

STRATEGIC GOAL 2

*Provide infrastructure for innovation to
enhance American competitiveness*





United States Patent and Trademark Office

Mission Statement

The United States Patent and Trademark Office (USPTO) mission is to ensure that the intellectual property system contributes to a strong global economy, encourages investment in innovation, and fosters entrepreneurial spirit.

Priorities

For over 200 years, the basic role of USPTO has remained the same—to promote the progress of science and the useful arts by securing, for limited times to inventors, the exclusive rights to their respective discoveries (Article 1, Section 8 of the United States Constitution). U.S. industry has flourished under this system of protection as new products have been invented; new uses for inventions have been discovered, and employment opportunities have been created for millions of Americans.

Patents and trademarks have long protected American creativity and ingenuity. The first patent was issued in 1790 for a method of making potash fertilizer and the oldest active trademark was originally registered in 1884 for SAMSON, a design for “cords, lines, and ropes.” The strength and vitality of the economy depends directly on effective mechanisms that protect new ideas and investments in innovation and creativity. The continued demand for patents and trademarks underscores the ingenuity of U.S. inventors and entrepreneurs. USPTO is at the cutting edge of the nation’s technological progress and achievement.

The primary services provided by USPTO are processing patent and trademark applications and disseminating patent and trademark information. Through issuing patents, USPTO encourages technological advancement by providing incentives to invent, invest in, and disclose new technology. Through registering trademarks, USPTO assists businesses in protecting their investments, promotes quality goods and services, and safeguards consumers against confusion and deception in the marketplace. By disseminating both patent and trademark information, USPTO promotes a global understanding of intellectual property (IP) protection and facilitate developing and sharing new technologies worldwide.

USPTO also supports the Department of Commerce goal to “Provide infrastructure for innovation to enhance American competitiveness” through its objective to “Protect intellectual property.” All forms of IP protection—patents, trademarks, and copyrights—uphold the philosophy of rewarding individual effort as the best way of utilizing the talents of creators to advance public welfare. IP is a potent force in the competitive free enterprise system. By continuing to protect intellectual endeavors and encourage technological progress, USPTO seeks to preserve the U.S. technological edge, which is a key to current and future competitiveness.

FY 2003 Performance

In FY 2003, USPTO had three goals and 10 measures which focused on (1) enhancing the quality of its products and services, (2) e-government initiatives, and (3) minimizing application processing time for patents and trademarks. Of those 10 measures, USPTO met five of them.

USPTO received 333,452 Utility, Plant, and Reissue patent applications for fiscal year 2003. Additionally, USPTO published 243,007 pending applications and issued 173,072 patent grants. A record number of trademark applications were registered and disposed, and pending inventories were substantially reduced. The number of trademarks registered increased by more than 7 percent to 143,424, including 185,182 classes, which increased by more than 12 percent. Total Trademark Office disposals were 238,759 including 305,040 classes. The Trademark Office's inventory of total applications under examination was reduced by 10 percent from 479,628 files with more than 654,533 classes at the start of the year, to 431,805 files including 575,901 classes at year-end.

Technology has become increasingly complex, and demands from customers for higher quality products and services have escalated. USPTO's applicants are concerned that the USPTO does not have full access to the fees applicants pay in the year they are collected. In the U.S., customer demands have created substantial challenges in the processing of patents.

Becoming more productive while maintaining high levels of quality is the main challenge facing USPTO in the future. With this in mind, in FY 2003, the USPTO continued to move forward with the *21st Century Strategic Plan* that was initially introduced in June of 2002 with revisions made in February 2003. The strategic plan is an aggressive five-year plan that addresses the most significant issues facing USPTO as it moves into the new century.

To better manage fluctuations in workload, USPTO must focus on increasing the acceptance and use of its electronic systems, move toward full electronic processing, complete a radical design of the entire patent search and examination system, and restructure the agency's fee schedule to provide options for filing and financial incentives for its customers to further encourage and promote the use of electronic filing and communications.

The Congress, the owners of IP, the patent bar, and the public-at-large have all told USPTO that it must address these challenges aggressively and promptly. The USPTO's *21st Century Strategic Plan* will continue to assist in addressing these challenges and ultimately transform USPTO into a quality-driven, highly-productive, and cost-effective organization that will promote expansion of business opportunities, stimulate research and development, and expand U.S. commerce globally.

