



2008 BUDGET

UNITED STATES PATENT AND TRADEMARK OFFICE



FISCAL YEAR 2008 PRESIDENT'S BUDGET

February 2007

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Section I – FY 2008 President's Budget

USPTO BUDGET-AT-A-GLANCE

Department of Commerce Goal: *“Promote U.S. innovation and industrial competitiveness by protecting intellectual property...”*

| | Actuals | President's Budget | Expected Enacted | President's Budget | Outyear Estimates | | | |
|---|--------------------|--|--------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Dollars in thousands | FY 2006 | FY 2007 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
| USPTO GOAL 1: OPTIMIZE PATENT QUALITY AND TIMELINESS | | | | | | | | |
| Amount | \$1,347,864 | \$1,472,479 | \$1,535,087 | \$1,666,597 | \$1,805,220 | \$1,990,096 | \$2,182,508 | \$2,352,382 |
| Allowance Compliance Rate ¹ | 96.5% | 96.0% | 96.0% | 96.0% | 96.0% | 96.0% | 96.0% | 96.0% |
| In-Process Examination Compliance Rate | 90.0% | 90.0% | 90.0% | 90.0% | 90.0% | 91.0% | 92.0% | 93.0% |
| Average First Action Pendency/UPR (Months) | 22.6 | 23.0 | 23.7 | 24.9 | 25.5 | 26.5 | 27.6 | 28.9 |
| Utility, Plant and Reissue (UPR) Units of Production | 315,019 | 343,900 | 323,900 | 355,500 | 386,400 | 411,600 | 435,900 | 460,300 |
| Average Total Pendency/UPR (Months) | 31.1 | 32.0 | 33.0 | 34.7 | 35.9 | 36.5 | 37.5 | 38.6 |
| USPTO GOAL 2: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS | | | | | | | | |
| Amount | \$149,653 | \$148,264 | \$189,651 | \$200,935 | \$210,024 | \$209,486 | \$220,001 | \$230,704 |
| First Action Compliance Rate | 95.7% | 94.0% | 95.5% | 95.5% | 95.5% | 95.5% | 95.5% | 95.5% |
| Final Action Compliance Rate | 96.4% | 94.0% | 96.0% | 96.0% | 96.0% | 96.0% | 96.0% | 96.0% |
| Average First Action Pendency (Months) | 4.8 | 3.7 | 3.7 | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 |
| Total Balanced Disposals | 784,109 | 787,200 | 787,200 | 825,300 | 862,000 | 906,100 | 957,900 | 1,011,200 |
| Average Total Pendency (Months) | 18.0 | 17.3 | 17.3 | 16.6 | 16.0 | 16.0 | 16.0 | 16.0 |
| USPTO GOAL 3: IMPROVE INTELLECTUAL PROPERTY PROTECTION AND ENFORCEMENT DOMESTICALLY AND ABROAD² | | | | | | | | |
| Amount | \$176,924 | \$222,223 | \$46,262 | \$48,020 | \$50,646 | \$51,796 | \$52,961 | \$54,152 |
| Technical Assistance Activities Completed (Activities/Countries) | 239/102 | <i>Replaced with more outcome oriented performance measures.</i> | | | | | | |
| Number of Instances in Which External Affairs Experts Review IP Policies/Standards | | | 80 | 82 | 84 | 84 | 84 | 84 |
| Improving World-Wide IP Expertise for US Government Interests | | | 10 | 12 | 12 | 12 | 12 | 12 |
| Plans of Action, Mechanisms and Support Programs Initiated Or Implemented in Developing Countries | | | 8 | 10 | 10 | 10 | 10 | 10 |
| USPTO Appropriation | \$1,674,441 | \$1,842,966 | \$1,771,000³ | \$1,915,552 | \$2,065,890 | \$2,251,378 | \$2,455,470 | \$2,637,238 |

¹ For consistency, all quality metrics are being reported as compliance rates.

² This goal has changed from transitioning to an e-government environment, thus the change in total resources.

³ Congressional action on the FY 2007 appropriation is expected to result in a revised budget estimate of \$1,771 million for FY 2007.

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EXECUTIVE SUMMARY AND MANAGEMENT PRIORITIES

The USPTO's fiscal year (FY) 2008 performance budget is for \$1,916 million and represents a \$145 million, or an 8.2 percent increase over the estimated spending authority for FY 2007. This request would provide \$1,702 million for completing 366,200 first actions on patentability determinations and over 344,800 patent application disposals; and \$214 million for completing 421,000 first actions on trademark applications and 367,800 office disposals.

The corresponding fee income estimates for FY 2008 of \$1,702 million for Patents and \$214 million for Trademarks assumes the fee structure based on the provisions of Title VIII in the Consolidated Appropriations Act, 2005 (P.L. 108-447) will be made permanent.

The USPTO's FY 2008 budget request aligns with the Department of Commerce goal to promote U.S. innovation and industrial competitiveness by protecting intellectual property (IP). The request is guided by the President's Management Agenda (PMA) strategy for improving the management and performance of five key Government-wide areas: strategic management of human capital, competitive sourcing, improved financial performance, expanded electronic government, and budget and performance integration.

This request complies with OMB Circular A-11; Section 220 for presenting a performance budget that illustrates a relationship between performance goals and the costs for achieving a target level of performance. The performance budget links strategic goals, objectives, and initiatives contained in the USPTO *Strategic Plan 2007-2012* with annual performance targets that contribute to the achievement of those goals with the intention to transform the agency into a quality focused, highly productive, and globally competitive enterprise.

The USPTO strategic goals and corresponding initiatives will enable the Agency to achieve the vision of leading the world in IP policy by optimizing patent and trademark quality and timeliness and improving IP protection and enforcement domestically and abroad in concert with focused management priorities that encompass:

Permanent Fee Legislation/Sustained Funding Stream – Permanent enactment of the fee changes made with the Consolidated Appropriations Act, 2005 is necessary to provide a stable and predictable funding stream for the agency.

Resolute Emphasis on Quality and Productivity – Quality and productivity are the most important components of the *Strategic Plan 2007-2012*.

Timeliness -- In order to meet applicant needs, USPTO is continuing to address the challenges of rising workloads and the shift of applications from traditional arts to more complex technologies by hiring additional examiners and exploring process changes. Additionally, in FY 2006, the Patent Business implemented an accelerated examination process for those applicants who desire a final disposition of their application within 12 months.

Electronic Workplace – The Patent and Trademark operations are rapidly moving to eliminate paper documents from their processes. Electronic communications will continue to be improved, encouraging more applicants to do business electronically with the delivery of web-based text and image systems.

Strengthen Intellectual Property Protection Worldwide – As contained in the *Strategic Plan 2007-2012*, the USPTO continues to work as a member of the Strategy Targeting Organized Piracy (STOP!) initiative and the National Intellectual Property Law Enforcement Coordination Council (NIPLC) to improve intellectual property (IP) protections. USPTO will also continue to work with its IP partners and other IP offices to improve the efficiency of processing systems and streamline the global IP system.

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THE USPTO MISSION AND STRATEGIC PLAN

The mission of the USPTO is to foster innovation and competitiveness by:

- Providing high quality and timely examination of patent and trademark applications,
- Guiding domestic and international IP policy, and
- Delivering IP information and education worldwide.

This mission is accomplished by the USPTO through its two distinct business lines, Patents and Trademarks.

The USPTO administers the patent and trademark laws [15 U.S. C. 113 and 35 U.S.C. 41 and 376] which provide protection to inventors and businesses for their inventions and corporate and product identifications, and encourages innovation and scientific and technical advancement of American industry through the preservation, classification, and dissemination of patent and trademark information. In addition to the examination of applications for patent grants and trademark registrations, the USPTO provides technical advice and information to Executive Branch agencies on IP matters and the trade related aspects of IP rights. USPTO also assists governments of other countries establish regulatory and enforcement mechanisms that meet their international obligations to protect IP.

Over the past four years, the USPTO has been guided by the aggressive and far-reaching *21st Century Strategic Plan* that committed the Agency to:

- Promote the IP systems of the future to keep American innovators competitive in the global economy, and
- Transform the agency into a quality-focused, highly productive and responsive organization.

Since that time, the USPTO delivered on key strategic promises to:

- Make quality the number one priority – for example, employee competencies were increased and enhancements were made to patent and trademark quality assurance programs.
- Move toward full patent and trademark electronic processing -- for example, electronic processing of patent applications was implemented in August 2004.
- Protect the U.S. IP system and American interests internationally – for example, the Madrid Protocol was implemented in November 2003.
- Obtain full access to fees and receive Congressional approval for a new fee structure – for example, legislation was put in place for FYs 2005 and 2006 and has been proposed for FY 2007 and FY 2008.

The USPTO will build on this solid infrastructure for the future by:

- Continuing to enhance the quality of the search and examination processes.
- Completing the transition to electronic processing of patent and trademark applications.
- Developing innovative plans for hiring programs that address pendency and patent backlogs by hiring, training, retaining employees and allowing them to work at home or off-site.

This budget request provides an inclusive perspective by identifying critical patent and trademark initiatives and resource requirements for successful multi-year implementation of the *Strategic Plan 2007-*

2012. All of the business line requirements center on four guiding principles that will guide the Agency in fulfilling its mission and achieving its vision.

- Quality means accurate and consistent results in examination. It presumes improved inputs, better-focused examination, improved review processes, and consistent examination results.
- Timeliness means processing, including review of applications, is completed without delay. It presumes that applicable laws, regulations, and policies work synergistically to eliminate friction or uncertainties that lead to delays.
- Cost-effectiveness implies efficiency, accountability, and a focus on results. It requires leadership and commitment to ensure that activities and processes result in value. This means using resources in the most effective manner to deliver quality and timely USPTO services. It also means being responsible stewards of the public trust.
- Transparency demands impartiality, fairness, accessibility, availability, and a public-service mentality. This includes our continuing commitment to opening the USPTO to the public by providing electronic filing, patent and trademark file contents, and as much training and research material as possible via our website. It requires discipline on the part of citizens to use public means to influence change in USPTO practices and activities.

SUMMARY OF ACCOMPLISHMENTS BY STRATEGIC AND PERFORMANCE GOAL

Fiscal Year 2006

To accomplish its mission, the USPTO has established three strategic/performance goals that will drive operations, funding and performance. Significant accomplishments toward meeting these goals were achieved in FY 2006, which serve as the antecedent for this budget request.

GOAL 1: Optimize Patent Quality and Timeliness

- Hired a record 1,193 UPR patent examiners in 2006, exceeding the hiring goal by nearly 200 people.
- Implemented a university approach to training new examiners by teaching them in a classroom setting for eight months, rather than using traditional one-on-one training model. This allowed the USPTO to deliver intensive training to the massive amount of new examiners, while more experienced examiners and supervisors could focus on quality examination.
- Implemented recruitment bonuses to hire and retain the talented engineers and scientists the USPTO needs to examine increasingly complex applications.
- Implemented a patent hoteling program with a pioneer group of 500 examiners and provided them with the electronic equipment they needed to perform their jobs from remote locations. A great benefit for the hotelers has been the reduction of time spent commuting.
- Implemented the Electronic Filing System-Web (or EFS-Web), a user-friendly, Internet-based patent application and document submission solution. This system has dramatically increased the electronic filing of patent applications.
- Proposed rule changes regarding the examination of patent application claims, continuations, and information disclosure statements. The USPTO presented the proposed rules to interested groups around the nation. The purpose is to identify a way to produce more focused, higher-quality, and efficient examination and to ensure that patent examiners receive the most relevant information as early in the examination process as possible.
- Implemented a new accelerated patent examination procedure, which gives participating applicants a final decision on their application within 12 months from filing. This is in return for their providing an appropriate search of the prior art and an improved explanation of their claims and prior art found.

GOAL 2: Optimize Trademark Quality and Timeliness

- Achieved a final action quality compliance rate of 96.4 percent with more than 354,000 application classes filed.
- Reduced first action pendency by 1.5 months, and increased by 25 percent the number of disposals (instances where trademarks are either registered, or the applicant abandons the application.); made significant progress on streamlining the Trademark process to further improve disposal pendency and quality; and documented workflows, adopted standardized practices, and retrained employees to enhance trademark consistency and quality.
- Received 94 percent of trademark applications via electronic filing; continued to enhance electronic filing by expanding the number and type of transactions offered on-line. Reduced fees for filing electronically; provided additional fee reductions to those who filed a complete application using Trademark Electronic Application System-Plus.

- Provided more options to enhance the quality of application data in trademark systems and search results; expanded the hours of the Trademark call center and improved service for all customers.
- Received the “Telework Program with Maximum Impact on Government Award” from the Telework Exchange for the examining attorney work-at-home program, and expanded the program to include 85 percent of eligible employees.

GOAL 3: Improve Intellectual Property Protection and Enforcement Domestically and Abroad

- As part of the Bush Administration’s Strategy Targeting Organized Piracy (STOP!) initiative, worked with other U.S. Government agencies to fight piracy and counterfeiting around the world. The USPTO collaborated on IP training, norm-setting, and enforcement efforts with colleagues in the Departments of Commerce, Justice, and State; the Department of Homeland Security’s Customs and Border Protection; the Copyright Office; and the Office of the U.S. Trade Representative (USTR).
- As part of STOP!, continued a communications campaign to educate small businesses about protecting their IP in the United States and abroad, and offered small-business conferences throughout the country. Other conferences focused exclusively on the IP challenges of doing business in China. All conferences had strong attendance, and more than 90 percent of attendees rated them “Excellent” or “Good.”
- Continued to staff the STOP! hotline, which lets callers receive information on IP rights and enforcement from USPTO attorneys with regional expertise. In 2006, the hotline received 1,460 phone calls from people across America with a range of IP questions – a 52 percent increase over 2005. The STOP! gateway website was expanded to provide more specialized information, including USPTO-designed “IP toolkits” which help businesses protect their rights in other countries.
- Represented the U.S. in discussions and negotiations at the World Intellectual Property Organization (WIPO) throughout the year. Led a delegation to the WIPO Diplomatic Conference, which culminated in the adoption of the Singapore Treaty on the Law of Trademarks, which will help trademark owners around the world file applications and renew registrations with fewer formality requirements.
- Promoted IP protection in China: through the Joint Commission on Commerce and Trade and its Intellectual Property Rights (IPR) Working Group and in collaboration with the USTR, negotiated another set of commitments from the Chinese Government to reduce counterfeiting and piracy.
- Conducted Global Intellectual Property Academies (GIPA) and IP Rights programs for foreign government officials and private sector representatives around the world.
- Placed IP experts in Brazil, China, Egypt, India, Thailand and Geneva (WIPO/World Trade Organization (WTO)) to advocate improved IP protection for American businesses and to coordinate training to help stop piracy and counterfeiting abroad.

The Economy and USPTO Workloads

Economic Outlook - Summary

Economic activity in the U.S. continues to expand and many economists are expecting the outlook to remain positive in the near future. With the global economy, and especially continued growth of the U.S. economy, the workload outlook for the USPTO remains positive.

Introduction

The USPTO considers a number of factors when forecasting its workloads. Two major factors include the overall condition of the U.S. and global economies as measured by Gross Domestic Product (GDP) and research and development expenditures within the U.S. Although forecasts of economic performances in the U.S. and abroad are always uncertain, the overall direction of the U.S. economy and the global economy, in general, is expected to remain positive. Based on these economic assumptions, the projected demand for patent and trademark products is predicted to grow.⁴

U.S. Economy

Economic activity in the U.S. has been strong in recent years and the general expectation is that the U.S. economy will continue to grow through 2008, but at a slightly slower pace. As compared to this time last year, forecasts of the U.S. economy from the Congressional Budget Office (CBO) have been revised downward slightly for near-term GDP growth and slightly upward for mid-term GDP growth.⁵ CBO is currently optimistic, envisioning recent growth moderating only to a small extent through 2008.

In calendar year 2006, U.S. real GDP growth was estimated by the CBO to be near 3.5 percent. Also, according to the CBO, calendar year 2007 and 2008 growth is expected to be 3.0 percent per year, absent significant external shocks resulting from major natural disasters or terrorist activity in the U.S. or abroad, or from a severe downturn in the housing market. The expectation for the long-term is that GDP will increase by a 2.9 percent annual average rate from 2009 through 2012. Based on the probable overall economic growth path alone, patent and trademark application filings received by the USPTO should steadily increase through FY 2012.

Research and Development (R&D)

Another key factor influencing the direction of USPTO workload is R&D expenditures, which is a useful indicator of patent application filings. The latest preliminary figures available from the National Science Foundation (NSF) show that total U.S. R&D expenditures increased by \$20.2 billion to \$312.1 billion in 2004. About two-thirds of this total was funded by private industry and 14 percent from Universities and Colleges, with the remaining share funded by the federal government and nonprofit institutions. When the figures are adjusted for inflation, U.S. R&D expenditures are estimated to have increased by about 4.7 percent in 2004.

