





**UNITED STATES PATENT AND  
TRADEMARK OFFICE**

**FISCAL YEAR 2013**

**PRESIDENT'S BUDGET**

**FEBRUARY 13, 2012**





## UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF THE CHIEF FINANCIAL OFFICER

February 13, 2012

MEMORANDUM FOR      Distribution

FROM:                    Anthony Scardino *AS*  
                                 Chief Financial Officer

SUBJECT:                United States Patent and Trademark Office (USPTO)  
                                 Fiscal Year 2013 Budget

The attached FY 2013 Budget for USPTO is a requirements-based performance budget that continues to carry out the strategic goals, objectives and initiatives identified in the *USPTO 2010-2015 Strategic Plan*. Specifically, the five-year budget plan is designed to:

- Reduce the time to first office action on the merits to 10.1 months for patent applications by FY 2015, and average total pendency to 18.3 months by FY 2016.
- Reduce the accumulated backlog of unexamined patent applications to 329,500 by the end of FY 2015.
- Invest in information technology (IT) infrastructure and tools for the Patent End-to-End IT processing system, the Trademark Next Generation IT system, the Fee Processing Next Generation system, and implementation of the America Invents Act (AIA).
- Build patent and maintain trademark operating reserves to help address pending workload, withstand temporary changes in application filings, and address unanticipated requirements.

To meet these performance commitments, the FY 2013 Budget contains the following major initiatives:

- Patent workload/efficiency initiatives to reduce pendency and backlog: 1,500 new patent examiner hires, Nationwide Workforce, and increase the Board of Patent Appeals and Interferences staffing.
- Maintain trademark processing pendency achievements.
- Pursue substantive international patent harmonization, and create IP Rights Attaché postings abroad.

To finance these efforts, the FY 2013 Budget assumes projected patent and trademark fee collections of \$2,953 million. Fee collections would fund budgetary activities totaling \$2,822 million (and 12,212 FTE), an increase of \$314 million (12.5 percent) compared to the FY 2012 Current Plan level. An estimated \$154 million of collections in excess of planned spending will be added to the operating reserve after adjustments of another \$23 million in other income. FY 2013 is a transition year whereby the 15 percent surcharge authorized by the AIA will continue until a new fee structure is established by regulation. The Budget assumes that a new fee structure will be implemented by February, 2013.

Please do not hesitate to call Frank Murphy, Deputy CFO or me at 571-272-9200 with any questions.

Attachment

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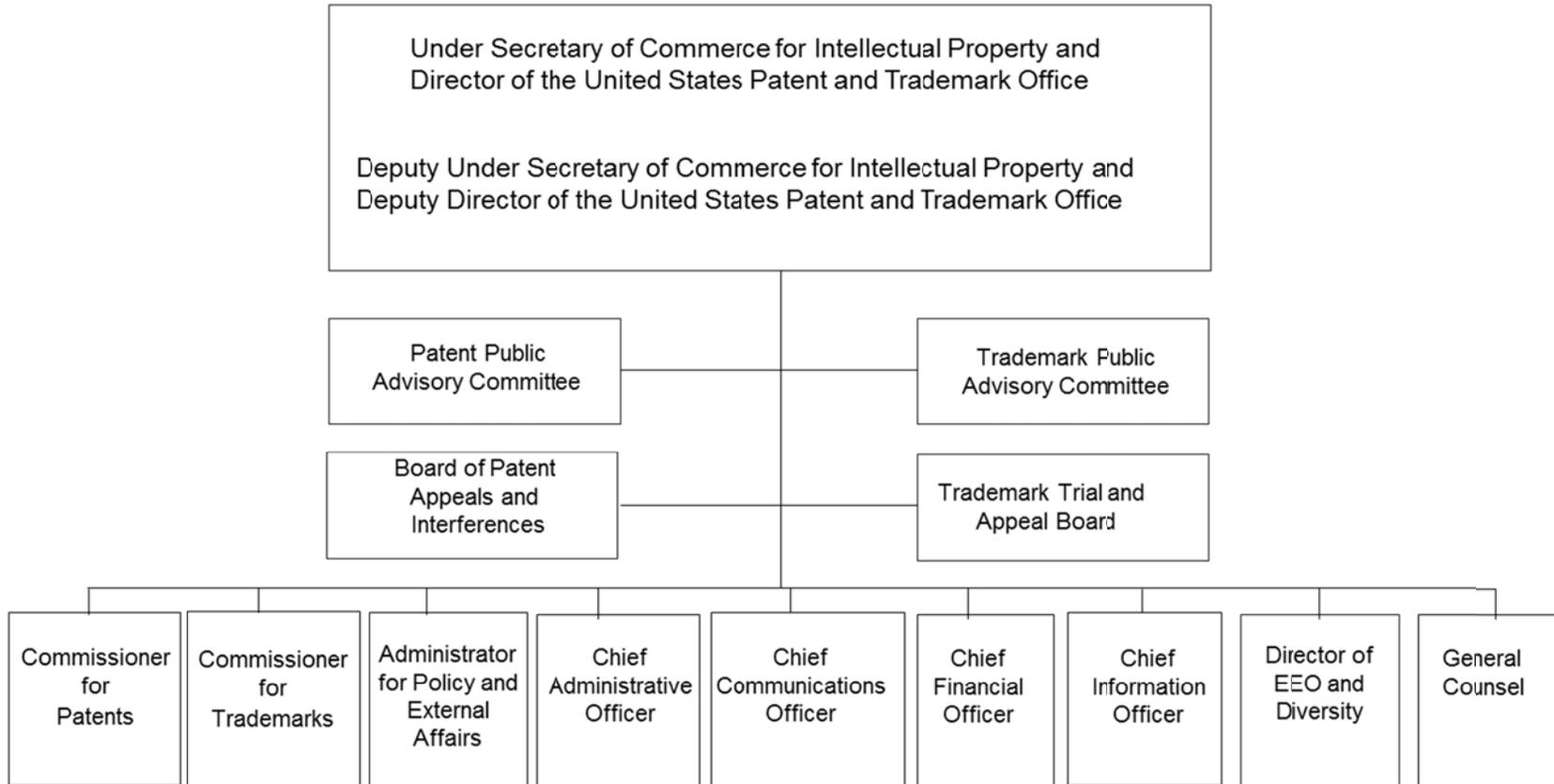
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# INTRODUCTION

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### UNITED STATES PATENT AND TRADEMARK OFFICE



## Exhibit 3 – Executive Summary

Innovation is a key driver of the United States economy, and intellectual property (IP) rights play an essential role in fostering innovation and enabling the deployment of goods and services to the marketplace. Innovation in science and technology, in particular, are crucial to economic growth and to maintaining America's global competitiveness over the long term.

The recently enacted America Invents Act (AIA) fosters a nimble and strong IP infrastructure for our country, allowing businesses to grow and technologies to flourish, by leveraging inventive efforts with the fulcrum of a U.S. patent – the primary currency of innovation in this 21<sup>st</sup> century. The Act made the most sweeping and historic changes to U.S. patent laws. By building out a 21<sup>st</sup> century patent and trademark office, equipped to manage the demands of a globalized economy, this new law enables a better resourced United States Patent and Trademark Office (USPTO) to grant IP rights with greater speed, greater quality and greater clarity. It also advances the overall strategy of deploying American innovation to build businesses and build jobs. At the same time, the USPTO itself is a major employer of scientists, engineers, and attorneys either directly or through its contracts at no cost to the American taxpayer.

The Administration's "A Strategy for American Innovation: Securing Our Economic Growth and Prosperity" identifies promoting investments in ingenuity through effective IP policy as one of the building blocks to innovation for sustainable growth and quality jobs. The USPTO's work to foster innovation is a crucial driver of job creation, economic recovery, and prosperity. The *USPTO 2010-2015 Strategic Plan*, coupled with implementation of AIA, demonstrates how we are working to make the USPTO more efficient, to reduce the unacceptably long pendency periods patent applicants face, and to implement a sustainable funding model.

As a fully user-fee funded organization, the USPTO is able to complete its mission with zero net discretionary spending and at no cost to the taxpayer. The funds required for FY 2013 would be offset by user fee collections under the current fee schedule – with the interim fee increase on certain patent fees that was approved by the AIA and put in effect on September 26, 2011 – and a proposed change to those fees using the fee setting authority provided for in the AIA that will be effective in the middle of FY 2013. As a result, the USPTO's appropriation will remain at the \$0 budget authority level.

### FY 2013 Budget Priorities

The FY 2013 Budget requests projected fee collections of \$2,953 million, which will fund requirements of \$2,822 million and 12,212 full-time equivalent (FTE), resulting in \$154 million in excess of planned spending to be added to the operating reserve after adjusting for \$23 million in other income. This request is necessary to continue implementing the *USPTO 2010-2015 Strategic Plan*, which directly contributes to the Department of Commerce's (DOC) theme of Economic Growth.

### Strategic Plan Adjustment and Planning Assumptions

Several factors have had an impact on how the USPTO is able to project its budgetary requirements for FY 2013 and beyond in order to deliver on its performance commitments:

- Implementation of the *USPTO 2010-2015 Strategic Plan* was predicated on enactment of the FY 2011 President's budget, which included a proposed 15 percent interim increase to patent fees. The Agency's final FY 2011 appropriation did not include this increase. As a result, the USPTO operated at a level that was about 10 percent below its FY 2011 requirements, which resulted in the need to postpone the implementation of many strategic plan initiatives. Most notably, the USPTO was not adequately funded to reduce patent

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pendency to 10 months for first office actions and 20 months total pendency by 2014 and 2015, as noted in the strategic plan. Instead, based on the FY 2013 Budget, these targets will now be met in 2015 and 2016 respectively.

- The FY 2013 Budget is based on the Consolidated and Further Continuing Appropriations Act, 2012, and on the AIA (Pub. L. No. 112-29) that was signed into law on September 16, 2011. Specifically, FY 2013 is a transition year whereby the 15 percent interim fee increase would continue until a new fee schedule that is set by regulation is in place.
- In FY 2013, the USPTO will continue to focus on three major priorities: patent pendency and backlog reduction, investments in information technology (IT), and achieving sustainable funding. In addition, implementation of the AIA and establishment of a new fee schedule by February 2013 is a critical requirement.

### **Patent Pendency and Backlog Reduction**

American innovators and businesses rely on the legal rights associated with the issuance of a quality patent in a timely manner in order to reap the benefits of their innovations. 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 that ultimately may be granted for the invention.

Reducing patent pendency and the backlog of unexamined applications supports the Administration Priority Goal to ensure that quality patents that could lead to job growth are issued in a timely manner. The USPTO has committed to achieving an average first action patent pendency of 10 months and an average total patent pendency of 20 months by 2015 and 2016, respectively. Meeting this commitment assumes efficiency improvements brought about by reengineering many USPTO management and operational processes (e.g., the patent examination process) and systems. Even assuming these ambitious efficiency gains, the USPTO estimates that it will need to hire about 3,000 patent examiners in the two-year period FY 2012 through FY 2013. This level of hiring is necessary to reduce the end of FY 2011 accumulated backlog of unexamined applications by over 50 percent to 329,500 at the end of FY 2015, and achieve an average first action pendency of 10.1 months.

To meet its performance commitment, the USPTO launched a number of new initiatives, including a new hiring approach that focuses on hiring experienced professionals (e.g., registered patent attorneys and agents, skilled technologists having experience with the USPTO as inventors) as patent examiners, and developing a nationwide workforce that will expand the hiring demographic, enable the Agency to better recruit and retain a broad range of talented patent professionals, and achieve a faster transition to productivity. Other initiatives designed to contribute to the pendency and backlog reduction plan and improved efficiency include compact prosecution initiatives which encourage the practice of finding the core issues with patent applications and making prosecution more efficient; implementing the new patent examiner performance appraisal plans; monitoring the patent examiner production (count) system; re-engineering the classification system; increasing international work-sharing efforts; and the Cooperative Patent Classification (CPC) agreement with the European Patent Office (EPO).

A global initiative – the Patent Prosecution Highway (PPH) – is also proving to be beneficial to the Office and applicants by generating higher allowance rates, fewer office actions per disposal, and substantially lower percentages of appeals and continuation applications, as well as cost savings for applicants. The PPH is a framework whereby an application whose claims have been determined patentable in one country's patent office is eligible to go through an accelerated examination in another country's patent office with a simple procedure upon an applicant's request. By the end of FY 2011, more than 8,000 cumulative PPH requests were filed at the USPTO, where the grant rate is approximately double the normal allowance rate, first action allowances are higher, and the average number of office actions is lower.

In conjunction with timeliness, quality issuance of patents provides certainty in the market and allows businesses and innovators to make informed and timely decisions on product and service development. The quality of application review is critical to ensure the value of an issued patent. When the value of a patent is uncertain, there is a risk that a patent is invalid, does not cover the patentee's product, or that a competitor infringes the patent but cannot determine its scope. Such patents exact a high cost by decreasing public confidence in the IP system. On the other hand, the economic value of a patent increases when its metes and bounds are clearly defined and consistently interpreted under the law. Clarity leads to certainty, which enables efficient and confident determination of value. This in turn creates high value for high quality patents and bolsters public confidence, thereby encouraging investment.

### **Information Technology (IT)**

IT is a mission-critical enabler for every USPTO business function. The productivity of all USPTO operations is directly correlated to the performance of the Agency's IT systems. In addition, because patent and trademark applicants target the important U.S. market for IP protection, the upsurge in application filings has resulted in increased demand for USPTO services. For example, patent databases are among the world's largest, and continue to grow at multiple terabytes per year. This in turn has put considerable strain on the USPTO's IT infrastructure, which can jeopardize the USPTO's ability to provide timely and quality patents and trademark registrations.

The USPTO is committed to building a high-quality, efficient, cost-effective, end-to-end electronic IT process that provides examiners with the tools needed to efficiently and effectively perform their jobs, and that also provides applicants and the user community with access to information and data. In fulfilling this commitment, the USPTO is adhering to sound business practices, most notably by maintaining capital improvement funds. For example, as technology changes, funds can be made available to ensure that the IT infrastructure environment is up-to-date in order to serve its users.

A full description of USPTO IT activities and the related budget activities can be found in the "USPTO Information Technology Portfolio" section of the Introduction. References to IT projects/funding are included in each of the four Program sections of this FY 2013 Budget.

### **Sustainable Funding**

A third priority is the need to implement the sustainable funding model that has been provided by the AIA<sup>1</sup> and that will allow the Agency to manage fluctuations in filings and revenues while sustaining operations on a multi-year basis. A sustainable funding model includes: (1) ensuring access to fee collections to support the Agency's objectives; (2) instituting an interim patent fee increase (put in place on September 26, 2011); (3) adjusting our fee structure by regulation to better align fees with the cost of providing services (expected to be in place by February 2013); and (4) funding an operating reserve to manage operations on a multi-year basis and thereby protecting the Agency against unforeseen disruptions in revenue (in place).

This FY 2013 Budget proposes to appropriate spending authority for all fees the USPTO collects. The interim increase on patent fees is a bridge to provide resources until the USPTO develops and implements a new fee structure that will provide sufficient financial resources in the long term. Fee setting authority and access to all fees collected, coupled with maintaining an operating reserve from past fee collections, will permit the USPTO to sustain operations and

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<sup>1</sup> The AIA provides the USPTO with the authority to set and adjust all of its fees, and provides for certain new fees, including an interim patent fee increase and a prioritized examination fee. The AIA also establishes a Patent and Trademark Fee Reserve Fund in the Treasury where all patent and trademark fees collected in excess of the USPTO's annual appropriations would be deposited. Such funds would become available to the USPTO via the appropriations process.

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adjust for volatility in the economy and/or demand for products and services without putting the Agency at risk of not appropriately managing fluctuations in filings and revenues.

### **AIA Implementation**

The process of implementing the AIA began upon enactment on September 16, 2011 and is expected to continue for approximately two years. During this time, the USPTO will be preparing and issuing numerous regulations and/or guidelines that must be complementary. This requires coordination among various USPTO business units, most notably the Patent organization, the Board of Patent Appeals and Interferences (BPAI)<sup>1</sup>, the Office of the Chief Financial Officer, and the Office of the General Council (OGC). In addition, coordination with other agencies is critical, such as the Small Business Administration, the U.S. Trade Representative, the Departments of Justice and State, and the Department of Commerce. FY 2012 and FY 2013 funding is required to address operational issues, such as new hires for the BPAI and OGC, making IT updates, and training new and existing staff.

Many actions have already taken place, such as the inter partes reexamination threshold and termination, tax strategies being deemed within prior art, human organism prohibition, and establishment of the micro-entity definition and fee setting authority (which are effective after rulemaking). On September 26, 2011, prioritized examination and the 15 percent interim patent fee increase went into effect. The Patent and Trademark Fee Reserve Fund went into effect on October 1, 2011, and the electronic filing incentive became effective on November 15, 2011.

Other provisions have an effective date 12 months after enactment, and the USPTO is currently developing rules and/or guidance for the following: inventor's oath/declaration, third party submission of prior art for patent application, supplemental examination, citation of prior art in a patent file, priority examination for important technologies, inter partes review, post grant review, and the transitional program for covered business method patents.

By March 16, 2012, the USPTO must have rules in place to implement first-inventor-to file, derivation proceedings and repeal of the statutory invention registration. In addition, the Office has lead responsibility for conducting seven studies with due dates ranging from four months to four years from enactment.

### **Fee-Setting for Mission Success and Sustainable Funding**

The AIA's funding and fee provisions cut across many of the changes to patent law. In conjunction with developing, proposing, soliciting input and finalizing a new fee schedule, the USPTO must ensure that all its fee-setting actions are in synch with the almost 30 rulemaking notices that it will be issuing to implement the substantive provisions of AIA. For over the past year, the USPTO has been conducting numerous economic, financial and business impact analyses to identify options for setting patent fees to only recover the aggregate estimated cost of the patent operations, including administrative costs to the USPTO and a reasonable operating reserve. The goal for an improved fee schedule is to provide the USPTO with sufficient financial resources to facilitate the effective administration of the U.S. IP system. In doing so, the USPTO plans for the fee schedule to achieve the following objectives:

- Promote the Strategy for American Innovation;
- Align fees with the full costs of products and services – both in the aggregate and for particular products and services, where appropriate;
- Set fees to facilitate the effective administration of the patent and trademark systems; and
- Offer application processing options.

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<sup>1</sup> To be renamed the Patent Trial and Appeal Board in FY 2012, per the AIA.

