



# United States Patent and Trademark Office

## Mission Statement

The USPTO mission is to ensure that the intellectual property system contributes to a strong global economy, encourages investment in innovation, fosters entrepreneurial spirit.

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

The primary services provided by USPTO are processing patent and trademark applications and disseminating patent and trademark information. Through the issuance of patents, the USPTO encourages technological advancement by providing incentives to invent, invest in, and disclose new technology worldwide. Through the registration of trademarks, the USPTO assists businesses in protecting their investments, promoting quality goods and services, and safeguarding consumers against confusion and deception in the marketplace. By disseminating both patent and trademark information, the USPTO promotes an understanding of intellectual property protection and facilitates the development and sharing of new technologies worldwide.

## USPTO Strategic Plan

The Government Performance and Results Act (GPRA) requires that agencies plan and measure the performance of their programs. In carrying out GPRA, the USPTO prepares a Strategic Plan, an Annual Performance Plan, and an Annual Performance Report. The USPTO began FY 2002 guided by the Strategic Plan that was developed in 1994 and updated in 1999 to include the period 1999-2004. While the mission, goals, and strategies have served the USPTO well, the environment in which the intellectual property system operates worldwide has changed dramatically. There are an estimated seven million pending patent applications in the world’s examination pipeline. Technology has become increasingly complex, and customer demands for higher quality products and services have escalated. This dynamic, along with congressional concerns about the USPTO’s ability to continue to operate under a traditional business model, led to the development of the *21st Century Strategic Plan*. The Plan is far-reaching and aggressive, and is designed to transform the USPTO into an organization that is responsive to the global economy in which it operates. After implementation of the Strategic Plan, market forces will drive the USPTO’s business model, geography and time will be irrelevant when doing business with the Agency, products and services will be tailored to customer needs, and examination will be the Agency’s core expertise. The Strategic Plan is centered on three long-term cross-cutting strategic goals:

- *Agility* – Address the twenty-first century economy by becoming a more agile organization. The USPTO will create a flexible organization whose leadership and work processes can handle the increasing expectations of its markets, the growing complexity and volume of its work, and the globalization that characterizes the twenty-first century economy. The USPTO will work with its partners, both bilaterally and multilaterally, to create a stronger, better-coordinated and more streamlined framework for protecting intellectual property around the world. The USPTO will transform its workplace by radically reducing labor-intensive paper processing.
- *Capability* – Enhance quality through workforce and process improvements. The USPTO will make patent and trademark quality its highest priority by emphasizing quality in every component of the Plan. Through timely issuance of high-quality patents and trademarks, the USPTO will respond to market forces by promoting advances in technology, expanding business opportunities, and creating jobs.
- *Productivity* – Accelerate processing times through focused examination. The USPTO will work to reduce patent and trademark pendency, substantially cut the size of its backlog of work, and recover its investments in people, processes, and technology.

The Strategic Plan was made public in June 2002. At the same time, the USPTO proposed a reallocation of 2003 resources to fund the Plan and the Administration put forth proposed legislation to restructure the USPTO's fee schedule to obtain legislative changes and funding needed to implement the Plan. Although the USPTO was applauded for putting forth an innovative and comprehensive plan, a number of key components—many related to the USPTO's fee structure—generated controversy. The USPTO has listened to stakeholders, applicants, and the Patent and Trademark Public Advisory Committees to identify alternative actions that best address the challenges the Agency is facing in the twenty-first century.

In FY 2002, the USPTO began to gradually move forward in adopting the goals and objectives put forth in the Strategic Plan, to the extent they were consistent with congressional intent and supported by its stakeholders and applicants. The USPTO Strategic Plan can be found on the USPTO Web site at <http://www.uspto.gov/web/offices/com/strat2001>.

## Priorities/Management Challenges

### *The 21st Century Strategic Plan*

*The 21st Century Strategic Plan* is aggressive and far-reaching. Anything less would fall short of the expectations of the U.S. Congress and intellectual property stakeholders. Additionally, the failure to adopt the Strategic Plan will have negative consequences. The USPTO will be unable 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 the USPTO will face in implementing the Plan:

- *Multilateral and Bilateral Agreements* - To streamline the intellectual property system and protections, the USPTO must enter into new bilateral and multilateral initiatives and agreements with other intellectual property offices. This includes accelerating Patent Cooperation Treaty reform efforts, focusing on the USPTO's proposal for simplified processing, developing a "universal" trademark electronic application by leveraging the USPTO's experience with trademark applications, and promoting harmonization to strengthen the rights of U.S. intellectual property 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 collaborate toward a more global convergence of patent and trademark standards.