According to the Battelle-R&D Magazine annual funding forecast, U.S. R&D expenditures in 2005 were estimated to have increased by 3.6 percent from the previous year. For 2006, R&D expenditure growth is

⁴ Economic activity is an important consideration when developing workload forecasts, primarily for patent filings. There is a high correlation between economic activity, such as GDP, and patenting. The correlation is not perfect, but it does provide an indication about the general trend of workloads. The USPTO considers both quantitative methods (e.g., models) and qualitative methods (e.g., judgment based on key considerations) when developing a consensus workload forecast. The CBO forecast of economic activity helps justify the fact that the USPTO expects the workload outlook to remain positive.

⁵ CBO develops a domestic forecast twice a year and presents it formally in testimony before Congress, making it both timely and authoritative. The current forecast is as of August 17, 2006. In particular, it can be viewed as an official update of the forecasts appearing in the Economic Report of the President.

expected to have increased by 2.9 percent. Based on available R&D estimates the outlook for patent filings is positive. The USPTO has found that R&D expenditures correlate with patent filing workloads approximately one year later.

Global Economy

Since IP protection is a worldwide concern, the global economy is an important component of the USPTO's workload outlook. Approximately 45.0 percent of patent application and about 20.0 percent of trademark application filings originate in foreign countries.

Global economic growth has been strong in recent years, with world output increasing 5.3 percent in 2004. For calendar year 2005, the growth rate was 4.9 percent. A final number is not available for 2006, but the original projection from the International Monetary Fund was 5.1 percent. The outlook remains positive, but economic growth may decelerate slightly in 2007. The International Monetary Fund is expecting world output to increase by 4.9 percent in 2007. Continued global economic growth would suggest that patent and trademark application filings from overseas are also likely to continue to increase through 2008.

Section II – FY 2008 Budget Request by Business Line

The USPTO operates as a performance-based organization based on two mission driven business operations — Patents and Trademarks. The budget by business line presentation accounts for full program costs in order to illustrate a clear linkage to both patent and trademark performance targets.

PATENT BUSINESS

Mission and Business Activities

The core mission of the Patent Business is to examine applications and grant valid patents in accordance with the law. This is accomplished by comparing the claimed subject matter of an inventor's application for a patent to a large body of existing technological information to determine whether or not the claimed invention is new, useful, and non-obvious to someone knowledgeable in that subject matter. In the course of examining patent applications, examiners make determinations on patentability, prepare answers to briefs in appeals contesting actions rejecting an application, make holdings of abandonments, recommend institution of interference proceedings to determine priority of invention, and act on other post-examination issues in accordance with the provisions of 35 U.S.C. and 37 C.F.R.

The examination of patent applications consists of several distinct, but interrelated activities, which are described below. Workloads, together with initiatives contained in the *Strategic Plan 2007-2012*, drive all non-inflationary increases for FY 2008 budget estimates.

Initial Examination — This function includes the administrative review of all applications, including those filed under the Patent Cooperation Treaty (PCT), before delivery to the Patent Examining Corps for examination. In this phase, the review is for compliance with requirements of form and content; determination of the adequacy and acceptability of statutory fees; conversion to the Image File Wrapper (IFW), except if filed electronically, for electronic processing of all documents and orders; assignment of the official filing date and application tracking number; and inputting of patent bibliographic data in the Patent Application Location Monitoring (PALM) system.

Examination — In this phase, examiners compare the application's subject matter to a large body of technological information to determine the patentability of a claimed invention, whether or not the invention is new, useful, non-obvious, adequately described or enabled, and claimed in clear and definite terms to individuals knowledgeable in that subject matter.

Scientific, Technical, and Classification Services — The patent scientific, technical and classification services are an integral part of the patent examination process. These functions are required to maintain a patent classification system by subject matter and to provide electronic access to all U.S. and foreign patents and related technical literature used for searching. The current examiner search files contain more than 8.9 million U.S. patent documents and 27.0 million foreign patent documents. Examiners also have access to over one thousand commercial databases containing non-patent technical literature documents.

Pre-Grant Publication and Patent Issuance (Post-Examination) — Pre-grant publication is the process of publishing those applications that are subject to publication 18 months after the earliest effective filing date. Patent issuance occurs after examiners have allowed applications and includes tasks associated with the preparation for issue and printing of patents and publication of a weekly edition of the

electronic *Official Gazette* for dissemination to the public. Also included in the cost of this phase is the printing of reexamination certificates, Statutory Invention Registrations and for the searchable database for non-published applications.

Patent Appeals and Interferences — This phase includes post-examination hearings and deciding appeals from examiner adverse decisions concerning patent applications, and conducting interference proceedings to make final determinations as to questions of priority of invention.

Management, Policy, Executive Leadership and Patent Office of Automation Support — In addition to the above patent examination process components, direct support of patent operations includes costs related to patent executive and policy leadership, quality review and training functions. These estimates also include the costs of maintaining all automated information systems that directly support the patent process. As part of this function, patent automation personnel serve as business process experts by working with the Chief Information Officer (CIO) organization to implement information technology systems and to procure and deploy related hardware and software in support of the Patent Business.

Strategic Initiatives — The strategic initiatives that support the Patent Business are discussed under Goal 1 — Optimize Patent Quality and Timeliness.

Other Contributing Resources (indirect costs that are reasonably allocated to programs and activities on a prorated basis using a consistent cost allocation methodology) — These costs represent the patent share of agency-wide activities such as the share of Information Technology (IT) Security and other indirect costs such as rent, utilities, program administration, internal operations and infrastructure that support the entire Agency. The USPTO utilizes an activity-based costing methodology that provides greater transparency to the program's operational performance by identifying various factors that drive program costs.

Planned Performance Results

In FY 2008 the Patent Business will:

- Receive 479,200 new Utility, Plant and Reissue (UPR) applications.
- Complete 366,200 first actions on the merits to achieve an average first action pendency of 24.9 months. This production target is almost 10 percent more than the 333,600 first actions planned for FY 2007.
- Dispose of 344,800 cases to achieve an average total pendency of 34.7 months, and issue and print over 192,800 patents. This target is almost 9 percent more than the 177,400 patent issues projected for FY 2007.
- Complete 355,500 UPR production units, about 10 percent more than the 323,900 planned for FY 2007.

TRADEMARK BUSINESS

Mission and Business Activities

The core mission of the Trademark Business is to register marks that meet the requirements of the Trademark Act of 1946, as amended, and provide notice to the public and businesses of the trademark rights claimed in the pending applications and existing registrations of others. With such notice, readily available at <http://www.uspto.gov> a business can make an informed decision when it wishes to adopt a new mark or expand the goods or services marketed under an existing mark. Federal registration provides enhanced protection for the owner's investment in the mark and in the goods and services sold under the registered mark.

The core process within the Trademark Business 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, including 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 Act.

The examination of trademark applications consists of several distinct activities, which are:

Initial Examination — When an application for trademark registration is received it is reviewed for adherence to filing requirements. If basic filing requirements are met, the application is classified and data is transferred into trademark automated systems, which are the source for application data that is used in the processing and examination of trademarks. The automated system also provides information available to the public through the USPTO website. Initial examination also encompasses the processing of applications filed under the Madrid Protocol.

Examination — In this phase of the process, examining attorneys determine if the mark in the application is entitled to registration under the provisions of the Trademark Act. As part of the process, examining attorneys evaluate many types of marks, such as trademarks, service marks, certification marks, and collective membership marks. Examining attorneys search a database of about 1,300,000 registered marks and more than 500,000 pending marks in order to determine if a mark in the subject application is confusingly similar to an existing mark.

Publication and Registration — This phase includes the publication of applications for opposition or notice that the mark has been approved, the registration of allowed applications that have demonstrated use, and the processing of allowed intent-to-use applications awaiting statements of use.

Post Registration — Between the fifth and the sixth year after registration and at ten year intervals after registration or renewal, the registrant must file an affidavit and proof that the mark shown in the registration is being used in commerce, or that grounds for excusable non-use exists. Failure to file the required affidavit and proof of use results in cancellation of the registration. These requirements serve to remove trademarks from the register when the mark is no longer in use.

Appeals and Inter Partes Proceedings — This phase includes review, at applicant request, of adverse registrability determinations, opposition hearings where an existing trademark holder believes that an allowed application may be confusingly similar, and other proceedings involving registrations where a third party wishes to challenge the validity of a registration.

Management, Policy, Administrative and Automation Support — In addition to the above trademark process components, direct support of trademark operations includes costs related to trademark executive

and policy leadership, customer assistance, quality review and training. These estimates also include the costs of maintaining automated information systems that directly support the trademark process. Dedicated trademark support personnel serve as business process experts by working with the CIO organization to implement IT systems and to procure and deploy related hardware and software in support of trademark operations.

Strategic Initiatives — The strategic initiatives that support the Trademark Business are discussed under Goal 2 – optimize trademark quality and timeliness.

Other Contributing Resources (indirect costs that are reasonably allocated to programs and activities on a prorated basis using a consistent cost allocation methodology) — These costs represent the trademark share of agency-wide activities such as the share of IT Security and other indirect costs such as rent, utilities, program administration, internal operations and infrastructure that support the entire Agency. The USPTO utilizes an activity-based costing methodology that provides greater transparency to the program's operational performance in identifying various factors that drive program costs.

Planned Performance Results

In FY 2008 the Trademark Business will:

- Receive 406,000 new application classes for registration.
- Complete 421,000 first actions to achieve an average first action pendency of 3.0 months, compared to the 418,000 first actions planned for FY 2007.
- Complete 825,300 balanced disposals, about 5 percent more than the 787,200 planned for FY 2007.
- Complete 367,800 office disposals to achieve an average total pendency of 16.6 months, almost 13 percent more than the 326,100 planned for FY 2007.

| FY 2008 Business Line Table | | | | | | | | |
|---|--------------------|--------------|----------------|------------------|------------------|--------------|--------------------|--------------|
| | Patents | | Trademarks | | Total USPTO | | | |
| | \$ | FTE | \$ | FTE | \$ | FTE | | |
| FY 2006 Actuals | 1,484,076 | 6,627 | 190,365 | 819 | 1,674,441 | 7,446 | | |
| FY 2007 President's Budget | 1,640,421 | 7,582 | 202,545 | 975 | 1,842,966 | 8,557 | | |
| Congressional Reduction (Anticipated) | (65,532) | | (6,434) | | (71,966) | | | |
| FY 2007 Program Level | 1,574,889 | 7,582 | 196,111 | 975 | 1,771,000 | 8,557 | | |
| Annualization of Positions | | | | | | | | |
| Patents | 30,323 | 492 | | | 30,323 | 492 | | |
| Trademarks | | | 4,653 | 9 | 4,653 | 9 | | |
| Pay Inflation Adjustments | | | | | | | | |
| Pay Raise | 17,866 | | 2,335 | | 20,201 | | | |
| Pay Annualization | 3,986 | | 520 | | 4,506 | | | |
| All Other Pay | 19,797 | | 2,592 | | 22,389 | | | |
| Non Pay Inflation Adjustments | 11,084 | | 1,768 | | 12,852 | | | |
| FY 2008 Current Services Level | 1,657,945 | 8,074 | - | 207,979 | 984 | - | 1,865,924 | 9,058 |
| Program Increases | 43,457 | | 6,171 | | 49,628 | 484 | | |
| Program Adjustments | 1,272 | | 1,498 | | 2,770 | | | |
| Workload Adjustments | 42,185 | 448 | - | 1,391 | 20 | - | 43,576 | 468 |
| Patent New Hires | 36,202 | | | | | | | |
| Transform the Board of Patent Appeals and Interferences to Address Expanding Roles and Workload (Pre-Appeal/Post Grant) | 5,253 | | | | | | | |
| Qualifications for Registration | 730 | | | | | | | |
| Increase Trademark Application Filings | | | | 980 | | | | |
| Increase Trademark Workloads | | | | 411 | | | | |
| Program Changes | - | | 3,282 | 16 | - | 3,282 | 16 | |
| Trademark Electronic Processing and Workflow | - | | 800 | | | | | |
| Trademark Telework Expansion | - | | 200 | | | | | |
| Trademark Support for Remote Workforce | - | | 397 | | | | | |
| Entrance Criteria for Final Office Actions | - | | 193 | | | | | |
| Trademark Examination Quality | - | | 193 | | | | | |
| Quality Review for Trademark Examiners | - | | 1,084 | | | | | |
| Enhance Electronic Filing and Communications | - | | 415 | | | | | |
| FY 2008 USPTO Budget Request (Program Level) | 1,701,402 | 8,522 | - | 214,150 | 1,020 | - | 1,915,552 | 9,542 |
| FY 2008 Offsetting Fee Collections | (1,701,402) | - | - | (214,150) | - | - | (1,915,552) | |

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Section III – FY 2008 President's Budget by Performance Goal

GOAL 1 — BUDGET AND PERFORMANCE

Optimize Patent Quality and Timeliness

Introduction

The core process under Goal 1 is the examination of an inventor's application for a patent by comparing the claimed subject matter against a large body of technological information to determine if the claimed invention is new, useful, and non-obvious to someone knowledgeable in that subject matter. A quality review of examination requirements and practices includes checking a random sample of processes and allowed applications for quality. The patent examination process also includes deciding appeals regarding issues of patentability and preparing interference proceedings.

A higher percentage of patent applications are being filed in the very high complexity art areas such as data processing, telecommunications and biotechnology. These applications require more hours to examine than applications in the relatively less complex areas such as general mechanical and traditional chemical technologies. The time spent by an examiner on complex technology applications is almost double that of traditional applications. In 2007 and 2008 the USPTO will be addressing pendency by hiring additional examiners, continuing competitive sourcing, where appropriate,⁶ work sharing opportunities, and exploring other potential options with applicants and stakeholders.

Under *The 21st Century Strategic Plan*, the USPTO began implementing several quality initiatives, including an enhanced Quality Assurance Program that includes end-product reviews, in-process reviews, and enhanced "second pair of eyes" reviews. The feedback from these reviews is used to identify and develop training modules and other quality enhancements. In 2007 and 2008, The USPTO will continue the quality efforts currently implemented, and assess and improve the quality measurement system.

Challenges

Although the goal of optimizing patent quality and timeliness seems concise and focused, it gives rise to a broad spectrum of challenges for its successful achievement. Attracting, hiring, training, and retaining the high performing examiners who are critical to meeting this goal is a multi-faceted effort that includes competition for some of the most talented and recruited individuals in tomorrow's work force. Quality of the examination process requires a shared (between applicants and USPTO) understanding of what defines quality and the level of finite resources that should be devoted to the process. Offering patent applicants a variety of products that fit their individual needs with respect to protecting their IP rights while effectively and efficiently applying the resources of the USPTO is necessary to keep this the best patent examination system in the world.

In order for Americans to reap the benefits of their innovations, they often rely on the legal rights associated with a granted patent. This means the longer it takes for the USPTO to review a patent application, the longer it will take for an applicant to receive the patent rights to which they might be entitled. Congress and the public have recognized this issue – referred to as "pendency," or the time an

⁶ It is of note that the competitive sourcing search pilot was not successful due to various restrictive legislative requirements.

application remains with the USPTO until a final decision is made – as having a direct impact on American competitiveness. Congress and the public realize that one means of ensuring timely, high-quality review of patent applications is for the USPTO to hire and retain more patent examiners. Unfortunately, the call for more patent examiners comes at a time when American engineers and scientists are in higher demand than ever.

Hiring Patent Examiners

Exacerbating the problem is the growing patent workload and the resulting need to attract and hire even larger numbers of new patent examiners. The USPTO plans to hire 1,200 UPR patent professionals each year through 2012, for a total of at least 8,400 patent examiner hires in 7 years or a net increase of over 3,000 over the same time period. Notwithstanding these massive hiring efforts, in the absence of other changes to the current examination system, the overall impact on patent pendency from hiring alone will be minimal. In fact, until these new hires are effectively absorbed into the examination system, the current examination system will only limit, not lower the average patent pendency.

Training Patent Examiners

Inextricably intertwined with the need to hire more examiners are the needs to hire the individuals who will be able and motivated to produce high quality examination results and to train and retain these individuals to improve the quality of the examination process. With properly implemented hiring and training of new examiners, and training for the current examiner corps, substantially improving patent examination quality will be linked to reductions in patent application pendency. Examiners need to be able to make the right decisions, in most instances, the first time they perform the work, have the necessary job skills for that purpose and have the proper incentives to promote that outcome.

Need for an Alternative Examination System

A critical challenge for the USPTO in achieving the most important objectives of patent examination quality and application pendency lies in addressing the constraints imposed by the very nature of the examination process. The current patent examination system in the United States is basically a one-size fits all process that culminates in the grant of letters patent (with a statutory presumption of validity for all such granted patents 35 USC 282) or the abandonment of the application. Although almost 450,000 UPR applications will be filed in 2007, not all will mature into products that are ultimately brought into the market place, be licensed for use by others, or have ownership transferred to others for possible future exploitation. The current examination process imposes high demands for resources on the part of both the applicant and the USPTO. Further, the high demand for examination under this traditional process has exceeded the current abilities of the USPTO to examine applications as they are filed, resulting in an increasing backlog of unexamined applications. With the limited options for determining when examination is desired or advancing applicants position's in the examination queue, some applicants are forced to pursue the examination process before they are ready to capitalize upon a successful result from the process, while others in need of a rapid determination of their rights languish in the queue. As a result, the USPTO intends to explore the development of alternative approaches to examination in collaboration with stakeholders.