When designing the improved fee structure, the USPTO examined production capacity and workload estimates necessary to achieve the Administration's Priority Goal of reducing both first action and total patent pendency and the patent application backlog to the performance targets of 10 months average first action patent pendency and 20 months total patent pendency by 2015 and 2016, respectively. The cost for planned production levels, along with the costs for continuing to improve the end-to-end patent processing and USPTO enterprise infrastructure IT systems; implementing the initiatives outlined in the USPTO 2010-2015 Strategic Plan; and beginning to build a reasonable operating reserve were aggregated to determine the target aggregate revenue level the new fee schedule must generate over the next few years.

The AIA outlines a rigorous and transparent review process for any proposed fee changes. This entails consulting with the Patent Public Advisory Committee (PPAC) on patent fees and the Trademark Public Advisory Committee (TPAC) on trademark fees, providing the respective advisory committees with proposed fees at least 45 days prior to publication of a proposed rulemaking, the respective advisory committee holding a public hearing, and receiving written comments, advice and recommendations from the advisory committees. This period of public review and input to the advisory committees is in addition to publishing the proposed fee changes in the Federal Register for public comment.

Prior to publishing proposed rules, the USPTO must notify Congress of the proposed changes. The proposed notice in the Federal Register must include the rationale and purpose for the proposed changes, including possible costs and benefits. The new or adjusted fees would go into effect no sooner than 45 days after publication. However, in the end Congress has the authority to pass a law to disapprove the new adjusted fees.

The fees projected in this Budget include the initial plan for an improved patent fee schedule that the USPTO will propose to the public through the PPAC public hearing and regulatory rulemaking process. The proposed improvement plan includes a mid-year FY 2013 effective date for most fee changes. The Fee Setting Authority provided for in the AIA expires on September 17, 2018 – seven years after the date of enactment of the AIA. After this initial set of changes, the USPTO will seize the opportunity of the seven year period by embarking on a long-term fee setting strategy that includes engaging the public in requests for comments related to structural changes in the fee schedule; reducing patent fees once the operating reserve reaches an optimal level; evaluating the need to adjust trademark fees; and continuing to simplify and improve the structure of the USPTO fee schedule. The USPTO is striving to implement a thoughtful and transparent fee setting process to ensure Congress and the Agency's stakeholders will entrust the USPTO with fee setting authority past the seven-year sunset period.

### **Curbing Spending**

This FY 2013 requirements-based Budget is based on continuous and comprehensive budget reviews that are designed to make sure that all operational and administrative costs are continually reviewed and funds are reallocated when needed to focus on high-priority and effective programs – primarily core mission activities. In addition, because the USPTO operates like a business that depends on revenue or fee collections to operate, when there is a drop in revenue, there needs to be a comparable reduction in expenditures.

In FY 2009, when the USPTO experienced a precipitous drop in fee collections, the Agency took a hard look at its activities to find savings and efficiencies. That year, the Agency was able to make nearly \$200 million in short and long-term reductions. As the economy rebounded in FY 2010, fee collections increased beyond the amount appropriated and a supplemental appropriation was provided by Pub. L. No. 111-224, which allowed the USPTO to spend an additional \$129 million of fees collected during that year toward reducing the patent backlog by

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expanding the examiner workforce, and making that workforce more productive by improving processes, IT and tools.

In FY 2011, the Federal government operated under a continuing resolution and the Full-Year Continuing Appropriations Act, which did not include the USPTO's request for a 15 percent temporary increase on patent fees. This led to a funding level that was below requirements, and which necessitated approximately \$150 million of funding reallocations, deferments or reductions that included a freeze on hiring in virtually all organizations, as well as changes to non-compensation requirements. Patent Program funding was curtailed by approximately \$65 million, which included the need to stop hiring patent examiners and BPAI staff, stop paying overtime that is required for production in both the Patent Examining Corps and at the BPAI, and curtail workload-related contracts such as those for Patent Cooperation Treaty (PCT) Chapter I searches. These actions enabled the USPTO to operate within its FY 2011 appropriated level. Adjustments have been made to the *USPTO 2010-2015 Strategic Plan*, which are included as an Interim Adjustment under Appendix #1.

For FY 2012, the Consolidated and Further Continuing Appropriations Act, 2012, provides the USPTO with a FY 2012 fee funding level of \$2.7 billion. This level includes an estimated \$290.6 million in prioritized examination and surcharge collections authorized under the AIA. In addition, the USPTO was apportioned an additional \$200.7 million for carryover, recoveries and other sources of reimbursable income, for an overall total of \$2.9 billion. However, the USPTO has revised its FY 2012 fee collection estimate downward, which is attributable to the accelerated payment of fees prior to implementation of the surcharge authorized by the AIA.

The Administration is continuing its pursuit of an aggressive government-wide effort to curb non-essential administrative spending called the Administrative Efficiency Initiative. As a result, the Department continues to seek ways to improve efficiency of programs without reducing their effectiveness. Building on USPTO's administrative savings planned for FY 2012 (\$26.3 million), an additional \$6.1 million in savings is targeted for FY 2013, for a total savings in FY 2013 of \$32.4 million.

The USPTO continually reviews its operating budgets and long-range plans in an effort to find efficiencies that have minimal to no impact on accomplishment of the Agency's goals, and redirects resources to high priority strategic initiatives. This includes:

- Reviewing the requirements of the President's Executive Order of November 9, 2011 entitled "Promoting Efficient Spending", and requesting a waiver because it imposes limits on many of the administrative resources required to support the expanded operation envisioned by the recently enacted AIA. However, the USPTO continues to ensure that cost containment is a high priority throughout all parts of the Agency.
- Launching a multi-year review of all USPTO operations to increase the quality of its services and decrease the cost of operations. Utilizing Six Sigma, Lean Six Sigma, Business Process Reengineering and related program analysis methods, three discrete USPTO organizational components were evaluated in FY 2011. Thus far, aggregated resources of \$13.2 million have been identified through the implementation of 42 discrete recommendations, and these have been reinvested to meet the Agency's goals.

For FY 2013, this Budget includes a reduction of slightly more than \$16 million that has been redirected to other FY 2013 initiatives.

- The FY 2013 Budget is based on the assumption that the USPTO will have access to all its FY 2012 and FY 2013 fee collections. Under this assumption, the USPTO anticipates meeting its patent pendency and backlog reduction targets in FYs 2015 and 2016. As a result, this budget begins to show a reduction in patent examiner hires in FY 2014, and a

negative net change in end-of-year examiner staffing by not replacing all attritions. Beginning in FY 2016, the USPTO anticipates negligible overtime hours per patent examiner.

- The USPTO continues to take advantage of the current job market to identify cost avoidances resulting from a decision to not pay recruitment bonuses to new patent examiner hires, but continue meeting previously made commitments for bonus payments.
- The Patent Organization is re-engineering its business processes so that the Patents End-to-End (PE2E) will be built independent of legacy systems, with no mandates to re-use those legacy systems or to build interim interfaces unless they cannot be avoided.
- The Patent Organization also assessed the impact of the development and deployment of the PE2E system on operational activities. The out year estimates of the Workload Processing Contracts initiative have been reduced to reflect the impact of the end-to-end processing system on these contracts, as shown in the Patent section, under workload initiatives. These funds would be redirected to the Patent operating reserve.
- Other anticipated reductions include reductions to IT funding as major development projects, such as PE2E and the Trademark Next Generation (TMNG) IT capability are completed and move into the maintenance phase, and anticipated reductions to programs such as contracting for PCT Chapter I searches, and the IP5 (the Japan Patent Office (JPO), the EPO, the Korean IP Office, the State IP Office of the People's Republic of China (PRC), and the USPTO) Work Sharing program.

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### USPTO FY 2013 Budget and Performance-at-a-Glance

The performance measures shown below are a combination of the USPTO's Government Performance and Results Act (GPRA) measures that are reported externally, and those used for internal management purposes. The latter include the performance measures that are outlined in the *USPTO 2010-2015 Strategic Plan*, which are tracked internally to manage initiatives and progress toward meeting strategic objectives. Additional information about funding by the Agency's two business lines is included below under Multi-Year Planning by Business Line.

### USPTO FY 2013 Budget and Performance-at-a-Glance

<i>(Dollars in thousands)</i>	FY 2011 Actual	FY 2012 Enacted	FY 2012 Current Plan	FY 2013 President's Budget	FY 2014 Estimate	FY 2015 Estimate	FY 2016 Estimate	FY 2017 Estimate
<b>USPTO GOAL 1: OPTIMIZE PATENT QUALITY AND TIMELINESS</b>								
Amount	1,917,892	2,289,123	2,206,477	2,499,901	2,651,670	2,758,091	2,794,775	2,892,934
Full Time Equivalent (FTE)	9,050	9,927	9,501	11,099	11,697	11,496	11,356	11,309
UPR Applications Filed	506,924	527,600	533,300	565,300	599,200	632,200	666,900	700,300
Patent Quality Composite[1]	30.7	N/A	48-56	65-73	83-91	100	100	100
Average First Action Pendency/Utility, Plant and Reissue (UPR) (Months)	28.0	22.3	22.5	16.9	15.9	10.1	9.4	9.4
Average Total Pendency/UPR (Months)	33.7	32.1	34.7	30.1	24.6	22.9	18.3	18.1
Backlog	669,625	N/A	621,800	529,100	421,600	329,500	328,400	358,000
Inventory Position (months)	21.2	15.2	17.9	12.9	9.5	7.3	8.3	9.2
UPR Units of Production	502,488	573,700	539,700	620,600	671,900	694,200	645,200	656,200
<b>USPTO GOAL 2: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS</b>								
Amount	199,343	231,950	240,672	251,332	263,637	268,762	277,581	285,872
FTE	819	885	864	932	962	1,000	1,045	1,085
Applications Received (Includes Extra Classes)	398,667	159	413,000	428,000	450,000	488,000	532,000	570,000
Excellent First Action rate	24.0%	N/A	20.0%	20.0%	21.0%	21.0%	22.0%	22.0%
First Action Compliance Rate	96.5%	95.5%	95.5%	95.5%	95.5%	95.5%	95.5%	95.5%
Final Compliance Rate	97.0%	97.0%	97.0%	97.0%	97.0%	97.0%	97.0%	97.0%
Average First Action Pendency (Months)	3.1	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5
Average Total Pendency (Months) Excluding Suspended and Inter Partes Proceedings	10.5	12.5	12.0	12.0	12.0	12.0	12.0	12.0
Balanced Disposals	780,821	840,500	818,600	848,600	889,000	957,000	1,042,000	1,121,000
Office Disposals	379,494	384,000	417,600	433,000	453,800	489,500	533,200	573,000

Table Continued

## FY 2013 President's Budget

<i>(Dollars in thousands)</i>	FY 2011 Actual	FY 2012 Enacted	FY 2012 Current Plan	FY 2013 President's Budget	FY 2014 Estimate	FY 2015 Estimate	FY 2016 Estimate	FY 2017 Estimate
<b>USPTO GOAL 3: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE</b>								
Amount	43,660	63,972	59,455	68,335	70,421	72,219	74,136	76,055
FTE	122	159	142	181	185	186	187	188
Percentage of prioritized countries for which country teams have implemented at least 75% of action steps in the country-specific action plans toward progress along following dimensions:								
1. Institutional improvements of IP office administration for advancing Intellectual property rights (IPR)	100.0%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%
2. Institutional improvements of IP enforcement entities								
3. Improvements in IP laws and regulations								
4. Establishment of government-to-government cooperative mechanisms								
Percentage of foreign officials trained who have initiated or implemented a positive change in the IP systems in their organization and/or countries	Baseline	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%
Amounts not Supporting Goals <sup>[2]</sup>	-	1,000	1,000	2,000	-	-	-	-
USPTO Requirements	2,160,895	2,586,045	2,507,605	2,821,568	2,985,728	3,099,073	3,146,492	3,254,861
FTE	9,991	10,970	10,507	12,212	12,844	12,682	12,588	12,582
Fee Collections	2,303,656	2,706,313	2,528,872	2,953,241	3,145,947	3,374,925	3,431,525	3,503,371
Fee Collections – Unavailable	(208,855)	-	-	-	-	-	-	-
Other Income/Recoveries	21,125	23,000	23,000	23,000	23,000	23,000	23,000	23,000
Funding to(-) / from(+) Operating Reserve	44,969	(143,268)	(44,268)	(154,673)	(183,218)	(298,852)	(308,033)	(271,510)
<b>TOTAL FUNDING</b>	<b>2,160,895</b>	<b>2,586,045</b>	<b>2,507,605</b>	<b>2,821,568</b>	<b>2,985,728</b>	<b>3,099,073</b>	<b>3,146,492</b>	<b>3,254,861</b>
Operating Reserve: Patents	74,443	227,379	120,741	276,880	459,158	756,385	1,054,048	1,306,857
Operating Reserve: Trademarks	103,262	93,593	101,232	99,765	100,706	102,331	112,701	131,403

<sup>[1]</sup> New performance measure will subsume Final Disposition Compliance Rate and In-Process Compliance Rate. See Exhibit 3a.

<sup>[2]</sup> Amounts transferred to the Department of Commerce Office of the Inspector General.

**USPTO 2010-2015 Strategic Plan – Summary of Goals and Objectives**

The *USPTO 2010-2015 Strategic Plan* became available to the Congress and the public in September 2010. The Plan formally documents the USPTO's priorities, and is aligned with the Department's themes, goals, and objectives as follows:

DOC Themes	DOC Goal	DOC Objectives	USPTO Goals
<b>Economic Growth</b>	Innovation and Entrepreneurship Goal: Develop the tools, systems, policies and technologies critical to transforming our economy, fostering U.S. competitiveness, and driving the development of new businesses.	Facilitate intellectual property protection by reducing patent and trademark pendency and increasing quality of issued patents and trademarks.	Optimize Patent Quality and Timeliness  Optimize Trademark Quality and Timeliness
		Expand international markets for U.S. firms and inventors by improving the protection and enforcement of intellectual property rights.	Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide
<b>Customer Service</b>	Create a culture of outstanding communication and services to our internal and external customers.		Achieve Organizational Excellence
<b>Organizational Excellence</b>	Create a high performing organization with integrated, efficient and effective service delivery.		
<b>Workforce Excellence</b>	Develop and support a diverse, highly qualified workforce with the right skills in the right job to carry out the mission.		

The USPTO Strategic Framework, including the mission statement, vision statement, goals, objectives and initiatives is shown on the following pages.

The USPTO has made significant progress toward implementing its strategic plan, as well as some minor changes that reflect the current financial, legislative, and administrative environment in which the USPTO is working. An Interim Adjustment Document is included as Appendix #1.



# United States Patent and Trademark Office Strategic Framework



### Mission

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

### Vision

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

### Strategic Goals

**Goal I:** *Optimize Patent Quality and Timeliness*

**Goal II:** *Optimize Trademark Quality and Timeliness*

**Goal III:** *Provide Domestic and Global Leadership to Improve Intellectual Property (IP) Policy, Protection and Enforcement Worldwide*

**MANAGEMENT GOAL:** *Achieve Organizational Excellence*

## GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS

Objective 1: Re-Engineer Patent Process to Increase Efficiencies and Strengthen Effectiveness	Objective 2: Increase Patent Application Examination Capacity	Objective 3: Improve Patent Pendency and Quality by Increasing International Cooperation and Work Sharing	Objective 4: Measure and Improve Patent Quality	Objective 5: Improve Appeal and Post-Grant Processes	Objective 6: Develop and Implement the Patent End-to-End Processing System
<ul style="list-style-type: none"> <li>Re-engineer the Patent Examiner Production (Count) System</li> <li>Prioritize Work: Green Technology Acceleration, Project Exchange, Multi-Track Customized Examination</li> <li>Institutionalize Compact Prosecution Initiatives</li> <li>Re-engineer the Patent Classification System</li> <li>Re-engineer the Manual of Patent Examining Procedure (MPEP)</li> <li>Re-engineer the Patent Examination Process</li> </ul>	<ul style="list-style-type: none"> <li>Hire an Optimum Patent Examining Workforce to Meet Backlog and Pendency Targets</li> <li>Use a Hiring Model that Focuses on Experienced IP Professionals</li> <li>Target Overtime to High Backlog Technology Areas</li> <li>Develop and Implement a Nationwide Workforce</li> <li>Reduce Attrition by Developing Mentoring, Best Practices, and Retention Strategies</li> <li>Contract for Patent Cooperation Treaty (PCT) Searching</li> </ul>	<ul style="list-style-type: none"> <li>Make More Effective Use of the PCT</li> <li>Increase Use of the Patent Prosecution Highway (PPH)</li> <li>Explore Strategic Handling of Applications for Rapid Examination (SHARE)</li> <li>Work with Trilateral Offices and the Five IP Offices (IP5) to Create New Efficiencies</li> </ul>	<ul style="list-style-type: none"> <li>Initiate 21st Century Analysis, Measurement and Tracking of Patent Quality</li> <li>Improve and Provide More Effective Training</li> <li>Reformulate Performance Appraisal Plans (PAPs)</li> <li>Implement and Monitor Revisions to Patent Examiner Production (Count) System</li> </ul>	<ul style="list-style-type: none"> <li>Develop and Implement Process Efficiency Recommendations</li> <li>Streamline the Appeal Process and Reduce Appeal Pendency</li> <li>Review the Board of Patent Appeals and Interferences (BPAI) Rules to Amend, Simplify and Optimize Process</li> <li>Increase BPAI Capacity through Additional Hires and Optimization of Organizational Structure</li> <li>Maintain High Quality BPAI Decisions</li> </ul>	<ul style="list-style-type: none"> <li>Develop and Implement eXtensible Markup Language (XML) for all Data from Application to Publication</li> <li>Build Infrastructure for Patents' End-to-End Processing System</li> <li>Redesign and Re-architect Patent Information Technology (IT) Systems to Provide End-to-End Electronic Processing</li> </ul>

[www.uspto.gov/strategicplan2010](http://www.uspto.gov/strategicplan2010)