- *Legislation/Rules* - The USPTO will propose legislative and regulatory changes to current patent and trademark laws. The fee restructuring aspects will generate the fee collections needed 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 enactment of these changes 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. The USPTO will notify the three bargaining units representing USPTO employees of the proposed changes and negotiate, when necessary, any changes in working conditions. The USPTO must be able to implement these changes in work processes in a timely manner in order to meet Strategic Plan goals and objectives. This must be done in light of labor requirements for coordination, communication, and negotiation.
- *Funding* - Sustained funding over the five-year lifecycle of the Strategic Plan is essential. Without this, the USPTO will not be able to make critical investments in resources and technology necessary for enhancing quality, developing and/or acquiring automated systems to move to a fully electronic operating environment, and improving pendency.
- *Space Consolidation* – Move to Carlyle in Alexandria, Virginia - During FY 2004, the USPTO will be concentrating on the high priority of beginning to relocate employees to a consolidated campus (Carlyle) in Alexandria, Virginia, while minimizing any adverse effects on employees, applicants, and the public. The USPTO will face numerous logistical and operational challenges in executing the consolidation. During FY 2004, a significant portion of the patent corps (several technology centers) will transition to the new site. Many examiners who are not yet moved to Carlyle may still have to relocate within the USPTO’s current Crystal City buildings/space in order to release space back to the General Services Administration. The USPTO must ensure that disruptions and downtime during the move are minimized to avoid a significant impact on productivity and performance. Dual operations, including dual computer facilities, will be required during the phasing of the relocation because the space will be delivered over a protracted period. Supporting employees and customers at geographically separate locations will require careful planning. However, the long-term benefit will be a facility with operational efficiencies and improved allocation of workspace to accommodate the USPTO’s growing and changing workplace. This consolidation is expected to save \$72 million over the twenty-year term of the lease.

## FY 2004 Program Changes

(Dollars in Thousands)

	Base		Increase / Decrease	
	FTE	Amount	FTE	Amount
Paperless system for spectrum policy— Patents	6,806	\$1,250,957	+220	+\$8,893

An increase (+220 FTE; +\$8,893) is requested in support of the Patent Business goals to minimize patent application processing time and enhance the quality of products and services. Resources will be used to hire additional examination staff, address electronic filing of applications, and improve the quality of products by addressing certification and recertification of patent examiners.

	Base		Increase / Decrease	
	FTE	Amount	FTE	Amount
Paperless system for spectrum policy— Trademarks	860	\$143,150	0	+\$1,130

An increase (0 FTE; +\$1,130) is requested in support of the Trademark Business goals to minimize trademark application processing time and enhance the quality of products and services. Resources will be used to implement the Madrid Protocol, address certification of employees in Trademark processes, and pursue outsourcing of specific processes.

# Targets and Performance Summary

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

## Performance Goal 1: Agility – Address the 21st Century Economy by Becoming a More Agile Organization

Measure	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Target	FY 2002 Actual	FY 2003 Target	FY 2004 Target
Applications Filed Electronically							
Patents	New	New	New	New	New	2%	5%
Trademarks	New	New	24%	New	38%	80%	80%
Applications Managed Electronically							
Patents	New	New	New	New	New	New	20%
Trademarks	New	New	New	New	New	New	100%

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

Measure	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Target	FY 2002 Actual	FY 2003 Target	FY 2004 Target
Improve Quality by Reducing the Error Rate							
Patents	5.5%	6.6%	5.4%	5.0%	4.2%	4.0%	3.7%
Trademarks	3.8%	3.4%	3.1%	5.0%	4.3%	4.0%	3.0%
In process reviews							
Patents	New	New	New	New	New	New	TBD
Trademarks	New	New	New	New	New	New	TBD
Patent Examiner Certification	New						
Patent Examiner Re-certification	New						