Quality of the Examination Process

While patent quality is universally acknowledged as an expected and required outcome from the examination process, its definition and current level have achieved far less consensus. The definition and current perception of quality have as many facets as the perspectives of those who characterize this desired result; including corporate executives, patent applicants and owners, competitors, prosecution practitioners, venture capitalists, litigation specialists, patent examiners, oversight bodies of the patent system, academics and the general public. Frequently characterized as an after-the-fact outcome following extensive and tortuous litigation and review of the patent grant, both in the courts of law and public

opinion, it seems to have little relationship to the initial examination process and its finite scope. Thus, producing public confidence that patent grants are of the highest possible quality has been a most elusive target for the last several decades.

Determining the appropriate measures of patent quality and performance targets, given the current initial examination process and levels of resource funding provided to support that process, is of critical interest to both the USPTO and the patent community.

Awareness of Intellectual Property (IP) Rights

IP rights and their utilization in the global economy impact every American on a daily basis but are all too frequently not well understood by the general public. Increasing public awareness of various IP issues and interests, educating the public about the examination processes of the USPTO, communicating with and informing the public about the intersection of IP issues and the news stories they read everyday, and promoting an understanding that the violation of IP rights affects everyone is beneficial to improving the effectiveness of the system as a whole.

The USPTO also has a specific role in providing assistance to the patent community that regularly uses its services. Outreach to individual inventors and inventor groups through regular regional programs to assist in the filing and prosecution of patent applications is critical to that effort.

Information Technology (IT)

USPTO has been successful in employing IT to assist in the examination process. However, the USPTO faces several challenges and problems connected with the Image File Wrapper (IFW) application processing, the lifecycle of various documents, and the system interfaces with other USPTO information technology systems. IFW messaging was not designed to manage workflow and it also does not provide support identifying and eliminating bottlenecks and dead-ends in the examination process, provide accountability of message processing by various personnel, or support overall data quality of the application files.

The transition to a new fully-tagged text based patent application processing system offers potential benefits and challenges in determining the best implementation to leverage the functionality of this new resource. Determining the best methodology to support remote access to patent information will be critical to this effort. The potential to increase the productivity of examiners through seamless access to examination tools may be possible. Providing full workflow management functionality for better control of documents to improve product quality and ensure proper processing, escalation of delayed and late tasks and audit reporting, and historical tracking of the examination process could be achieved in this implementation. Further, potential gains could be made in reducing the remaining labor intensive paper-based processing, supporting the hoteling initiative, collaborating and partnering with other international IP Offices and instituting an efficient interface to existing USPTO systems. The collective effect of these improvements would provide an efficient examination process and the examination support to allow the USPTO's workforce to meet the demands of working in a global IP system.

In addition to the potential benefits that could be achieved with respect to the workflow and document management aspects of processing patent applications, the new Patent File Wrapper (PFW) implementation could provide other advantages for both the USPTO and patent applicants and their representatives. These include possibilities for "real-time" changes to the patent application without the need for intervening USPTO processing time, support for push-button publication and continuous access to the current content of the application, more flexible filing options for all applicant submissions, some pre-examination and examination processing of the application as filed, and the capability of a single docketing system for both the USPTO and applicants wherein both parties to the patent examination process work from the same information and use the same access tools and interfaces.

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Performance Goal 1: Optimize Patent Quality and Timeliness (FY 2007 – 2012)

| <i>Performance Measures/Targets</i> | FY 2006 Actuals | FY 2007 Expected Enacted | FY 2008 President's Budget | FY 2009 Est | FY 2010 Est | FY 2011 Est | FY 2012 Est |
|--|----------------------------|---|---|------------------------|------------------------|------------------------|------------------------|
| Allowance Compliance Rate* | 96.5% | 96.0% | 96.0% | 96.0% | 96.0% | 96.0% | 96.0% |
| In-Process Examination Compliance Rate | 90.0% | 90.0% | 90.0% | 90.0% | 91.0% | 92.0% | 93.0% |
| Average First Action Pendency (Months) | 22.6 | 23.7 | 24.9 | 25.5 | 26.5 | 27.6 | 28.9 |
| Average Total Pendency (Months) | 31.1 | 33.0 | 34.7 | 35.9 | 36.5 | 37.5 | 38.6 |
| Efficiency | \$3,798 | \$4,327 | \$4,254 | \$4,233 | \$4,361 | \$4,495 | \$4,567 |
| Applications Filed Electronically | 14.2% | 40.0% | 50.0% | 60.0% | 70.0% | 80.0% | 85.0% |
| Applications Managed Electronically | 99.9% | 99.9% | 99.9% | 99.9% | 99.9% | 99.9% | 99.9% |
| UPR Units of Production | 315,019 | 323,900 | 355,500 | 386,400 | 411,600 | 435,900 | 460,300 |
| Utility, Plant and Reissue (UPR) Applications Filed | 419,760 | 445,900 | 479,200 | 517,500 | 558,900 | 603,600 | 651,900 |
| UPR Applications Filed Percent Change Over Previous FY | 10.2% | 7.0% | 8.0% | 8.0% | 8.0% | 8.0% | 8.0% |
| UPR Disposals | 309,689 | 314,200 | 344,800 | 374,800 | 399,200 | 422,800 | 446,500 |
| UPR Issues | 164,115 | 177,400 | 192,800 | 210,100 | 224,800 | 238,400 | 252,000 |
| UPR First Actions | 320,349 | 333,600 | 366,200 | 398,100 | 424,000 | 449,000 | 474,100 |
| Utility, Plant and Reissue (UPR) Examiners On-Board at End-of-Year | 4,779 | 5,268 | 5,724 | 6,135 | 6,502 | 6,828 | 7,118 |

*Note: For consistency, all quality metrics are being reported as compliance rates.

Goal 1 Initiatives

The following initiatives are program increases.

New Examiner Hires

The USPTO plans to hire 1,200 UPR patent professionals in 2008, for a total of at least 8,400 patent examiner hires between 2006 and 2012. Notwithstanding these hiring efforts, in the absence of other changes to the current examination system, the overall impact on patent pendency from hiring alone will only help contain the demands on examination staff. In fact, until these new hires are effectively absorbed, the current examination system will only limit the increase of, not lower, average patent pendency. Without these new hires, pendency would increase by 16.5 months by 2012.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$36,202 | \$36,901 | \$37,630 | \$38,386 | \$39,023 |

Transforming the Board of Patent Appeals and Interferences (the Board) to Address Expanding Roles and Workload – *Pre-Appeal Brief Conference/Examining Corps Expansion/Post Grant*

The Patent Examining Corps will implement a number of initiatives in FY2008 that will significantly expand its workload. This will result in a significant increase in the workload of appeals to the Board. This projected workload increase at the Board results in the need for 27 additional Administrative Patent Judges (APJs) and 10 paralegals and one Legal Instruments Examiner to perform the associated activities of processing and reviewing appeals to maintain current pendency goals.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$5,253 | \$9,974 | \$11,052 | \$11,301 | \$11,543 |

Qualifications for Registration

Policy changes to the qualifications required for registration to represent others before the USPTO in patent matters is being explored. These changes are likely to result in a workload increase of 300 percent. Thus, additional staff and contractor support would be necessary to handle anticipated workload increases due to a change in policy. Increases related to enrollment applications and roster maintenance are expected to be managed with two additional staff to handle program management and paralegal activities, along with clerical contractor support to process mail, data entry, records handling as well as ongoing automation improvements. Four additional staff will be hired to address anticipated increases related to investigation activities. In addition, the Agency plans to establish an advisory committee, which would enable consultation with practitioners regarding best practices and other practitioner issues, and allow for practitioners to provide input to the use of annual dues, continuing legal education and ethics rules.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$730 | \$1,023 | \$1,081 | \$1,102 | \$1,126 |

The following initiatives are funded through baseline resources.

Enhanced Recruitment/Retention Program

The USPTO cannot hire the volume of patent examiners necessary by using the same means as in the past. The Agency needs to do much more to expand the hiring pool. Therefore, an enhanced recruitment program is proposed, which includes several components.

- The Agency would pay recruitment bonuses to attract the most desirable applicants, with emphasis on technology areas that are experiencing the greatest need for additional examiners. Examiners in the hard to fill areas would be eligible for a market-driven recruitment bonus for up to four years that

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would be paid at the beginning of each year in conjunction with a four-year condition of employment agreement.

- Teams of technology center hiring coordinators and contractors with specialized human resources and recruiting skills would be formed to attract candidates for hard to fill examining positions. Their efforts would include attendance at job fairs where companies are downsizing engineering positions, as well as recruitment activities at universities and other locations.
- Recognizing that attracting the most qualified candidates for patent examiner positions is most effective through personal interaction with the potential examiners, highly skilled USPTO recruiters would educate candidates regarding IP while participating in college and regional job fairs and career fairs.

The Agency will address retention of valuable employees by providing bonus options, particularly to ensure retention of recently hired examiners with degrees in areas experiencing recruitment challenges and higher attrition rates. These examiners will be eligible for a special "retention bonus" of up to 10 percent of salary (at time of payment), for up to four years depending on the number of years of service. These payments would be tied to continuing employment agreements. Payment of an incentive bonus of up to 25 percent of salary could be offered to retain retirement eligible examiners and Patents Corps managers.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$15,397 | \$19,867 | \$23,114 | \$23,895 | \$24,223 |

Regional Offices

This initiative will explore options for establishing regional offices that would offer the same basic services as the USPTO headquarters in Alexandria. If proven feasible, these could expand the new hire candidate population by providing a worksite for potential employees who choose not to relocate to the east coast, and may also provide diverse employment pools that are not currently available. The current USPTO examiner salaries could make the Agency the employer-of-choice in many different regions of the country. A regional office concept could provide a traditional office environment for commuters as well as hoteling space for those who prefer to spend a majority of their time working from home, and allow for expansion of the examining corps without requiring additional space at the Alexandria headquarters. Having a presence in other regions of the country could also increase the opportunity for additional outreach activities and partnering with surrounding universities.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$214 | \$17,652 | \$5,267 | \$5,319 | \$5,372 |

Local Regional Offices

Establishment of local regional offices would provide examiners the option of working from locations other than their home or the Alexandria campus. This initiative proposes a pilot program of 100 participants in 2008. Assuming the pilot proves successful, 125 additional participants would be selected annually thereafter. Currently there are 14 General Services Administration (GSA) Telework centers located in popular suburban areas in the greater Washington Metropolitan area. Each of these centers provides office space with furniture, telephone service, computers, printers, and other typical office equipment. Space may be rented on a monthly basis and is accessible 24-hours a day, seven days a week.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$679 | \$1,528 | \$2,377 | \$3,226 | \$4,075 |

Partnership with Universities

This initiative would explore the establishment of partnerships with universities. Possible arrangements include: (1) Development of IP curriculums, including the basics for patent examination. (2) Development of a work/learn program with universities whereby student participants might complete one semester of patent examination training and spend one semester working at a USPTO office for credit. (3) Implementation of a formal student internship program for examination of patent applications and performance of classification duties. (4) Establishment of distance learning centers with universities, which could aid in the training of employees.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$267 | \$1,340 | \$2,048 | \$2,109 | \$2,172 |

Improve Search Quality: Search Support for Examiners

This initiative has three components: Training on claim interpretation and search strategy formulation; placement of search strategy assistants in all technology centers and the Patent Training Academy; and an increase in the number of patent applications that are re-searched annually to 5,000.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$2,337 | \$4,832 | \$5,151 | \$5,429 | \$5,754 |

Separate Quality Awards for Examiners

The USPTO proposes the creation of a quality award that is independent of any productivity requirements above the fully successful level as defined in the examiner performance appraisal plan (PAP) and that is of equivalent value to the productivity award offered to examiners. To be eligible, the examiner's performance must meet the outstanding level for all quality elements and at least the fully successful level for all other elements of the examiner's PAP. Additional qualification requirements, for example, are the performance and recordation of complete searches that result in the most relevant prior art being placed on record, thorough and concise explanations of all rejections, objection plus guidance to the applicant on how to proceed in the next response, and strict adherence to proper final rejection practice. Awards would be available to examiners at the GS-12 level and above. This initiative requires bargaining unit negotiation.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$2,304 | \$2,810 | \$3,300 | \$3,774 | \$4,288 |

Patent E-Government

The USPTO has set in motion full text-based processing aimed at providing examiners access to text generated from Image File Wrapper (IFW) with concurrent enhancement of the PAIR system to provide applicants with secure private access to their unpublished applications via the Internet. In order to increase the number of applications filed electronically the Electronic Filing System-Web (EFS-WEB) incorporates the electronic submission of new applications and follow-on papers in conjunction with the means for transmitting outgoing USPTO generated correspondence to applicants. When finalized, the text-based system will allow for full-text searching of application file technical content and supporting documents, automation of amendment processing, and content validation of applications in the pre-examination process. Additionally, text-based processing will better support Federal electronic records management and paper elimination requirements and meet USPTO international agreements with EPO, JPO and WIPO for supporting the "author once, file many" concept. In 2007, the USPTO will continue life cycle development and integrate dissemination and other processes into a text-based pipeline. The USPTO will eventually achieve implementation of an integrated e-government strategy that includes electronic receipt, processing, reporting and publication through the entire application process lifecycle. The resources will be applied

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towards systems development, integration, enhancement as well as the scanning of incoming, outgoing paper documents and new applications filed. The critical milestones for 2008 include; (a) reengineering of application storage to create a PDF repository and application text, (b) integration of color and grayscale image capture and storage into the patent process, and (c) implementation of automated workflow integration with the patent process. Phase two of the workflow applications integration process will further enhance workflow tools and products through fiscal year 2011.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$79,217 | \$79,923 | \$85,316 | \$88,017 | \$90,658 |

Patents Hoteling Program

In fiscal year 2005, Patents launched a hoteling program pilot providing participants the ability to work at home fully supported with complete access to on-line USPTO provided resources for conducting their assigned duties. The pilot program incorporates the concept of hoteling where telecommuting participants reserve time in designated shared hotel offices at the Alexandria Campus to conduct activities such as personal interviews with applicants and attending meetings or training classes. Pilot participants received special training to enable them to work as effectively at home as in the office. The Patents Hoteling Program is designed to comply with Congressional direction and build upon the lessons learned from the very successful Trademark Work-at-Home program. The Patents Hoteling Program provides patent examiners the ability to work from home with complete on-line access to USPTO resources. This concept allows participants to reserve time in designated shared "hotel" offices at the Carlyle Campus in Alexandria, Virginia. 'Hoteling' allows telecommuting participants to conduct on-campus activities such as personal interviews, training requirements, meetings and access to other on-sites resources. A critical component of the Patents Hoteling Program is the use of IT to provide necessary remote access for collaboration capabilities. This program is designed to ensure participants have the ability to perform their jobs when either at or away from the main Carlyle campus. Feedback from pilot participants and reviews of the technologies were used to finalize designs for a vastly expanded telework program that could potentially allow virtually any USPTO employee to participate. Implementation started in fiscal year 2006.

The long term goal is to have a substantial number of patent examiners working at home consistent with the law, and at the same time achieving productivity and quality performance targets, at a reasonable cost. If successfully implemented, this program also has the potential to assist in the recruitment, hiring, and retention of examiners. The funds requested below will be used for the continued implementation of a hoteling program, which began in fiscal year 2006.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$21,841 | \$25,837 | \$30,500 | \$34,420 | \$38,575 |

Initial and Pre-Grant Classification of Newly Received Applications

Newly received patent applications are routed to the correct technology center and examining unit for classification and those applications that are published at 18 months from filing are subject to Pre-Grant classification. Currently, classifiers in pre-examination, patent examiners, and SPEs perform these functions. The USPTO expects to begin the process of relying on commercial entities for these classification functions during 2007, and will gradually expand to full implementation by the end of 2007. This initiative will redirect the time patent examiners now spend on classification to core examination activities. Similarly, SPEs' time will be redirected to focusing on the quality of examiner work products and on training and mentoring examiners.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$14,100 | \$14,500 | \$15,300 | \$16,100 | \$17,388 |

Support for Patent Cooperation Treaty (PCT) Competitive Sourcing Activity

The USPTO receives international applications that require the performance of an international search to discover relevant prior art in Chapter I applications. As an International Searching Authority under the PCT, the USPTO is obligated to perform this search function. The USPTO is currently competitively sourcing this search function, which allows the USPTO to redirect patent examiner resources back to the examination of U.S. applications. Two contracts were awarded during the fourth quarter of fiscal year 2006 to initiate this program. Also, during 2007 the USPTO entered into a Memorandum of Understanding (MOU) with IP Australia to perform search and examination work on PCT applications. Additionally, future options may include enlisting support from other IP offices to enhance capacity for completing PCT search functions. For 2007, the USPTO expects to competitively source up to 10,000 Chapter I applications. The funding identified below will be used for system modifications, exploring alternative options with other IP offices, and to competitively source the PCT Chapter I search activity.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$24,000 | \$32,000 | \$44,000 | \$44,000 | \$44,000 |

Competitive Sourcing of Reclassification Functions and Transition to International Patent Classification System

Over time, the file of issued patents and non-patent literature that patent examiners must search expands significantly. As the numbers of patent documents in each class and sub-class increases, and as new technologies come to the forefront, the classification mechanisms become less focused and new classification schemes must be established. Currently, federal staff is devoted to carrying out these activities. Reclassification of existing classification schemes serve to improve quality of examination by updating the existing schedules to reflect emerging technology and growth, and harmonize with the international system. The identified resources below are intended to continue the process of competitive sourcing of reclassification functions and explore alternative options with other IP offices.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$4,000 | \$4,500 | \$5,000 | \$5,500 | \$6,000 |

GOAL 2 — BUDGET AND PERFORMANCE

Optimize Trademark Quality and Timeliness

Introduction

The fundamental process involved in reaching this goal is the examination of trademark applications. Trademark attorneys determine registrability under the provisions of the Trademark Act of 1946, as amended. The examination of trademark applications comprises many elements, including the utilization of electronic databases to determine whether the mark in an application is confusingly similar to any pending or registered mark, the preparation of an office action to inform applicants of the attorney's findings, the approval of applications to be published for opposition, and the examination of Statements of Use filed under the Intent to Use provisions of the Trademark Act. At the requested application filing and funding level in FY 2008, Trademarks will be able to achieve a trademark first action pendency of 3.0 months and a total pendency of 16.6 months.