Quality

Major steps were taken to bolster confidence in the quality and reliability of patents and trademarks through the initiation of a multi-faceted, comprehensive and rigorous quality assurance program. A new program of comprehensive quality assurance techniques was implemented at every stage of the examination pipeline, from formalities check to search and preliminary assessment, to the final decision on patentability or registration of the trademark. In addition, USPTO made significant strides to enhance the expertise of examination staff, including testing and evaluating the oral and verbal communication skills, as well as understanding of the relevant technology, of applicants for patent examiner positions; to periodically certify the knowledge, skills, and abilities (KSA) of all employees; and to establish new selection techniques for supervisory patent examiners.

E-Government

Patents made significant progress in the creation of an Image File Wrapper (IFW) system in cooperation with the European Patent Office (EPO). The deployment of IFW has moved from prototype to production mode with close to 950 examiners and 2,000 users trained and using IFW. Additionally there are currently 200,000 applications in the IFW system that comprise approximately 30 percent of active applications. The outcome of this accelerated rollout schedule will be the virtual elimination of paper application files for the Technology Centers that move to the Alexandria headquarters starting in December 2003. This also has enabled the creation of an official electronic file for all patent applications filed after June 30, 2003 and the availability of public access to the IFW.

Trademarks relies on electronic communications to improve the availability of trademark information to more effectively serve an increasingly larger, global clientbase. Internet access has provided advantages that were not possible in a paper environment; customers may conduct an electronic search to determine the status of pending and registered trademarks; conduct a preliminary search prior to filing an application; access general information, examination manuals, treaties, laws, and regulations; obtain weekly information on marks published, registered, and renewed; and file applications. Electronic filing and access increase the opportunity for filing for federal registration, which provides protection to business owners and consumers by providing notice of marks in use. For example, 57.5 percent of the initial applications for trademark registration were filed electronically. Trademark examiners have been performing the initial examination and communicating the results of their initial decision in an electronic environment since July 2003. Trademark applications are processed electronically from receipt through the first office action. This change in process is the precursor to a fully electronic workflow that will eliminate the need for paper files and processing paper correspondence altogether in 2004.

Priorities/Management Challenges

Today, patent application filings have increased dramatically throughout the world. There are an estimated 11 million pending applications in the world's examination pipeline. At USPTO, the number of patent and trademark applications has doubled since the early 1990's. Technology has become increasingly complex, and demands from customers for higher quality products and services have escalated.

In response to these global phenomena, USPTO issued the *21st Century Strategic Plan* to transform itself into a quality-focused, highly productive, responsive organization supporting a market-driven IP system. The plan is aggressive and far-reaching, and takes a global perspective by envisioning the patent and trademark systems of the future that U.S. innovators would need to remain competitive around the world. It is built on the premise that U.S. innovators want to obtain enforceable IP rights here and abroad as seamlessly and cost-effectively as possible. It emphasizes the opportunity for USPTO to collaborate with IP organizations in automation, global patent classification, and exploitation of search results. Finally, the plan is predicated on changes to the way all players in the IP system do business with USPTO and the way USPTO employees respond.

The *21st Century Strategic Plan* is predicated on three strategic themes:

Agility: Address the twenty-first century economy by becoming a more agile organization – create a flexible organization and work processes, work both bilaterally and multilaterally with partners around the world, and transform the workplace by radically reducing labor-intensive paper processing.

Capability: Enhance quality through workforce and process improvements – make patent and trademark quality the highest priority.

Productivity: Accelerate processing times through focused examination – control patent and trademark pendency times and recover investments in people, processes, and technology.