## Performance Goal 3: Productivity – Accelerate Processing Time Through Focused Examination

Measure	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Target	FY 2002 Actual	FY 2003 Target	FY 2004 Target
Reduce Average First Action Pendency (months)							
Patents	13.8	13.6	14.4	16.4	16.7	18.4	18.8
Trademarks	4.6	5.7	2.7	3.0	4.3	3.0	2.5
Reduced Average Total Pendency							
Patents	25.0	25.0	24.7	26.1	24.0	27.7	29.9
Trademarks	18.9	17.3	17.8	16.0	19.9	15.5	13.0
Efficiency							
Patents	\$2,922	\$2,911	\$3,194	New	\$3,457	\$3,970	\$3,881
Trademarks	\$704	\$568	\$501	New	\$487	\$683	\$629
Productivity							
Patents	New	New	New	New	New	New	TBD
Trademarks	New	New	New	New	New	New	TBD

# Resource Requirements Summary

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

## Information Technology (IT)

### Full-Time Equivalent (FTE)

*The 21st Century Strategic Plan* and implementation of fee legislation were initially submitted to Congress on June 3, 2002. In July 2002, the House Judiciary Subcommittee on Courts, the Internet and Intellectual Property held a hearing to review the proposals. For a period of five months following that hearing, key USPTO stakeholders provided extensive comments about the Strategic Plan and the proposed fee changes. The Plan was updated to incorporate the ideas and comments received and re-submitted as part of the President's FY 2004 budget. As a result of this recent undertaking to update the Plan, the USPTO is not able to provide at this time an accurate breakdown showing its new goals and measures as they relate to the FY 2004 budget. The USPTO is currently in the process of modifying its Activity Based Costing system to provide this information."

<b>Grand Total</b>	<b>FY 1999 Actual</b>	<b>FY 2000 Actual</b>	<b>FY 2001 Actual</b>	<b>FY 2002 Actual</b>	<b>FY 2003 Estimate</b>	<b>FY 2004 Base</b>	<b>Increase/ Decrease</b>	<b>FY 2004 Request</b>
Total Funding	803.6	895.3	1,040.6	1,144.0	1,334.5	1,394.3	10.0	1,404.3
Direct	803.3	894.7	1,040.5	1,142.4	1,334.3	1,394.1	10.0	1,404.1
Reimbursable <sup>2</sup>	0.3	0.6	0.1	1.6	0.2	0.2	0.0	0.2
IT Funding <sup>1</sup>	135.0	166.1	219.8	196.1	213.5	252.9	0.0	252.9
FTE	5,860	6,128	6,278	6,593	7,453	7,666	220	7886

<sup>1</sup> IT funding included in total funding.

<sup>2</sup> Reimbursable funding included in total funding.

## Skill Summary:

Marketing, Finance, Research, Information Technology and Internet.

## FY 2002 Performance Goals

In developing the performance plan to support The 21st Century Strategic Plan, the USPTO relied on a variety of information about past performance, as well as consulted with intellectual property stakeholders to determine priorities for the future. In addition to current performance measures, the USPTO developed new measures to assess achievement of goals and objectives in support of the Strategic Plan. The USPTO will use regular evaluations to judge progress towards goals and objectives over the period of this plan. Collectively, these performance goals and measures and the subsequent evaluation will demonstrate the extent to which the USPTO provides timely, quality service to the public. It is important to note that these goals cannot be achieved without enactment of the legislation changing the USPTO's current fee schedule and access to the additional revenue generated during the plan's lifecycle.

### Performance Goal 1: Agility - Address the 21st 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, the USPTO will work with its intellectual property 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 the USPTO for the globalization that characterizes the twenty-first century economy. The following new performance measures have been established to measure the USPTO's success and progress in meeting the Strategic Plan goals for agility.

<b>Measure 1a: Applications Filed Electronically</b>						
	<b>FY 1999</b>	<b>FY 2000</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
Target						
Patents	New	New	New	New	2%	5%
Trademarks	New	New	New	New	80%	80%
Actual						
Patents						
Trademarks				38%		
Met/Not Met						
Patents						
Trademarks						

## Explanation of Measure

This measure will indicate USPTO's support of and applicants' willingness to operate in an e-government environment, and will identify the percent of basic applications filed electronically.

### *FY 2003 & FY 2004 Targets*

This is a new performance measure with information for the FY 2003 and 2004 targets being derived from historical data in the Patent Application Locating and Monitoring (PALM) and Trademark Reporting and Monitoring (TRAM) systems.