The Trademark organization is optimizing its examination process by taking greater advantage of its success in implementing electronic filing and systems. Applications and forms that are filed electronically reduce processing time and improve the quality of the information that is captured. The Trademark Electronic Application System (TEAS) Plus electronic application offers a reduced fee to applicants that agree to submit a more complete application. Electronic processing has demonstrated results by eliminating manual processing and directly routing applications within the core examination function. Electronic processing and file management will be used more extensively in the future to completely automate all transactions from pre-examination through post registration. Electronic processing reduces the time and costs associated with the examination and registration of marks, provides greater accessibility to trademark information, and the ability to perform work from remote locations.

Trademark systems and programs have been recognized for their success; TEAS was recognized in 2005 as one of five winners at the Excellence.Gov Awards ceremony in Washington, D.C. as an example of best practices in federal e-Government implementation.

In 2006, the Trademark Work at Home (TWAH) Program received the Telework Program with Maximum Impact on Government Award. The Telework Exchange recognized that Trademarks has created the model of an extremely successful telecommuting program for other government agencies. Further, the TWAH program was praised as an innovative telework prototype by showing other agencies how to incorporate measurable performance goals in evaluating the performance of its teleworkers. The Telework Exchange noted that the TWAH hoteling program addresses budgetary, space, retention, recruitment and job satisfaction issues that face all government agencies and made special note of the enormous achievement and popularity of the TWAH program.

Challenges

In Trademarks, the lack of certainty for predicting filings in the short run and the volatility of trademark application filings, coupled with annual budgeting that begins 18 months prior to the start of the fiscal year, make it all but impossible to ensure consistent pendency under the present model for staffing and distributing work. The USPTO cannot assure less than four month first action pendency without changes in how the Agency manages work absent greater assurance over workload and funding authority. The USPTO plans to explore ways to change how work is performed and assigned to provide a better balance between available resources given external uncertainties. New options for assigning work would be considered, evaluated and piloted prior to making changes, but will result in the reduction and maintenance of first action pendency to three months by 2008.

Pendency to registration or abandonment would increase if total staffing and funding were insufficient to maintain both first action and disposal pendency levels without making further changes. The first action is critical because it provides business owners an indication of the likelihood that the mark will eventually register which is a factor in making future business decisions and investments. By managing total inventory relative to production capacity, fluctuations in disposal pendency would ensure that staffing does not outpace the level of filings.

The reduction of disposal pendency can also be achieved in a number of ways. One way is through the consolidation or elimination of redundant reviews of applications approved for publication. The review process after approval for publication will be redesigned so that the approved file is reviewed immediately following approval by the examining attorney, the review is completed quickly, and when corrections are needed, the file is routed, corrected and returned to the publication queue as quickly as possible. For qualifying applicants, Notice of Allowances will be generated electronically and sent by electronic mail within two weeks from the end of the opposition period. The increased use of electronic filing by applicants will result in the reduction of disposal pendency by reducing time for post examination processing and issuances of Notices of Allowance.

The USPTO fully intends to maintain quality as the highest priority and demonstrate quality examination through the continued identification of what constitutes quality with improved metrics. The criteria for assessing the quality of final actions will be expanded to permit a more comprehensive review of examiner decisions. USPTO will further expand focus on quality in 2008 by establishing a staff that will examine work performed by non-attorney positions, similar to the quality review function that exists to review and incorporate findings in training and examination guides for attorney examiners.

The USPTO will ensure the quality and consistency of searching and examination by identifying and addressing errors in real time. This, in turn, will result in improved work through products because of the virtually immediate correction of errors identified through the review findings that are delivered to the pertinent business units. In addition, quality will improve through targeted and specific training initiatives, even for individual employees where relevant, identified through analysis of real-time data reports based on reviews. Consistency will improve through the immediate identification of errors across the spectrum of business units and again, through manager access to comparative data and reports. The best way to accomplish this is to develop and implement an electronic system, which is compatible with existing trademark systems, allowing for almost immediate review of completed work, issuance of review findings, in process corrective action based on review findings, real-time compilation of data based on reviews, and access to data on various management levels for use in promoting consistency within and among various business units.

The strength of the IP system relies to a great extent on the availability and accuracy of trademark information to provide notice as well as awareness of marks in use. This requires accessibility to robust Trademark electronic workplace systems, which are adaptable to continuous improvement as well as the integration of Trademark and Trademark Trial and Appeal Board (TTAB) systems to provide a seamless interface for applicants and ensure the reliability of trademark operations.

The TTAB is experiencing an increase in pendency for requests for reconsideration that are filed contemporaneously with the notices of appeal. The TTAB also needs to enhance their function by providing greater guidance to the examination process and greater input into the development of trademark law through the issuance of more precedential decisions.

Performance Goal 2: Optimize Trademark Quality and Timeliness (FY 2007 – 2012)

| <i>Performance Measures/Targets</i> | FY 2006 Actuals | FY 2007 Expected Enacted | FY 2008 President's Budget | FY 2009 Est | FY 2010 Est | FY 2011 Est | FY 2012 Est |
|--|----------------------------|---|---|------------------------|------------------------|------------------------|------------------------|
| First Action Compliance Rate* | 95.7% | 95.5% | 95.5% | 95.5% | 95.5% | 95.5% | 95.5% |
| Final Action Compliance Rate* | 96.4% | 96.0% | 96.0% | 96.0% | 96.0% | 96.0% | 96.0% |
| Average First Action Pendency (Months) | 4.8 | 3.7 | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 |
| Average Total Pendency (Months) | 18.0 | 17.3 | 16.6 | 16.0 | 16.0 | 16.0 | 16.0 |
| Efficiency | \$565 | \$601 | \$582 | \$562 | \$540 | \$540 | \$535 |
| Applications Filed Electronically | 93.9% | 90.0% | 90.0% | 90.0% | 90.0% | 90.0% | 90.0% |
| Applications Managed Electronically | 99.9% | 99.0% | 99.0% | 99.0% | 99.0% | 99.0% | 99.0% |
| Total Balanced Disposals | 784,109 | 787,200 | 825,300 | 862,000 | 906,100 | 957,900 | 1,011,200 |
| Applications Received – (Includes Additional Classes) | 354,775 | 376,000 | 406,000 | 434,000 | 460,000 | 488,000 | 517,000 |
| Applications Filed Percent Change Over Previous FY | 9.7% | 6.0% | 8.0% | 7.0% | 6.0% | 6.0% | 6.0% |
| Total Office Disposals | 315,783 | 326,100 | 367,800 | 399,500 | 415,400 | 435,300 | 460,100 |
| Total Registrations | 188,899 | 176,000 | 199,000 | 215,000 | 225,000 | 236,000 | 249,000 |
| Total First Actions | 405,998 | 418,000 | 421,000 | 424,900 | 453,700 | 483,900 | 509,000 |
| Examining Attorneys On-Board at End-of-Year | 413 | 427 | 438 | 444 | 485 | 503 | 531 |

*Note: For consistency, all quality metrics are being reported as compliance rates.

Goal 2 Initiatives

The following initiatives are program increases.

The Trademark Business completed initial implementation of the quality programs that were described in *The 21st Century Strategic Plan*. The costs associated with the continuation of these quality programs in FY 2007 and out years are included in the Goal 2 table.

Increased Workload (Trademark Examination, Trademark Assistance Center, Post-Registration, Intent-to-Use, Madrid Protocol)

This initiative will provide funds for additional positions to address workload increases throughout the Trademark organization. Application filings (classes) are estimated to increase to 406,000 or 8 percent above the FY 2007 President's Budget estimate. Further, funds will be used to address increases in statement of use filings, certification of international applications filed under the Madrid Protocol, examination and processing of renewal applications, and incoming requests in the Trademark Assistance Center.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$1,391 | \$2,900 | \$5,061 | \$8,444 | \$12,371 |

Complete Electronic Processing and Workflow

Using the lessons learned from the trademark workflow process already completed, the Trademark organization would complete the implementation of the electronic workflow and file management system, by the end of 2009. This system will result in a more efficient design and control of the work process, provide tools to monitor and better manage the work, measure production and timeliness, and evaluate quality. This supports the USPTO goal to create an "e-government" operation by designing the requirements to extend access to trademark information while improving the trademark process through the integration of information technology. Trademarks will create a service-oriented workflow system that will access data and services from the various USPTO systems. This will provide a middle-tier, business process management layer that will connect internal resources with external connections. This system, which will provide full electronic support via computer resources, will also support telework. With electronic records, routing, support for decisions, and collaboration, staff will be able to work from remote locations – expanding access to additional positions.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$800 | \$0 | \$0 | \$0 | \$0 |

Support for Remote Workforce

In order to support the ever growing and increasingly dispersed workforce in the Trademark organization, interactive training and meeting capabilities are necessary. The creation of remote meeting and training capabilities using collaboration and training software will support future hiring, training and telework. Utilizing a state-of-the-art remote training module will enable the Trademark Examining Organization to provide real-time specific training on areas of concern and allow immediate interaction between management and employees on site with those off site, improving staff knowledge and communication. Successful implementation of immediate and interactive remote training and meeting modules will ensure a more knowledgeable work force regardless of work location. It will allow for the immediate transfer of knowledge in the e-world as if in a face-to-face discussion and elevate the telework programs' status to those that attract, prepare and retain a skilled and informed workforce.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$397 | \$194 | \$217 | \$221 | \$235 |

Expand Telework

Existing office space is insufficient to accommodate future staffing increases which will be managed in part by increasing the number of employees who telework. Examiner staffing will increase by 93 positions from 2008 to 2012. Funding is needed to support the initial purchase of laptop computers to permit expansion of the trademark telework program to all eligible positions.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$200 | \$200 | \$280 | \$200 | \$200 |

Enhance Criteria for Final Office Actions

A key component of improving the overall quality of trademark products and services is the measurement and reporting on quality for all examiner decisions, rather than just final refusals. This will allow more accurate assessments and reporting of overall quality and will enable better targeting of areas for improvement.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$193 | \$257 | \$265 | \$273 | \$275 |

Examination Quality

In order to increase excellence and consistency in examination and lead to more consistent and accurate decisions, there is a need for the development and maintenance of one central location where all examination resources can be accessed. This will contribute to the consistency of examination in that everyone will have access to the same information in a timely manner and inconsistent practices will be addressed right away. Additionally, the development of an online system, whereby, instead of mailing office actions, which may not be assessable to the recipient, examining attorneys will electronically mail a link to the office action posted on the trademark website. Thus, large attachments that are currently stripped or cannot be sent would no longer impede the goal of quality and consistency.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$193 | \$257 | \$265 | \$273 | \$275 |

Establish Quality Review for All Examination Positions

The Trademark organization seeks to develop comprehensive new quality and employee training programs for all examination-related positions. A review process will be established for all non-attorney examination positions, similar to the function that exists to evaluate attorney examination. These steps are an integral part of enhancing the overall quality and consistency of the trademark work product. In order to promote improved quality and consistency, every examination related employee would receive the same training, in which the highest standard of examination will be incorporated into the curriculum. Structured and comprehensive initial training programs specifically designed for each group of new employees will ensure that every new employee receives the same optimum recommended training. In addition, by maintaining current procedure manuals workflow consistency and quality will improve, as all manuals will consist of approved standardized work methods. Procedural manuals for each examination business unit are an essential component in a process that requires that every employee perform their task in a consistent approved manner as structured by the Agency-wide file management and workflow system.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$1,084 | \$1,090 | \$1,165 | \$1,202 | \$1,211 |

Enhance Electronic Filing and Communications

The development of interactive on-line electronic filing capabilities by 2010 and upgraded e-tools will further encourage electronic filing and communications. The upgrade of search tools, both on-line and internally, will improve the ability to identify generic and descriptive terms as well as replace some of the TEAS current functions with the potential to design an on-line docket system. This system would allow future applicants and their representatives the ability to amend their applications, respond to office actions, and otherwise make appropriate changes in applications and registrations. The docket system, which would begin development in 2010, would give automatic notice of upcoming events in the life of an application or registration.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$415 | \$215 | \$222 | \$229 | \$235 |

GOAL 3 — BUDGET AND PERFORMANCE

Improve Intellectual Property (IP) Protection and Enforcement Domestically and Abroad

Introduction

The USPTO is an important component in the Administration's strategy to encourage American innovation and strengthen the nation's ability to compete in the global economy. America's economic strength and global leadership depend on continued innovation. It is the responsibility of the USPTO to ensure that U.S. IP systems are continually strengthened to meet the needs resulting from technological advancements, promote the IP system of the United States, ensure that foreign IP offices are similarly focused, and assist in protecting the IP rights of United States interests abroad.

To keep competitive in an increasingly globalized business environment, U.S. businesses need as much certainty as possible in the creation and protection of their IP, both here and abroad. Losses due to counterfeiting and piracy seriously undermine businesses' ability to trade globally. Additionally, the costs and difficulties in obtaining IP protection globally and preserving and enforcing these rights is an impediment for many businesses.

We believe that the attributes of quality, certainty, cost-effectiveness, accessibility, and effectiveness are universally applicable to legal systems, examination systems, and any international framework dedicated to the protection and promotion of IP rights. The USPTO will continue to work diligently to ensure that America has the best IP system and to improve IP practices worldwide.

In a period of growth in the development of IP law, the USPTO will be challenged to provide leadership. The USPTO will assist the Solicitor General of the United States in cases before the Supreme Court, particularly as the Court considers the development that has occurred in jurisprudence of the obviousness standard in patent law, and play a crucial role in providing guidance for best practices in patent examination.

In its role as policy advisor on IP matters, the USPTO will continue to promote policies that enhance competitiveness for U.S. businesses abroad. The USPTO also will continue to advocate policies to streamline obtaining IP protection in various countries and negotiate agreements to strengthen the protection of U.S. interests abroad. The USPTO furthermore will expand its assistance to innovators and businesses on how to obtain, protect and enforce IP rights in other countries and assist with dispute resolution when problems occur.

Challenges

Funding for FY 2008 will enable the USPTO to address the following challenges in the international arena and to promote the importance of IP through community outreach and public awareness:

- There is a lack of simplified and harmonized international IP systems, which is making it difficult, slow and expensive for innovators and businesses to obtain protection in global markets.
- Striking a balance between rights of IP holders and cultural and socio-economic concerns continue to be a challenge for all countries.
- Achieving consensus among countries advocating effective IP protection is critical for counteracting countries concerned about efforts to enhance IP standards.
- The USPTO must continue to address counterfeiting, piracy and failure to respect IP rights here and abroad.
- The USPTO must continue to craft and deliver an effective educational program about the benefits and effective use of IP, scam awareness, and careers in IP fields; and expand access to IP information.

| Performance Goal 3: Improve IP Protection and Enforcement Domestically and Abroad (FY 2007-2012) | | | | | | | |
|---|-----------------|--|----------------------------|-------------|-------------|-------------|-------------|
| Performance Measures/Targets | FY 2006 Actuals | FY 2007 Expected Enacted | FY 2008 President's Budget | FY 2009 Est | FY 2010 Est | FY 2011 Est | FY 2012 Est |
| Technical Assistance Activities Completed (Activities/Countries) | 239/102 | <i>Replaced with more outcome oriented performance measures.</i> | | | | | |
| Number of Instances in Which External Affairs Experts Review IP Policies/Standards | | 80 | 82 | 84 | 84 | 84 | 84 |
| Improving World-Wide IP Expertise for US Government Interests | | 10 | 12 | 12 | 12 | 12 | 12 |
| Plans of Action, Mechanisms and Support Programs Initiated or Implemented in Developing Countries | | 8 | 10 | 10 | 10 | 10 | 10 |

Goal 3 Initiatives

The following initiatives are funded through baseline resources.