The *21st Century Strategic Plan* is aggressive and far-reaching. Anything less would fall short of the expectations of the U.S. Congress, the applicants for and owners of patents and trademarks, the patent and trademark bar, and the public at-large. Without it, the USPTO is less able to enhance quality, implement e-government initiatives, reduce pendency (in fact pendency would rise to uncontrollable levels), and reduce paper handling and operating costs. Following is a discussion of the management challenges that USPTO is facing in implementing the plan:

- *Multilateral and Bilateral Agreements* — To streamline the IP system and protections, USPTO must consult with and receive the support of other IP offices in structuring new bilateral and multilateral initiatives and agreements. This includes accelerating Patent Cooperation Treaty reform efforts, focusing on USPTO's proposal for simplified processing; developing a universal electronic application by leveraging USPTO's experience with trademark applications and EPO's experience with patent filings; and promoting harmonization to strengthen the rights of U.S. IP holders making it easier to obtain international protection for their inventions and creations. Reaching agreements on these aspects will require all sides to openly communicate and compromise toward a more global convergence of patent and trademark standards.
- *Legislation/Rules* — USPTO will propose legislative and regulatory changes to current patent and trademark laws. The fee restructuring aspects will generate additional fee collections to be used to fund the critical investments in resources and technology in support of strategic plan goals. Additional changes, including the establishment of corresponding fees, are also being proposed to provide customer choice and streamline the patent and trademark examination processes. The passage of these changes, including new fees and fee restructuring, is essential and critical to accomplishing the strategic plan.
- *Labor Relations* — The strategic plan introduces a large number of changes to current work processes and procedures. USPTO is notifying the three bargaining units representing USPTO employees of the proposed changes and negotiating, where necessary, on any changes in working conditions. USPTO must be able to implement these changes in work processes in a timely manner in order to meet strategic plan goals and objectives. This must be done in light of labor requirements for coordination, communication, and negotiation.

Targets and Performance Summary

See individual Performance Goal sections for further description of each measure.

Performance Goal 1: Agility — Address the Twenty-First Century Economy by Becoming a More Agile Organization

Measure		FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Target	FY 2003 Actual	FY 2003 Met	FY 2003 Not Met
Applications filed electronically	Patents	New	New	New	2%	1.3%		X
	Trademarks	New	24%	38%	80%	57.5%		X
Applications managed electronically	Patents	New	New	New	New	New		
	Trademarks	New	New	New	New	New		

Performance Goal 2: Capability — Enhance the Quality through Workforce and Process Improvements

Measure		FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Target	FY 2003 Actual	FY 2003 Met	FY 2003 Not Met
Improve quality by reducing the error rate	Patents	6.6%	5.4%	4.2%	4.0%	4.4%		X
	Trademarks	3.4%	3.1%	4.3%	4.0%	2.3%	X	
In-process reviews	Patents	New	New	New	New	New		
	Trademarks	New	New	New	New	New		
Patent examiner certification	New	New	New	New	New	New		
Patent examiner re-certification	New	New	New	New	New	New		

Performance Goal 3: Productivity — Accelerate Processing Times Through Focused Examination

Measure		FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Target	FY 2003 Actual	FY 2003 Met	FY 2003 Not Met
Reduce average first action pendency (months)	Patents	13.6	14.4	16.7	18.4	18.3	X	
	Trademarks	5.7	2.7	4.3	3.0	5.4		X
Reduced average total pendency (months)	Patents	25.0	24.7	24.0	27.7	26.7	X	
	Trademarks	17.3	17.8	19.9	15.5	19.8		X
Efficiency	Patents	\$2,911	\$3,194	\$3,457	\$3,970	\$3,329	X	
	Trademarks	\$568	\$501	\$487	\$683	\$433	X	
Productivity	Patents	New	New	New	New	New		
	Trademarks	New	New	New	New	New		

Resource Requirements Summary

(Dollars in Millions. Funding amounts reflect total obligations.)

Information Technology (IT)

Full-Time Equivalent (FTE)

Note: As a result of the recent undertaking to update the *21st Century Strategic Plan*, USPTO is not able at this time to provide an accurate breakdown showing its new goals and measures as they relate to the FY 2003 budget. USPTO is in the process of modifying its Activity Based Cost (ABC) system to provide this information.

Grand Total	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual
Total Funding	895.3	1,040.6	1,144.0	1,190.9
Direct	894.7	1,040.5	1,143.3	1,189.7
Reimbursable ²	0.6	0.1	0.7	1.2
IT Funding ¹	166.1	219.8	196.1	224.9
FTE	6,128	6,278	6,593	6581

¹ IT funding included in total funding.