<b>Measure 1b: Applications Managed Electronically</b>						
	<b>FY 1999</b>	<b>FY 2000</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
Target						
Patents	New	New	New	New	New	20%
Trademarks	New	New	New	New	New	100%
Actual						
Patents						
Trademarks						
Met/Not Met						
Patents						
Trademarks						

## Explanation of Measure

This measure will indicate the 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), in November 2003. 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 will complete its prototyping plan and deliver an image file wrapper system based on the European Patent Office's (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 end of fiscal year 2004, 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 & FY 2004 Targets*

This is a new performance measure with information for the FY 2003 and 2004 targets being derived from historical data in the Patent Application Locating and Monitoring (PALM) and Trademark Reporting and Monitoring (TRAM) systems.

## Program Evaluation

This is a new performance goal for FY 2003 and program evaluations are in the process of being developed.

## Cross-cutting Activities

### *Government/Private Sector*

- *European Patent Office (EPO)* – The USPTO is collaborating with the EPO to deliver high quality products through implementing electronic patent processing. The electronic image-based processing system used in the prototype was designed with core software developed by the EPO.
- *Japan Patent Office (JPO) and EPO* – The USPTO is collaborating with the JPO and the EPO to achieve common goals and share systems already in use or development.
- *Partnership Contracts* – The USPTO awarded partnership contracts to several private sector companies for the electronic filing of patent applications. Each of the companies will pursue its own business plan, and integrate technology it developed for providing its customers with simple, convenient, and secure electronic submissions to the USPTO. The partnerships are “no cost contracts,” which means that the companies will be providing their services to USPTO customers at no cost to the Agency.

## External Factors and Mitigation Strategies

- Business factors that foster dramatic increases or decreases in patent application filings and trademark registrations.
- The degree to which inventors, patent and trademark firms, and corporate intellectual property departments use the USPTO’s e-government environment.

## 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 knowledge, skills, and abilities of their employees.

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

<b>Measure 2a: Improve Quality By Reducing the Error Rate</b>						
	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
Target						
Patents	New	4.0%	5.5%	5.0%	4.0%	3.7%
Trademarks	New	3.6%	6.0%	5.0%	4.0%	3.0%
Actual						
Patents	5.5%	6.6%	5.4%	4.2%		
Trademarks	3.8%	3.4%	3.1%	4.3%		
Met/Not Met						
Patents		Not Met	Met	Met		
Trademarks		Met	Met	Met		

*(This measure has been reworded since the publication of the FY 2001 Annual Program Performance Report and FY 2003 Annual Performance Plan. This measure was previously worded as “Improve the Quality of Patents by 55% by Reducing the Error Rate from 6.6% to 3% by FY 2006.”)*

### Explanation of Measure

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

***FY 2003 & FY 2004 Targets***

Targets have been revised in FY 2003 and 2004 due to the dynamic changes to the patent and trademark quality processes. As a result, quality reviews will be performed throughout the process. This expanded review should result in a significant improvement in quality.

<b>Measure 2b: In Process Reviews</b>						
	<b>FY 1999</b>	<b>FY 2000</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
Target						
Patents	New	New	New	New	New	TBD
Trademarks	New	New	New	New	New	TBD
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 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 & FY 2004 Targets***

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

<b>Measure 2c: Patent Examiner Certification</b>						
	<b>FY 1999</b>	<b>FY 2000</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
Target	New	New	New	New	New	New
Actual						
Met/Not Met						

**Explanation of Measure**

Currently, when patent examiners are promoted to the GS-13 level, they are not required to complete a formal program for certification of their legal competency. The 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 & FY 2004 Targets***

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

<b>Measure 2d: Patent Examiner Re-certification</b>							
	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	
Target	New	New	New	New	New	New	New
Actual							
Met/Not Met							

**Explanation of Measure**

Primary patent examiners should maintain the necessary knowledge, skills, and abilities (KSAs) in current patent law, practice, and procedure. Regular training, similar to continued legal education (CLE) 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 & FY 2004 Targets***

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.