Introduction

With increased demand for countries to implement effective systems for IP rights enforcement to achieve their World Trade Organization and Trade Related Aspects of Intellectual Property (TRIPs) obligations, and comply with existing and new bilateral/multilateral trade agreement commitments, the USPTO will focus on providing technical training and capacity-building programs for IP rights enforcement, judicial and prosecutorial education, public education and awareness efforts, and capacity-building to support the needs of developing countries. While the USPTO has long provided IP rights assistance and training, the USPTO has developed a flexible team approach to meet the challenges of IP rights enforcement in today's global environment. This effort is accomplished by fulfilling existing obligations to assist nations in implementing accessible and effective IP rights enforcement systems; partnering to provide useful programs and training; and working to increase the accessibility, efficiency, and effectiveness of civil, administrative, and criminal enforcement mechanisms in global trade, foreign markets, and electronic commerce.

Posting of IP Experts Overseas to Advocate IP Policy and Coordinate Training

In partnership with the Department of Commerce's U.S. and Foreign Commercial Service and the Department of State, the USPTO is working to post additional IP experts in selected, high profile countries where U.S. IP challenges are greatest. In 2006, the USPTO posted experts in the countries of Brazil, India, Thailand, China and Egypt. The experts will advocate U.S. IP policy and interests, conduct training on IP rights matters, assist U.S. businesses and otherwise support the Embassy or Consulate action plan on IP rights. In FY 2008, the USPTO is planning to station IP experts in Brussels, Geneva, Eastern Europe, Central America and the Andean Region. By the end of 2008, there will be one IP expert stationed in every geographic region. This will enable the U.S. to increase region-specific training, and increase region-specific consultation on IP policy.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$4,461 | \$4,550 | \$4,641 | \$4,734 | \$4,829 |

Formation of the Global Intellectual Property Academy (GIPA)

The USPTO has established GIPA, which consolidates and greatly expands USPTO's curriculum of training and capacity building programs on IP rights protection and enforcement. Through the GIPA, USPTO will bring foreign government officials including judges, prosecutors, police, Customs officers, patent, trademark and copyright officials, and policy makers to the United States to learn, discuss and strategize about global IP rights protection and enforcement. GIPA programs cover the gamut of IP rights enforcement issues facing the global economy, and are offered by USPTO acting in close cooperation with other U.S. federal government agencies. This effort provides the staff and funding to create the program offerings necessary to successfully train the number of individuals that need training. The USPTO anticipates an increase in bilateral consultations relating to effective enforcement provisions. Web-based training will also be offered through the GIPA in an effort to provide new content and attendance flexibility through distance learning.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$5,000 | \$5,500 | \$6,050 | \$6,655 | \$7,320 |

Training and Capacity Building Activities Expansion

The USPTO plans to increase efforts to curb IP theft and strengthen domestic and international protection. Project activities under this initiative will include the development and implementation of a series of enforcement programs including a world-wide program, regional programs, programs designed for single country participation and topic specific programs; increase the level of partnering and resource matching with other government agencies, intergovernmental organizations, international organizations, and foreign international IP offices. An increase in bilateral activities between the USPTO's External Affairs organization and other foreign governments including consultations on the implementation and effectiveness of enforcement provisions is anticipated.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$456 | \$469 | \$481 | \$493 | \$506 |

Effective Support of Negotiations and Implementation of Free Trade Agreements (FTAs)

The negotiation of FTAs with trading partners is an essential mechanism for strengthening protection of U.S. interests abroad. This initiative provides the USPTO with the resources necessary to effectively work with the U.S. Trade Representative (USTR) to develop standardized text for the IP section of FTAs, as well as advise USTR during negotiation and implementation efforts. Additionally, technical assistance for FTA implementation would be provided.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$1,280 | \$1,408 | \$1,548 | \$1,704 | \$1,874 |

Comprehensive IP Public Awareness Program (country specific)

In FY 2006, the USPTO began a series of conferences to target small and medium sized businesses where participants learn about the importance of IP rights and how to protect and enforce these rights. Several workshops were conducted throughout the country and the USPTO will continue to hold small-business outreach seminars, providing American businesses face-to-face contact with IP experts. The focus of this effort is to develop programs targeted to secure protection in a particular country. For example, large and small businesses contemplating entering the China market will benefit from China-specific programs to be developed under this initiative. Planning is currently underway to determine the most advantageous countries on which to focus. Additionally, a website will be developed to provide worldwide IP and trade information.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$480 | \$492 | \$504 | \$517 | \$530 |

Crosscutting Initiatives

The following initiatives are funded through baseline resources.

Information Technology Security Program

As guardians of U.S. intellectual property, USPTO information security is of critical importance to inventor and public confidence. The growth of Internet based vulnerabilities requires a commensurate response in technical controls and counter-measures. As the USPTO continues to implement e-government, its Automation Information Systems (AIS) are increasingly exposed to external systems. Consequently, security risk factors increase as a result of operating system security flaws and a growing community of sophisticated hackers. The IT Security Program provides the infrastructure security systems and standards to protect USPTO data and systems and safeguard public trust.

The funding will support the development of an infrastructure of technologies and methodology to address security issues across all systems, both those planned and in use. In addition, this funding provides a comprehensive continuous monitoring program and contractor system certification and accreditation activities. This will facilitate efficiency in achieving full accreditation status for all USPTO AISs, as mandated by the Clinger-Cohen Act and the Financial Information System Management Act (FISMA).

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$5,525 | \$9,567 | \$8,392 | \$7,118 | \$6,952 |

Data Replication for High Availability and Disaster Recovery

The USPTO Business Continuity Program/Disaster Recovery Program is committed to ensuring protection of USPTO data and systems from damage or unavailability in the event of a disaster or prolonged outage. The goal of this investment is to guarantee the availability of patent and trademark data and systems to patent examiners, trademark examining attorneys, the general public, and foreign patent and trademark offices. The USPTO is operating both the patent and trademark production pipelines in a predominantly electronic environment and is dependent on automated systems to support the end-to-end processing of patent and trademark applications. As such, the continuing operations of the USPTO are at an increased risk should catastrophe strike the single data center prior to the full deployment of disaster recovery services. The USPTO is undertaking a phased implementation for deploying dual, load-balanced data centers that would enable the USPTO to start protecting its mission critical patent and trademark data. Through an evolutionary process, this phased implementation will provide failover/recovery capabilities in the event of a disaster at the USPTO primary data center.

The USPTO's Business Continuity Program completion timeline is occurring in five major phases between fiscal years 2006 and 2011. As part of phase one the USPTO began establishing an off-site data 'bunker', far enough away from the USPTO's current data center to prevent a disaster from affecting both sites. Phase two will begin the establishment of a 'warm site' that can be activated in the event of a disaster at the primary data center. Future phases will provide distributed processing, load balancing, and automatic failover for both core and non-core systems.

| <i>Dollars in thousands</i> | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|
| Amount | \$14,495 | \$12,621 | \$12,962 | \$13,237 | \$13,877 |

Section IV – Budget Exhibits

U.S. PATENT AND TRADEMARK OFFICE

Exhibit 3a – USPTO Total Resource Requirements

| <i>DOLLARS IN THOUSANDS</i> USPTO TOTAL | FY 2006 Actuals | FY 2007 President's Budget | FY 2007 Expected Enacted ⁷ | FY 2008 Base | Increase/ (Decrease) | FY 2008 President's Budget | FY 2009 Estimate | FY 2010 Estimate | FY 2011 Estimate | FY 2012 Estimate |
|--|--------------------|----------------------------------|---|-----------------|-------------------------|----------------------------------|---------------------|---------------------|---------------------|---------------------|
| Total Funding | \$1,674,441 | \$1,847,466 | \$1,776,400 | \$1,865,924 | \$55,028 | \$1,920,952 | \$2,071,290 | \$2,256,778 | \$2,460,870 | \$2,642,637 |
| ↳ Direct Obligations | \$1,667,974 | \$1,842,966 | \$1,771,000 | \$1,865,924 | \$49,628 | \$1,915,552 | \$2,065,890 | \$2,251,378 | \$2,455,470 | \$2,637,238 |
| ↳ Reimbursable | \$6,467 | \$4,500 | \$5,400 | \$0 | \$5,400 | \$5,400 | \$5,400 | \$5,400 | \$5,400 | \$5,400 |
| IT Funding (included above) | \$328,480 | \$294,230 | \$287,815 | \$294,910 | \$8,917 | \$303,827 | \$375,571 | \$375,731 | \$386,920 | \$362,890 |
| Full-Time Equivalent (FTE) Totals | 7,446 | 8,557 | 8,557 | 9,058 | 484 | 9,542 | 9,529 | 9,560 | 9,595 | 9,634 |

The following exhibits represent a summary of USPTO's total obligations by performance goal. The Information Technology (IT) funding and FTE resources shown in the above table are also included in the Agency's 2008 IT Investment Portfolio (Budget Exhibit 53) reporting format.

⁷ Congressional action related to H.R. 5672 on the USPTO's FY 2007 President's Budget level has resulted in a revised budget of \$1,771 million.

RESOURCE REQUIREMENTS, TARGETS AND PERFORMANCE SUMMARY

Goal One: Optimize Patent Quality and Timeliness

| <i>DOLLARS IN THOUSANDS</i> USPTO TOTAL | FY 2006 Actuals | FY 2007 President's Budget ⁸ | FY 2007 Expected Enacted | FY 2008 Base | Increase/ (Decrease) | FY 2008 President's Budget | FY 2009 Estimate | FY 2010 Estimate | FY 2011 Estimate | FY 2012 Estimate |
|--|--------------------|---|--------------------------------|-----------------|-------------------------|----------------------------------|---------------------|---------------------|---------------------|---------------------|
| Total Funding | \$1,347,864 | \$1,476,488 | \$1,539,893 | \$1,623,140 | \$48,263 | \$1,671,403 | \$1,810,026 | \$1,994,902 | \$2,187,314 | \$2,357,188 |
| ↳ Direct Obligations | \$1,342,128 | \$1,472,479 | \$1,535,087 | \$1,623,140 | \$43,457 | \$1,666,597 | \$1,805,220 | \$1,990,096 | \$2,182,508 | \$2,352,382 |
| ↳ Reimbursable | \$5,736 | \$4,009 | \$4,806 | --- | \$4,806 | \$4,806 | \$4,806 | \$4,806 | \$4,806 | \$4,806 |
| IT Funding (included above) | \$252,687 | \$173,738 | \$223,172 | \$228,990 | \$7,013 | \$236,003 | \$296,441 | \$297,721 | \$310,051 | \$288,092 |
| Full-Time Equivalent (FTE) Totals | 6,603 | 7,549 | 7,470 | 7,959 | 448 | 8,407 | 8,334 | 8,339 | 8,339 | 8,339 |

| | | | | | | | | | | |
|---|---------|---------|---------|--|--|---------|---------|---------|---------|---------|
| Allowance Compliance Rate | 96.5% | 96.0% | 96.0% | | | 96.0% | 96.0% | 96.0% | 96.0% | 96.0% |
| In-Process Examination Compliance Rate | 90.0% | 90.0% | 90.0% | | | 90.0% | 90.0% | 91.0% | 92.0% | 93.0% |
| Average First Action Pendency (Months) | 22.6 | 23.0 | 23.7 | | | 24.9 | 25.5 | 26.5 | 27.6 | 28.9 |
| Average Total Pendency (Months) | 31.1 | 32.0 | 33.0 | | | 34.7 | 35.9 | 36.5 | 37.5 | 38.6 |
| Efficiency | \$3,798 | \$4,302 | \$4,327 | | | \$4,254 | \$4,233 | \$4,361 | \$4,495 | \$4,567 |
| Patent Applications Filed Electronically | 14.2% | 20.0% | 40.0% | | | 50.0% | 60.0% | 70.0% | 80.0% | 85.0% |
| Patent Applications Managed Electronically | 99.9% | 99.9% | 99.9% | | | 99.9% | 99.9% | 99.9% | 99.9% | 99.9% |

⁸ This goal has changed from transitioning to an e-government environment, thus the change in total resources.

Rationale for Performance Goal One: This goal was originally based on the USPTO's *21st Century Strategic Plan* which recognized quality and processing time (pendency) as two significant measures for our patent user community and other stakeholders. During the preparation of the *Strategic Plan 2007-2012*, the goal was refined to focus on outcomes that optimize quality and timeliness. In that context, the focus to hire new personnel at a rate necessary to keep up with growth in filings for which the value of patents depends most on prompt issuance was determined a critical requirement. Additionally, improving the quality and timeliness of patents through the ongoing implementation of the initiatives that concentrate on attracting, hiring, training and retaining examiners as outlined in the *Strategic Plan 2007-2012* are paramount to achieving the targets set forth under this goal.

External Factors and Mitigation Strategies: The key variables impacting performance under this goal are incoming workloads and requested resources for improving quality and increasing production and addressing quality. The patent incoming workloads are dependent upon many factors, including economic activity around the world, and especially in the United States. Growth of science and technology has had considerable impact on IP protection in the United States. For the USPTO, this growth has meant increases in application filings, and receipt of significantly more complex patent applications supporting the latest technologies. Achievement of the 2008 to 2012 performance targets assumes permanent authorization of the revised fee schedule that was set forth in the Consolidated Appropriations Act, 2005 (P.L. 108-447). Funding at the FY 2008 budget level will allow the USPTO to continue implementation of the *Strategic Plan 2007-2012* initiatives and ultimately result in enhanced quality throughout the Patent examination process.

Program Increases for Performance Goal One: + 448 FTE and + \$43.4 million: The increases requested for FY 2008 are primarily for the hiring of 1,200 new UPR patent examiners for the examination of new applications, for resources for the Board of Patent Appeals and Interferences (Board) to address a significant increase in the workload of appeals to the Board, and for resources for the Office of Enrollment and Discipline (OED) to address policy changes to the qualifications required for registration to represent others before the Patent organization in patent matters. The focus on these program changes will contribute to optimizing quality and timeliness targets shown above.

Performance Monitoring and Program Evaluations: The patent examination program is evaluated for quality of examination decisions through in-process and allowance reviews. The focus of the review for patent applications is threefold: (1) identify patentability errors; (2) assess adequacy of the field of search and proper classification; and (3) assess proper examination practice and procedures. The information gathered from the review of these examination program activities helps business units identify necessary training with the goal of enhancing overall product quality and improving the consistency of examination. The results of the reviews provide analysis in the form of reports to Patent management. In addition to reporting specific errors, the analysis provides information on recurring problems and trends that may warrant changes in the examination program.

The patent examination program is also monitored for production through tracking and analysis of production counts recorded in the Patent Application Locator Monitoring (PALM) system. Production reports, containing detailed information on time spent examining and actions performed by each patent examiner, are provided to Patent management on a biweekly basis. Like the quality review tools, production monitoring identifies recurring problems and trends that may warrant changes in the examination program.

RESOURCE REQUIREMENTS, TARGETS AND PERFORMANCE SUMMARY

Goal 2: Optimize Trademark Quality and Timeliness

| <i>DOLLARS IN THOUSANDS</i> USPTO TOTAL | FY 2006 Actuals | FY 2007 President's Budget ⁹ | FY 2007 Expected Enacted | FY 2008 Base | Increase/ (Decrease) | FY 2008 President's Budget | FY 2009 Estimate | FY 2010 Estimate | FY 2011 Estimate | FY 2012 Estimate |
|--|--------------------|---|--------------------------------|-----------------|-------------------------|----------------------------------|---------------------|---------------------|---------------------|---------------------|
| TOTAL FUNDING | \$149,653 | \$148,755 | \$190,245 | \$194,764 | \$6,765 | \$201,529 | \$210,618 | \$210,080 | \$220,595 | \$231,298 |
| ↳ Direct Obligations | \$148,922 | \$148,264 | \$189,651 | \$194,764 | \$6,171 | \$200,935 | \$210,024 | \$209,486 | \$220,001 | \$230,704 |
| ↳ Reimbursable | \$731 | \$491 | \$594 | --- | \$594 | \$594 | \$594 | \$594 | \$594 | \$594 |
| IT FUNDING (included above) | \$67,726 | \$23,386 | \$54,324 | \$55,444 | (\$1,370) | \$54,074 | \$65,289 | \$63,885 | \$62,422 | \$60,368 |
| FULL-TIME EQUIVALENT (FTE) TOTALS | 761 | 915 | 955 | 964 | 36 | 1,000 | 1,051 | 1,077 | 1,112 | 1,151 |

| | | | | | | | | | | |
|---|-------|-------|-------|--|--|-------|-------|-------|-------|-------|
| First Action Compliance Rate | 95.7% | 94.0% | 95.5% | | | 95.5% | 95.5% | 95.5% | 95.5% | 95.5% |
| Final Action Compliance Rate | 96.4% | 94.0% | 96.0% | | | 96.0% | 96.0% | 96.0% | 96.0% | 96.0% |
| Average First Action Pendency (Months) | 4.8 | 3.7 | 3.7 | | | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 |
| Average Total Pendency (Months) | 18.0 | 17.3 | 17.3 | | | 16.6 | 16.0 | 16.0 | 16.0 | 16.0 |
| Efficiency | \$565 | \$621 | \$601 | | | \$582 | \$562 | \$540 | \$540 | \$535 |
| Trademark Applications Filed Electronically | 93.9% | 80.0% | 90.0% | | | 90.0% | 90.0% | 90.0% | 90.0% | 90.0% |
| Trademark Applications Managed Electronically | 99.9% | 99.0% | 99.0% | | | 99.0% | 99.0% | 99.0% | 99.0% | 99.0% |

Rationale of Performance Goal Two: This performance goal was established as a result of USPTO's strategic planning process. It is based on a predecessor goal derived from *The 21st Century Strategic Plan* to recognize quality and processing time (pendency) as the most significant measures

⁹ This goal has changed from transitioning to an e-government environment, thus the change in total resources.

for our trademark user community and other stakeholders. The *Strategic Plan 2007-2012* refocuses on optimizing the quality and timeliness of trademark products and services through continuation of quality initiatives. These initiatives are designed to reduce disposal pendency (excluding suspended and *inter partes* cases), improve the quality of examination by ensuring consistency and quality of searching and examination to transform capabilities that are paramount to achieving both the short and longer term targets set forth under this goal.