² Reimbursable funding included in total funding.

Skills Summary:

Knowledge of global IP rights systems and policies, expertise in IP law, and appropriate scientific and technical expertise.

FY 2003 Performance Goals

Performance Goal 1: Agility — Address the Twenty-First Century Economy by Becoming a More Agile Organization

Corresponding Strategic Goal

Strategic Goal 2: Provide infrastructure for innovation to enhance American competitiveness.

Rationale for Performance Goal

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

FY 2003 Performance

USPTO has established two performance measures to monitor its progress toward becoming a more agile organization in the twenty-first century through the use of an e-government environment.

Measure 1a: Applications Filed Electronically					
		FY 2000	FY 2001	FY 2002	FY 2003
Target	Patents	New	New	New	2%
	Trademarks				80%
Actual	Patents				1.3%
	Trademarks				57.5%
Met/Not Met	Patents				Not Met
	Trademarks				Not Met

Explanation of Measure

This measure indicates USPTO’s support of, and applicants’ willingness for, operating in an e-government environment, and identifies the percent of basic applications filed electronically.

FY 2003 Performance

This measure was not met due to reluctance of patent applicants to file electronically because (1) customers are more familiar with the paper-based systems they already have in place, (2) they may have not invested the time and resources necessary to upgrade their internal processes to enable them to file electronically, and (3) they would like to receive some incentive (in the form of a fee reduction) for filing electronically.

In Trademarks, the e-government goal to receive 80 percent of applications and conduct communications electronically was set to support the objective for creating an electronic trademark operation that would expand the level of services and maximize the Office's information technology investment. The goal is intentionally ambitious. The rate of filing trademark applications has progressed steadily over the past five years to more than 62 percent of filings in September 2003. Promotional events and improved functionality, and enhancements to meet more customers needs contributed to this increase. The Office has proposed legislation to achieve its goal that would provide additional incentives to influence a greater number of customers to adopt electronic filing as their preferred method of doing business with USPTO.

Measure 1b: Applications Managed Electronically

		FY 2000	FY 2001	FY 2002	FY 2003
Target	Patents	New	New	New	New
	Trademarks	New	New	New	New
Actual	Patents				
	Trademarks				
Met/Not Met	Patents				
	Trademarks				

Explanation of Measure

This measure will indicate USPTO's progress towards a fully electronic operating environment.

Trademarks will complete its transition from a paper-based operation to a fully electronic processing operation with the implementation of an electronic file management system, Trademark Information System (TIS). With the exception of TIS, the underlying systems necessary to support this move from paper-based processing to electronic processing are either in place or nearing completion.

Patents completed its prototyping plan and began implementing an IFW system based on EPO's ePHOENIX system in June 2003. Patents will deliver an operational end-to-end electronic processing pipeline for all applications in image format by the beginning of FY 2005, including electronic capture of all incoming and outgoing paper documents. The electronic pipeline capability will be delivered in phases with the goal of total integration with legacy systems and full text-based processing of all patent applications by the end of FY 2006.

FY 2003 Performance

This is a new performance measure that will not have performance data reported until FY 2004.

Program Evaluations

USPTO has completed the initial Program Assessment Rating Tool (PART) assessments on the patent and trademark programs. Formal recommendations resulting from the PART process will be reflected in the USPTO's APP.

Performance Goal 2: Capability — Enhance the Quality Through Workforce and Process Improvements

(This goal has been reworded since the publication of the FY 2001 Annual Program Performance Report (APPR) and FY 2003 Annual Performance Plan (APP). This goal was previously worded as: Enhance the quality of our patent and trademark products and services.)

Corresponding Strategic Goal

Strategic Goal 2: Provide infrastructure for innovation to enhance American competitiveness.

Rationale for Performance Goal

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

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

FY 2003 Performance

USPTO has established four performance measures to monitor its progress toward becoming a more capable organization through workforce and process improvements, thereby enhancing the quality of the output.

