-	-	1	1	1
Thailand	71	53	49	67	74
Timor-Leste	-	-	-	1	-
Togo	1	-	-	2	1
Trinidad & Tobago	7	14	5	6	7
Tunisia	3	3	5	3	2
Turkey	169	167	167	194	250
Turks and Caicos Islands	2	-	12	8	11
Uganda	3	1	1	2	2
Ukraine	18	30	41	33	38
United Arab Emirates	36	56	52	62	90
United Kingdom	3,098	3,010	2,989	2,905	3,092
Uruguay	20	23	24	19	16
Uzbekistan	2	-	1	-	1
Vanuatu (New Hebrides)	1	-	-	-	2
Vatican City	-	-	1	1	-
Venezuela	45	42	41	49	37
Vietnam	34	39	37	43	52
Western Samoa/ Samoa	-	8	9	4	1
Yemen	1	1	-	4	1
Yugoslavia	3	1	1	2	-
Zambia	-	-	1	-	-
Zimbabwe	2	-	4	2	1
Other [1]	55	19	14	16	20

- Represents zero.

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

TABLE 24

SUMMARY OF CONTESTED TRADEMARK CASES
(Within the USPTO, as of September 30, 2013)

Activity	Ex Parte	Opposition	Cancellations	Concurrent Use	Interference	Total
Cases pending as of 9/30/12, total	**1,191**	**5,496**	**1,533**	**56**	**-**	**8,276**
Cases filed during FY 2013	**2,685**	**5,278**	**1,513**	**16**	**-**	**9,492**
Disposals during FY 2013, total	**2,767**	**5,112**	**1,417**	**41**	**-**	**9,337**
Before hearing	2,229	5,011	1,381	40	-	8,661
After hearing	538	101	36	1	-	676
Cases pending as of 9/30/13, total	**1,109**	**5,662**	**1,629**	**31**	**-**	**8,431**
Awaiting decision	58	22	6	2	-	88
In process before hearing [1]	1,051	5,640	1,623	29	-	8,343
Requests for extension of time to oppose FY 2013	**-**	**16,939**	**-**	**-**	**-**	**16,939**

- *Represents zero.*

[1]*Includes suspended cases.*

TABLE 25

ACTIONS ON PETITIONS TO THE DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE (FY 2009 – FY 2013)

Nature of Petition	2009	2010	2011	2012	2013
Patent matters					
Actions on patent petitions, total	**51,482**	**51,649**	**53,755**	**51,323**	**48,109**
Acceptance of:					
Late assignments	628	773	892	739	804
Late issue fees	1,792	1,720	1,920	1,529	1,765
Late priority papers	13	5	4	6	5
Access	42	14	9	4	3
Certificates of correction	25,527	27,611	26,033	25,441	24,738
Deferment of issue	20	9	8	9	9
Entity Status Change	1,246	2,567	2,842	3,016	2,874
Filing date	723	539	531	413	432
Maintenance fees	1,949	2,173	2,457	1,984	1,702
Revivals	11,478	9,326	9,949	8,202	8,660
Rule 47 (37 CFR 1.47)	2,583	2,259	3,077	2,748	1,648
Supervisory authority	347	411	470	439	461
Suspend rules	301	237	275	162	120
Withdrawal from issue	1,423	1,912	1,948	2,196	3,363
Withdrawals of holding of aband.	3,410	2,093	3,340	4,435	1,525
Late Claim for Priority	1,121	1,094	1,389	1,298	1,254
Withdraw as Attorney	6,133	5,237	5,798	3,922	3,846
Matters Not Provided For (37 CFR 1.182)	1,334	1,236	1,603	1,775	1,338
To Make Special	4,797	4,264	10,573	12,832	17,805
Patent Term Adjustment/Extension	1,613	28,775	2,117	1,298	964
Trademark matters					
Actions on trademark petitions, total	**24,747**	**21,852**	**23,133**	**21,036**	**22,268**
Filing date restorations[1]	20	13	6	19	8
Inadvertently issued registrations	134	116	78	81	118
Letters of Protest	1,011	1,003	1,213	1,490	1,595
Madrid Petitions	21	28	46	43	61
Make special	94	225	170	302	244
Reinstatements[2]	851	563	547	354	319
Revive (reviewed on paper)	2,526	1,096	1,276	698	324
Revive (granted electronically)[3]	18,967	17,686	18,802	16,913	18,165
Waive fees/refunds	18	18	5	18	7
Miscellaneous Petitions to the Director	1,008	971	840	967	1,223
Board Matters	11	16	9	15	25
Post Registration Matters	86	117	141	136	179
Petitions awaiting action as of 9/30					
Trademark petitions awaiting response	72	51	60	26	29
Trademark petitions awaiting action	3	5	2	5	17
Trademark pending filing date issues	-	-	-	-	-