*Continued on back*

# FY 2013 President's Budget

GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS					
<b>Objective 1: Maintain Trademark First Action Pendency on Average between 2.5 – 3.5 Months with 12 Months Final Pendency</b> <ul style="list-style-type: none"> <li>Align Examination Capacity with Incoming Workloads</li> </ul>	<b>Objective 2: Continuously Monitor and Improve Trademark Quality</b> <ul style="list-style-type: none"> <li>Enhance Examination Quality by Establishing a New Quality Measure</li> </ul>	<b>Objective 3: Ensure Accuracy of Identifications of Goods and Services in Trademark Applications and Registrations</b> <ul style="list-style-type: none"> <li>Determine What Actions, if any, are Needed to Ensure Accuracy of Identified Goods and Services</li> </ul>	<b>Objective 4: Enhance Operations of Trademark Trial and Appeal Board (TTAB)</b> <ul style="list-style-type: none"> <li>Maintain TTAB Workload and Pendency Metrics Within Acceptable Limits</li> <li>Develop Additional Accelerated Case Resolution (ACR) and Other Streamlining Options for <i>Inter Partes</i> Cases</li> <li>Improve TTAB Involvement in Parties' Settlement Negotiations</li> <li>Maintain Quality of Orders and Opinions</li> <li>Develop Law through Issuance of Precedential Decisions</li> </ul>	<b>Objective 5: Modernize IT System by Developing and Implementing the Trademark Next Generation IT System</b> <ul style="list-style-type: none"> <li>Address Trademark Business Needs with a Re-Architected, Virtualized and Service-Driven Solution</li> <li>Separate Trademark Computer Based-Resources (CBRs) from Other USPTO CBRs</li> <li>Move to Cloud Computing Based on a Sound Business Case</li> <li>Add Functionality to Meet the Needs of Users</li> </ul>	<b>Objective 6: Develop a New Generation of Trademark Leaders</b> <ul style="list-style-type: none"> <li>Improve and Provide Effective Training</li> <li>Revamp PAPs to Include Leadership Skills Development</li> <li>Develop an Effective Human Capital Succession Plan</li> </ul>
GOAL III: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE					
<b>Objective 1: Provide Domestic Leadership on IP Policy Issues and Development of a National IP Strategy</b> <ul style="list-style-type: none"> <li>Provide Policy Formulation in All Fields of IP Protection and Enforcement</li> <li>Provide Ongoing Policy Guidance on Key IP Issues</li> <li>Provide Domestic Education Outreach, Knowledge Enhancement and Capacity Building</li> <li>Engage other U.S. Government Agencies and Congress on Legislation that Improves the IP System</li> </ul>			<b>Objective 2: Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights</b> <ul style="list-style-type: none"> <li>Lead Efforts at the World Intellectual Property Organization (WIPO) and Other International Fora to Improve IP Protection and Enforcement</li> <li>Prioritize Countries of Interest for Purposes of Improved IP Protection and Enforcement, Capacity Building, Legislative Reform, Including Creation of Country/Region Strategic Plans and Specific Action Plans</li> <li>Improve Efficiency and Cooperation in Global IP System</li> <li>Provide International IP Policy Advice and Expertise to Other U.S. Government Agencies</li> <li>Provide Technical Expertise in the Negotiation and Implementation of Bilateral and Multilateral Agreements that Improve IP Rights Protection and Enforcement</li> <li>Create USPTO and Attaché Integrated Action Plans that Focus on Country-Specific Needs and Interagency Cooperation</li> </ul>		
MANAGEMENT GOAL: ACHIEVE ORGANIZATIONAL EXCELLENCE					
<b>Objective 1: Improve IT Infrastructure and Tools</b> <ul style="list-style-type: none"> <li>Establish Cost-Effective, Transparent Operations and Processes</li> <li>Improve the User Experience</li> <li>Upgrade IT Infrastructure</li> <li>Develop and Implement the Next Generation Fee Processing System (FPNG)</li> </ul>	<b>Objective 2: Implement a Sustainable Funding Model for Operations</b> <ul style="list-style-type: none"> <li>Obtain and Implement Interim Funding Authority</li> <li>Obtain and Implement Fee Setting Authority</li> <li>Reformulate the Fee Structure</li> <li>Obtain and Implement Private Sector Business Tools</li> <li>Present Requirements-Based Budgets</li> <li>Strengthen Financial and Non-Financial Internal Controls</li> </ul>	<b>Objective 3: Improve Employee and Stakeholder Relations</b> <ul style="list-style-type: none"> <li>Recruit, Develop, Train, and Retain a Highly-Skilled, Diverse Workforce</li> <li>Enhance Current and Future Agency Leadership by Focusing on Leadership Development, Accountability, and Succession Planning</li> <li>Optimize Effectiveness of Patent Ombudsman Program</li> <li>Enhance the Independent Inventors Program</li> <li>Provide Information and Communication Channels for Employees and the Public</li> <li>Ensure Transparency of USPTO Information and Materials by Increasing the Availability of Public Information</li> <li>Strengthen Relationships with Department of Commerce (DOC), Office of Management and Budget (OMB), and Congress</li> </ul>			

<b>Objective 1: REDUCE THE TIME TO FIRST OFFICE ACTION ON THE MERITS TO 10 MONTHS FOR PATENT APPLICATIONS BY 2015</b>								
<b>Measure:</b> Patent First Action Pendency (months)			<b><u>FY 2008 Actual</u></b>	<b><u>FY 2009 Actual</u></b>	<b><u>FY 2010 Actual</u></b>	<b><u>FY 2011 Actual</u></b>	<b><u>FY 2012 Target</u></b>	<b><u>FY 2013 Target</u></b>
			25.6	25.8	25.7	28.0	22.5	16.9
<b>Description:</b> This measure indicates the average time from the UPR application filing date to the date of mailing the first Office Action. The measure is based on a three-month rolling time period. This is one of the two primary measures to track timeliness in the Patent Organization's processing time.								
<b>Comments on Changes to Targets:</b> Reducing patent pendency is a priority goal. Action and the resources provided by the FY 2013 Budget are crucial to address the current challenges at the USPTO, which include unacceptable patent pendency and backlogs of unexamined applications that are projected to get worse without attention.								
<b>Relevant Program Change(s):</b>	<b><u>Title:</u></b>						<b><u>Exhibit 13 Page No.</u></b>	
	Sub-Activity #1: Patent Examining						62	
<b><u>Validation and Verification</u></b>								
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>				<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
Patent Application Location Monitoring (PALM) system	Daily input, monthly reporting	PALM, 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, supervisors, and program management analysts.				None	None

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<b>Objective 2: REDUCE THE TOTAL PENDENCY TIME TO 20 MONTHS FOR PATENT APPLICATIONS BY 2016</b>								
<b>Measure:</b> Patent Total Pendency (months)			<b><u>FY 2008</u></b> <b><u>Actual</u></b>	<b><u>FY 2009</u></b> <b><u>Actual</u></b>	<b><u>FY 2010</u></b> <b><u>Actual</u></b>	<b><u>FY 2011</u></b> <b><u>Actual</u></b>	<b><u>FY 2012</u></b> <b><u>Target</u></b>	<b><u>F 2013</u></b> <b><u>Target</u></b>
			32.2	34.6	35.3	33.7	34.7	30.1
<p><b>Description:</b> Patent total pendency is the estimated time in months for a complete review of a UPR patent application, from the filing date to issue or abandonment of the application. The measure is based on a three-month rolling time period. This is one of the two primary measures to track timeliness in the Patent Organization's processing time.</p>								
<p><b>Comments on Changes to Targets:</b> Reducing patent pendency is a priority goal. Action and the resources provided by the FY 2013 Budget are crucial to address the current challenges at the USPTO, which include unacceptable patent pendency and inventory backlogs that are projected to deteriorate without attention.</p>								
<b><u>Relevant Program Change(s):</u></b>	<b><u>Title:</u></b>						<b><u>Exhibit 13 Page No.</u></b>	
	Sub-Activity #1: Patent Examining						62	
<b><u>Validation and Verification</u></b>								
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>			<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>	
PALM system	Daily input, monthly reporting	PALM, 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, supervisors, and program management analysts.			None	None	

<b>Objective 3: MEASURE AND IMPROVE PATENT QUALITY</b>						
<b>Measure:</b> Patent Quality Composite	<b>FY 2008 Actual</b>	<b>FY 2009 Actual</b>	<b>FY 2010 Actual</b>	<b>FY 2011 Actual</b>	<b>FY 2012 Target</b>	<b>FY 2013 Target</b>
	N/A	N/A	N/A	30.7	48-56	65-73
<i>Item 1: Final Disposition Compliance Rate (Percent)</i>	N/A	94.4	96.3	95.4	95.6--96.7	95.6--96.7
<i>Item 2: In-Process Compliance Rate (Percent)</i>	N/A	93.6	94.9	95.2	94.6--96.0	94.6--96.3
<i>Item 3: Pre First Action on the Merits (FAOM) Search Review</i>	N/A	N/A	N/A	94.6	94.6—95.2	94.6—95.8
<i>Item 4: Complete FAOM Search Review (Percent)</i>	N/A	N/A	N/A	90.9	90.9—91.9	90.9—93.0
<i>Item 5: Quality Index Report (Percent)</i>	N/A	N/A	N/A	89.5	88.3—91.6	88.3—92.4
<i>Item 6: External Quality Survey (Response Ratio – Positive to Negative)</i>	N/A	N/A	N/A	3.0:1	3.1—4.4:1	3.1—4.6:1
<i>Item 7: Internal Quality Survey (Response Ratio – Positive to Negative)</i>	N/A	N/A	N/A	4.3:1	4.3—4.7:1	4.3—5.2:1
<p><b>Description:</b> These metrics are measures of the propriety of the final disposition of individual applications, i.e., allowance or final rejection; the propriety of the actions taken during the course of examination in individual applications, i.e., first and subsequent actions on the merits by examiners; the degree to which the initial search performed by the examiner and the FAOM conforms with the best practices of the USPTO; the degree to which patent examiner behaviors in the prosecution of all patent applications reveals trends indicative of quality concerns; the degree to which the experienced examiners reveals trends and issues indicative of quality concerns. The overall Quality Composite is a weighted combination of these seven components.</p>						
<p><b>Comments on Changes to Targets:</b> Prior to FY 2011, the Patent Final Disposition and In-Process Compliance Rates were stand-alone quality metrics. Beginning in FY 2011 they have been incorporated into the Patent Quality Composite, which was developed in a joint effort between the USPTO and the Patent Public Advisory Committee (PPAC)* based on interactions with stakeholders through roundtables and Federal Register notices. Since the Quality Composite is an overall weighted measure of quality improvements, a baseline of individual components is used to set annual target ranges to account for potential impacts (both negative and positive) of other items within the composite. Out-year targets are incrementally increased towards a superior level of service that was established in the development of the Quality Composite. FAOM Search, Complete FAOM Review, and Internal Quality Survey components are all new metrics being collected in FY 2011. Quality Index Report and External Quality Surveys, although they are new metrics within the Quality Composite, are based on PALM data/surveys, and FY 2010 values.</p>						
<b>Relevant Program Change(s):</b>	<b>Title:</b>				<b>Exhibit 13 Page No.</b>	
	Sub-Activity #1: Patent Examining				62	

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<b><u>Validation and Verification</u></b>					
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>	<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
Office of Patent Quality Assurance (OPQA) Database System, PALM and Quality Index Report database and Collected Surveys	Daily input, semi-annual, and quarterly reporting	OPQA database, automated systems, reports	The statistician runs quality control checks in which certain dependent data fields are checked against each other; and data validation and audits per contract specifications	Since the measure is based on a sample, there is sampling error associated with the metric.	None

\* Along with the PPAC, the USPTO has engaged our stakeholders in roundtables in order to establish new metrics.

<b>Objective 4: DEVELOP AND IMPLEMENT THE PATENT END-TO-END PROCESSING SYSTEM</b>								
<b>Measure:</b> Patent Applications Filed Electronically (Percent)			<u>FY 2008 Actual</u>	<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Actual</u>	<u>FY 2012 Target</u>	<u>FY 2013 Target</u>
			71.7	82.4	89.5	93.1	96.0	97.0
<b>Description:</b> The measure indicates USPTO's support of and applicants' willingness to operate in an e-government environment and identifies the percent of patent applications filed electronically.								
<b>Comments on Changes to Targets:</b> The USPTO expects to meet or exceed annual targets as improvements to workflow and patents systems are finalized.								
<b>Relevant Program Change(s):</b>	<b>Title:</b>						<b>Exhibit 13 Page No.</b>	
	Sub-Activity #3: Patent Information Resources						62	
<b><u>Validation and Verification</u></b>								
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>				<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
PALM	Daily input, monthly reporting	PALM, 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, supervisors, and program management analysts.				None	None

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<b>Objective 5: MAINTAIN TRADEMARK FIRST ACTION PENDENCY ON AVERAGE BETWEEN 2.5 – 3.5 MONTHS</b>								
<b>Measure:</b> Trademark Average First Action Pendency (months)			<u>FY 2008 Actual</u>	<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Actual</u>	<u>FY 2012 Target</u>	<u>FY 2013 Target</u>
			3.0	2.7	3.0	3.1	2.5 – 3.5	2.5 – 3.5
<b>Description:</b> This measure reflects the timeliness of the first office action as measured from the date of application filing (or notification date for 66(a) filings) to the first office action in months.								
<b>Comments on Changes to Targets:</b> Trademark applicants have requested first action pendency within 2.5 to 3.5 months as optimal for meeting their needs.								
<b>Relevant Program Change(s):</b>	<b>Title:</b> Sub-Activity #1: Trademark Examining						<b>Exhibit 13 Page No.</b> 87	
<b><u>Validation and Verification</u></b>								
<b>Data Source</b>	<b>Frequency</b>	<b>Data Storage</b>	<b>Internal Control Procedures</b>				<b>Data Limitations</b>	<b>Actions To Be Taken</b>
Trademark Reporting and Monitoring (TRAM) system database	Daily input, monthly reporting	TRAM automated systems, reports	Accuracy of supporting data is controlled through internal program edits in the TRAM system. Final test for reasonableness is performed internally by trademark management, supervisors, and program management analysts.				None	None

<b>Objective 6: MAINTAIN TRADEMARK FINAL PENDENCY ON AVERAGE AT 12.0 MONTHS OR LESS</b>								
<b>Measure:</b> Trademark Average Total Pendency (months)			<u>FY 2008 Actual</u>	<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Actual</u>	<u>FY 2012 Target</u>	<u>FY 2013 Target</u>
			11.8	11.2	10.5	10.5	12.0	12.0
<b>Description:</b> This measure reflects the timeliness of the disposal of a trademark application. It is measured from the date of filing to date of registration, abandonment or issuance of a notice of allowance, excluding applications that are suspended, awaiting further action, or involved in <i>inter partes</i> proceedings.								
<b>Comments on Changes to Targets:</b> Trademark applicants have requested 12.0 months or less total pendency as optimal for meeting their needs.								
<b>Relevant Program Change(s):</b>	<b>Title:</b>						<b>Exhibit 13 Page No.</b>	
	Sub-Activity #1: Trademark Examining						87	
<b><u>Validation and Verification</u></b>								
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>				<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
TRAM database	Daily input, monthly reporting	TRAM automated systems, reports	Accuracy of supporting data is controlled through internal program edits in the TRAM system. Final test for reasonableness is performed internally by trademark management, supervisors, and program management analysts.				None	None

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<b>Objective 7: CONTINUOUSLY MONITOR AND IMPROVE TRADEMARK QUALITY</b>								
<b>Measure:</b> Trademark First Action Compliance Rate (Percent)			<u><b>FY 2008 Actual</b></u>	<u><b>FY 2009 Actual</b></u>	<u><b>FY 2010 Actual</b></u>	<u><b>FY 2011 Actual</b></u>	<u><b>FY 2012 Target</b></u>	<u><b>FY 2013 Target</b></u>
			95.8	96.4	96.6	96.5	95.5	95.5
<b>Description:</b> This measure is the percentage of applications reviewed meeting the criteria for decision making conducted on random sample of applications including first office actions to determine the soundness of decision-making under the Trademark Act.								
<b>Comments on Changes to Targets:</b> Trademark’s management has decided that 95.5% first action compliance is an optimal level to operate. A new more rigorous measure of quality has been introduced to expand the criteria for evaluating quality of the examiner’s decision and writing.								
<b>Relevant Program Change(s):</b>	<b>Title:</b>						<b>Exhibit 13 Page No.</b>	
	Sub-Activity #1: Trademark Examining						87	
<u><b>Validation and Verification</b></u>								
<u><b>Data Source</b></u>	<u><b>Frequency</b></u>	<u><b>Data Storage</b></u>	<u><b>Internal Control Procedures</b></u>			<u><b>Data Limitations</b></u>	<u><b>Actions To Be Taken</b></u>	
Office of Trademark Quality Review and Training (OTQRT) Report	Daily input, monthly reporting	OTQRT Report database	Accuracy of supporting data is controlled through internal program edits in the OTQRT system. Final test for reasonableness is performed internally by trademark examiners, supervisors, and program management analysts.			None	None	

<b>Objective 8: CONTINUOUSLY MONITOR AND IMPROVE TRADEMARK QUALITY</b>								
<b>Measure:</b> Trademark Final Compliance Rate (Percent)			<b><u>FY 2008 Actual</u></b>	<b><u>FY 2009 Actual</u></b>	<b><u>FY 2010 Actual</u></b>	<b><u>FY 2011 Actual</u></b>	<b><u>FY 2012 Target</u></b>	<b><u>FY 2013 Target</u></b>
			N/A	97.6	96.8	97.0	97.0	97.0
<b>Description:</b> This measure is the percentage of evaluations meeting the criteria for decision making conducted on a random sample of applications that received a final decision regarding registrability under the Trademark Act either by approval or final refusal.								
<b>Comments on Changes to Targets:</b> Trademark's management has decided that 97.0% final action compliance is an optimal level to operate. A new more rigorous measure of quality has been introduced to expand the criteria for evaluating quality of the examiner's decision and writing.								
<b><u>Relevant Program Change(s):</u></b>	<b><u>Title:</u></b>						<b><u>Exhibit 13 Page No.</u></b>	
	Sub-Activity #1: Trademark Examining						87	
<b><u>Validation and Verification</u></b>								
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>				<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
OTQRT Report	Daily input, monthly reporting	OTQRT Report database	Accuracy of supporting data is controlled through internal program edits in the OTQRT system. Final test for reasonableness is performed internally by trademark examiners, supervisors, and program management analysts.				None	None