Measure 2a: Improve Quality by Reducing the Error Rate					
		FY 2000	FY 2001	FY 2002	FY 2003
Target	Patents	4.0%	5.5%	5.0%	4.0%
	Trademarks	3.6%	6.0%	5.0%	4.0%
Actual	Patents	6.6%	5.4%	4.2%	4.4%
	Trademarks	3.4%	3.1%	4.3%	2.3%
Met/Not Met	Patents	Not Met	Met	Met	Not Met
	Trademarks	Met	Met	Met	Met

(This measure has been reworded since the publication of the FY 2001 APPR and FY 2003 APP. This measure was previously worded as: “Improve the Quality of Patents by 55 percent by Reducing the Error Rate from 6.6 percent to 3 percent by FY 2006.”)

Explanation of Measure

This measure assesses product quality measured by internal quality review processes. Quality of patent and trademark examination decisions are measured by the reopening rate (Patents), deficient substantive issue rate (Trademarks first and final actions), or similar internal quality measures.

FY 2003 Performance

For Patents, USPTO fell short of its 2003 target, however under the *21st Century Strategic Plan*, the Patents Organization is enhancing current quality assurance programs to include greater review of work in progress which USPTO anticipates will help achieve the projected 2006 goal. This includes the implementation of in-process reviews, “second pair of eyes” reviews, transactional surveys in the Patents Organization, and end-process reviews. In addition, the Patents Organization is creating new programs for certifying the KSAs of its employees.

For Trademarks, USPTO met its target. Examination quality was 97.7 percent based on standards for assessing the clear error rate for determining the type of errors that could affect the registrability of a mark. The review of pending, registered, and abandoned files by the Office of Trademark Quality Review determined the clear error rate to be 2.26 percent for the year. Errors related to marks that would be considered “confusingly similar” under section 2(d) of the statute were determined in 3.63 percent of applications for a quality rating of 96.4 percent. The quality rate was 98.4 percent for findings on procedural errors.

During the past year, the Trademark Organization worked in cooperation with the Office of Quality Management and Training and the Office of Trademark Quality Review to benchmark a more consistent set of quality measures that would better reflect the current quality of examination. The proposal includes expanding on the issues that will be considered and setting tougher standards for determining the quality of in-process office actions as excellent and deficient to better reflect more meaningful and rigorous standards of quality.

Measure 2b: In-process Reviews					
		FY 2000	FY 2001	FY 2002	FY 2003
Target	Patents	New	New	New	New
	Trademarks	New	New	New	New
Actual	Patents				
	Trademarks				
Met/Not Met	Patents				
	Trademarks				

Explanation of Measure

This measure will assess product quality measured by internal quality review processes.

Patents and Trademarks will continue to expand the current in-process review program to check the quality of the work product during all stages of examination, from first action to issue, abandonment, or registration. The results of these reviews will be used as part of a continuous quality improvement program to identify problem areas and determine appropriate training needs or other corrective actions. This is a new measure supporting the strategic plan. As a result, the first year will be used to determine the baseline for establishing the long-term target and annual goals.

FY 2003 Performance

Performance targets are currently in the process of being developed for this measure.

Measure 2c: Patent Examiner Certification				
	FY 2000	FY 2001	FY 2002	FY 2003
Target	New	New	New	New
Actual				
Met/Not Met				

Explanation of Measure

Currently, patent examiners, when promoted to the GS-13 level, are not required to complete a formal program for certification of their legal competency. USPTO will implement a specific program to ensure that GS-12 examiners have acquired the requisite legal and negotiation skills prior to promotion to the GS-13 level. This measure reflects the percentage of examiners promoted to the GS-13 level who have completed the certification process. This is a new measure supporting the strategic plan. As a result, the first year (FY 2004) will be used to begin the process of administration of the certification with full performance expected in the out years.

FY 2003 Performance

Performance targets are currently in the process of being developed for this measure.

Measure 2d: Patent Examiner Re-certification				
	FY 2000	FY 2001	FY 2002	FY 2003
Target	New	New	New	New
Actual				
Met/Not Met				

Explanation of Measure

Primary patent examiners should maintain the necessary KSAs in current patent law, practice, and procedure. Regular training, similar to continued legal education requirements, will be provided to maintain KSAs of primary examiners. Further, they should successfully pass a number of tests to prove that they understand the content of the training. This is a new measure supporting the strategic plan. As a result, the first year (FY 2004) will be used to determine the baseline for establishing the long-term target and annual goals.