- Represents zero.

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

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

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

TABLE 26

CASES IN LITIGATION
(Selected Courts of the United States, as of September 30, 2013)

	Patents	Trademarks	OED	Total
United States District Courts				
Civil actions pending as of 9/30/12, total	**110**	**1**	**1**	**112**
Filed during FY 2013	**130**	**5**	**-**	**135**
Disposals, total	**44**	**2**	**1**	**47**
Reversed	-	-	-	-
Remanded	4	1	-	5
Dismissed	29	1	1	31
SJ Granted -USPTO	7	-	-	7
SJ Granted - Opposing Party	3	-	-	3
Transfer	1	-	-	1
Civil actions pending as of 9/30/13, total	**196**	**4**	**-**	**200**
United States Courts of Appeals[1]				
Ex parte cases				
Cases pending as of 9/30/12	**70**	**6**	**-**	**76**
Cases filed during FY 2013	**71**	**9**	**2**	**82**
Disposals, total	**81**	**6**	**2**	**89**
USPTO Affirmed	47	5	1	53
District Court Affirmed	-	-	-	-
Reversed	5	-	-	5
Remanded	12	-	-	12
Dismissed	17	1	1	19
Vacated	-	-	-	-
Transfer	-	-	-	-
Mandamus Denied	-	-	-	-
Mandamus Granted	-	-	-	-
Total ex parte cases pending as of 9/30/13	**60**	**9**	**-**	**69**
Inter partes cases				
Cases pending as of 9/30/12	**6**	**5**	**-**	**11**
Cases filed during FY 2013	**46**	**12**	**-**	**58**
Disposals, total	**9**	**7**	**-**	**16**
Affirmed	3	3	-	6
Reversed	-	-	-	-
Remanded	1	1	-	2
Dismissed	4	3	-	7
Transferred	1	-	-	1
Total inter partes cases pending as of 9/30/13	**43**	**10**	**-**	**53**
Total United States Courts of Appeals cases pending as of 9/30/13	**-**	**-**	**-**	**122**
Supreme Court				
Ex parte cases				
Cases pending as of 9/30/12	**3**	**-**	**-**	**3**
Cases filed during FY 2013	**5**	**-**	**1**	**6**
Disposals, total	**6**	**-**	**1**	**7**
Cases pending as of 9/30/13, total	**-**	**-**	**-**	**2**
Notices of Suit filed in FY 2013				

- Represents zero.

[1]*Includes suspended cases.*

TABLE 27

PATENT CLASSIFICATION ACTIVITY
(FY 2009 – FY 2013)

Item	2009	2010	2011	2012	2013
Original patents professionally reclassified - completed projects	9,955	90,869	25,540	6,175	29,042
Subclasses established	631	1,429	753	311	349
Reclassified patents clerically processed, total	**60,778**	**156,590**	**165,019**	**31,232**	**40,007**
Original U.S. patents	18,765	52,036	55,090	10,969	25,485
Cross-reference U.S. patents	42,013	104,554	109,929	20,263	14,522

TABLE 28

SCIENTIFIC AND TECHNICAL INFORMATION CENTER ACTIVITY
(FY 2013)