**Cross-cutting Activities**

***Other Government Agencies***

The USPTO partners with the following organizations in meeting this performance goal:

- *Departments of Agriculture, Justice, and State:* To formulate intellectual property proposals.
- *USAID:* To improve systems for effectively granting and protecting intellectual property rights.
- *Departments of Defense, Energy, and NASA:* To handle patent applications that have national security implications.
- *Department of Health and Human Services:* To handle both AIDS-related and recombinant DNA information.

## External Factors and Mitigation Strategies

- Business factors that foster dramatic increases or decreases in application filings.
- Electronic filing increases access to the USPTO’s electronic systems and raises expectations for improved service and shorter processing times.
- Cooperation of the USPTO’s constituency to change the way they do business so that it can serve more customers electronically, thereby improving quality and timeliness.

## Discontinued Measures

### Increase Overall customer Satisfaction from 64% to 80% by FY 2006 (Patents)

	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
Target	65%	60%	67%	67%	Discontinued	Discontinued
Actual	57%	64%	64%	63%		
Met/Not Met	Not Met	Met	Not Met	Not Met		

### Increase Overall Customer Satisfaction from 70% to 80% by FY 2005 (Trademarks)

	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
Target	80%	72%	65%	72%	Discontinued	Discontinued
Actual	69%	65%	70%	65%		
Met/Not Met	Not Met	Not Met	Met	Not Met		

## Explanation of Measure

Customer satisfaction, which has been used as a quality measure for the past seven years, will continue to be measured on an annual basis. However, given the focus and purpose of the *21st Century Strategic Plan*, performance measures more closely related to the objective quality of the product are now being used for externally-reported measures.

## Performance Goal 3: Productivity - Accelerate Processing Times Through Focused Examination

*(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 "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, the USPTO will reduce patent and trademark pendency and substantially cut the size of the work backlog. The Strategic Plan will ensure twenty-seven-month average pendency time in Patents by 2008 and a twelve-month pendency time in Trademarks by 2006. This will be accomplished through a radical redesign of the entire patent search and examination system based upon multi-examination tracks; greater reliance on commercial service providers; and variable, incentive-driven fees. While the USPTO's long-term patent pendency goal remains eighteen months, this goal will not be achieved in the near future because of the higher priority placed on quality and patent e-government initiatives. However, USPTO will produce on average a First Office Action for first-filed U.S. non-provisional applications at the time of eighteen-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. The timely granting of patents and registering of trademarks supports innovation, technology, employment, business investment, and economic growth.

<b>Measure 3a: Reduce Average First Action Pendency (months)</b>						
	<b>FY 1999</b>	<b>FY 2000</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>
Target						
Patents	10.9	14.2	13.9	16.4	18.4	18.8
Trademarks	3.9	4.5	6.6	3.0	3.0	2.5
Actual						
Patents	13.8	13.6	14.4	16.7		
Trademarks	4.6	5.7	2.7	4.3		
Met/Not Met						
Patents	Not Met	Met	Not Met	Not Met		
Trademarks	Not Met	Not Met	Met	Not Met		

*(This measure has been reworded since the publication of the FY 2001 Annual Program Performance Report and FY 2003 Annual Performance Plan. This measure was previously worded as "Reduce Average Total 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 of First Office Actions.

### *FY 2003 & FY 2004 Targets*

Targets have been revised as a result of the USPTO's new 21st Century Strategic Plan.

<b>Measure 3b: Reduce Average Total Pendency (monthly)</b>						
	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
Target						
Patents	23.3	26.2	26.2	26.1	27.7	29.9
Trademarks	15.5	18.0	18.0	16.0	15.5	13.0
Actual						
Patents	25.0	25.0	24.7	24.0		
Trademarks	18.9	17.3	17.8	19.9		
Met/Not Met						
Patents	Not Met	Met	Met	Met		
Trademarks	Not Met	Met	Met	Not Met		

*(This measure has been reworded since the publication of the FY 2001 Annual Program Performance Report and FY 2003 Annual Performance Plan. 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 & FY 2004 Targets*

Targets have been revised as a result of the USPTO's new 21st Century Strategic Plan.