FY 2003 Performance

Performance targets are currently in the process of being developed for this measure.

Program Evaluation

USPTO conducted ongoing reviews on the quality of patent and trademark examinations. The purpose of the reviews in patents is threefold: to identify patentability errors, to assess the adequacy of the field of search and proper classification, and to assess proper examination practice and procedures. The review of trademark applications focused on four areas: substantive statutory criteria for registrability, search for confusingly similar marks, proper examination practice and procedure, and proper application of judicial precedents. The information from these reviews helps the business units identify the training that is necessary to enhance overall product quality and to improve the consistency of examination. The results of the reviews provide analysis in the form of reports to USPTO management. These reports serve as a tool for educating examiners and examining attorneys. In addition to reporting specific errors, the analysis provides information on recurring problems and trends.

Performance Goal 3: Productivity — Accelerate Processing Times Through Focused Examination

(This goal has been reworded since the publication of the FY 2001 APPR and FY 2003 APP. This goal was previously worded as: “Minimize patent and trademark application processing time.”)

Corresponding Strategic Goal

Strategic Goal 2: Provide infrastructure for innovation to enhance American competitiveness.

Rationale for Performance Goal

In support of the *21st Century Strategic Plan*, USPTO will reduce patent and trademark pendency and substantially cut the size of the inventory. This will be accomplished through a radical redesign of the entire patent search and examination system based upon multi-examination tracks, greater reliance on commercial service providers, and variable, incentive-driven fees. The USPTO’s long-term patent pendency goal remains 18 months. USPTO plans to produce, on average, a first office action for first-filed U.S. non-provisional applications at the time of 18-month publication. In addition, a patent search report for other patent applications will be issued in the same time frame. Likewise, Trademarks will restructure the way it does business to be compatible with an e-government environment and offer options for filing that would result in faster examination and decisions regarding registrability for those who would seek it. The timely granting of patents and registering of trademarks supports innovation, technology, employment, business investment, and economic growth.

FY 2003 Performance

USPTO has established four performance measures to monitor its progress toward becoming a more productive organization by accelerating processing times through focused examination.

Measure 3a: Reduce Average First Action Pendency (Months)					
		FY 2000	FY 2001	FY 2002	FY 2003
Target	Patents	14.2	13.9	16.4	18.4
	Trademarks	4.5	6.6	3.0	3.0
Actual	Patents	13.6	14.4	16.7	18.3
	Trademarks	5.7	2.7	4.3	5.4
Met/Not Met	Patents	Met	Not Met	Not Met	Met
	Trademarks	Not Met	Met	Not Met	Not Met

(This measure has been reworded since the publication of the FY 2001 APPR and FY 2003 APP. This measure was previously worded as: “Reduce Average First Action Pendency to 12 or 2 months by FY 2006.”)

Explanation of Measure

This measure will determine the timeliness related to first office actions. It will identify the average time from the filing date of the application to the mailing first office actions.

FY 2003 Performance

Patents met its target. The initiatives identified in the USPTO 21st Century Strategic Plan will continue to reduce patent pendency; substantially cut the size of the inventory; and recover USPTO’s investments in people, processes, and technology.

Trademarks did not meet its target. The time from filing to mailing an examiner’s first office action increased by the end of the fiscal year to 5.4 months from 4.3 months at the end of the prior fiscal year. The increase was due to a combination of slightly higher than planned filings and unexamined files at the beginning of the year, the reassignment of pending applications already under examination, and less production than expected. Trademarks has implemented an aggressive management plan to focus on pendency reduction. The initiatives identified in the USPTO 21st Century Strategic Plan will ultimately have a positive impact on reducing trademark pendency and substantially increase the tools available for the Office to better manage fluctuations in filings and control inventories in the future.

Measure 3b: Reduce Average Total Pendency (Months)		FY 2000	FY 2001	FY 2002	FY 2003
Target	Patents	26.2	26.2	26.1	27.7
	Trademarks	18.0	18.0	16.0	15.5
Actual	Patents	25.0	24.7	24.0	26.7
	Trademarks	17.3	17.8	19.9	19.8
Met/Not Met	Patents	Met	Met	Met	Met
	Trademarks	Met	Met	Not Met	Not Met

(This measure has been reworded since the publication of the FY 2001 APPR and FY 2003 APP. This measure was previously worded as: "Reduce Average Total Action Pendency to 26 or 12 months by FY 2006.")