Activity	Quantity
Prior Art Search Services Provided:	
Commercial Database Searches Completed	30,705
Genetic Sequence Searches Completed	7,968
Number of Genetic Sequences Searched	41,506
CRF Submissions Processed	18,929
PLUS Searches Completed	70,411
Foreign Patent Searches Completed	5,856
Document Delivery Services Provided:	
Document Delivery/Interlibrary Loan Requests Processed	19,517
Copies of Foreign Patents Provided	9,889
Information Assistance and Automation Services:	
One-on-One Examiner Information Assistance	25,682
One-on-One Examiner Automation Assistance	44,858
Patents Employee Attendance at Automation Classes	19,485
Foreign Patents Assistance for Examiners and Public	6,589
Examiner Briefings on Scientific & Technical Information Center Information Sources and Services	22,800
Translation Services Provided for Examiners:	
Written Translations of Documents	4,045
Number of Words Translated (Written)	14,896,762
Documents Orally Translated[1]	3,778
Total Number of Examiner Service Contacts	**332,018**
Collection Usage and Growth:	
Print/Electronic Non-Patent Literature Collection Usage	1,728,244
Print Books/Subscriptions Purchased	86,944
Full Text Electronic Journal Titles Available	74,973
Full Text Electronic Book Titles Available	240,067
NPL Databases Available for Searching (est.)	1,581

[1] *Includes orally translated requests for Trademarks*

TABLE 29

END OF YEAR PERSONNEL[1]
(FY 2009 – FY 2013)

Activity	2009	2010	2011	2012	2013
Business					
Patent Business Line	8,786	8,645	9,234	10,632	10,847
Trademark Business Line	930	862	976	899	926
Total USPTO	**9,716**	**9,507**	**10,210**	**11,531**	**11,773**
Examination Staff					
Patent Examiners					
Utility, Plant, and Reissue Examiners	6,145	6,128	6,690	7,831	7928
Design Examiners	98	97	95	104	123
Total UPR and Design Examiners	**6,243**	**6,225**	**6,780**	**7,935**	**8,051**
Patent Examiner Attrition Rate Less Transfers and Retirees	5.51%	3.75%	2.96%	3.07%	4.23%
Trademark Examining Attorneys	**388**	**378**	**378**	**386**	**409**
Trademark Examining Attorneys Attrition Rate	3.24%	3.08%	2.83%	3.98%	1.92%

[1] *Number of people on-board.*

TABLE 30A

TOP 50 TRADEMARK APPLICANTS (FY 2013)

Name of Applicant	Class[1]
MATTEL, INC.	927
Novartis AG	462
Lidl Stiftung & Co. KG	457
LG Electronics Inc.	449
SAMSUNG ELECTRONICS CO., LTD.	399
Rovio Entertainment Ltd	334
BRISTOL-MYERS SQUIBB COMPANY	315
The Procter & Gamble Company	298
S. C. Johnson & Son, Inc.	278
Comité International Olympique	266
Societe des Produits Nestle S.A.	256
JOHNSON & JOHNSON	249
Xyleco, Inc.	238
Disney Enterprises, Inc.	235
Fuhu Holdings, Inc.	228
Home Focus Development Limited	228
UNITED STATES POSTAL SERVICE	212
Twentieth Century Fox Film Corporation	211
King.Com Limited	201
DreamWorks Animation L.L.C.	189
Bally Gaming, Inc.	180
A&E Television Networks, LLC	176
Gamesys Limited	168
Glaxo Group Limited	167
Conair Corporation	164
Merck Sharp & Dohme Corp.	162
KARL STORZ GmbH & Co. KG	159
Discovery Communications, LLC	151
Conopco, Inc.	149
BossMedia AB	147
Advance Magazine Publishers Inc.	146
CHEIL INDUSTRIES INC.	145
LOTTE SHOPPING CO., LTD.	145
Wal-Mart Stores, Inc.	144
L'Oreal USA Creative, Inc.	140
Sears Brands, LLC	139
Michelin North America, Inc.	136
Eli Lilly and Company	135
IGT	134
Colgate-Palmolive Company	133
Homer TLC, Inc.	131
L'OREAL	130
THE WINE GROUP LLC	123
WMS GAMING INC.	122
Televisa, S.A. de C.V.	121
World Wrestling Entertainment, Inc.	121
Forest Laboratories, Inc.	120
Warner Bros. Entertainment Inc.	120
Nissan Jidosha Kabushiki Kaisha	119
Aristocrat Technologies Australia Pty Lt	116