**FY 2013 President’s Budget**

<b>Objective 9: MAINTAIN TRADEMARK FIRST ACTION PENDENCY ON AVERAGE BETWEEN 2.5 – 3.5 MONTHS AND FINAL PENDENCY ON AVERAGE AT 12.0 MONTHS OR LESS</b>						
<b>Measure:</b> Trademark Applications Processed Electronically (Percent)	<u>FY 2008 Actual</u>	<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Actual</u>	<u>FY 2012 Target</u>	<u>FY 2013 Target</u>
	N/A	62.0	68.1	73.0	74.0	76.0
<b>Description:</b> This measure tracks the percentage of trademark applications disposed that were received, processed, and examined using electronic communications, records and systems. The results demonstrate the extent that filing, workflow, processing and communications can be and are handled without paper or manual processes.						
<b>Comments on Changes to Targets:</b> Trademark’s management considered filing types and trends in the development, adoption, and usage of electronic processes and forms to set the target at 76%.						
<b>Relevant Program Change(s):</b>	<b>Title:</b>					<b>Exhibit 13 Page No.</b>
	Sub-Activity #2: Trademark Information Resources					87
<b><u>Validation and Verification</u></b>						
<b><u>Data Source</u></b>	<b><u>Frequency</u></b>	<b><u>Data Storage</u></b>	<b><u>Internal Control Procedures</u></b>		<b><u>Data Limitations</u></b>	<b><u>Actions To Be Taken</u></b>
TRAM system	Daily input, monthly reporting	TRAM	Accuracy of supporting data is controlled through internal program edits in the TRAM system. Final test for reasonableness is performed internally by trademark examiners, supervisors, and program management analysts.		None	None

<b>Objective 10: PROVIDE LEADERSHIP ON INTERNATIONAL POLICIES FOR IMPROVING THE PROTECTION AND ENFORCEMENT OF IP RIGHTS</b>								
<b>Measure:</b> Percentage of prioritized countries for which country teams have implemented at least 75% of action steps in the country-specific action plans toward progress along following dimensions: 1. Institutional improvements of IP office administration for advancing IPR 2. Institutional improvements of IP enforcement entities 3. Improvements in IP laws and regulations 4. Establishment of government-to-government cooperative mechanisms			<u>FY 2008 Actual</u>	<u>FY 2009 Actual</u>	<u>FY 2010 Actual</u>	<u>FY 2011 Actual</u>	<u>FY 2012 Target</u>	<u>FY 2013 Target</u>
			N/A	N/A	75.0	100.0	75.0	75.0
<b>Description:</b> Tracks the USPTO's efforts in relation to prioritizing countries of interest for purposes of improved IP protection and enforcement, capacity building, legislative reform, including creation of country/region strategic plans and specific action plans.								
<b>Comments on Changes to Targets:</b>								
<u>Relevant Program Change(s):</u>	<u>Title:</u> Sub-Activity #1: Policy and Administrative Support						<u>Exhibit 13 Page No.</u> 102	
<b><u>Validation and Verification</u></b>								
<u>Data Source</u>	<u>Frequency</u>	<u>Data Storage</u>	<u>Internal Control Procedures</u>				<u>Data Limitations</u>	<u>Actions To Be Taken</u>
Policy and External Affairs' reports and databases	Monthly input and reporting	Reports	Manual reports and analysis.				None	None

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<b>Objective 11: PROVIDE LEADERSHIP ON INTERNATIONAL POLICIES FOR IMPROVING THE PROTECTION AND ENFORCEMENT OF IP RIGHTS</b>							
<b>Measure:</b> Percent of foreign officials trained who have initiated or implemented a positive change in the IP systems in their organization and/or countries.		<u><b>FY 2008 Actual</b></u>	<u><b>FY 2009 Actual</b></u>	<u><b>FY 2010 Actual</b></u>	<u><b>FY 2011 Actual</b></u>	<u><b>FY 2012 Target</b></u>	<u><b>FY 2013 Target</b></u>
		N/A	N/A	N/A	Baseline	75.0	75.0
<b>Description:</b> The Global Intellectual Property Academy (GIPA) offers training programs on protection, utilization and enforcement of IP rights, patents, trademarks, and copyrights. It is through the GIPA training programs that the USPTO is instrumental in achieving its objectives of advancing IP right policies and halting IP theft. The USPTO is developing survey tools to evaluate the effectiveness and impact of these training programs. These evaluation and measurement survey tools provide methodologically rigorous data collection and analyses in place of more subjective, ad hoc, non-standardized anecdotal materials. The survey questions are approved by the Office of Management and Budget (OMB). The tools will include pre-program, post-program and alumni surveys. The use of the three surveys will allow the USPTO to collect data spanning the life of the GIPA training cycle.							
<b>Comments on Changes to Targets:</b>							
<u><b>Relevant Program Change(s):</b></u>	<u><b>Title:</b></u> Sub-Activity #3: Global Intellectual Property Academy (GIPA)					<u><b>Exhibit 13 Page No.</b></u> 102	
<u><b>Validation and Verification</b></u>							
<u><b>Data Source</b></u>	<u><b>Frequency</b></u>	<u><b>Data Storage</b></u>	<u><b>Internal Control Procedures</b></u>			<u><b>Data Limitations</b></u>	<u><b>Actions To Be Taken</b></u>
Three GIPA Surveys (pre, post and alumni)	At beginning, end and one year after each training program	Survey Tool and data stored with the Federal Consulting Group (FCG)	Surveys will be administered by an independent contractor, along with data analysis on the survey results. OMB has approved the survey questions.			None	None

## Sustainable Funding

### Multi-Year Planning and Budgeting by Business Line

The USPTO has been doing multi-year planning for many years, both at the strategic and operational levels, as demonstrated by its strategic plans, as well as the Patent Production, the Trademark Production, and the Fee Projection models, which look out over a five-year period. The USPTO provides five-year requirements and funding estimates in its annual budget documents, and over the past few years, the USPTO has taken steps to establish and maintain an operating reserve to facilitate execution of multi-year plans. With fee setting authority, the USPTO will continue to refine its multi-year planning and budgeting.

Multi-year planning and budgeting enables the Office to identify long-term trends, develop long-term operational goals supported by long-term financial strategies, and address long-term issues. It reinforces the commitment to financial stability by looking beyond the one-year time horizon in funding operating programs and capital improvements. It promotes more orderly spending patterns, which are a critical component for successful achievement of performance targets and fee setting. Multi-year planning and budgeting requires an in-depth understanding of the USPTO's financial position, including cost drivers and revenue, hidden liabilities, and political and economic realities.

This paradigm shift is currently under way at the USPTO, as follows:

- The FY 2013 Budget is based on the *USPTO 2010-2015 Strategic Plan*, and continues the long-term initiatives that were first identified in the FY 2012 President's Budget. In fact, most of the program increases in the FY 2013 Budget are continuations from prior years rather than new initiatives.
- The USPTO operating structure is like a business in that it receives requests for services – applications for patents and trademark registrations – and charges fees projected to cover the cost of performing all of the services it provides. Many of the costs are incurred either before or after all the fees have been paid. Therefore, it is critical that USPTO take a long view in projecting its budgetary requirements, which takes into consideration both the projected out year workload and the costs associated with processing that workload.
- In line with good business practices, the USPTO previously established an operating reserve. With the enactment of fee setting authority in the AIA, the USPTO has comprehensively addressed its Operating Reserve strategy in this Budget document.
- Fee setting – In anticipation of authority to set fees by regulation, the USPTO took steps to begin developing a new fee structure based on activity based information (ABI) cost models; historical cost analyses of activities supporting fees; conducting fee analyses, such as cost-obligation-revenue comparisons, economic and elasticity analyses; and developing ad hoc fee/cost calculations and business case studies. The USPTO is committed to transparency, fulfilling requirements for comprehensive regulatory analyses (e.g., re impact on small businesses), and engagement with the PPAC and stakeholders. This will be done via participation in the PPAC public hearings, publication of notices in the Federal Register and Official Gazette, and solicitation of review by the DOC, OMB and the Congress.

#### **Business Lines**

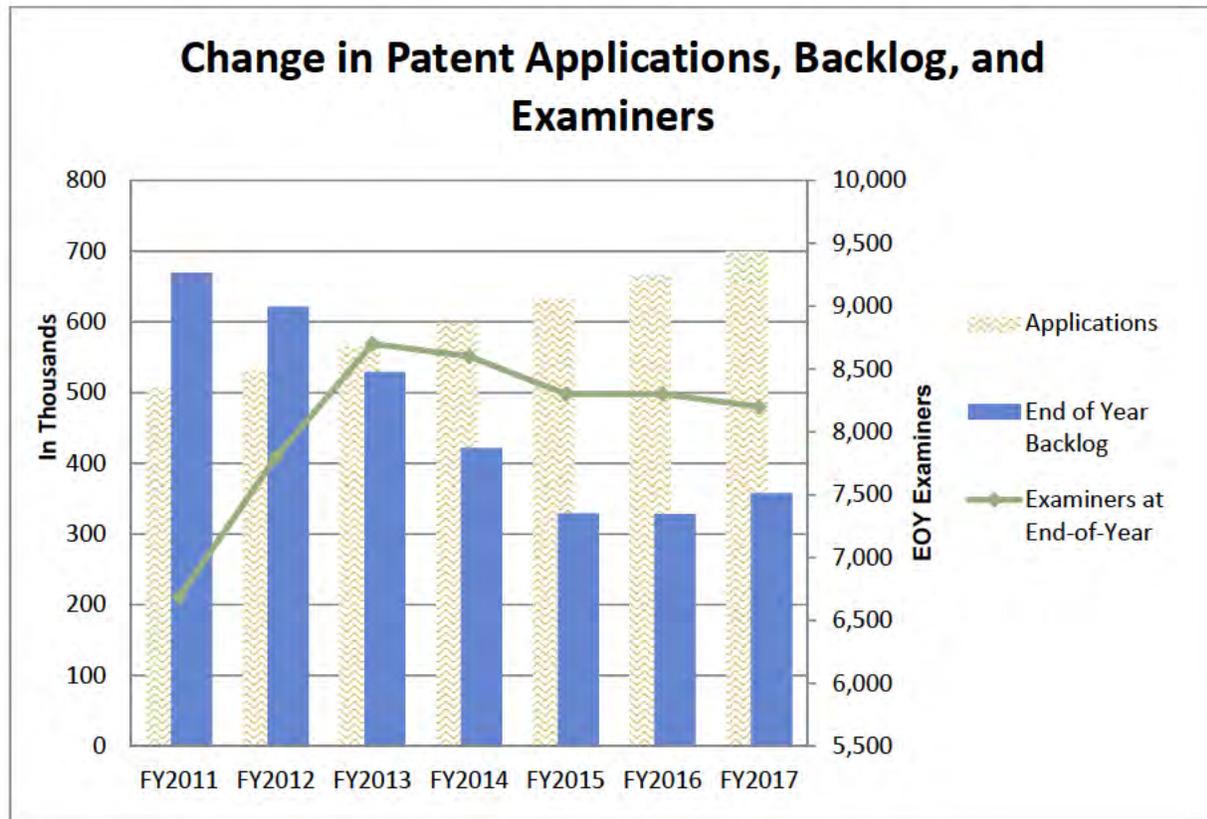
The USPTO has two lines of business – the Patent Business Line, which is funded from patent fee collections, and the Trademark Business Line, which is funded from trademark fee collections. Since 1982, there has been a legal fence around the use of trademark fees; i.e., they could be used only for trademark purposes. The AIA has established a comparable fence around patent fees.

## FY 2013 President's Budget

To be successful, both business lines rely upon USPTO policy, legal, administrative and IT operations that are funded from an allocated share of patent and trademark fee collections. The tables that are shown below compare estimated patent fee collections against patent business budgetary requirements, and estimated trademark fee collections against trademark business budgetary requirements.

### Patent Business: Five-Year Horizon

The following graphic shows that the USPTO projects that its patent workload will continue to increase over the next five years. The Office also plans to hire additional examiners in FYs 2012 and 2013. Beginning in FY 2014, the USPTO anticipates it will no longer need to hire new examiners and the end of year patent examiner staffing levels will begin to decrease. As a result of this hiring plan, the Patent backlog of unexamined cases will continue decreasing from the end of FY 2010 level of 708,535 through FY 2016, and pendency targets will be met in FYs 2015 and 2016. This five-year framework has been the key driver in setting the fee amounts in accordance with the authority provided by the AIA.



## FY 2013 President's Budget

Utility, Plant and Reissue	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017
Applications	506,924	533,300	565,300	599,200	632,200	666,900	700,300
Growth Rate	5.3%	5.2%	6.0%	6.0%	5.5%	5.5%	5.0%
Production Units	502,488	539,700	620,600	671,900	694,200	645,200	656,200
End of Year Backlog	669,625	621,800	529,100	421,600	329,500	328,400	358,000
<b>Performance Measures</b>							
Inventory Position (Months)	21.2	17.9	12.9	9.5	7.3	8.3	9.2
Avg. First Action Pendency (Months)	28.0	22.5	16.9	15.9	10.1	9.4	9.4
Avg. Total Pendency (Months)	33.7	34.7	30.1	24.6	22.9	18.3	18.1
Examiners at End-of-Year	6,685	7,800	8,700	8,600	8,300	8,300	8,200

To achieve the performance commitments shown above, the USPTO has developed its budgetary requirements, projected its patent fee collections, and identified an appropriate operating reserve for the five year period FY 2013-2015 as shown in the table below.

### Patent Budgetary Resources vs. Budgetary Requirements

	(Dollars in Millions)						
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
<b>Projected Fee Collections</b>							
Low Fee Estimate*	1,901	2,223	2,588	2,775	2,804	2,774	2,839
Working Fee Estimate*	1,901	2,294	2,705	2,884	3,106	3,144	3,198
High Fee Estimate*	1,901	2,457	2,860	3,064	3,250	3,426	3,451
<b>Budgetary Requirements</b>	1,948	2,248	2,549	2,702	2,809	2,846	2,945
<b>Current Year Funding Operating Reserve</b>							
Low Fee Estimate	(48)	(25)	39	73	(5)	(72)	(106)
Working Fee Estimate	(48)	46	156	182	297	298	253
High Fee Estimate	(48)	209	311	362	441	579	506
<b>Cumulative Funding Operating Reserve Balance **</b>							
FY 2010							
Target Operating Reserve	487	562	637	675	702	712	736
Operating Reserve Ending Balance	122	74	121	277	459	1,054	1,307
Over/(Under) Target Balance	(413)	(441)	(360)	(216)	54	343	571

\*Each of the above fee estimates includes other income collected such as reimbursable agreements and recoveries in the amounts of approximately \$19M each year

\*\*The USPTO anticipates reaching a three month operating reserve target (discussed further below) in FY 2015, which is the same timeframe that the USPTO anticipates meeting its patent application backlog and pendency targets. The USPTO expects to review patent fees on at least a biennial basis after initial fee adjustments expected in February 2013. As the USPTO continues to make progress during FY 2013-2014 in meeting its pendency performance and operating reserve targets, the results of the next fee review may lead to regulatory actions as early as FY 2015 to reduce fees to a level that would sustain desired levels for the long term.

The table compares the estimated fee collections and other income at three levels (high, working, and low) against the budgetary requirements for each fiscal year. For the short-term (i.e., FY 2012 and FY 2013), the ranges reflect the inherent sensitivity and volatility of predicting fluctuations in the economy and market environment, interpreting policy and process efficiencies, including the effects of adjusting the patent fee schedule, and developing workload and fee collection estimates from assumptions of these elements. For the longer-term (i.e., FY 2014 and beyond), the value of the ranges is less significant because the USPTO continually modifies its assumptions as new information becomes known or as current-year trends dictate. Therefore, the cumulative funding operating reserve balance is shown only for the working level fee estimate.

## FY 2013 President's Budget

The Patent budgetary requirements increase by 13 percent in FY 2013 over FY 2012, and then slow to six percent and four percent growth in FY 2014 and FY 2015, respectively. Budget growth primarily reflects the costs associated with increased patent examiner production continuing through FY 2015 as the USPTO invests in the achievement of its pendency and backlog reduction goal.

To continue promoting confidence in the United States' IP system, the USPTO is gradually building a patent operating reserve equal to three months of operating expenses (budgetary requirements). The operating reserve is necessary to absorb and respond to temporary changes in the economy and USPTO's operating and financial environments. Research has found that large fee-funded agencies without an operating reserve can be thrown into cash flow stress – like that which the USPTO experienced in FY 2009 due to the economic recession and FY 2010 due to the delay in the authorization of spending authority for the fees collected from patent applicants.

A sufficient operating reserve will provide the USPTO with time to continue at an adequate operating tempo during temporary periods of significant revenue disruption; i.e., maintaining long-term operational goals versus short-term crisis-based spending changes that could delay delivering on the Administration's Priority Goal and the USPTO's performance commitments – reducing the patent application backlog and pendency.

The operating reserve will also enable the USPTO to continue to support unplanned near-term stakeholder needs such as growth in application filings, and operational adjustments in support of organizational improvements. Despite all due diligence in planning and analysis, new needs arise in any dynamic operational environment and other transformative changes can lead to temporary changes in the revenue stream.

Maintaining our operating tempo during a temporary revenue downturn is also important given pending workload that USPTO already has underway. The USPTO entered FY 2012 with at least \$700 million dollars of work on patent applications that still require adjudication, and for which fees were already paid. A more robust reserve will help ensure that the USPTO is able to pay for the work it is expected to undertake at the performance level the customer expected.