Explanation of Measure

This measure identifies the timeliness related to abandoned applications and issuance of the patent or registration of a trademark. The average time from the date of filing to the date of issue or abandonment (for patents) and registration or abandonment (for trademarks) will be measured.

FY 2003 Performance

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

Trademarks did not meet its target. The continued high levels of applications already under examination from prior years kept overall total pendency above the target of 15.5 months. As the total number of applications under examination is reduced and first action pendency time declines once again to the three-month goal, overall pendency to registration will decrease. The initiatives identified in the USPTO 21st Century Strategic Plan will ultimately have a positive impact on reducing trademark pendency and substantially increase the tools available for the Office to better manage fluctuations in filings and control inventories in the future.

Measure 3c: Efficiency					
		FY 2000	FY 2001	FY 2002	FY 2003
Target	Patents	New	New	New	\$3,970
	Trademarks	New	New	New	\$683
Actual	Patents				\$3,329
	Trademarks				\$433
Met/Not Met	Patents				Met
	Trademarks				Met

Explanation of Measure

These measures are a relative indicator of the efficiency of the patent and trademark processes. The measures are calculated by dividing total USPTO expenses associated with the examination and processing of patents and trademarks (including associated overhead and support expenses) by outputs. The patent output is represented by production units and the trademarks output is represented by disposals. It should be noted that in prior years, patent output was represented by disposals. That has been changed to production units and all patent measures, both actuals and targets have been recalculated using production units. The efficiency measures do not represent average life cycle costs since production units and disposals are only one measure of USPTO products and services.

FY 2003 Performance

Both Patents and Trademarks met its target. The initiatives identified in the USPTO 21st Century Strategic Plan will continue to reduce patent pendency; substantially cut the size of the inventory; and recover its investments in people, processes, and technology.

Measure 3d: Productivity					
		FY 2000	FY 2001	FY 2002	FY 2003
Target	Patents	New	New	New	New
	Trademarks	New	New	New	New
Actual	Patents				
	Trademarks				
Met/Not Met	Patents				
	Trademarks				

Explanation of Measure

This measure will focus on the ratio of outputs to labor inputs. The total number of patent production units and trademark disposals will be divided by the applicable allocated USPTO labor hours, including contractors for patents or trademarks.

FY 2003 Performance

USPTO is currently in the process of gathering data to be used in the development of the FY 2004 target.

Program Evaluation

Timeliness is measured in Patents by the Patent Application Location and Monitoring (PALM) system, and in Trademarks by the Trademark Reporting and Monitoring (TRAM) system that lists the status and content of each patent and trademark application respectively. The annual customer satisfaction survey yields additional information on timeliness from USPTO's customers. A section of the survey is devoted to customers' perceptions of how well USPTO is meeting the timeliness standards it has established. The annual customer survey has proven to be a reliable method for gathering information on timeliness since it is administered to a wide variety of USPTO customers. The survey allows USPTO to isolate particular areas within the organization where timeliness issues are problematic or successful. Furthermore, it allows USPTO to evaluate the impact of timeliness on overall customer satisfaction levels.

USPTO Data Validation and Verification

In accordance with Government Performance and Results Act of 1993 requirements, USPTO is committed to making certain that performance information reported is reliable, accurate, and consistent. To ensure the highest quality data, USPTO has developed a strategy to validate and verify the quality of USPTO's performance information. In this regard, USPTO has undertaken the following:

- **Quality Reviews** – USPTO conducts ongoing reviews on the quality of patent and trademark examination. The focus of the review for patent applications is threefold: (1) identify patentability errors, (2) assess adequacy of the field of search and proper classification; and (3) assess proper examination practice and procedures. For trademark applications, the review includes four areas: (1) substantive statutory criteria for registrability, (2) search for confusingly similar marks, (3) proper examination practice and procedure, and (4) proper application of judicial precedents. The information from these reviews helps 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 and Trademark management. These reports serve as a tool for educating examiners and examining attorneys. In addition to reporting specific errors, the analysis provides information on recurring problems and trends.
- **Accountability** – Responsibility for providing performance data lies in the Patent and Trademark organizations. USPTO holds program managers accountable for ensuring procedures are in place regarding the accuracy of their data and that the performance measurement source is complete and reliable.