[1] *Applications with Additional Classes.*

TABLE 30B

TOP 50 TRADEMARK REGISTRANTS (FY 2013)

Name of Registrant	Registrations
MATTEL, INC.	346
LG Electronics Inc.	183
JOHNSON & JOHNSON	169
Disney Enterprises, Inc.	156
The Procter & Gamble Company	136
Boehringer Ingelheim International GmbH	129
Twentieth Century Fox Film Corporation	104
Target Brands, Inc.	98
Societe des Produits Nestle S.A.	96
Novartis AG	86
L'Oreal	77
Sears Brands, LLC	73
Columbia Insurance Company	71
Conair Corporation	71
L'Oreal USA Creative, Inc.	71
Discovery Communications, LLC	65
IGT	65
HEB GROCERY COMPANY, LP	63
Bally Gaming, Inc.	62
OMS Investments, Inc.	61
Walgreen Co.	61
Summit Entertainment, LLC	60
General Motors LLC	57
Playtika Ltd.	56
UnitedHealth Group Incorporated	55
Siemens Aktiengesellschaft	54
AGC, LLC	53
Mars, Incorporated	53
Topco Holdings, Inc.	53
Huawei Technologies Co., Ltd.	52
Konami Gaming, Inc.	52
Lidl Stiftung & Co. KG	52
Koninklijke Philips Electronics N.V.	51
Samsung Electronics Co., Ltd.	51
The Saul Zaentz Company	50
UHS of Delaware, Inc.	49
Nintendo of America Inc.	48
Advance Magazine Publishers Inc.	46
Amorepacific Corporation	46
Aristocrat Technologies Australia Pty Lt	46
Microsoft Corporation	46
VIACOM INTERNATIONAL INC.	46
VTech Electronics North America, LLC	46
AOL Inc.	45
CONOPCO, INC.	45
Diageo North America, Inc.	45
Home Box Office, Inc.	45
K. Hansotia & Co., Inc.	45
Wal-Mart Stores, Inc.	45
U.S. Marine Corps, a component of the U.	44

Glossary of Acronyms and Abbreviations List

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ABC	Activity Based Costing
ACR	Accelerated Case Resolution
AFCP	After Final Consideration Pilot
AIA	America Invents Act
AIPA	American Inventors Protection Act
ASEAN	Association of Southeast Asian Nations
CAFC	U.S. Court of Appeals for the Federal Circuit
cDNA	complementary Deoxyribonucleic acid
CFR	Code of Federal Regulations
CFS	Consolidated Financial System
COOP	Continuity of Operations Plan
COTS	Commercial-off-the-shelf (software)
CPC	Cooperative Patent Classification
CRF	Computer Readable Form
CSRS	Civil Service Retirement System
D&ISP	Diversity and Inclusion Strategic Plan
DNA	Deoxyribonucleic acid
DOC	Department of Commerce
DoD	Department of Defense
DOL	Department of Labor
EFT	Electronic Funds Transfer
eOG	electronic Official Gazette
EPA	Environmental Protection Agency
EPO	European Patent Office
EVS	Employee Viewpoint Survey
FECA	Federal Employees' Compensation Act
FEGLI	Federal Employees Group Life Insurance
FEHB	Federal Employees Health Benefit Program
FERS	Federal Employees Retirement System
FFMIA	Federal Financial Management Improvement Act
FICA	Federal Insurance Contributions Act
FISMA	Federal Information Security Management Act