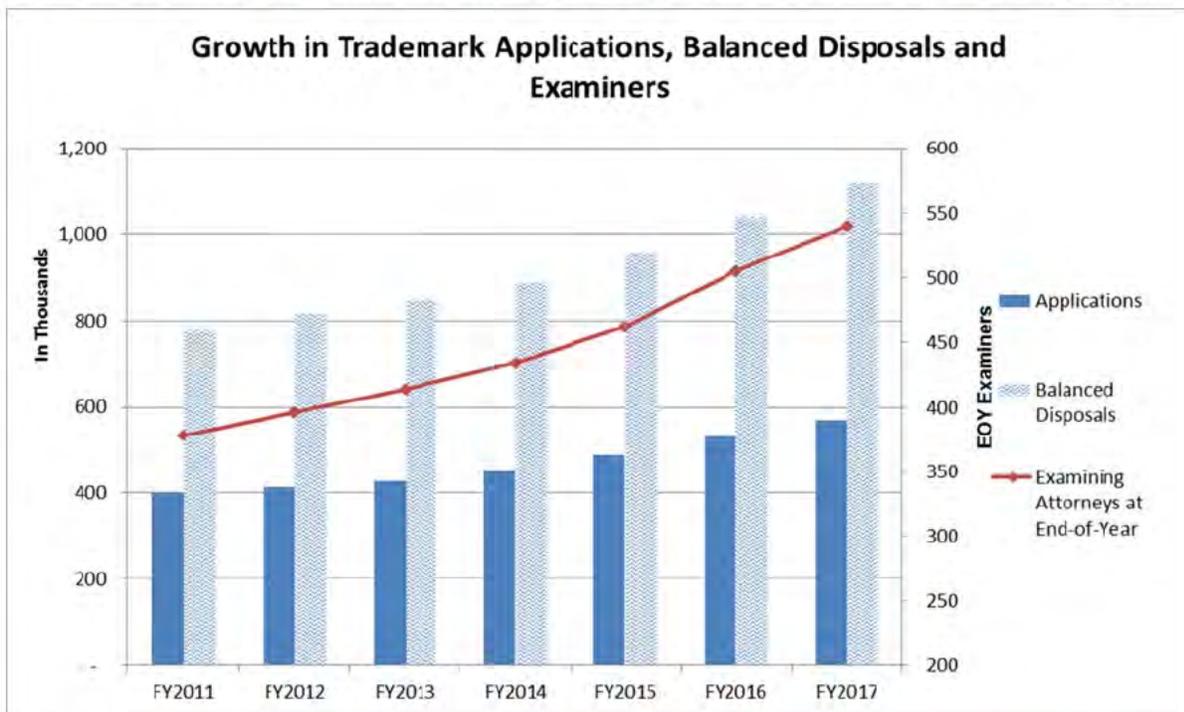
Finally, the operating reserve will be used to move the patent business to a sustainable financial position by addressing normal fluctuations in fee collections, obligations, and timing of annual Congressional spending authority. For example, the operating reserve will provide sufficient capital to operate the growing patent business when revenue stream and availability are uncertain; supplement annual fee collections when they fall short of estimates to preserve the planned operational capacity necessary to deliver on patent performance goals; or provide additional resources when production requirements grow due to unexpected increases in application filings.

During the five year planning horizon included in the FY 2013 President's Budget, the USPTO expects that the improved fee structure planned for a February 2013 implementation will not only provide the USPTO with the resources necessary to execute on the performance goals and plans, it will also begin funding the requirement for an operating reserve. The Agency anticipates reaching the three month operating reserve target in FY 2015. This is the same timeframe that the USPTO anticipates meeting its patent application backlog and pendency targets. The USPTO expects to review patent fees on at least a biennial basis after initial fee adjustments expected in February 2013. As the USPTO continues to make progress during FY 2013-2014 in meeting its pendency performance and operating reserve targets, the results of the next fee review may lead to regulatory actions as early as FY 2015 to reduce fees to a level that would sustain desired levels for the long term.

The USPTO recognizes that the optimal operating reserve size may change over time as economic volatility and enterprise risk changes. Therefore, the Agency will reevaluate the optimal operating reserve size every two years during the annual budget formulation cycle. Likewise, a comprehensive review of the operating reserve balance, including updated projection estimates, will be completed every year while formulating the annual budget.

**Trademark Business: Five-Year Horizon**

For Trademarks, the USPTO has committed to maintaining an average first action pendency of 2.5 to 3.5 months and an average final total trademark pendency of 12.0 months. As shown below, trademark applications are growing at an average rate of about eight percent over the five-year planning horizon. Given this continued growth in applications, Trademarks will need to continue increasing its Trademark attorney staffing levels to maintain its pendency targets.



Trademarks	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017
Applications	398,667	413,000	428,000	450,000	488,000	532,000	570,000
Growth Rate	8.1%	3.6%	3.6%	5.1%	8.4%	9.0%	7.1%
Balanced Disposals	780,821	818,600	848,600	889,000	957,000	1,042,000	1,121,000
<b>Performance Measures</b>							
Avg. First Action Pendency (Months)	3.1	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5
Avg. Total Pendency (Months)	10.5	12.0	12.0	12.0	12.0	12.0	12.0
Examining Attorneys at End-of-Year	378	396	414	434	462	505	539

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This five-year framework to achieve these performance targets requires the trademark budgetary resources, projected fee collections, and operating reserve shown in the table below.

**Trademark Budgetary Resources vs. Budgetary Requirements**

		(Dollars in Millions)						
		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
<b>Projected Fee Collections</b>								
	Low Fee Estimate*	215	250	246	253	259	277	292
	Working Fee Estimate*	215	257	271	285	292	311	328
	High Fee Estimate*	215	263	282	306	319	344	365
<b>Budgetary Requirements</b>		213	259	272	284	290	300	310
<b>Current Year Funding Operating Reserve</b>								
	Low Fee Estimate	3	(9)	(26)	(31)	(32)	(24)	(17)
	Working Fee Estimate	3	(2)	(1)	1	2	10	19
	High Fee Estimate	3	3	10	22	28	43	56
<b>Cumulative Funding Operating Reserve Balance **</b>								
	FY 2010							
	Target Operating Reserve	71	86	91	95	97	100	103
	Operating Reserve Ending Balance	100	103	100	101	102	113	131
	Over/(Under) Target Balance	32	15	9	6	6	13	28

\*Each of the above fee estimates includes other income collected such as reimbursable agreements and recoveries in the amounts of approximately \$4M each year

\*\*See discussion about operating reserve below.

The table compares the estimated fee collections and other income at three levels (high, working, and low) against the budgetary requirements for each fiscal year. For the short-term (i.e., FY 2012 and FY 2013), the ranges reflect the inherent sensitivity and volatility of predicting fluctuations in the economy and market environment, interpreting policy and process efficiencies, and developing workload and fee collection estimates from assumptions of these elements. For the longer-term (i.e., FY 2014 and beyond), the value of the ranges is less significant because the USPTO continually modifies its assumptions as new information becomes known or as current-year trends dictate. Therefore, the cumulative funding operating reserve balance is shown only for the working level fee estimate.

As shown above, the Trademark budgetary requirements continue to increase by about \$50 million through FY 2017 compared to the FY 2012 level, primarily due to increased workload and the need to hire additional Trademark examining attorneys. With a sustained economic recovery, new application filings are expected to resume their historical growth patterns and increase by more than 150,000 classes by FY 2017 compared to FY 2012. To process the incremental workloads, the Trademark organization needs a larger pool of examining attorneys, especially after several years of attrition, and it needs to enhance its business tools and processes to further enhance automation and efficiency gains. The budgetary requirement increase is also due to the on-going development program for a modern and cost-effective IT infrastructure and business tools.

To continue promoting confidence in the United States' IP system, the USPTO plans to maintain a trademark operating reserve equal to four months of operating expenses (budgetary requirements). The operating reserve is necessary to absorb and respond to temporary anomalous changes in the economy and the USPTO's operating and financial environments. In the past, the Trademark organization experienced large magnitude declines of 10 to 20 percent a year. Research has found that large fee-funded agencies without an operating reserve can be thrown into cash flow stress – like that which the USPTO experienced in FY 2009 due to the economic recession and FY 2010 due to the delay in the authorization of spending authority for the fees collected from patent applicants. The existing trademark operating reserve permitted

the Trademark business to continue on its path for long-term decision making and delivering on the USPTO's performance commitments – maintain the trademark pendency goals.

The USPTO estimates that the financial risk associated with the Trademark business is slightly higher than that of the Patent business, which necessitates a slightly higher target operating reserve level. This increased risk is due to the (a) increased volatility related to economic fluctuations and (b) greater percentage of fees that are collected from application filings. The operating reserve concept of operations has been proven through operating the Trademark business. The trademark operating reserve was used to keep the Trademark business in a sustainable financial position during fiscal years 2009 and 2010 by addressing normal day-to-day fluctuations in fee collections, obligations, and timing of annual Congressional spending authority. For example, the trademark operating reserve provided sufficient capital to operate when revenue stream and availability were uncertain; it supplemented annual fee collections when they fell short of estimates to preserve the planned operational capacity necessary to deliver on trademark performance goals; and are providing additional resources for revitalizing the trademark information technology portfolio and maintain operational capacity while production requirements grow.

During the five year planning horizon included in the FY 2013 President's Budget, the trademark operating reserve is already slightly above the optimal operating reserve target of four months operating expenses. The USPTO expects to review trademark fees on at least a biennial basis, in conjunction with maintaining its pendency performance and operating reserve targets. The results of the next fee review may lead to regulatory actions to reduce fees to a level that would sustain desired levels for the long term.

The USPTO recognizes that the optimal operating reserve size may change over time as economic volatility and enterprise risk changes. Therefore, the Agency will reevaluate the optimal operating reserve size every two years during the annual budget formulation cycle. Likewise, a comprehensive review of the operating reserve balance, including updated projection estimates, will be completed every year while formulating the annual budget.

## FY 2013 President's Budget

### USPTO Fee Collection Estimates/Ranges

As a fee-funded Agency, the USPTO relies on user fee collections, which may fluctuate based on income streams, to fund operations. Due to inherent variability in estimating future year fee collections, the USPTO is presenting a range of fee collection estimates for this FY 2013 President's Budget, as it did in the FY 2012 President's Budget.

#### Economic and Market Outlook

The USPTO operating structure is like a business in that it receives requests for services – applications for patents and trademark registrations – and charges fees projected to cover the cost of performing all of the services it provides. Requests for USPTO services and products are dependent upon many factors, including economic activity in the United States and around the world. The USPTO considers a number of economic factors and relevant indicators when forecasting its workloads (requests for services and products). Major factors include the overall condition of the U.S. and global economies, spending on technological innovation activities, and investments leading to the commercialization of new products and services. The three relevant indicators used by the USPTO are Real Gross Domestic Product (RGDP), Research and Development (R&D) expenditures, and Venture Capital (VC) investments. These indicators are correlated with USPTO patent and/or trademark application filings, which are the key drivers of patent and trademark workloads. These indicators also provide insight into market conditions and the management of IP portfolios, which influence process requests for the year, and post-issuance decisions to maintain patent protection.

RGDP, the broadest measure of economic activity, is anticipated to grow approximately 3.0 percent for FY 2013 based on Administration and Congressional Budget Office (CBO) estimates. Although many of the defining indicators of economic cycles point towards renewed expansion, considerable uncertainty remains regarding the current and near-future prospects for growth. This uncertainty affects anticipated USPTO workloads and fee collection estimates.

#### Developing Workload and Fee Collection Estimates

Economic activity is an important consideration when developing workload forecasts, primarily patent and trademark application filings. In addition to economic factors, the USPTO considers overseas activity, policies and legislation, process efficiencies, and anticipated applicant behavior when preparing estimates. Estimates of incoming workload are developed after researching and modeling these elements.

Estimates of workload production and examination and process requests are developed incorporating the realization of efforts of the *USPTO 2010-2015 Strategic Plan*, identifying and implementing the efficiencies, tools, and policies necessary to increase examination capacity and improve efficiency. These estimates factor in the resources available to complete the work. There are certain process actions that are mandatory and other actions that may be considered discretionary, such as purchasing an extended response timeframe within which to respond to USPTO actions. These discretionary actions are affected by current economic and market conditions.

Forecasts of post allowance activities, maintenance of patents in force and/or renewal of trademark registrations are developed using the same assumptions on the economic environment as incoming work. Exclusivity of post allowance rights are affected by careful management of IP portfolios against current economic and market conditions.

All workload estimates are consistently compared to past and current workloads, and projection models are regularly adjusted with additional data, knowledge, and experience. These workload estimates are then transformed into individual estimates for each of the nearly 300 fee

codes on the USPTO fee schedule. These individual estimates, multiplied by the accompanying fee amounts, become our fee collections estimate. The FY 2013 estimates include assumptions of payment behavior changes in advance of an adjusted fee schedule and estimates of elasticity (a measurement of how sensitive patentees are to fee amounts or changes).

Considering the inherent sensitivity and volatility of predicting fluctuations in the economy and market environment, interpreting policy and process efficiencies, including the effects of adjusting the patent fee schedule, and developing workload and fee collection estimates from assumptions of these elements, the USPTO prepares a high-to-low range of fee collection estimates. This range positions the Agency with the operational flexibilities necessary to efficiently operate within an acceptable level of uncertainty.

### **Patent Fee Collections**

Patent fees are collected for patent related services and products occurring at different intervals within the patent application examination process and over the life of the pending patent application and granted patent. FY 2013 estimated patent fee collections include amounts expected to be received for applications filed in FY 2013, as well as work processed in FY 2013 (issues), examination and process requests for the year, and post-issuance decisions to maintain patent protection. More than half of all patent fee collections are from issue and maintenance fees, which essentially subsidize examination activities. Changes in application filing levels have an immediate impact on current year fee collections because fewer patent application filings mean fewer fees collected in the current year that are devoted to production-related costs, such as new examining staff and overtime. The resulting reduction in production activities, in turn, creates an out year impact because less production output in one year results in fewer issue and maintenance fee payments in future years.

Patent fee collections are estimated to be between \$2,569 and \$2,842 million for FY 2013. These projections are based on assumptions that patent filings will increase between 2 to 6 percent, issues will reflect strengthened examination capacity and efficiencies, and patent maintenance fee payments will continue to be strong.

### **Trademark Fee Collections**

Trademark fees are paid in advance of actions taken by the USPTO. FY 2013 estimated trademark fee collections include amounts expected to be paid for applications filed in this year, as well as affidavit and renewal fees paid on registrations being renewed at ten-year intervals. More than half of all fees collected for Trademark related services and products are from trademark filings, which are correlated to the strength of the economy and individual businesses.

Trademark fee collections are estimated to be between \$242 and \$278 million for FY 2013, based on the economic outlook and the expectations of the growth of trademark application filings will be between -10 to 7 percent in FY 2013.

### **Fee Rate Assumptions**

The FY 2013 fee collection estimates are based on the provisions of the AIA, including the 15 percent interim increase to patent fees which went into effect on September 26, 2011, an inflationary increase to patent fees based on an assumed Consumer Price Index (CPI) annual increase of 1.9 percent, and new patent fees as established by provisions of the AIA, such as inter partes review, post grant review and supplemental examination. The interim increase to patent fees will be replaced by a new fee structure that is expected to be in effect by February 2013 based on fee setting authority provided under the AIA.

## **FY 2013 President's Budget**

The USPTO will work with stakeholders to adjust the fee structure by regulation to better align fees with the cost of providing services with the Fee Setting Authority provided in the AIA. An improved fee schedule designed to provide the USPTO with sufficient financial resources to facilitate the effective administration of the U.S. IP system, and developed with a rigorous and transparent review process, is expected to be implemented in February 2013. The improved fee schedule will include a 75 percent discount to fees for filing, searching, examining, issuing, appealing and maintaining patent applications for entities meeting the micro-entity definition provided for in the AIA and continue the 50 percent discount to the fees for entities meeting the small entity definition.

### **Continued Assessment of Estimates**

The USPTO monitors the economic environment carefully by following economic indicators and trends in international IP offices, and holding discussions with domestic filers of patent and trademark applications, as well as with the Patent and Trademark Public Advisory Committees. The USPTO analyzes workloads and fees collected on a continual basis to assess current and future year estimates and identify trends and behaviors.

## The USPTO Information Technology (IT) Portfolio

IT is a mission-critical enabler for every USPTO business function. The productivity of patent and trademark operations is directly correlated to the performance of its IT systems, which are in need of modernization. To accomplish its performance-based strategies, the USPTO always is engaging in multi-year efforts to upgrade its business systems, IT capability and IT infrastructure supporting that capability.

The USPTO has produced an overview of its *Information Technology Plan*, which contains additional information for the initiatives and systems described below. The overview can be found at the USPTO's website.

### **The IT Portfolio Budget**

The USPTO requires \$465.0 million in FY 2013 for its IT portfolio, which will support the Office's four programs: Patents, Trademarks, IP Policy, Protection and Enforcement, and Management. Additionally, \$56.5 million in Patent and Trademark organization support cost are included as a part of the total information resources required of \$521.5 million. The FY 2013 budget requirements are managed as follows:

Operations and Maintenance (O&M) funds are required "to keep the trains running" at the current level of functionality, performance and in accordance with Federal laws, regulations, and directives. Funds in this category are used for compensation for all Office of the Chief Information Officer (OCIO) government employees, contractor services, hardware maintenance and routine service agreements, software license renewal and purchase, telecommunications, and IT support for the nationwide workforce program.

IT Capital Improvement Funds (CIF) were created in 2008 to recognize that future success for the Office depends upon a transparent and consistent level of funding for IT capital improvements from year to year. CIF resources are administered in accordance with USPTO's Capital Planning and Investment Control (CPIC) process. The USPTO manages these resources to ensure a consistent level of funding for IT capital improvements from year-to-year as projects are initiated and completed, new projects are approved, and as adjustments are warranted by other factors, such as staffing levels. The CIF consists of three components as follows:

- Business Project funds are required for development and major enhancement projects designed to improve IT systems to meet business unit needs.
- Enterprise Infrastructure Project funds are required to bring the IT infrastructure to a level that will support the USPTO's 21<sup>st</sup> century strategic objectives.
- Capital Hardware Replacement Program (CHiRP) funds are required to replace IT equipment on a regular cycle in order to keep operations and maintenance costs stable and low, to take advantage of vendor releases for new Commercial Off-The-Shelf (COTS) products, and to manage capital hardware-replacement projects that will improve business capabilities.

New Hires & Telework Equipment includes the funds required to purchase new end-user equipment for new hires (e.g., universal laptops, monitors, printers, etc.), and new teleworker equipment, such as docking stations, monitors, printers, routers, etc. The USPTO has created a single account for funding this equipment.

### **Total USPTO IT Budget by Percentage**

The following tables show the percentage of IT funds allocated to the three major categories in FY 2012 through FY 2017.

## FY 2013 President's Budget

Funding Category	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Operations & Maintenance	60%	60%	64%	66%	67%	67%
Capital Improvement Fund	37%	38%	35%	33%	32%	32%
New Hire & Telework Equip	3%	2%	1%	1%	1%	1%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

### USPTO Capital Improvement Fund

Within the CIF category, the table below shows that the trend for capital improvement projects is shifting from major development projects, for example, development of PE2E and changes to the Patent legacy systems, toward infrastructure projects and hardware replacement.