External Factors and Mitigation Strategies: The key variables impacting performance under this goal are incoming workloads and resources allotted to improving quality and reducing pendency. Trademark incoming workloads are dependent upon many factors, including economic growth in the United States.

Program Increases for Performance Goal Two: + 36 FTE and + \$6.1 million: The increases requested for FY 2008 are for implementing the strategic initiatives contained in the *Strategic Plan 2007-2012* that contribute to achieving quality and timeliness targets shown above.

Performance Monitoring and Program Evaluations: The trademark examination program is evaluated for quality of examination decisions through in-process and final action reviews. The focus of the trademark review program is to identify practice and procedural deficiencies and develop training modules to address those deficiencies. The review of trademark applications is centered on addressing the appropriateness or omission of substantive refusals outlined in Section 2 of the Trademark Act. Section 2 of the Trademark Act provides the statutory bases for which the Agency refuses marks for registration. The results of the reviews provide analysis in the form of reports to Trademark management. In addition to reporting specific types of errors, the analysis provides information on recurring problems and trends that may warrant changes in the examination program. The information gathered from the review of these examination program activities are also used to develop and implement quality-driven training modules as well as Policy Papers aimed at reinforcing the proper practice in a wide range of examination activities.

The trademark examination program is also monitored for production through tracking and analysis of production counts recorded in the Trademark Reporting and Monitoring (TRAM) system. Production reports, containing detailed information on time spent examining and actions performed by each examining attorneys, are provided to Trademark management on a biweekly basis. Like the quality review tools, production monitoring identifies recurring problems and trends that may warrant changes in the examination program.

RESOURCE REQUIREMENTS, TARGETS AND PERFORMANCE SUMMARY

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

| DOLLARS IN THOUSANDS USPTO TOTAL | FY 2006 Actuals | FY 2007 President's Budget ¹⁰ | FY 2007 Expected Enacted | FY 2008 Base | Increase/ (Decrease) | FY 2008 President's Budget | FY 2009 Estimate | FY 2010 Estimate | FY 2011 Estimate | FY 2012 Estimate |
|---|--------------------|--|--|-----------------|-------------------------|----------------------------------|---------------------|---------------------|---------------------|---------------------|
| TOTAL FUNDING | \$176,924 | \$222,223 | \$46,262 | \$48,020 | \$0 | \$48,020 | \$50,646 | \$51,796 | \$52,961 | \$54,152 |
| ↳ Direct Obligations | \$176,924 | \$222,223 | \$46,262 | \$48,020 | \$0 | \$48,020 | \$50,646 | \$51,796 | \$52,961 | \$54,152 |
| ↳ Reimbursable | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| IT FUNDING (included above) | \$11,067 | \$97,106 | \$10,318 | \$10,476 | \$3,274 | \$13,750 | \$13,841 | \$14,125 | \$14,447 | \$14,430 |
| FULL-TIME EQUIVALENT (FTE) TOTALS | 82 | 93 | 132 | 135 | 0 | 135 | 144 | 144 | 144 | 144 |
| Technical Assistance Activities Completed (Activities/Countries) | 239/102 | 84/79 | <i>Replaced with more outcome oriented performance measures.</i> | | | | | | | |
| Number of Instances in Which External Affairs Experts Review IP Policies/Standards | | | 80 | | | 82 | 84 | 84 | 84 | 84 |
| Improving World-Wide IP Expertise for US Government Interests | | | 10 | | | 12 | 12 | 12 | 12 | 12 |
| Plans of Action, Mechanisms and Support Programs Initiated or Implemented in Developing Countries | | | 8 | | | 10 | 10 | 10 | 10 | 10 |

¹⁰ This goal has changed from transitioning to an e-government environment, thus the change in total resources.

Rationale of Performance Goal Three: The former goal, that was derived from *The 21st Century Strategic Plan*, of “creating a more flexible organization through transitioning patent and trademark applications to e-Government operations and with participating in IP development worldwide’ was revised in the *Strategic Plan 2007-2012* to focus exclusively on the significance of IP protection and enforcement activities abroad and domestically.

This revised performance goal is a result of USPTO’s strategic planning process. It is an integral part of the *Strategic Plan 2007-2012* and is achieved through worldwide technical assistance programs designed to address civil, criminal and border enforcement of IP rights. With increased demand for countries to implement effective systems for IP rights enforcement, to meet the World Trade Organization and Trade Related Aspects of Intellectual Property (TRIPs) obligations, and to comply with existing and new bilateral/multilateral trade agreement commitments, the USPTO is focused on providing foreign governments with the tools to encourage economic development. These tools consist of robust protection of IP rights. They combat health and safety risks associated with counterfeit and pirated products, and combat growing criminal activity involving IP theft. To maximize resources, these programs are developed and implemented in coordination with national and international IP organizations, Federal agencies, and rights owners.

External Factors and Mitigation Strategies: The key variable impacting performance under this goal is the lack of a streamlined international IP system. This inefficiency makes it difficult, slow, and expensive for innovators and businesses to obtain protection in all of the necessary markets around the world. Some methods of mitigating this external factor are to expand foreign postings of IP experts, expand the USPTO GIPA, and continue to negotiate and implement IPR Chapters of FTAs.

Program Increases for Performance Goal Three: + 0 FTE and - \$0 million: The current funding level assumes ongoing activities related to the posting of IP experts overseas to advocate IP policy and coordinate training, formation of the GIPA, project activities to develop and implement a series of enforcement programs, and increase the level of partnering and resource matching with other government agencies, intergovernmental organizations, international organizations and foreign international IP offices. The funding level also assumes providing support to effectively work with the USTR to develop standardized text for FTAs, and continuing to provide a series of IP conferences to target small and medium size businesses where the participants learn about the importance of IP rights and how to protect and enforce these rights.

Program Evaluations: USPTO, in its role as policy advisor to the President and the Administration on IP matters, will continue to promote policies that enhance competitiveness for U.S. businesses abroad. The USPTO will continue to advocate policies that advance IP protection in various countries. These efforts will be monitored through tracking and analysis of technical assistance activities completed and documenting the countries these activities take place with. Analysts will also complete production reports for management that detail information on how time is spent on IP matters related to technical assistance activities and countries.

Exhibit 5 — Summary of Resource Requirements

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Summary of Resource Requirements
(Dollars in Thousands)

| | Full-Time Permanent Positions | FTE | Direct Obligations |
|--|-------------------------------------|--------------|-----------------------|
| FY 2007 President's Budget Direct Obligations | 8,997 | 8,557 | \$1,842,966 |
| 2007 Expected Enacted | 8,997 | 8,557 | \$1,771,000 |
| Plus: FY 2008 Adjustments to Base | 0 | 501 | \$94,924 |
| FY 2008 Base Request | 8,997 | 9,058 | \$1,865,924 |
| Plus: 2008 Program Changes | 1,087 | 484 | \$49,628 |
| FY 2008 President's Budget | 10,084 | 9,542 | \$1,915,552 |

Exhibit 5 — Summary of Resource Requirements (continued)

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Summary of Resource Requirements
(Dollars in Thousands)

| Business Areas: | | 2006 Actuals | | 2007 President's Budget | | 2007 Expected Enacted | | 2008 Base | | 2008 President's Budget | | Increase/ (Decrease) From 2008 Base | |
|---|----------|-----------------|-------------|----------------------------|-------------|--------------------------|-------------|-----------|-------------|----------------------------|-------------|---|----------|
| | | Personnel | Amount | Personnel | Amount | Personnel | Amount | Personnel | Amount | Personnel | Amount | Personnel | Amount |
| Patents | Pos./BA | 7,283 | \$1,480,456 | 7,982 | \$1,640,421 | 7,982 | \$1,574,889 | 7,966 | \$1,657,945 | 9,002 | \$1,701,402 | 1,036 | \$43,457 |
| | FTE/Obl. | 6,627 | 1,484,076 | 7,582 | | 7,582 | | 8,074 | | 8,522 | | 448 | |
| Trademarks | Pos./BA | 906 | \$199,701 | 1,015 | \$202,545 | 1,015 | \$196,111 | 1,031 | \$207,979 | 1,082 | \$214,150 | 51 | \$6,171 |
| | FTE/Obl. | 819 | 190,365 | 975 | | 975 | | 984 | | 1,020 | | 36 | |
| Total United States Patent and Trademark Office | Pos./BA | 8,189 | \$1,680,157 | 8,997 | \$1,842,966 | 8,997 | \$1,771,000 | 8,997 | \$1,865,924 | 10,084 | \$1,915,552 | 1,087 | \$49,628 |
| | FTE/Obl. | 7,446 | \$1,674,441 | 8,557 | 0 | 8,557 | | 9,058 | 0 | 9,542 | 0 | 484 | 0 |
| Less: Financing from Offsetting Collections | BA | 0 | 0 | 0 | (1,842,966) | 0 | (1,771,000) | 0 | 0 | 0 | (1,915,552) | 0 | 0 |
| | Obl. | 0 | (1,674,441) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Less: Rescission of Unobligated Balances | BA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Obl. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Less: Portion not Available for Obligation CY (limitation on obligations) | BA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Obl. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Less: Prior Year Unobligated Balance Brought Forward | BA | 0 | 0 | 0 | 0 | 0 | 5,716 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Obl. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Less: Estimated Recoveries of Prior Year Obligations | BA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Obl. | 0 | 0 | 0 | 0 | 0 | 9,150 | 0 | 0 | 0 | 0 | 0 | 0 |
| Financing from Direct Appropriated Funds | BA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Obl. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Plus: Prior Year Offsetting Collections | BA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Obl. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Appropriation | BA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Obl. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Plus/Less: Change in Offsetting Collections (unavailable balances) | BA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Obl. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Budget Authority | BA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Obl. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Exhibit 6 — Summary of Reimbursable Obligations

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Summary of Resource Requirements
(Dollars in Thousands)

| Business Areas: | | 2006 Actuals | | 2007 President's Budget | | 2007 Expected Enacted | | 2008 Base | | 2008 President's Budget | | Increase/ (Decrease) From 2008 Base | |
|--------------------|-------------|--------------|----------------|-------------------------|----------------|-----------------------|----------------|-----------|----------------|-------------------------|----------------|-------------------------------------|----------|
| | | FTE | Amount | FTE | Amount | FTE | Amount | FTE | Amount | FTE | Amount | FTE | Amount |
| Patents | BA | 0 | \$5,736 | 0 | \$4,009 | 0 | \$4,806 | | \$4,806 | 0 | \$4,806 | 0 | 0 |
| | Obl. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Trademarks | BA | 0 | \$731 | 0 | \$491 | 0 | \$594 | | \$594 | 0 | \$594 | 0 | 0 |
| | Obl. | 0 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 0 |
| Total USPTO | BA | 0 | \$6,467 | 0 | \$4,500 | 0 | \$5,400 | 0 | \$5,400 | 0 | \$5,400 | 0 | 0 |
| | Obl. | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Exhibit 7 — Summary of Financing

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Summary of Financing
(Dollars in Thousands)

| Obligations: | 2006 Actuals | 2007 President's Budget | 2007 Expected Enacted | 2008 Base | 2008 President's Budget | Increase/ (Decrease) From 2008 Base |
|---|-----------------|-------------------------------|--------------------------|---------------|----------------------------|---|
| Total direct obligations | \$1,667,974 | \$1,842,966 | \$1,771,000 | \$1,865,924 | \$1,915,552 | \$49,628 |
| Total reimbursable obligations | \$6,467 | \$4,500 | \$5,400 | \$5,400 | \$5,400 | |
| Total obligations | \$1,674,441 | \$1,847,466 | \$1,776,400 | \$1,871,324 | \$1,920,952 | \$49,628 |
| Financing: | | | | | | |
| Offsetting collections from: | | | | | | |
| Reimbursable obligations (Federal Reimbursable) | (\$6,467) | (\$4,500) | (\$5,400) | (\$5,400) | (\$5,400) | |
| Non-Federal sources/User fee collections | (\$1,658,812) | (\$1,842,966) | (\$1,771,000) | (\$1,865,924) | (\$1,915,552) | |
| Subtotal | (\$1,665,279) | (\$1,847,466) | (\$1,776,400) | (\$1,871,324) | (\$1,920,952) | |
| Recoveries: | | | | | | |
| Recoveries of prior year unpaid obligations | (\$9,150) | | | | | |
| Unobligated balance, start of year | (\$5,728) | | | | | |
| Unobligated balance, end of year | (\$5,716) | | | | | |
| Unavailable offsetting collections (limitations on obligations) | | | | | | |
| Net change | | | | | | |
| Financing from direct appropriated funds | | | | | | |
| Total net appropriation | 0 | | | | | |

Exhibit 8 — Adjustments to Base

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Adjustment to Base
(Dollars in Thousands)

| | FTE | Amount |
|---|------------|-----------------|
| Other Cost Changes | | |
| 2007 Pay Raise | | 4,506 |
| 2008 Pay Raise | | 20,201 |
| Full-year cost in 2007 for positions financed for part-year in 2007 | 501 | 34,976 |
| Within-grade step increases | | 8,802 |
| Changes in compensable day | | 7,263 |
| Civil Service Retirement System (CSRS) | | (1,769) |
| Federal Employees Retirement System (FERS) | | 2,830 |
| Thrift Savings Plan | | 505 |
| Federal Insurance Contribution Act (FICA) - OASDI | | 1,468 |
| Health insurance | | 3,290 |
| Travel | | 1 |
| Rental payments to GSA | | 2,210 |
| Printing and reproduction | | 942 |
| General Pricing Level Adjustment | | 9,699 |
| TOTAL Adjustments to Base | 501 | \$94,924 |

Exhibit 9 — Justification of Adjustments to Base

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Justification of Adjustments to Base
(Dollars in Thousands)

| | FTE | Amount |
|--|--------------|---------------|
| 2007 Pay Raise | | 4,506 |
| <hr/> | | |
| <i>Full Year of 2007 pay increase and related costs</i> | | |
| <i>A pay raise of 2.2% is to be effective January 1, 2007.</i> | | |
| Total cost in 2007 of 2007 pay increase | 18,022,666 | |
| Less amount funded in 2007 | (13,517,000) | |
| Less amount absorbed | 0 | |
| Amount requested in 2008 to provide full-year cost of 2007 pay increase | 4,505,666 | |
| Total cost of Working Capital Fund increase | 0 | |
| Less amount funded in 2008 | 0 | |
| Total, adjustment for 2008 pay increase | 4,505,666 | |
| 2008 Pay Raise | | |
| <hr/> | | |
| <i>A general pay raise of 3.1% is assumed to be effective January 1, 2008.</i> | | |
| Total cost in 2008 of pay increase | 20,201,000 | |
| Less amount absorbed in FY 2007 | 0 | |
| Amount requested for 2008 pay increase | 20,201,000 | |
| Payment to Working Capital Fund | 0 | |
| Total, adjustment for 2008 pay increase | 20,201,000 | |

Exhibit 9 — Justification of Adjustments to Base (continued)

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Justification of Adjustments to Base
(Dollars in Thousands)

| | FTE | Amount |
|---|------------|---------------|
| Full-year cost in 2008 of positions financed for part-year in 2007 | 501 | 34,976 |
| <hr/> | | |
| <i>An increase of \$34,975,591 is required to fund the full-year cost in 2008 of positions financed for part-year in 2007. The computation follows:</i> | | |
| Annual salary of new positions in 2007 | 1,307 | 71,491,026 |
| 2007 Pay Raise | 0 | 1,572,803 |
| Less 8 percent lapse | (104) | (5,845,107) |
| Full-year cost of personnel compensation | 1,203 | 67,218,722 |
| Less personnel compensation in 2007 | (702) | (40,523,285) |
| Cost of personnel compensation in 2008 | 501 | 26,695,437 |
| Adjustment for 2007 pay raise (3.1% x .75 x \$26,695,437) | 0 | 620,669 |
| Amount required for personnel compensation | 0 | 27,316,106 |
| Benefits | 0 | 7,659,485 |
| Total adjustment-to-base | 501 | 34,975,591 |