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

- **Program Evaluations** – The OIG reviewed USPTO's performance measures included in the Department of Commerce's APP (*Minor Improvements Needed in Reporting Performance Results, FSD-14429/March 2002*). The purpose of the review was to validate the measures and the data collection tools and methods. The results of the audit showed that management controls were in place and operating effectively regarding the collection, validation, and reporting of performance measures. In addition, the report stated that USPTO was committed to developing and producing quality performance measures. Several minor recommendations were reported and have subsequently been implemented by USPTO.

Financial Statement Audit – During the FY 2002 financial statement audit, various tests and reviews of the primary accounting system and internal controls were conducted as required by the Chief Financial Officers' Act. In their FY 2002 internal control report, the auditors reported no internal control deficiencies or material deficiencies. The auditors issued an unqualified opinion on USPTO's fiscal year 2002 financial statements.

The USPTO Data Validation and Verification table can be found starting on the following page.

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Performance Measure	Data Source	Frequency	Data Storage	Verification	Data Limitations	Actions to be Taken
Measure 1a: Applications filed electronically	Patent Application Location and Monitoring (PALM) (for Patents) and Trademark Reporting and Monitoring (TRAM) (for Trademarks).	Daily input; weekly reporting.	PALM and TRAM automated systems.	Accuracy of supporting data is controlled through internal program edits in the PALM and TRAM systems, and cross checks against other automated systems.	None	None
Measure 1b: Applications managed electronically	Patent and Trademark Quality Review reports.	Daily input; monthly reporting.	Automated systems; reports.	Manual reports and analysis.	None	None
Measure 2b: In-process reviews	Quality assurance specialist reviewers in Patents and trademark quality reviewers in Trademarks.	Quarterly	Automated systems; reports.	Accuracy of supporting data is controlled through internal program edits in the automated database. Final test for reasonableness is performed by supervisors and program management.	None	None
Measure 2c: Patent examiner certification	Certification report	Quarterly	Certification database	Accuracy of supporting data is controlled through internal program edits in the automated database. Final test for reasonableness is performed by supervisors and program management.	None	None
Measure 2d: Patent examiner re-certification	Patent examiner re-certification	Quarterly	Certification database	Accuracy of supporting data is controlled through internal program edits in the automated database. Final test for reasonableness is performed by supervisors and program management.	None	None
Measure 3a: Reduce average first action pendency (months)	PALM (for Patents) and TRAM (for Trademarks).	Daily input; weekly reporting.	PALM and TRAM automated systems.	Accuracy of supporting data is controlled through internal program edits in the PALM and TRAM systems, and cross checks against other automated systems.	None	None

USPTO Data Validation and Verification (cont.)

Performance Measure	Data Source	Frequency	Data Storage	Verification	Data Limitations	Actions to be Taken
Measure 3b: Reduce average total pendency (months)	PALM and TRAM system.	Daily input, monthly reporting.	PALM and TRAM, automated systems, reports.	Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners and patent supervisory and program management and examining trademark attorneys and trademark supervisory and program management.	None	None
Measure 3c: Efficiency	PALM, TRAM, Momentum, Metify Activity Based Management (ABM).	Daily input, quarterly reporting.	PALM and TRAM, Data Warehouse, Metify ABM.	Internal program edits in PALM, TRAM, Momentum, Metify ABM. Quality control review of data by Activity Based Cost (ABC) team and Program Business teams.	None	None
Measure 3d: Productivity	NFC for payroll, periodic contractor reports, PALM and TRAM for disposals.	Payroll—biweekly, contractor reports—monthly, PALM and TRAM—weekly.	Automated systems	Accuracy of supporting data is controlled through internal program edits in the PALM system and management reports. Final test for reasonableness is performed internally by patent examiners and patent supervisory and program management and examining trademark attorneys and trademark supervisory and program management.	None	None