CIF Category	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Business Projects	68%	69%	52%	49%	48%	47%
Infrastructure Projects	13%	13%	17%	16%	16%	16%
CHiRP	19%	18%	31%	34%	36%	37%
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

### IT Portfolio by Program

#### Patent Program

A key objective in the USPTO Strategic Plan is to modernize IT Systems by developing and implementing the PE2E IT capability. The Patent Organization proposes to transition the patent application process to one in which the majority of applications are submitted, handled, and prosecuted electronically. The IT architecture and systems currently in place are inadequate and unable to evolve to meet the demands of the future; and databases containing patent data are already some of the world's largest, and continue to grow at multiple terabytes per year. Therefore, the continued dependency on inefficient and outdated automation will lead to an inability to support the USPTO mission of granting IP rights and disseminating information contained in those patents.

The following three strategies are key to PE2E:

- Develop and implement eXtensible Markup Language (XML) for all data from application to publication;

As of FY 2011, PE2E deployed two environments providing XML to examiners:

- New technology to provide XML versions of all patent case documents; this environment has been deployed to its designated pilot audience, the Central Reexamination Unit (CRU)
- Legacy-based technology to provide XML versions of key patent case documents (viz., claims, specification, and abstracts) for 60,000 patent applications; this environment has been deployed to more than 200 examiners in the Patent Examination Corps.

Both environments provide assistance to examiners doing their job (e.g., claim trees).

In FY 2012, the USPTO will continue this success by expanding the availability of XML in both the PE2E and the Patent Application Text Initiative (PATI) environments.

- Investigate building an infrastructure for PE2E based on “Cloud” Computing infrastructure in one or more consolidated data centers that will serve “virtual” patent systems.

In FY 2013, the USPTO will begin planning and designing a new Cloud Computing infrastructure for PE2E.

- Redesign and re-architect Patent IT Systems to provide End-to-End Electronic processing to fill gaps in legacy Patent IT systems that now require Patent employees and external stakeholders to perform labor-intensive, manual business processes.

As of FY 2011, the USPTO introduced and deployed industry-leading technologies that offer the following benefits:

- Scalable infrastructure that will meet the needs of a growing, geographically dispersed Patent Corps (1,500 new examiners per year)
- Stable technology that will minimize service outages
- Mature, well-supported tools that provide large support communities

In FY 2012, the USPTO plans to continue PE2E development by providing quarterly releases of new functionality to its designated pilot audience (viz., the CRU). Development will focus on the workflow, administration, and creation of examiner correspondence.

In FY 2013, the USPTO will begin incrementally expanding the user base of PE2E to include successively larger segments of the Patent Examination Corps.

The Patent Organization also relies on over 40 legacy systems that support nearly every aspect of patent business operations. These applications are grouped into patent capture and processing systems that focus on initial processing and examination support, and patent search systems that focus on primary search and retrieval and specialized search and retrieval.

Patent Dissemination: Dissemination systems, most of which are accessible via the public [www.uspto.gov](http://www.uspto.gov) Web site, are used to disseminate data about patents, such as patent grants and published patent applications, BPAI decisions, and patent classification information. The USPTO also entered into a no-cost agreement with Google to make the electronic patent public data available on-line. The USPTO provides Google with existing bulk electronic files, which Google hosts without modification for the public free-of-charge.

### **Trademark Program**

This budget request includes \$31.5 million to support the acceleration of the TMNG portfolio primarily in the FY 2012 – 2014 time period. The portfolio has two major components: platform changes and business functionality. Platform changes address system availability and flexibility through separation and virtualization, cloud computing, and infrastructure enhancements which are expected to reduce overall maintenance and operation costs by about 25 percent by:

- Cutting energy consumption by up to 82 percent
- Reducing operating system software support costs by up to 85 percent
- Increasing utilization of servers from 10-15 percent to 70-75 percent
- Providing a more stable environment to improve functionality.

Users will gain a more uniform presentation of data along with updated status information with the release the Trademark Status and Data Retrieval (TSDR) system. TSDR is the primary way that the USPTO communicates with applicants on the processing and examination of their

## **FY 2013 President's Budget**

application – the first system to operate in a virtual environment. Improvements have been made to expand document formats and incorporate WIPO standards for data dissemination. Platform changes are already underway for several systems – all of which are expected to be completed in FY 2013 with the exception of the legacy TRAM system which will be replaced by the end of FY 2014.

Business functionality addresses access and ease of use through a common user interface, web and business services, data access, and program enhancements. As an example, changes to TSDR over the next two years will incorporate Trademark Trial and Appeal Board (TTAB) and Assignment information providing centralized access to trademark information. Functionality project plans, using a Business Architecture (BA) approach, are based on trademark priorities that focus on improving systems that support the core business examination functions in FY 2013 with the completion of end-to-end processing and replacement of internal systems by FY 2015. End-to-end electronic processing is expected to:

- Speed up registration by 4 to 6 weeks with a total pendency at less than 10 months
- Reduce applicants costs by eliminating the more expensive paper-based filings and correspondence
- Improve organizational cost efficiencies by 3 to 5 percent
- Enhance quality of the information and decision-making.

Combined with enhanced access, these operational gains will strengthen the IP system and allow for a broader public base to apply for and register trademarks and continue to invest and reap the benefits of strong brands thus benefiting the American consumers and sustaining economic activities.

The Trademark Organization relies on 27 existing systems that support all areas of Trademark business operations. These “legacy” systems are categorized under six different groupings that focus on e-government, internal operations, records management, Trademark search, Trademark reference and other.

Trademark Dissemination systems, most of which are accessible via the public [www.uspto.gov](http://www.uspto.gov) Web site, are used to disseminate data about trademarks, such as trademark applications and registered marks, decisions of the TTAB, and trademark assignment data. In addition, the USPTO agreement with Google makes the electronic trademark public data available on-line to the public in bulk form.

### **IP Policy, Protection and Enforcement Program**

The Office of Policy and External Affairs (OPEA) is responsible for IP policy, protection and enforcement and relies on the Office of Legislative and International Affairs Document Management System, which contains files for over 200 separate countries, legislative files, subject files, Federal Register notices, public hearings and comments, and treaties and agreements. It is fully text searchable and available on line.

### **Management Program**

The five management offices are the Office of the Under Secretary and Director, General Counsel, Chief Financial Officer, Chief Administrative Officer and Office of Equal Employment Opportunity and Diversity. There are two priorities for the Management Program:

- Fee Processing Next Generation (FPNG) will enable customers to: (1) move from ordering goods and services through PE2E and TMNG to paying for their order using FPNG, (2) make and manage payments on line, (3) receive notifications when fees are due or when

refunds have been issued, (4) electronically request refunds, and (5) tailor their on-line notifications and queries to get financial information to which they are authorized.

- The *Human Resources Line of Business* (HR LOB) solution is a small number of public and private providers (certified by the Office of Personnel Management (OPM)) that offer Human Resource Information System technology services to federal agencies. These shared service centers incorporate existing federal human resource practices and, through the use of leading business practices, enhance human resources services. The sharing of fixed costs of participating agencies across the federal government will realize cost savings and increased efficiency for the USPTO.

Additional existing automated information systems support other functions within the Management Program.

### **IT Infrastructure Portfolio**

Underlying these USPTO programs is a sophisticated IT Infrastructure portfolio. The USPTO is completing a multi-year effort to upgrade its IT infrastructure by:

- Replacing the aging IT infrastructure with expandable, reliable, secure technologies.
- Stabilizing and consolidating data centers.
- Enhancing the Network by upgrading the voice network and expanding the bandwidth to/from headquarters to support the nationwide telework program, support data centers, expand opportunities to disseminate bulk data, and take greater advantage of the Internet.
- Expanding Business Continuity and Disaster Recovery (BC/DR) to reduce, and eventually eliminate, the risk of disruption in systems operations in the event of major failures or catastrophic disaster.
- Migrating to standardized universal laptops.
- Improving Cyber-security.

### **Program Changes**

Program changes for IT projects can be found in the Program Change narrative for the Information Resources (IR) Sub-Activities found in each of the four Program sections, plus the IT Infrastructure and Support Services Sub-Activity found in the Management Program. The following table shows the total program change amounts for FY 2013 and the out years for each of these sub-activities.

## FY 2013 President's Budget

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
Patent IR	\$7,353	(\$24,944)	(\$23,672)	(\$22,275)	(\$20,781)
Trademark IR	(\$1,881)	(\$2,810)	(\$6,933)	(\$10,927)	(\$14,419)
IP PP&E IR	(\$89)	(\$144)	(\$137)	(\$127)	(\$119)
Management IR	\$679	(\$3,437)	(\$10,222)	(\$10,136)	(\$10,133)
Management - IT Infrastructure and IT Support Services	\$15,455	\$42,047	\$44,143	\$49,364	\$51,638
TOTAL	\$21,517	\$10,712	\$3,178	\$5,899	\$6,186

Details about the above program changes can be found as follows:

- Patent Program, Sub-Activity #3 – Patent Information Resources
- Trademark Program, Sub-Activity #3 – Trademark Information Resources
- Intellectual Property Policy, Protection and Enforcement (IP PP&E) Program, Sub-Activity 5 – IP PP&E Information Resources
- Management Program, Sub-Activity #5 – Management Information Resources
- Management Program, Sub-Activity #6 – IT Infrastructure and IT Support Services

# **TOTAL BUDGET AND FINANCING**

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## Exhibit 5 – Summary of Resource Requirements

Department of Commerce  
U.S. Patent and Trademark Office

SUMMARY OF RESOURCE REQUIREMENTS  
(Dollar amounts in thousands)

Page  
No.

	Positions	FTE	Total Obligations
FY 2012 Enacted Budget	11,829	10,970	2,585,045
FY 2012 Adjustments 1)	9	(464)	(78,441)
FY 2012 Current Plan	11,838	10,507	2,506,605
FY 2013 Adjustments to base:	(35)	1,182	193,716
FY 2013 Base	11,803	11,689	2,700,320
Administrative Savings 2)			[-6,120]
plus: 2013 Program changes	1,246	523	119,247
FY 2013 Estimate	13,049	12,212	2,819,568

Comparison by activity:		FY 2011 Actual		FY 2012 Enacted		FY 2012 Current Plan		FY 2013 Base		FY 2013 Estimate		Increase/(Decrease over 2013 Base)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Patents	Pos./Obl.	9,258	1,917,892	10,726	2,289,123	10,736	2,206,477	10,699	2,385,000	11,894	2,499,901	1,195	114,901
	FTE	9,050		9,927		9,501		10,611		11,099		489	
Trademarks	Pos./Obl.	824	199,343	927	231,950	927	240,672	927	250,722	963	251,332	36	609
	FTE	819		885		864		908		932		24	
IP Policy Protection and Enforcement	Pos./Obl.	128	43,660	176	63,972	176	59,455	176	64,598	191	68,335	15	3,737
	FTE	122		159		142		170		181		11	
Total Obligations	Pos./Obl.	10,210	2,160,895	11,829	2,585,045	11,838	2,506,605	11,803	2,700,320	13,049	2,819,568	1,246	119,247
	FTE	9,991		10,970		10,507		11,689		12,212		523	
Adjustments for:													
	Offsetting Fee Collections		(2,303,656)		(2,706,313)		(2,528,872)		(2,953,241)		(2,953,241)		0
	Other Income / Recoveries		(21,125)		(23,000)		(23,000)		(23,000)		(23,000)		0
	Operating Reserve, start of year		(222,674)		(177,705)		(177,705)		(221,972)		(221,972)		0
	Operating Reserve, end of year		177,705		320,972		221,972		495,893		376,646		(119,247)
<b>Total Budget Authority</b>			(208,855)		(1,000)		(1,000)		(2,000)		(2,000)		0
Financing from transfers / other:													
	Amounts Unavailable for Spending		208,855		0		0						
	Transfer to other accounts (+)				1,000		1,000		2,000		2,000		
<b>Total Net Appropriation</b>			0		0		0		0		0		0

1) Reflects the impacts of applicants accelerating fee payments into FY 2011 before the fee increase, thereby reducing FY 2012 fee collections and consequently FY 2012 obligations.

2) Building on USPTO's administrative savings planned for FY 2012 (\$26.3 million), an additional \$6.1 million in savings is targeted for FY 2013 for a total savings in FY 2013 of \$32.4 million.

# FY 2013 President's Budget

Department of Commerce  
U.S. Patent and Trademark Office

**SUMMARY OF RESOURCE REQUIREMENTS**  
(Dollar amounts in thousands)

		2012 Estimate		2013 Estimate		2014 Estimate		2015 Estimate		2016 Estimate		2017 Estimate	
Comparison by activity:		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Patents	Pos./Obl.	10,736	2,206,477	11,894	2,499,901	11,712	2,651,670	11,478	2,758,091	11,444	2,794,775	11,384	2,892,934
	FTE	9,501		11,099		11,697		11,496		11,356		11,309	
Trademarks	Pos./Obl.	927	240,672	963	251,332	990	263,637	1,025	268,762	1,074	277,581	1,111	285,872
	FTE	864		932		962		1,000		1,045		1,085	
IP Policy Protection and Enforcement	Pos./Obl.	176	59,455	191	68,335	192	70,421	193	72,219	194	74,136	195	76,055
	FTE	142		181		185		186		187		188	
Total	Pos./Obl.	11,838	2,506,605	13,049	2,819,568	12,894	2,985,728	12,696	3,099,073	12,712	3,146,492	12,689	3,254,861
	FTE	10,507		12,212		12,844		12,682		12,588		12,582	
Adjustments for:													
	Offsetting Fee Collections		(2,528,872)		(2,953,241)		(3,145,947)		(3,374,925)		(3,431,525)		(3,503,371)
	Other Income / Recoveries		(23,000)		(23,000)		(23,000)		(23,000)		(23,000)		(23,000)
	Operating Reserve, start of year		(177,705)		(221,972)		(376,646)		(559,864)		(858,716)		(1,166,749)
	Operating Reserve, end of year		221,972		376,646		559,864		858,716		1,166,749		1,438,259
<b>Total Budget Authority</b>			<u>(1,000)</u>		<u>(2,000)</u>		<u>0</u>		<u>0</u>		<u>0</u>		<u>0</u>
Financing from transfers / other:													
	Amounts Unavailable for Spending												
	Transfer to other accounts (+)		1,000		2,000								
<b>Total Net Appropriation</b>			<u>0</u>		<u>0</u>		<u>0</u>		<u>0</u>		<u>0</u>		<u>0</u>

## Exhibit 6 – Summary of Reimbursable Obligations

Department of Commerce  
 U.S. Patent and Trademark Office  
**SUMMARY OF REIMBURSABLE OBLIGATIONS**  
 (Dollar amounts in thousands)

	2011 Actual		2012 Enacted		2012 Current Plan		2013 Base Program		2013 Estimate		Increase/ (Decrease)	
	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Reimbursable Obligations	0	5,960	0	7,000	0	7,000	0	7,000	0	7,000	0	0
<b>Total Reimbursable Obligations</b>	<b>0</b>	<b>5,960</b>	<b>0</b>	<b>7,000</b>	<b>0</b>	<b>7,000</b>	<b>0</b>	<b>7,000</b>	<b>0</b>	<b>7,000</b>	<b>0</b>	<b>0</b>
<b>Adjustments to Reimbursable Obligations:</b>												
Other Income	0	(5,960)	0	(7,000)	0	(7,000)	0	(7,000)	0	(7,000)	0	0
<b>Total Budget Authority</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Financing from Transfers and Other:</b>												
Net Appropriation	0	0	0	0	0	0	0	0	0	0	0	0

## Exhibit 7 – Summary of Financing

Department of Commerce  
U.S. Patent and Trademark Office  
**SUMMARY OF FINANCING**  
(Dollar amounts in thousands)

	FY 2011 Actual	FY 2012 Enacted	FY 2012 Current Plan	FY 2013 Base	FY 2013 Estimate	Increase/ Decrease/ over 2013 Base
Total Direct Obligations	2,154,935	2,578,045	2,499,605	2,693,320	2,812,568	119,247
Reimbursable Obligations	5,960	7,000	7,000	7,000	7,000	-
Total Obligations	2,160,895	2,585,045	2,506,605	2,700,320	2,819,568	119,247
Offsetting collections from:						
Non-Federal sources / User Fee Collections	(2,303,656)	(2,706,313)	(2,528,872)	(2,953,241)	(2,953,241)	0
Other Income	(5,960)	(7,000)	(7,000)	(7,000)	(7,000)	0
Adjustments for:						
Recoveries	(15,165)	(16,000)	(16,000)	(16,000)	(16,000)	0
Unobligated balance, start of year	(222,674)	(177,705)	(177,705)	(221,972)	(221,972)	0
Unobligated balance, end of year	177,705	320,972	221,972	495,893	376,646	(119,247)
<b>Total Budget Authority</b>	(208,855)	(1,000)	(1,000)	(2,000)	(2,000)	0
Financing:						
Amounts Unavailable for Spending	208,855					
Transfer to other accounts (+)	0	1,000	1,000	2,000	2,000	
<b>Net Appropriation</b>	0	0	0	0	0	0

## Exhibit 8 – Adjustments to Base

Department of Commerce  
U.S. Patent and Trademark Office

**ADJUSTMENTS TO BASE**  
(Dollar amounts in thousands)

	<u>FTE</u>	<u>Amount</u>
<b>Adjustments to Base:</b>		
2012 Pay raise		-
2013 Pay raise		4,986
Full-year cost in 2013 of positions financed for part-year in 2012	1,182	120,619
Other Compensation Adjustments		35,498
Civil Service Retirement System (CSRS)		(2,409)
Federal Employees Retirement System (FERS)		4,096
Thrift Savings Plan		688
Federal Insurance Contribution Act (FICA) - OASDI		2,088
Health insurance		5,087
Post-Retirement Benefits to OPM		10,321
Rental payments to GSA		1,818
Printing and reproduction		1,503
Working Capital Fund		-
General Pricing Level Adjustment		9,420
<b>Total, adjustments to base</b>	1,182	193,715

## Exhibit 9 – Justification of Adjustments to Base

Department of Commerce  
U.S. Patent and Trademark Office

### JUSTIFICATION OF ADJUSTMENTS TO BASE

(Dollar amounts in thousands)

	FTE	Amount \$000	FTE	Amount \$000
Other Changes:				
<u>Pay Raises</u>				4,986
2013 pay increase and related costs				
A general pay raise of 0.5% is assumed to be effective January 1, 2013				
Total cost in 2013 of pay increase				
Payment to Working Capital Fund		4,986		
Total, adjustment for 2013 pay increase		0		
		4,986		
<u>Full-year cost in 2013 of positions financed for part-year in 2012</u>			1,182	120,619
An increase of \$120,619 is required to fund the full-year cost in 2013 of positions financed for part-year in 2012. The computation follows:				
Full-year cost of personnel compensation	1,331	103,287		
Less personnel compensation included in the 2012 budget	(149)	(8,680)		
Subtotal, personnel compensation	1,182	94,606		
Adjustment for 2012 pay raise for 3/4 of year	0			
Add'l amount required for personnel compensation	1,182	95,606		
Benefits	0	26,013		
Total adjustment-to-base	1,182	120,619		
<u>Other Compensation Adjustments</u>				35,498
This adjustment reflects the net difference between USPTO detailed Compensation Model and the prescribed formulation. As a result of increased hires, WIGI, and accelerated promotions for Patent hires, USPTO has a higher requirement than could be absorbed through the formulation process. The Compensation Model calculates on an individual basis compensation including factoring in WIGI, promotions, hires, attritions, and lapses.				
<u>Changes in compensable days</u>				0

Department of Commerce  
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JUSTIFICATION OF ADJUSTMENTS TO BASE  
(Dollar amounts in thousands)

Civil Service Retirement System (CSRS)

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 4.52% in 2012 to 1.4% in 2013. Contribution rates will remain the same.