Exhibit 9 — Justification of Adjustments to Base (continued)

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Justification of Adjustments to Base
(Dollars in Thousands)

| | FTE | Amount |
|---|-------------|---------------|
| Within-grade step increases | | \$8,802 |
| <hr/> | | |
| <i>An increase of \$8,802,0448 is required to cover the cost of within-grade step increases. This estimate reflects the net cost of step increases including merit pay increases, which will be earned in 2008.</i> | | |
| Estimated number of within-grade step increases | 3,850 | |
| Step increases not earned due to turnover (8.8% x 3,850) | 339 | |
| Average step above step 1 per separation | 3 | |
| Average cost per within-grade step increase | 2,592 | |
| Gross cost of scheduled step increase (3,850 x \$2,592) | 9,979,200 | |
| Less savings due to separations (\$2,592 x 339 x 3) | (2,636,064) | |
| Subtotal, personnel compensation | 7,343,136 | |
| Benefits | 1,458,908 | |
| Total adjustment-to-base | 3,850 | |
| Change in compensable days | | 7,263 |
| <hr/> | | |
| <i>The increased cost of two compensable days in 2008 compared to 2007 is calculated by dividing the 2007 estimated personnel compensation (\$751,317,000) and application benefits (\$192,898,932) by 260 compensable days. The cost increase of two compensable days is (\$7,263,199)</i> | | |

Exhibit 9 — Justification of Adjustments to Base (continued)

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Justification of Adjustments to Base
(Dollars in Thousands)

| | FTE | Amount |
|--|------------|--|
| Civil Service Retirement System (CSRS) | | (1,769) |
| <hr/> | | |
| <i>The number of employees covered by the Civil Service Retirement System (CSRS) continues to drop as positions become vacant and are filled by employees who are covered by the Federal Employees Retirement System (FERS). The estimated percentage of payroll for employees covered by CSRS will drop from 11.00% in 2007 to 7.50% in 2008 for regular employees. The contribution rate of 7.0% will remain the same from FY 2007 to FY 2008 for regular employees.</i> | | |
| | | Regular: |
| 2008 | | \$721,917,000 x .075 x .070 3,790,064 |
| 2007 | | \$721,917,000 x .110 x .070 (5,558,761) |
| | | Total adjustment-to-base (1,768,697) |
| Federal Employees Retirement System (FERS) | | 2,830 |
| <hr/> | | |
| <i>The number of employees covered by FERS continues to rise as employees covered by CSRS leave and are replaced by employees covered by FERS. The estimated percentage of payroll for employees covered by FERS will rise from 89.00% in 2007 to 92.50% in 2008 for regular employees. The contribution rate of 11.20% will remain the same from 2007 to 2008 for regular employees.</i> | | |
| | | Regular: |
| 2008 | | \$721,917,000 x .925 x .112 74,790,601 |
| 2007 | | \$721,917,000 x .890 x .112 (71,960,687) |
| | | Total adjustment-to-base 2,829,914 |

Exhibit 9 — Justification of Adjustments to Base (continued)

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Justification of Adjustments to Base
(Dollars in Thousands)

| | FTE | Amount |
|---|------------|---------------|
| Thrift Savings Plan (TSP) | | 505 |
| <i>The cost of agency contributions to the Thrift Savings Plan will also rise as FERS participation increases. The contribution rate is expected to remain at 2.0% from 2007 to 2008.</i> | | |
| Regular: | | |
| 2008 \$721,917,000 x .925 x .02 | | 13,355,465 |
| 2007 \$721,917,000 x .890 x .02 | | (12,850,123) |
| Total adjustment-to-base | | 505,342 |

Exhibit 9 — Justification of Adjustments to Base (continued)

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Justification of Adjustments to Base
(Dollars in Thousands)

| | FTE | Amount |
|---|---|---------------|
| Federal Insurance Contribution Act (FICA) | | 1,468 |
| <hr/> | | |
| <i>As the percentage of payroll covered by FERS lowers, the cost of OASDI contributions will increase. In addition, the maximum salary subject to OASDI will be raised from \$96,150 in 2007 to \$102,300 in 2008. The OASDI tax rate will remain 6.2% in 2008.</i> | | |
| Regular: | | |
| 2008 | $\$721,917,000 \times .925 \times .956 \times .062$ | 39,580,255 |
| 2007 | $\$721,917,000 \times .890 \times .960 \times .062$ | (38,241,965) |
| | Subtotal | 1,338,290 |
| Other: | | |
| 2008 | $\$69,745,000 \times .925 \times .956 \times .062$ | 3,823,881 |
| 2007 | $\$69,745,000 \times .890 \times .960 \times .062$ | (3,694,588) |
| | Subtotal | 129,293 |
| | Total adjustment-to-base | 1,467,583 |
| Health Insurance | | 3,290 |
| <hr/> | | |
| <i>Effective January 2006, PTO's contribution to Federal employees' health insurance premiums increased by 7.0%. Applied against the 2007 estimate of \$46,993,851 the amount of increase is \$3,289,570.</i> | | |

Exhibit 9 — Justification of Adjustments to Base (continued)

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Justification of Adjustments to Base
(Dollars in Thousands)

| | FTE | Amount |
|---|---------|--------|
| Travel | | 1 |
| <hr/> | | |
| <i>Effective January 6, 2006, changes to the federal travel regulations increased the reimbursement rate for privately owned vehicles from 40.5 cents to 44.5 cents. This percentage increase of 9.88% was applied to the 2007 estimate of \$9,859 to arrive at a increase of \$974</i> | | |
| Rental Payments to GSA | | 2,210 |
| <hr/> | | |
| <i>GSA rates are projected to increase 2.4% in 2008. This percentage was applied to the 2007 estimate of \$92,104,000 to arrive at an increase of \$2,210,496.</i> | | |
| GPO Printing | | 942 |
| <hr/> | | |
| GPO has provided an estimated rate increase of 1.7%. This percentage was applied as follows. | | |
| Other GPO Printing: The percentage was applied to the 2007 estimate of \$827,209 to arrive at an increase of \$14,063 | 14,063 | |
| Trademark GPO Printing: The percentage was applied to the 2007 estimate of \$1,192,743 to arrive at an increase of \$20,277 | 20,277 | |
| Patent GPO Printing: The percentage was applied to the 2007 estimate of \$53,407,048 to arrive at an increase of \$907,920 | 907,920 | |
| Total GPO Printing adjustment-to-base | 942,260 | 0 |

Exhibit 9 — Justification of Adjustments to Base (continued)

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Justification of Adjustments to Base
(Dollars in Thousands)

| | FTE | Amount |
|--|------------|---------------|
| General Pricing Level Adjustment | | 9,699 |
| <p><i>This request applies OMB economic assumptions for 2008 to sub-object classes where the prices that the Government pays are established through the market system. Factors are applied to transportation of things (\$6,149); rental payments to others (\$201,067); communications, utilities, miscellaneous charges (excluding postage) (\$295,163); consulting services (\$236,208); other services (excluding NARA) (\$7,256,023); purchased goods (\$61,442); supplies and materials (\$243,138); and equipment (\$1,400,779).</i></p> | | |
| Total, adjustments-to-base | 501 | 94,924 |

Exhibit 16 — Summary of Requirements by Object Class

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Detailed Requirements by Object Class
(Dollars in Thousands)

| Object Class Title: | 2006 Actuals | 2007 President's Budget | 2007 Expected Enacted | 2008 Base | 2008 President's Budget | Increase/ (Decrease) From 2008 Base |
|--|-----------------|-------------------------------|-----------------------------|--------------|-------------------------------|---|
| Full-Time Equivalent Employment: | | | | | | |
| Full-Time Permanent | 7,331 | 8,429 | 8,429 | 8,924 | 9,408 | 484 |
| Other Than Full-Time Permanent | 115 | 128 | 128 | 134 | 134 | 0 |
| Total Full-Time Equivalent Employment | 7,446 | 8,557 | 8,557 | 9,058 | 9,542 | 484 |
| Authorized Positions: | | | | | | |
| Full-Time Permanent | 8,009 | 8,792 | 8,792 | 8,792 | 9,879 | 1,087 |
| Other Than Full-Time Permanent | 180 | 205 | 205 | 205 | 205 | 0 |
| Total Authorized Positions | 8,189 | 8,997 | 8,997 | 9,017 | 10,084 | 1,087 |

Exhibit 16 — Summary of Requirements by Object Class (continued)

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Detailed Requirements by Object Class
(Dollars in Thousands)

| Object Class | Object Class Title | 2006 Actuals | 2007 President's Budget | 2007 Expected Enacted | 2008 Base | 2008 President's Budget | Increase/ (Decrease) From 2008 Base |
|---|--|------------------|-------------------------|-----------------------|------------------|-------------------------|-------------------------------------|
| Personnel Compensation | | | | | | | |
| 11.1 | Full-Time Permanent Compensation | 614,720 | 713,338 | 714,998 | 789,802 | 820,049 | 30,247 |
| 11.3 | Other Than Full-Time Permanent Compensation | 6,229 | 6,502 | 6,502 | 6,872 | 6,872 | 0 |
| 11.5 | Other Personnel Compensation | 46,835 | 65,780 | 66,751 | 67,325 | 67,386 | 61 |
| Total Personnel Compensation | | 667,784 | 785,620 | 788,251 | 863,999 | 894,307 | 30,308 |
| 12.0 | Personnel Benefits | 211,074 | 240,524 | 238,892 | 245,216 | 253,339 | 8,123 |
| 13.0 | Benefits for Former Personnel | 136 | 0 | 0 | 0 | 0 | 0 |
| 21.0 | Travel and Transportation of Persons | 9,835 | 12,531 | 9,564 | 9,565 | 9,592 | 27 |
| 22.0 | Transportation of Things | 662 | 795 | 1,047 | 1,053 | 1,053 | 0 |
| 23.1 | Rental Payments to GSA | 85,293 | 98,537 | 92,104 | 94,314 | 94,314 | 0 |
| 23.2 | Rental Payments to Others | 1,387 | 7,424 | 11,838 | 12,039 | 21,770 | 9,731 |
| 23.3 | Communications, Utilities, and Misc. Charges | 17,921 | 29,854 | 14,127 | 14,422 | 10,822 | (3,600) |
| 24.0 | Printing and Reproduction | 73,725 | 55,346 | 55,430 | 56,371 | 56,375 | 4 |
| 25.1 | Advisory and Assistance Services | 46,979 | 11,393 | 13,909 | 14,146 | 14,336 | 190 |
| 25.2 | Other Services | 410,025 | 504,254 | 439,460 | 446,717 | 444,959 | (1,758) |
| 25.3 | Purchase of Goods and Services from Gov't Accounts | 24,599 | 7,746 | 8,073 | 8,134 | 8,283 | 149 |
| 26.0 | Supplies and Materials | 14,004 | 14,469 | 14,295 | 14,538 | 14,717 | 179 |
| 31.0 | Equipment | 110,897 | 74,473 | 84,010 | 85,410 | 91,685 | 6,275 |
| 32.0 | Lands and Structures | 0 | 0 | 0 | 0 | 0 | 0 |
| 42.0 | Insurance Claims and Indemnities | 86 | 0 | 0 | 0 | 0 | 0 |
| 43.0 | Interest and Dividends | 34 | 0 | 0 | 0 | 0 | 0 |
| Total Non Compensation | | 1,006,657 | 1,057,346 | 982,749 | 1,001,925 | 1,021,245 | 19,320 |
| Total Direct Obligations | | 1,674,441 | 1,842,966 | 1,771,000 | 1,865,924 | 1,915,552 | 49,628 |
| Less: Financing from Offsetting Collections | | 0 | (1,842,966) | (1,771,000) | 0 | (1,915,552) | 0 |
| Total Budget Authority | | 0 | 0 | 0 | 0 | 0 | 0 |

Exhibit 17 — Detailed Requirements by Object Class

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Detailed Requirements by Object Class
 (Dollars in Thousands)

| Object Class | Object Class Title | 2006 Actuals | 2007 President's Budget | 2007 Expected Enacted | 2008 Base | 2008 President's Budget | Increase/ (Decrease) From 2008 Base |
|--------------|--|----------------|-------------------------|-----------------------|----------------|-------------------------|-------------------------------------|
| 11 | Personnel Compensation: | | | | | | |
| 11.1 | Full-Time Permanent Positions: | | | | | | |
| | Executive Level | 137 | 159 | 159 | 169 | 175 | 7 |
| | Senior Executive Service | 6,946 | 8,060 | 8,079 | 8,538 | 8,866 | 328 |
| | General Schedule | 594,644 | 690,041 | 691,647 | 765,124 | 794,423 | 29,298 |
| | Wage Board | 0 | 0 | 0 | 0 | 0 | 0 |
| | Patent Appeals Examiners (P.L. 82-593) | 10,681 | 12,395 | 12,424 | 13,129 | 13,634 | 505 |
| | Trademark Appeals Examiners (P.L. 98-622) | 2,312 | 2,683 | 2,689 | 2,842 | 2,951 | 109 |
| | Total, Full-Time Permanent Positions | 614,720 | 713,338 | 714,998 | 789,802 | 820,049 | 30,247 |
| 11.3 | Positions Other Than Full-Time Permanent: | | | | | | |
| | General Schedule | 6,078 | 6,185 | 6,185 | 6,538 | 6,538 | 0 |
| | Wage Board | 71 | 265 | 265 | 280 | 280 | 0 |
| | Intermittent | 80 | 52 | 52 | 54 | 54 | 0 |
| | Total, Positions Other Than FT Permanent | 6,229 | 6,502 | 6,502 | 6,872 | 6,872 | 0 |
| 11.5 | Other Personnel Compensation: | | | | | | |
| | Overtime | 22,986 | 28,931 | 29,405 | 29,657 | 29,670 | 13 |
| | Night Differential - Premium Pay | 11 | 15 | 15 | 15 | 15 | 0 |
| | Awards | 23,838 | 36,834 | 37,331 | 37,653 | 37,701 | 48 |
| | Total, Other Personnel Compensation | 46,835 | 65,780 | 66,751 | 67,325 | 67,386 | 61 |
| 11.9 | Total Personnel Compensation: | 667,784 | 785,620 | 788,251 | 863,999 | 894,307 | 30,309 |
| 12.0 | Civilian Personnel Benefits: | | | | | | |
| | Civil Service Retirement | 5,525 | 7,387 | 7,337 | 6,839 | 7,016 | 177 |
| | Federal Employee Retirement System (FERS) | 59,297 | 68,588 | 68,122 | 70,856 | 73,272 | 2,415 |
| | Thrift Plan Contributions | 21,933 | 24,227 | 24,063 | 24,588 | 25,393 | 806 |
| | Federal Insurance Contributions Act (FICA) | 31,454 | 36,821 | 36,571 | 38,034 | 39,335 | 1,301 |
| | Medicare | 9,408 | 11,667 | 11,588 | 11,848 | 12,238 | 389 |
| | Health Insurance | 37,381 | 47,132 | 46,812 | 48,604 | 50,245 | 1,642 |
| | Life Insurance | 1,043 | 1,468 | 1,458 | 1,494 | 1,543 | 49 |
| | Post-retirement life and health benefits | 43,071 | 39,000 | 38,735 | 38,735 | 39,944 | 1,209 |
| | OWC Payments | 611 | (77) | (76) | (76) | (76) | 0 |
| | Flexible Spending Account | 0 | 0 | 0 | 0 | 0 | 0 |
| | Prof Liability Insurance | 2 | 3 | 3 | 3 | 3 | 0 |
| | Prompt Payment Act Interest | 0 | 0 | 0 | 0 | 0 | 0 |
| | Transportation Subsidy | 469 | 3,955 | 3,928 | 3,940 | 4,064 | 124 |
| | Recruitment Allowance | 877 | 342 | 340 | 341 | 352 | 11 |
| | Retention Allowance | 3 | 11 | 11 | 11 | 11 | 0 |
| | Total Civilian Personnel Benefits | 211,074 | 240,524 | 238,892 | 245,216 | 253,339 | 8,123 |

Exhibit 17 — Detailed Requirements by Object Class (continued)