<b>Measure 3c: Efficiency</b>						
	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
Target						
Patents	New	New	New	New	\$3,970	\$3,881
Trademarks	New	New	New	New	\$683	\$629
Actual						
Patents	\$2,922	\$2,911	\$3,194	\$3,457		
Trademarks	\$704	\$568	\$501	\$487		
Met/Not Met						
Patents						
Trademarks						

## Explanation of Measure

This measure is a relative indicator of the efficiency of the patent and trademark process. The measure is calculated by dividing total USPTO expenses associated with the examination and processing of patents and trademarks (including associated overhead and support expenses) by outputs (office disposals). It should be noted that this measure does not represent the average life cycle cost of a patent or trademark since office disposals are only one measure of USPTO products and services.

For the prior years, actuals as reported below are calculated using the actual expenses reported in the Statements of Net Cost and all actual disposals. For the current and budget years, targets are estimated using the budgetary request in place of actual expenses and all projected disposals. It should be noted that out year calculations are subject to change, depending upon the level of funding actually obtained and spent. Actual results may fluctuate based upon management decisions to redirect resources.

### *FY 2003 & FY 2004 Targets*

This is a new performance measure with information for the FY 2003 and 2004 targets being derived from historical data in the Patent Application Locating and Monitoring (PALM), Trademark Reporting and Monitoring (TRAM), and the Activity Based Costing (ABC) systems.

<b>Measure 3d: Productivity</b>						
	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
Target						
Patents	New	New	New	New	New	TBD
Trademarks	New	New	New	New	New	TBD
Actual						
Patents						
Trademarks						
Met/Not Met						
Patents						
Trademarks						

## Explanation of Measure

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

### *FY 2003 & FY 2004 Targets*

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

## Program Evaluation

Accuracy of supporting data is controlled through internal program edits in the PALM and TRAM systems. Final test for reasonableness is performed internally by patent examiners, examining trademark attorneys, and supervisory and program management.

## Cross-cutting Activities

### *Other Government Agencies*

The USPTO partners with the following organizations in meeting this performance goal:

- *Department of Defense, Department of Energy, and the National Aeronautics and Space Administration* - in handling patent applications having national security implications.
- *Department of Health and Human Services* - in handling both AIDS-related and recombinant DNA information.
- *Food and Drug Administration* - with regard to patent term extensions for drug-related patents that have received regulatory review.
- *The U. S. Bureau of Customs*: To deal with counterfeit goods or services.

## External Factors and Mitigation Strategies

- Business factors that foster dramatic increases or decreases in application filings.
- Electronic filing increases access to the USPTO's automated systems and raises expectations for improved service and shorter processing times.
- Cooperation of the USPTO's constituency to change the way they do business so that it can serve more customers electronically, thereby improving quality and timeliness.

## USPTO Data Validation and Verification

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

- *Quality Reviews* – USPTO conducts ongoing reviews on the quality of patent and trademark examination. The focus of the review for patent applications is threefold: (1) identify patentability errors, (2) assess adequacy of the field of search and proper classification, and (3) assess proper examination practice and procedures. For trademark applications, the review includes four areas: (1) substantive statutory criteria for registrability, (2) search for confusingly similar marks, (3) proper examination practice and procedure, and (4) proper application of judicial precedents. The information from these reviews helps 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. The 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 the Inspector General (OIG) also contributes to the USPTO's efforts to assure audit and evaluation coordination and coverage of USPTO goals. The OIG conducted the following types of audits and evaluations:

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

**USPTO Data Validation and Verification**

Performance Measure	Data Source	Frequency	Data Storage	Verification	Data Limitations	Actions to be Taken
<b>Measure 1a:</b> Applications filed electronically	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
<b>Measure 1b:</b> Applications managed electronically	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
<b>Measure 2a:</b> Improve quality by reducing the error rate	Patent and trademark quality review reports.	Daily input; monthly reporting.	Automated systems, reports.	Manual reports and analysis.	None	None
<b>Measure 2b:</b> In process reviews	TBD	TBD	TBD	TBD	TBD	TBD
<b>Measure 2c:</b> 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
<b>Measure 2d:</b> Patent examiner recertification	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
<b>Measure 3a:</b> 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
<b>Measure 3b:</b> Reduce average total pendency (monthly)	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
<b>Measure 3c:</b> Efficiency	PALM, TRAM, Momentum, Metfy ABM.	Daily input, quarterly reporting.	PALM and TRAM, data warehouse, Metfy ABM.	Internal program edits in PALM, TRAM, Momentum, Metfy ABM. Quality control review of data by ABC team and program business teams.	None	None
<b>Measure 3d:</b> 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. 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