Regular:

2013 \$1,110,273,201 x .014 x .07

2012 \$1,110,273,201 x .045 x .07

FTE	Amount \$000	FTE	Amount \$000
			(2,409)
	1,088		
	3,497		
	<u>(2,409)</u>		
	(2,409)		

Total adjustment-to-base

Federal Employment Retirement System (FERS)

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 95.5% in 2012 to 98.6% in 2013. The contribution rate for regular employees will remain the same.

Regular:

2013 \$1,110,273,201 x .986 x .119

2012 \$1,110,273,201 x .955 x .119

Total adjustment-to-base

Thrift Savings Plan

The cost of Agency contributions to the Thrift Savings Plan will also rise as FERS participation increases. The contribution rate is expected to remain 2%.

Regular:

2013 \$1,110,273,201 x .986 x .02

2012 \$1,110,273,201 x .955 x .02

Total adjustment-to-base

			4,096
	130,273		
	126,177		
	<u>4,096</u>		
	4,096		
			688
	21,895		
	21,206		
	<u>688</u>		

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**JUSTIFICATION OF ADJUSTMENTS TO BASE**  
(Dollar amounts in thousands)

	FTE	Amount \$000	FTE	Amount \$000
<u>Federal Insurance Contribution Act (FICA)</u>				2,088
As the percentage of payroll covered by FERS rises, the cost of OASDI contributions will increase. In addition, the maximum salary subject to OASDI tax will increase from \$106,800 in 2012 to \$110,175 in 2013. The OASDI tax rate will remain 6.2% in 2013.				
Regular:		59,952		
2013 \$1,110,273,201 x .986 x .8833 x .062		58,067		
2012 \$1,110,273,201 x .955 x .8833 x .062		1,885		
Other Salaries:		6,466		
2013 \$118,897,677 x .986 x .8833 x .062		6,263		
		203		
Total adjustment-to-base		2,088		
<u>Health Insurance</u>				5,087
Effective January 2011, this bureau's contribution to Federal employees' health insurance premiums increased by 8.67%. Applied against the 2012 estimate of \$58,700,000, the additional amount required is \$5,087k.				
<u>Post-Retirement Benefits to OPM</u>				10,321
The USPTO is required to fund the present costs of post-retirement benefits for the Federal Employees Health Program (FEHB), Federal Employees Group Life Insurance and the Civil Service Retirement System (CSRS) and Federal Employees Retirement System pension liabilities. Funds for this purpose are transferred to the Office of Personnel Management. The required increase reflects the increase in retiree medical costs along with the increase in number of employees.				
<u>Rental Payments to GSA</u>				1,818
GSA rates are projected to increase 1.7% in 2013. This percentage was applied to the 2012 estimate to arrive at an increase of 1,818k.				
<u>GPO Printing</u>				1,503
GPO has provided an estimated rate increase of 1.4%. This percentage was applied to the 2012 estimate to arrive at an increase of \$1,503k.				
<u>Working Capital Fund</u>				0
<u>General Pricing Level Adjustment</u>				9,420
This request applies OMB economic assumptions for FY 2012 to object classes where the prices the government pays are established through the market system. Inflation Factors at an average of 1.4% were applied to travel, transportation of things, rental payments to others, communications, utilities and miscellaneous charges; other contractual services; supplies and materials and equipment.				
Total, Adjustments to Base			1,182	193,715

# **PATENT PROGRAM**

## Exhibit 10 – Program Performance: Total Obligations

**Department of Commerce**  
**U.S. Patent and Trademark Office**  
**PATENT PROGRAM**  
**PROGRAM AND PERFORMANCE: TOTAL OBLIGATIONS**  
 (Dollar amounts in thousands)

Activity: Patent Program

Sub-Activity:		FY 2011		FY 2012		FY 2013		FY 2013		Increase/	
		Actual		Current Plan		Base		Estimate		(Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Patent Examining	Pos./Obl	8,242	1,371,907	9,453	1,517,144	9,414	1,651,489	10,421	1,732,679	1,007	81,190
	FTE	8,039	-	8,396	-	9,328	-	9,707	-	379	-
Patent Appeals and Interferences	Pos./Obl	188	31,479	290	40,615	290	51,780	379	60,751	89	8,971
	FTE	187		226		287		330		43	-
Patent Information Resources	Pos./Obl	273	93,824	291	151,081	299	153,134	354	160,487	55	7,353
	FTE	270		290		299		335		36	-
Subtotal Direct	Pos./Obl	8,703	1,497,210	10,034	1,708,840	10,003	1,856,403	11,154	1,953,917	1,151	97,514
	FTE	8,495	0	8,912	0	9,915	0	10,372	0	457	0
Management Goal - Allocated	Pos./Obl	555	420,682	702	497,637	696	528,597	740	545,984	44	17,387
	FTE	555		589		688		719		31	
<b>Total</b>	Pos./Obl	9,258	1,917,892	10,736	2,206,477	10,699	2,385,000	11,894	2,499,901	1,195	114,901
	FTE	9,050		9,501		10,603		11,091		489	

## Exhibit 12 – Justification of Patent Program and Performance

### FY 2013 Patent Program Summary

Program:	<b>Patent Program</b>	
Base Resources:	\$2,385.0 million	FTE: 10,611
Bureau:	USPTO	
Budget Activity:	Patent Program	

For FY 2013, the USPTO requires an increase of \$293.4 million and 1,598 FTE over the FY 2012 Current Plan (including a program change of \$114.9 million and 489 FTE over the FY 2013 base program) for a total of \$2,499.9 million and 11,098 FTE for the Patent Program.

### Program Description

**Base Justification for FY 2013:**

The USPTO's Patent Program, through its strategic goal to optimize patent quality and timeliness, supports the Department's strategic objective to "facilitate intellectual property protection by reducing patent and trademark pendency and increasing quality of issued patents and trademarks."

The Patent Program also supports the Administration's Priority Goal as follows:

Advance commercialization of new technologies by reducing patent application pendency and backlog. By September 30, 2012, the Department will reduce patent pendency for first action and for final actions from the end of 2011 levels of 28.0 and 33.7 months to 16.9 months and 30.1 months, as well as the patent backlog of 670,000 applications to 529,000 applications.

These goals will be met by achieving the following objectives as set forth in the *USPTO 2010-2015 Strategic Plan*:

- Re-engineer Patent Process to Increase Efficiencies and Strengthen Effectiveness
- Increase Patent Application Examination Capacity
- Improve Patent Pendency and Quality by Increasing International Cooperation and Work Sharing
- Measure and Improve Patent Quality
- Improve Appeal and Post-Grant Processes
- Develop and Implement the Patent End-to-End Processing System
- Improve Employee and Stakeholder Relations

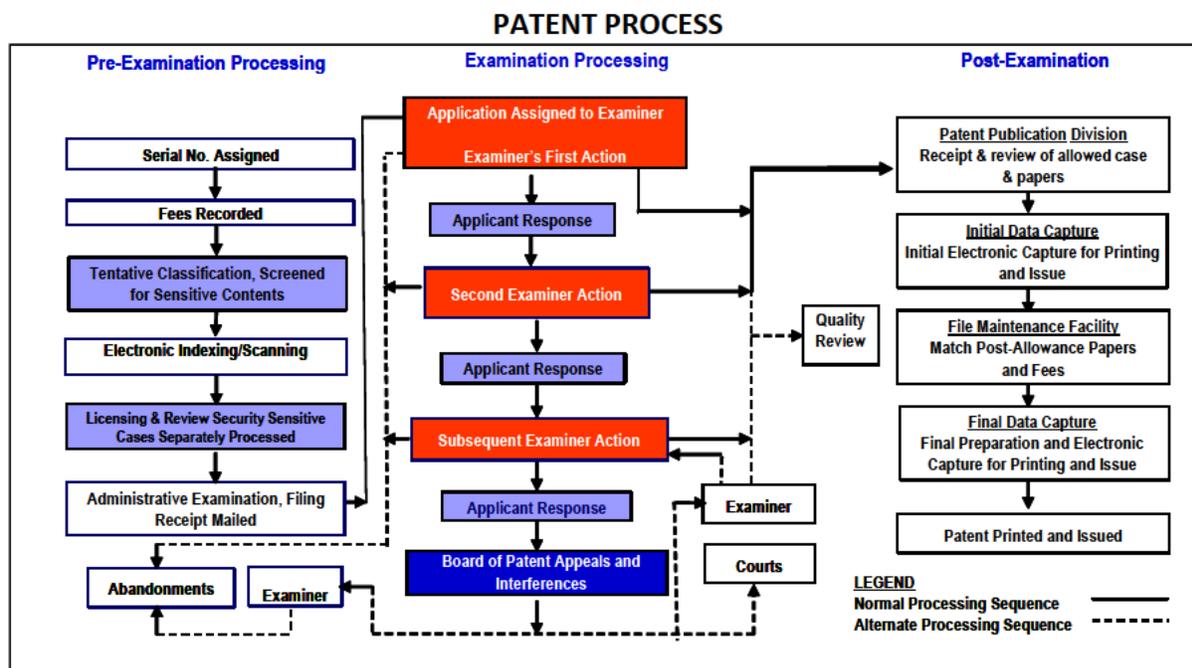
The base Patent Program (\$2,385.0 million and 10,611 FTE) consists of the following four sub-activities -- described below -- which directly or indirectly contribute to the attainment of the patent strategic and priority goals and objectives:

- Sub-Activity #1: Patent Examining
- Sub-Activity #2: Patent Appeals and Interferences

## FY 2013 President's Budget

- Sub-Activity #3: Patent Information Resources
- Sub-Activity #4: Management Goal – Allocated

The Patent Program is dedicated to carrying out the Agency's mission to deliver "...high quality and timely examination of patent ... applications..." in accordance with laws, regulations and practices, and consistent with the strategies and objectives in the *USPTO 2010-2015 Strategic Plan*. The patent process consists of the activities shown on the following schematic and major functions, as described below, with budget estimates for sub-activities allocated according to processing functions.



### **Sub-Activity #1: Patent Examining (\$1,651.5 million and 9,336 FTE)**

#### **Patent Pre-Examination Processing - \$152.9 million and 165 FTE**

When a patent application is received at the USPTO, the office conducts an administrative review to determine compliance with requirements for form, content, adequacy, and payment of appropriate fees. Currently, approximately 93 percent of patent applications are filed electronically. If the application is filed in paper form, it is converted to an electronic image. From this point forward, the application is managed electronically, including assignment of the official filing date and application tracking number, and inputting the patent bibliographic data (e.g., filing date, priority date, abstract) in the PALM system.

Most applications are subject to the pre-grant publication process, whereby the application is published 18 months after the earliest effective filing date, as is the norm in most patent examining countries. Where an applicant certifies that he/she has not and will not file a counterpart application in a country that provides for 18-month publication, the USPTO will not publish the application unless and until a patent is granted (currently, only about 6 percent of applicants opt out). Where the applicant does not make such a certification, the USPTO publishes the application at 18 months from its filing date to provide an English language publication for those applications whose counterpart applications are already being published abroad (generally in languages other than English).

**Patent Examination Processing - \$1,418.8.5 million and 9,141 FTE**

In this stage, the application is placed on the docket of one of the approximately 7,900 UPR and design patent examiners working in one of the nine technology centers. During the examination process, the patent examiner compares the application's subject matter to a large body of technological information to determine the patentability of the claimed invention, whether or not the invention is new, useful, non-obvious, adequately described or enabled, and claimed in definite terms that are clearly understood by individuals knowledgeable in that subject matter.

During the search and patentability review, the patent examiner generally performs a first and subsequent second office action on the merits, which can include any of the following actions: office action of rejection, final rejection, abandonment or notice of allowance.

Support for the patent examination process is provided by organizations within the Patent Information Resources sub-activity. A patent classification system is necessary to address the effective assignment of applications for examination, and to improve the system used for locating prior art relevant to determining patentability. The current examiner search files contain more than 11.6 million U.S. patent documents and 33.5 million foreign patent documents. Examiners also have access to over one thousand commercial databases containing non-patent technical literature documents.

*Quality and Training* are integral parts of the entire examination process, and the resources required for a quality examination and quality patent are integrated with the total examination costs. This includes the quality assurance program whereby a random sample of patent examiners' work products are reviewed to provide timely, reliable and meaningful indicators of examination quality, as well as resources for carrying out the new initiatives identified in the *USPTO 2010-2015 Strategic Plan* and in this budget.

The USPTO has recently given all of its patent examiners detailed training in efficient interview techniques, and in compact prosecution. These are all targeted to streamline the examination process by working with the applicants to identify and resolve issues early in the process, thereby reducing patent application backlogs and overall pendency.

*Policy and Legal* also are critical components of the patent examination process. These components include establishing patent examination and documentation policy standards, serving as the authority on patent laws, rules, and examining practices and procedures; implementing Court decisions; publishing rules for public comment and then publishing final rules; and maintaining the Manual of Patent Examining Procedure. Policy and legal include processing petitions and PCT legal advisory activities.

**Patent Post-Examination Processing - \$79.8 million and 30 FTE**

Patent issuance occurs after the examiner has allowed the application, and the issue fee has been paid. The application is then prepared for issue, printing, and publication in a weekly edition of the electronic *Official Gazette* for dissemination to the public. Post-issue activities also include processing withdrawals and assignments.

**Sub-Activity #2: Patent Appeals and Interferences (\$51.8 million and 287 FTE)**

If the applicant has received two actions from the examiner and disagrees with the position of the examiner, the applicant can appeal the examiner's decision by filing a notice of appeal and an appeal brief. The examiner may file an examiner's answer to the appeal brief. The BPAI will make a decision based upon the record. The BPAI also determines priority and patentability of inventions in interferences.

## **FY 2013 President's Budget**

### **Sub-Activity #3: Patent Information Resources (\$153.1 million and 299 FTE)**

Patent Information Resources includes a base level of resources for on-going patent information management activities, making capital improvements to patent business systems, and operating and maintaining existing patent business systems, as follows:

Patent Information Management activities are carried out within the Patent Organization and provide patent scientific, technical, search support and classification services, as well as program and user requirements for automated systems relating to domestic and international IT systems. The patent process relies heavily on IT systems and this function focuses on developing user requirements and providing user testing and evaluation for a patent end-to-end electronic system, including pre-examination and publication functions.

Operating, Maintaining and Making Capital Improvements to Patent Business Systems are the responsibility of the OCIO, and are fully described in the Introduction (the USPTO IT Portfolio). The Patent Program's share of both the direct and the indirect costs are allocated to this sub-activity.

### **Sub-Activity #4: Management Goal – Allocated (\$528.6 million and 688 FTE)**

This sub-activity represents all of the management activities that support the accomplishment of the Patent goal. These can be specifically Patent-related, such as Office of Human Resources activities dedicated to recruitment of patent examiners, or cross-cutting management functions that are dedicated to overall USPTO activities, such as financial management systems. These activities are described under the Management Goal while the costs are allocated to Patents based on the Agency's ABI analysis and results.

#### **Significant Adjustments to Base (ATBs):**

The USPTO requires a net increase of 1,100 FTE and \$178.5 million to fund adjustments to current programs for the Patent Program activities. This increase will provide the annualization of the FTE increase and inflationary increases for non-labor activities, including service contracts, utilities, lease payments, and rent charges from the General Services Administration (GSA).

#### **Program Gap Assessment:**

Fostering innovation is a crucial driver of job creation, economic recovery, and prosperity. Reducing patent pendency and the backlog of patent applications awaiting examiner action is an Administration priority. The USPTO has committed to achieving an average first action patent pendency of 10 months, and an average total patent pendency of 20 months by 2015 and 2016, respectively. Meeting this commitment assumes efficiency improvements brought about by reengineering many USPTO management and operational processes (e.g., the patent examination process) and systems, and hiring about 3,000 patent examiners in the two-year period FY 2012 and FY 2013 (including examiners for Three-Track Examination). This level of hiring is necessary to reduce the end of FY 2011 accumulated backlog of unexamined applications by approximately 50 percent to 329,000 at the end of FY 2015, and achieve an average first action pendency of 10.1 months. If the budget requirement for additional patent examiner hires is not funded in FY 2013, the patent backlog would be almost 115,000 higher at the end of FY 2015 than the current projection.

#### **Schedule and Deliverables**

Schedules and deliverables are addressed in each Program Change section that follows.