Department of Commerce
United States Patent and Trademark Office
Salaries and Expenses
Detailed Requirements by Object Class
(Dollars in Thousands)

| Object Class | Object Class Title | 2006 Actuals | 2007 President's Budget | 2007 Expected Enacted | 2008 Base | 2008 President's Budget | Increase/ (Decrease) From 2008 Base |
|--------------|--|---------------|-------------------------|-----------------------|---------------|-------------------------|-------------------------------------|
| 13.0 | Benefits for Former Personnel | 136 | 0 | 0 | 0 | 0 | 0 |
| 21.0 | Travel and Transportation of Persons: | | | | | | |
| | Transportation - Domestic | 2,090 | 1,257 | 959 | 959 | 959 | 0 |
| | Transportation - International | 2,537 | 4,481 | 3,420 | 3,420 | 3,447 | 27 |
| | Local Travel | 4,894 | 6,309 | 4,815 | 4,816 | 4,816 | 0 |
| | Relocation Travel | 21 | 288 | 220 | 220 | 220 | 0 |
| | Per Diem Allowances | 0 | 0 | 0 | 0 | 0 | 0 |
| | Examiner Education - Domestic | 251 | 12 | 9 | 9 | 9 | 0 |
| | Examiner Education - International | 0 | 6 | 5 | 5 | 5 | 0 |
| | Rental Car Expenses | 10 | 43 | 33 | 33 | 33 | 0 |
| | Privately-Owned Automobiles | 3 | 13 | 10 | 10 | 10 | 0 |
| | Rental of GSA Vehicles | 29 | 122 | 93 | 93 | 93 | 0 |
| | Total, Travel and Transportation of Persons | 9,835 | 12,531 | 9,564 | 9,565 | 9,592 | 27 |
| 22.0 | Transportation of Things: | | | | | | |
| | Freight Charges | 9 | 30 | 40 | 40 | 40 | 0 |
| | Transportation of Household Goods | 0 | 0 | 0 | 0 | 0 | 0 |
| | Parcel Post | 652 | 765 | 1,007 | 1,013 | 1,013 | 0 |
| | Other | 1 | 0 | 0 | 0 | 0 | 0 |
| | Total, Transportation of Things | 662 | 795 | 1,047 | 1,053 | 1,053 | 0 |
| 23.1 | Rental Payments to GSA: | 85,293 | 98,537 | 92,104 | 94,314 | 94,314 | 0 |
| 23.2 | Rental Payments to Others | 1,387 | 7,424 | 11,838 | 12,039 | 21,770 | 9,731 |
| 23.3 | Communications, Utilities, and Misc. Charges: | | | | | | |
| | Rental of IT Equipment | 6,065 | 13,636 | 6,453 | 6,626 | 4,218 | (2,408) |
| | Rental of Office Copying Equipment | 88 | 62 | 29 | 30 | 13 | (17) |
| | Other Equipment Rental | 41 | 39 | 18 | 18 | 7 | (11) |
| | Federal Telecommunications Systems | 1,300 | 150 | 71 | 73 | 73 | 0 |
| | Telecommunications Systems | 3,814 | 3,512 | 1,662 | 1,705 | 893 | (812) |
| | Postal Services by USPS | 799 | 6,121 | 2,897 | 2,897 | 2,897 | 0 |
| | Utilities Services | 5,814 | 6,334 | 2,997 | 3,073 | 2,721 | (352) |
| | Total, Comm, Utilities, and Misc. Charges | 17,921 | 29,854 | 14,127 | 14,422 | 10,822 | (3,600) |

Exhibit 17 — Detailed Requirements by Object Class (continued)

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Detailed Requirements by Object Class
(Dollars in Thousands)

| Object Class | Object Class Title | 2006 Actuals | 2007 President's Budget | 2007 Expected Enacted | 2008 Base | 2008 President's Budget | Increase/ (Decrease) From 2008 Base |
|--------------|--|----------------|-------------------------|-----------------------|----------------|-------------------------|-------------------------------------|
| 24.0 | Printing and Reproduction: | | | | | | |
| | Patent Printing | 71,496 | 53,329 | 53,410 | 54,318 | 54,322 | 4 |
| | Trademark Printing | 270 | 1,191 | 1,193 | 1,213 | 1,213 | 0 |
| | General Printing | 330 | 413 | 414 | 414 | 414 | 0 |
| | Publications | 666 | 78 | 78 | 78 | 78 | 0 |
| | Binding-OPS | 245 | 71 | 71 | 71 | 71 | 0 |
| | Other Printing | 718 | 264 | 264 | 277 | 277 | 0 |
| | Total, Printing and Reproduction | 73,725 | 55,346 | 55,430 | 56,371 | 56,375 | 4 |
| 25.1 | Advisory and Assistance Services | 46,979 | 11,393 | 13,909 | 14,146 | 14,336 | 190 |
| 25.2 | Other Services: | | | | | | |
| | University Training | 1,385 | 5,389 | 4,694 | 4,775 | 4,756 | (20) |
| | Other Training | 4,564 | 12,376 | 10,786 | 10,973 | 10,927 | (45) |
| | Exhibits and Displays | 0 | 0 | 0 | 0 | 0 | 0 |
| | Install/Reconfigure Existing Systems | 284 | 2,757 | 2,403 | 2,445 | 2,435 | (10) |
| | Non-IT Maintenance and Repair Services | 2,706 | 3,676 | 3,204 | 3,259 | 3,246 | (13) |
| | Operation and Maintenance of Facilities | 6,152 | 1,737 | 1,514 | 1,540 | 1,534 | (6) |
| | IT Maintenance and Repair Services | 28,336 | 15,187 | 13,236 | 13,465 | 13,410 | (55) |
| | Building Repairs & Alterations – Non Capitalized | 4,043 | 1,531 | 1,334 | 1,357 | 1,352 | (6) |
| | IT Operation Support Services | 178,797 | 136,678 | 119,116 | 121,057 | 120,587 | (470) |
| | IT Timesharing Services | 19,291 | 37,013 | 32,257 | 32,787 | 32,658 | (128) |
| | Other Contractual Services | 0 | 1,858 | 1,619 | 1,647 | 1,640 | (7) |
| | Miscellaneous Goods and Services Non-IT | 11,064 | 22,473 | 19,585 | 19,894 | 19,819 | (75) |
| | Non-IT Operation Support Services | 153,403 | 263,579 | 229,712 | 233,518 | 232,596 | (922) |
| | Subtotal | 410,025 | 504,254 | 439,460 | 446,717 | 444,959 | (1,758) |

Exhibit 17 — Detailed Requirements by Object Class (continued)

Department of Commerce
 United States Patent and Trademark Office
 Salaries and Expenses
 Detailed Requirements by Object Class
(Dollars in Thousands)

| Object Class | Object Class Title | 2006 Actuals | 2007 President's Budget | 2007 Expected Enacted | 2008 Base | 2008 President's Budget | Increase/ (Decrease) From 2008 Base |
|--------------|--|------------------|-------------------------|-----------------------|------------------|-------------------------|-------------------------------------|
| 25.3 | Purchase of Goods and Services from Gov't Accounts: | | | | | | |
| | Office of Personnel Management Training | 637 | 55 | 57 | 58 | 58 | 0 |
| | Government Services | 23,962 | 2,732 | 2,847 | 2,903 | 3,052 | 149 |
| | Executive Development and Leadership Training | 0 | 259 | 270 | 274 | 274 | 0 |
| | National Archives and Records Administration (NARA) | 0 | 400 | 417 | 417 | 417 | 0 |
| | Payment to GA, WCF | 0 | 4,300 | 4,482 | | 4,482 | 0 |
| | Subtotal | 24,599 | 7,746 | 8,073 | 8,134 | 8,283 | 149 |
| 26.0 | Supplies and Materials: | | | | | | |
| | Office Supplies | 11 | 220 | 217 | 221 | 223 | 2 |
| | GSA Supplies | 333 | 662 | 654 | 665 | 673 | 8 |
| | IT Supplies | 282 | 784 | 775 | 788 | 798 | 10 |
| | Toner Supplies | 1,212 | 1,929 | 1,906 | 1,938 | 1,962 | 23 |
| | Other Supplies | 2,910 | 3,559 | 3,516 | 3,576 | 3,620 | 44 |
| | Books and Periodicals | 7,554 | 5,094 | 5,033 | 5,119 | 5,182 | 64 |
| | Copier Paper | 1,702 | 2,221 | 2,194 | 2,231 | 2,259 | 28 |
| | Total, Supplies and Materials | 14,004 | 14,469 | 14,295 | 14,538 | 14,717 | 179 |
| 31.0 | Equipment: | | | | | | |
| | Capital Leases | 0 | 2,274 | 2,565 | 2,608 | 2,799 | 192 |
| | Internal Use Software in Progress (Capitalized) | 21,274 | 5,612 | 6,331 | 6,437 | 6,909 | 473 |
| | Hardware for Internal Use Software in Progress (Non-Capitalized) | 11,038 | 12,673 | 14,296 | 14,534 | 15,602 | 1,068 |
| | IT Equipment (Capitalized) | 47,852 | 0 | 0 | 0 | 0 | 0 |
| | IT Equipment (Non-Capitalized) | 3,990 | 25,679 | 28,967 | 29,450 | 31,613 | 2,163 |
| | Internal Use Software (Capitalized) | 7,561 | 1,621 | 1,829 | 1,859 | 1,996 | 136 |
| | IT Software (Non-Capitalized) | 3,747 | 17,126 | 19,319 | 19,641 | 21,084 | 1,443 |
| | IT Software (Expensed) | 0 | 100 | 113 | 115 | 123 | 8 |
| | Furniture and Fixtures (Capitalized) | 10,254 | 6,215 | 7,011 | 7,128 | 7,652 | 524 |
| | Furniture and Fixtures (Non-Capitalized) | 858 | 1,388 | 1,566 | 1,592 | 1,709 | 117 |
| | Office Equipment/Telecommunications (Capitalized) | 2,063 | 631 | 712 | 724 | 777 | 53 |
| | Office Equipment/Telecommunications (Non-Capitalized) | 2,260 | 1,154 | 1,301 | 1,323 | 1,420 | 97 |
| | Total, Equipment | 110,897 | 74,473 | 84,010 | 85,410 | 91,685 | 6,274 |
| 32.0 | Leasehold Improvements Capitalized: | 0 | 0 | 0 | 0 | 0 | 0 |
| 42.0 | Insurance Claims and Indemnities: | 86 | 0 | 0 | 0 | 0 | 0 |
| 43.0 | Interest and Dividends: | 34 | 0 | 0 | 0 | 0 | 0 |
| | Total Non Compensation | 1,006,657 | 1,057,346 | 982,749 | 1,001,926 | 1,021,245 | 19,320 |
| | Total Direct Obligations | 1,674,441 | 1,842,966 | 1,771,000 | 1,865,924 | 1,915,552 | 49,628 |

Appendix

I. COMMITMENT TO THE PRESIDENT'S MANAGEMENT AGENDA (PMA)

The USPTO is committed to the objectives of the PMA, which is the Bush Administration's strategy for improving the management and performance of the federal government. Agencies are scored green, yellow or red on their status in achieving overall goals or long-term criteria, as well as their progress in implementing improvement plans. The USPTO's success is evidenced by the progress made in improving the strategic management of human capital, competitive sourcing, improved financial performance, expanded e-government, and budget and performance integration. One example is the competitive sourcing of Patent Cooperation Treaty (international) searches that occurred in 2006, which will contribute to decreasing Patent backlogs and pendency. Reclassification and Pre-Grant Publication Classification services also have been competitively sourced.

Additionally, the USPTO continues to enhance its electronic business center, which is available at the USPTO web site <http://www.uspto.gov>. The electronic business center provides citizens with online services such as ability to pay fees, obtain historical patent and trademark information, file applications and correspondence for pending applications, maintain patents and registered marks, view patent and trademark documents, and locate registered patent attorneys or agents. The USPTO's web site has received recognition for its design, content, services offered, help features, navigation, site legitimacy, and accessibility.

The USPTO's annual performance plan is linked to its FY 2008 budget request and reflects the priorities and goals found in the *Strategic Plan 2007-2012*. The annual budget request is a consequence of USPTO managers integrating their funding requirements to the *Strategic Plan 2007-2012*, and establishing measurable objectives and milestones for each goal. The annual integrated budget/performance plan is the most effective and efficient way of establishing accountability by making sure that performance measures are consistent with the views of the Administration and Congress.

The USPTO utilizes the Program Assessment and Rating Tool (PART), and other assessment evaluations and modeling techniques to effectively enhance delivery of services and achieve improved program results. The agency routinely monitors program performance targets to ensure achievement of actual results to performance goals. Organizational goals and crosscutting performance measures are also included in senior executive members' performance appraisal plans to ensure alignment with agency mission, strategic goals and objectives.

Strategic Management of Human Capital: Groundbreaking discoveries, inventions and creative ideas generated by innovative minds have paid enormous dividends, improving the lives and livelihoods of generations of Americans. The USPTO plays a vital role in enabling these innovations to be brought to the marketplace. Therefore, it is essential to the success of the USPTO to have a strong human capital management program that continues to attract, hire, train and maintain a cadre of employees with knowledge and skills in an increasing range and depth of technologies.

- The Agency has become a recognized leader in Federal Government telework programs, and the Trademark Work-at-Home (TWAH) Program was the recipient of the Telework Program with Maximum Impact on Government Award. The TWAH program was recognized as an innovative telework prototype for how to incorporate measurable performance goals in evaluating the

performance of its teleworkers. As a consequence of this recognized success, other Federal agencies have sought USPTO's assistance in establishing their own telework programs.

- USPTO also launched the Patents Hoteling Program (PHP), which offers patent employees the opportunity to work from home. Participants have all the communications tools and application processing capabilities they need to do their jobs remotely. The program incorporates hoteling, by which participants can reserve time in on-campus "shared offices" for interviewing with applicants and attorneys, training, attending meetings, and using on-site resources.

Competitive Sourcing: The USPTO is committed to achieving performance enhancements and cost-savings through competitive sourcing. In past years, the USPTO has competitively sourced many functions, such as payroll, mail processing/handling, clerical support, data transcription, systems maintenance and development, help desk support, etc. In particular, service contracts have presented an excellent opportunity to help deal with fluctuating workloads and to minimize the impact on employees. While preserving the inherently governmental responsibility for patentability determinations, the USPTO is committed to increasing total patent examiner output by competitively sourcing multiple patent functions. For example, Patent Cooperation Treaty (international) searches were outsourced in 2006 and, in addition, Reclassification and Pre-Grant Publication Classification services have been competitively sourced. Reclassification of existing classification schemes serves to improve quality of examination by updating the existing schedules to reflect emerging technology and growth, as well as harmonizing with international systems.

Improved Financial Performance: The USPTO is in compliance with all Federal accounting principles and standards and has encountered no instances of material weaknesses in internal controls or non-compliance with Federal accounting regulations. The USPTO will continue to maintain and strengthen internal controls and improve the timeliness and usefulness of financial management information. In 2006, the USPTO met all quarterly financial-reporting requirements instituted by the Office of Management and Budget (OMB) and the Department of Treasury. Again, the USPTO sustained a clean audit opinion with 2006 marking the fourteenth consecutive unqualified audit opinion and the tenth consecutive year with no material weaknesses. The USPTO has a certified and accredited, fully integrated financial management system that routinely produces timely information and uses a data warehouse to accommodate both financial and operational data. The data warehouse is used by managers for analyzing financial results and performance and by SPEs for managing patent processing timeframes. The USPTO also operates a mature Activity Based Cost (ABC) accounting system that captures costs of core mission activities and both direct and indirect costs for the entire agency. Managers use data from the ABC system to analyze the cost of operations when making decisions regarding improving processes, setting fees, or allocating budgetary resources. Additionally, the USPTO met its 2006 financial performance measurement goals. Finally, for the fourth year in a row, the Association of Government Accountants awarded USPTO the prestigious Certificate of Excellence in Accountability Reporting (CEAR) for the agency's FY 2005 Performance and Accountability Report.

Expanded E-Government: In FY 2006, the USPTO launched an enhanced, user-friendly web-based version of the Electronic Patent Filing System (EFS Web). This updated electronic filing system allows applicants to file over the Internet and allows for electronic filing of subsequent papers throughout prosecution.

USPTO is accelerating deployment of critical automated information systems, particularly the electronic end-to-end processing of patent and trademark applications. In addition, the USPTO is currently working on ways to improve delivery schedules, reliability, performance, security and monitoring the cost of its automated information systems. USPTO continues to work developing new forms and enhancements to

the existing Trademark Electronic Application System (TEAS) to add functionality for the applicant and improve the efficiency of the process.

USPTO seeks to choose information technology (IT) projects that best support the mission and comply with its enterprise architecture. Individual investments are evaluated in the broader context of technical alignment with other IT systems and their impact on the performance of the enterprise's IT portfolio as measured by cost, benefit, and risk. In fulfilling responsibilities under section 3504 (h) of title 44, USC the USPTO uses a Capital Planning and Investment Control (CPIC) process to prioritize investments and determine funding levels for subsequent fiscal years. Once approved, each project is carefully managed throughout its life cycle. At key milestone dates, during the performance-based acquisition management phase, progress reviews are conducted to compare the project's status to planned benefit, cost, schedule, along with technical efficiency and effectiveness measures. All major IT system investments are reported in Exhibit 53, the USPTO's IT Investment Portfolio for 2008.

Budget and Performance Integration: Since 1999, the USPTO has developed an annual corporate plan that links the annual performance plan and budget request such that resource requirements for continuing programs and new initiatives are aligned with outputs and performance goals. In 2006, the USPTO introduced the *Strategic Plan 2007-2012* in concert with the FY 2008 budget request. This is a multi-year plan that provides USPTO employees, stakeholders and the public with a long-term vision of agency goals, and planned outcomes. Following development of the *Strategic Plan 2007-2012*, USPTO has refined its performance goals for better integration of budgetary resources with both enterprise-wide strategic goals and individual unit performance targets.

USPTO achieved notable success in support of the PMA by attaining Green in the Budget and Performance Integration initiative and maintaining our noteworthy Green ratings in the Financial Performance initiative.

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