FMFIA	Federal Managers' Financial Integrity Act
FMS	Financial Management Services
FPNG	Fee Processing Next Generation
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
GAO	Government Accountability Office
GIPA	Global Intellectual Property Academy
GOTS	Government-off-the-shelf
GPO	U.S. Government Printing Office
GSA	U.S. General Services Administration
HRLOB	Human Resources Line of Business
ID	Identification
IDP	Individual Development Plan
IDS	Information Disclosure Statement
IG	Inspector General
ILT	Instructor-Led Training
INTERPOL	International Criminal Police Organization
IP	Intellectual Property
IP5	USPTO, EPO, SIPO, KIPO, and JPO
IPIA	Improper Payments Information Act
IPR	Intellectual Property Rights
IPTF	Internet Policy Task Force
ISO	International Organization for Standardization
IT	Information Technology
JPO	Japan Patent Office
KIPO	Korean Intellectual Property Office
LDP	Leadership Development Program
MTS	Metric Tracking System
N/A	Not Available
NIST	National Institute of Standards and Technology
NOA	Notice of Allowance (Table 16)
NPL	Non-Patent Literature
NSF	National Science Foundation
NSTA	National Science Teachers Association
NTIA	National Telecommunication and Information Administration
OBRA	Omnibus Budget Reconciliation Act
OCAO	Office of the Chief Administration Officer
OCFO	Office of Chief Financial Officer
OCIO	Office of Chief Information Officer
OED	Office of Enrollment and Discipline
OEEOD	Office of Equal Employment Opportunity and Diversity
OGC	Office of General Counsel
OGL	Office of General Law
OHIM	Office for Harmonization in the Internal Market
OHR	Office of Human Resources
OID	Office of Innovation Development
OIG	Office of the Inspector General
OMB	Office of Management and Budget
OPEA	Office of Policy and External Affairs
OPIM	Office of Patent Information Management
OPM	Office of Personnel Management
OPQA	Office of Patent Quality Assurance
OPT	Office of Patent Training
PAR	Performance and Accountability Report
PCT	Patent Cooperation Treaty

PE2E	Patent End-to-End
PETTP	Patent Examiner Technical Training Program
PEWLAN	Public and Enterprise Wireless Local Area Network
PLUS	Patent Linguistics Utility System
POA&M	Plan of Actions and Milestones
PPAC	Patent Public Advisory Committee
PPH	Patent Prosecution Highway
PPS	Partnership for Public Service
PTAB	Patent Trial and Appeal Board
Pub. L. No.	Public Law
QPIDS	Final Practice and Quick Path IDS
RAM	Revenue Accounting and Management
RCE	Request for Continued Examination
SDLC	System Development Life Cycle
SEE	Site Examiner Education Program
SES	Senior Executive Service
SFFAS	Statements of Federal Financial Accounting Standards
SIPO	Chinese State Intellectual Property Office
SJ	Summary Judgment
SM	Service Mark
SME	Small to Medium-Sized Enterprise
TBMP	Trademark Board Manual of Procedure
TC	Technology Center
TEAPP	Telework Enhancement Act Pilot Program
TEAS	Trademark Electronic Application System
TM	Trademarks
TM5	JPO,EPO, KIPO, SIPO, USPTO
TPAC	Trademark Public Advisory Committee
TPP	Trans-Pacific Partnership
TSDR	Trademark Status and Data Retrieval
TTAB	Trademark Trial and Appeal Board
TTIP	Trans-Atlantic Trade and Investment Partnership
TVA	Tennessee Valley Authority
U.S.	United States
U.S.C.	United States Code
UPRD	Utility, Plant, Reissue, Design
USG	United States Government
USPTO	United States Patent and Trademark Office
USTR	United States Trade Representative
WIPO	World Intellectual Property Organization
WTO	World Trade Organization
XML	Extensible Markup Language

A limited glossary containing some USPTO-specific definitions can be found here:

www.uspto.gov/main/glossary/index.html

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