**FY 2013 President's Budget**

<b>Patent Program Performance Goals and Measurement Data</b>								
	FY 2011 Actual	FY 2012 President's Budget	FY 2012 Current Estimate	FY 2013 Estimate	FY 2014 Estimate	FY 2015 Estimate	FY 2016 Estimate	FY 2017 Estimate
UPR Units of Production	502,488	573,700	539,700	620,600	671,900	694,200	645,200	656,200
UPR Applications Filed	506,924	527,600	533,300	565,300	599,200	632,200	666,900	700,300
UPR Applications Filed Percent Change Over Previous FY	2.95	4.1	5.2	6.0	6.0	5.5	5.5	5.0
UPR Disposals	499,930	562,600	539,700	620,600	671,900	694,200	645,200	656,200
UPR Issues	223,135	240,700	250,600	302,000	328,900	337,900	302,200	304,000
UPR First Actions	505,555	584,800	539,700	620,600	671,900	694,200	645,200	656,200
UPR Examiners On-Board at End-of-Year	6,685	7,955	7,800	8,700	8,600	8,300	8,300	8,200
Applications Awaiting First Office Action	669,625	549,600	621,800	529,100	421,600	329,500	328,400	358,000
Inventory Position (Months)	21.2	15.2	17.9	12.9	9.5	7.3	8.3	9.2
Total Cost Per Patent Production Unit	\$3,663	\$4,115	\$3,910	\$3,915	\$3,846	\$3,849	\$4,148	\$4,190
<b>Patent Quality Composite<sup>1</sup></b>								
Patent Quality Composite <sup>1</sup>	30.7	N/A	48-56	65-73	83-91	100	100	100
Without funding increase		N/A	48-56	65-73	83-91	100	100	100
Average First Action Pendency/UPR (Months)	28.0	22.3	22.5	16.9	15.9	10.1	9.4	9.4
Without funding increase		22.8	22.5	17.3	17.3	12.7	13.2	14.3
Average Total Pendency/UPR (Months)	33.7	32.1	34.7	30.1	24.6	22.9	18.3	18.1
Without funding increase		32.0	34.7	30.1	25.2	24.6	21.1	22.3
Applications Filed Electronically (Percent)	93.1	96.0	96.0	97.0	97.0	97.0	97.0	97.0
Without funding increase		96.0	96.0	97.0	97.0	97.0	97.0	97.0

<sup>1</sup> New performance measure will subsume Final Disposition Compliance Rate and In-Process Compliance Rate. See Exhibit 3a.

## Exhibit 13 – 15: Patent Program Changes by Sub-Activity

Exhibit 13

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR 2013  
(Dollar amounts in thousands)

		2013 Base		2013 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Patent Program	Pos./Obl.	10,003	1,856,403	11,154	1,953,916	1,151	97,513
	FTE	9,915		10,373		458	
<i>Patent Examining</i>	<i>Pos./Obl.</i>	<i>9,414</i>	<i>1,651,489</i>	<i>10,421</i>	<i>1,732,678</i>	<i>1,007</i>	<i>81,189</i>
	<i>FTE</i>	<i>9,328</i>		<i>9,707</i>		<i>379</i>	
	<i>Workload</i>						
Patent Examiner New Hires	Pos./Obl.					1,007	33,424
	FTE					379	
Overtime	Pos./Obl.					-	7,090
	FTE					-	
Nationwide Workforce and Space	Pos./Obl.					-	11,044
	FTE					-	
Telework Enhancement Pilot	Pos./Obl.					-	89
	FTE					-	
PCT Searching Contract	Pos./Obl.					-	(5,309)
	FTE					-	
Workload Processing Contracts	Pos./Obl.					-	31,880
	FTE					-	
	<i>Process Changes</i>						
Cooperative Patent Classification (CPC)	Pos./Obl.					-	1,812
	FTE					-	

**FY 2013 President's Budget**

		2013 Base		2013 Estimate		Increase (Decrease)		
		Personnel	Amount	Personnel	Amount	Personnel	Amount	
		<i>Quality</i>						
	Pendency Award					-	4,483	
	FTE					-		
	Recruitment Bonus					-	(5,277)	
	FTE					-		
	Automation Training					-	2,238	
	FTE					-		
		<i>Stakeholder Relations</i>						
	Educational Outreach Program					-	(285)	
	FTE					-		
<i>Appeal and Interferences</i>		<i>Pos./Obl.</i>	<i>290</i>	<i>51,780</i>	<i>379</i>	<i>60,751</i>	<i>89</i>	<i>8,971</i>
		<i>FTE</i>	<i>287</i>		<i>330</i>		<i>43</i>	<i>-</i>
	Increase BPAI Production					46	4,618	
	FTE					22		
	BPAI Patent Reform Workload					43	4,353	
	FTE					21		
<i>Patent Information Resources</i>		<i>Pos./Obl.</i>	<i>299</i>	<i>153,134</i>	<i>354</i>	<i>160,487</i>	<i>55</i>	<i>7,353</i>
		<i>FTE</i>	<i>299</i>		<i>335</i>		<i>36</i>	
	IP5 Work Sharing Program Management					-	(3,709)	
	FTE					-		
	CIF Patents IT Capital Improvements					55	11,062	
	FTE					36		

FY 2013 President's Budget

Exhibit 13 Continued

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR 2013  
(Dollar amounts in thousands)

		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Patent Program	Pos./Obl.	1,151	97,513	953	139,200	721	149,863	680	94,743	617	96,115
	FTE	458		1,030		828		684		633	
<i>Patent Examining</i>	Pos./Obl.	1,007	81,189	790	145,565	527	148,952	446	84,159	370	77,456
	FTE	379		877		650		470		393	
	<i>Workload</i>										
Patent Examiner New Hires	Pos./Obl.	1,007	33,424	790	82,443	527	67,726	446	61,497	370	66,224
	FTE	379		877		650		470		393	
Overtime	Pos./Obl.	-	7,090	-	10,371	-	9,814	-	(52,519)	-	(75,877)
	FTE	-		-		-		-		-	
Nationwide Workforce and Space	Pos./Obl.	-	11,044	-	10,045	-	11,113	-	11,288	-	10,585
	FTE	-		-		-		-		-	
Telework Enhancement Pilot	Pos./Obl.	-	89	-	183	-	279	-	364	-	467
	FTE	-		-		-		-		-	
PCT Searching Contract	Pos./Obl.	-	(5,309)	-	(4,880)	-	(4,431)	-	(3,959)	-	(3,465)
	FTE	-		-		-		-		-	
Workload Processing Contracts	Pos./Obl.	-	31,880	-	45,250	-	61,172	-	63,778	-	75,556
	FTE	-		-		-		-		-	
	<i>Process Changes</i>										
Cooperative Patent Classification (CPC)	Pos./Obl.	-	1,812	-	215	-	324	-	439	-	562
	FTE	-		-		-		-		-	

FY 2013 President's Budget

Exhibit 13 Continued

		FY 2013 Increase (Decrease)		FY 2014 Increase (Decrease)		FY 2015 Increase (Decrease)		FY 2016 Increase (Decrease)		FY 2017 Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Quality</b>											
Pendency Award	Pos./Obl.	-	4,483	-	6,544	-	7,518	-	7,777	-	7,839
	FTE	-		-		-		-		-	
Recruitment Bonus	Pos./Obl.	-	(5,277)	-	(6,375)	-	(6,502)	-	(6,632)	-	(6,765)
	FTE	-		-		-		-		-	
Automation Training	Pos./Obl.	-	2,238	-	2,079	-	2,259	-	2,455	-	2,668
	FTE	-		-		-		-		-	
<b>Stakeholder Relations</b>											
Educational Outreach Program	Pos./Obl.	-	(285)	-	(309)	-	(319)	-	(328)	-	(337)
	FTE	-		-		-		-		-	
<b>Appeal and Interferences</b>	<b>Pos./Obl.</b>	<b>89</b>	<b>8,971</b>	<b>108</b>	<b>18,579</b>	<b>139</b>	<b>24,582</b>	<b>179</b>	<b>32,858</b>	<b>192</b>	<b>39,441</b>
	<b>FTE</b>	<b>43</b>	<b>-</b>	<b>98</b>	<b>-</b>	<b>123</b>	<b>-</b>	<b>159</b>	<b>-</b>	<b>185</b>	<b>-</b>
Increase BPAI Production	Pos./Obl.	46	4,618	46	8,549	46	8,950	46	9,248	46	9,567
	FTE	22		46		46		46		46	
BPAI Patent Reform Workload	Pos./Obl.	43	4,353	62	10,030	93	15,632	133	23,610	146	29,874
	FTE	21		52		77		113		139	
<b>Patent Information Resources</b>	<b>Pos./Obl.</b>	<b>55</b>	<b>7,353</b>	<b>55</b>	<b>(24,944)</b>	<b>55</b>	<b>(23,672)</b>	<b>55</b>	<b>(22,275)</b>	<b>55</b>	<b>(20,781)</b>
	<b>FTE</b>	<b>36</b>	<b></b>	<b>55</b>	<b></b>	<b>55</b>	<b></b>	<b>55</b>	<b></b>	<b>55</b>	<b></b>
IP5 Work Sharing Program Management	Pos./Obl.	-	(3,709)	-	(3,913)	-	(3,016)	-	(2,460)	-	(1,574)
	FTE	-		-		-		-		-	
CIF Patents IT Capital Improvements	Pos./Obl.	55	11,062	55	(21,031)	55	(20,656)	55	(19,815)	55	(19,208)
	FTE	36		55		55		55		55	

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### FY 2013 Program Change Summary

Program Change:	<b>Sub-Activity #1: Patent Examining</b>	
Amount:	\$81.2 million	FTE: 379
Budget Activity:	Patent Program	

### Program Change Description

The goal to optimize patent quality and timeliness and the Administration's Priority Goal are being accomplished through the following objectives and initiatives for which funds are required in FY 2013:

- Re-engineer Patent Process to Increase Efficiencies and Strengthen Effectiveness
- Increase Patent Application Examination Capacity
- Measure and Improve Patent Quality
- Improve Employee and Stakeholder Relations
- Develop and Implement the Patent End-to-End Processing System

#### **Program Change:**

Patent Examining (379 FTE and \$81.2 million): The USPTO requires an increase of \$81.2 million and 379 FTE for a total of \$1,732.7 million and 9,715 FTE, to process incoming work for which fees have been paid, and which are focused on the previously identified objectives. This requirement supports the Department's Economic Growth goal to advance economic prosperity by using IP as a tool to create a business environment that cultivates and protects new ideas, technologies, services and products. Patent Examining consists of the following three components that are described in the Patent Program section above: Pre-Examination, Examination, and Post-Examination.

#### **Proposed Actions:**

This program change encompasses the patent workload, process changes, quality, and stakeholder relations objectives designed to provide quality and timely examination of patent applications. Along with base resources, this program change will enable the Patent Program to provide timely examination by processing incoming work, reducing the current backlog and thereby reducing pendency. It will also enhance the quality of patents thereby increasing the value of the patent to the inventor.

This program change represents a number of inter-related initiatives that collectively will enable the Patent Program to address the approximately 565,000 new applications that are projected to be filed in FY 2013, and to reduce the current backlog of unexamined patent applications to approximately 529,000 or about 20 percent below the end of FY 2011 level. This, in turn, will enable the USPTO to provide timely examination of patent applications by reducing the time to first office action on the merits to 10 months in 2015, and by reducing average total pendency to 20 months in 2016. These initiatives are necessary because the Office continually faces heavy workloads and a shift of applications from traditional arts to more complex technologies, and are categorized as follows:

**Workload Initiatives.** These are initiatives that are driven by the requirement to process incoming work for which applicants have paid fees. Such initiatives, more fully described below, increase examination capacity and include hiring additional patent examiners under a new hiring model, providing needed training and incentives to generate maximum production, and ensuring

that there is adequate production support to complete the work carried out by the patent examiners.

**Process Changes.** In addition to enhancing patent examination capacity, the Patent Organization is committed to identifying and implementing the process changes, tools and policies necessary to increase the number of applications it is capable of examining and disposing (rejection or issuance). The increase in requirements is for initiatives that ultimately will make systemic improvements to patent examination workflow and management, and to leverage PE2E.

**Quality.** Quality and training are an integral part of the examination process, and include initiatives focused on the refinement of performance appraisal plans (PAPS), data measurement and analysis, and training.

**Stakeholder Relations.** Program requirements have changed for the initiative that focuses on enhancing the interactions between the Office and users of the patent system.

**Statement of Need and Economic Benefits:**

American innovators and businesses rely on the legal rights associated with a patent in order to reap the benefits of their innovations. 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 that ultimately may be granted for the invention.

This program change would improve patent pendency and reduce backlog levels. At the end of FY 2011, patent first action pendency was 28.0 months, total pendency was 33.7 months, and the backlog of applications awaiting examiner action was 669,625. There were 6,685 UPR patent examiners on board at the end of FY 2011, and 506,924 patent applications were filed – a 5.3 percent increase over the prior year.

The program change also would enable the USPTO to prioritize work through multi-track customized examination and to re-engineer the patent classification system.

Quality issuance of patents provides certainty in the market and allows businesses and innovators to make informed and timely decisions on product and service development. The quality of application review is critical to ensure the value of an issued patent. Without well-defined claims, for example, the value of a patent is uncertain. Uncertainty means there is a risk that a patent is invalid, does not cover the patentee's product, or that a competitor infringes the patent but cannot determine its scope. Such patents exact a high cost by decreasing public confidence in the IP system. On the other hand, the economic value of a patent increases when its metes and bounds are clearly defined and consistently interpreted under the law. Clarity leads to certainty, which enables efficient and confident determination of value. This in turn creates high value for high quality patents and bolsters public confidence.

**Risk Assessment:**

Failure to receive spending authority for this program change will have a significant negative impact on pendency and backlog reduction, and in turn job growth in our recovering economy. Current and future USPTO fee collections will also be negatively impacted due to the reduction and delay in revenue generating examination.

**Patent Workload-Driven Initiatives**

**Patent Examiner New Hires.** Funds are required for salaries and benefits associated with hiring an additional 1,500 patent examiners in FY 2013 less attritions. Hiring plans assume a mix of experienced and traditional hires. This will enable the USPTO to make progress on its patent pendency reduction plan to achieve an average first action pendency of 10 months and

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average total pendency of 20 months in FY 2015 and FY 2016 respectively. Failure to receive spending authority for the required level of examiner hires will have a significant negative impact on pendency and backlog reduction. In addition, current and future fee collections will be negatively impacted due to the reduction and delay in revenue generating examination.

**Unit Cost Rate.** When the USPTO hires additional patent examiners, there is an ancillary impact on support organizations (e.g., more personnel-type actions to be processed, more employee-related legal services to be provided, etc.). Therefore, the USPTO has established a unit cost rate (UCR) which reflects the incremental cost impact on support units that is attributable to the increase or decrease in workload associated with net new patent examiner hires. These funds are included in the Management Goal section of this budget, and are supplemental to other initiatives for new hires/support costs.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$33,425	\$82,443	\$67,724	\$61,496	\$66,223
FTE	379	877	650	470	393

**Overtime.** To achieve 10 months to first office action pendency and 20 months to total pendency, the USPTO will provide for examiner overtime. Each overtime hour worked is directly tied to production output. As such, overtime has proven to be more efficient on a per-hour basis than equivalent regular-time hours, which must also incorporate the costs of training, employee leave, and other benefits. Funding the full amount of examiner overtime is essential to achievement of our pendency and backlog goals. Overtime's inherent flexibility allows the Patent Organization to more easily expand its production capacity while maintaining optimal staffing levels. Depending on funding availability, the Patent Organization's strategy is to prioritize the use of overtime by targeting technology areas with the highest backlogs first.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$7,090	\$10,371	\$9,814	(\$52,519)	(\$75,877)
FTE	-	-	-	-	-

**Nationwide Workforce and Space.** The Agency has recognized the need to broaden hiring practices to achieve its hiring targets and attract patent examiner expertise in locations across the country. Establishment of a nationwide workforce is a key USPTO priority.

This initiative would provide for a USPTO presence in three metropolitan areas, with the first being Detroit, Michigan. A nationwide workforce will directly aid the hiring of patent examiners by creating an awareness of the USPTO and its role in the U.S. economy, educating potential applicants about the job of patent examination, and serving as an outlet for IP education to inventors, law students, practitioners and the public education systems. While meeting Agency hiring needs and space demands, this initiative enables the expansion of the USPTO presence as a business and academic partner for innovation.

The USPTO requested funds in FY 2012 for the first satellite office which is scheduled to open in Detroit in July 2012. Once opened and during the initial phase, the USPTO will be evaluating the program based on customer, stakeholder, and employee input, and will be seeking to leverage opportunities for greater efficiency and flexibility arising from development of end-to-end electronic patent processing and other ongoing process improvement efforts. For example, the USPTO is currently transitioning the examiners' workstations such that every examiner will have a universal laptop, including collaboration tools, for use when working from home and on campus. During a major snow storm that shut down the government for a week during the winter of 2010, the USPTO had almost 3,000 people logged into our virtual private network. Following the evaluation of the first ever satellite office in Detroit, Michigan, the USPTO plans to open two more regional offices, as required by the recently passed patent reform bill. Training

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will be provided in a variety of formats to meet examiners' needs such as streaming classes, computer-based training (including interactive quizzes), and a library of topical selections. The USPTO is also examining how to leverage new telecommunications technologies and practices to expand its geographic reach. This mode of training will allow the Agency to continue to conduct its business throughout the country without compromising quality.

FY 2013 funds would be used to acquire space at the two additional regional offices, travel, furniture, staff, and office equipment. The nationwide workforce new hires are accounted for as part of the overall examiner hiring effort for FY 2013.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$11,044	\$10,045	\$11,113	\$11,288	\$10,585
FTE	-	-	-	-	-

**Telework Enhancement Act of 2010 Pilot Program (Pub. L. No. 111-292).** In FY 2012, the USPTO is initiating a test program under the Telework Enhancement Act to allow 25 percent of current full-time teleworkers in the Patent Organization's two bargaining units to change their duty stations to a location outside a 50-mile radius of USPTO headquarters. The USPTO will be evaluating the program yearly based on various factors, including cost savings to the Government and increased effectiveness and efficiency, such as production output and retention rates among the pilot participants. A mandated analysis of Expected Costs and Benefits and Criteria for Evaluation of Effectiveness was reviewed at the Office of General Services Administration (GSA), and recently approved. Implementation of the program is targeted for February 2012. Funds are required for any additional costs associated with travel and the internet service providers for additional participants.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$89	\$183	\$279	\$364	\$467
FTE	-	-	-	-	-

**Patent Cooperation Treaty (PCT) Searching Contract.** The USPTO continues to contract for international search reports and written opinions for approximately 16,000 PCT Chapter I cases, roughly equal to the FY 2013 projected receipts. Investments in contracting enable the USPTO to meet its obligations as an International Searching Authority under PCT Chapter I; i.e., the PCT time frames for issuance of the required reports, and enable the USPTO to focus its resources towards reducing the backlog of pending national applications. At the same time, the USPTO is placing greater emphasis on re-using results in corresponding national cases. In the complete absence of this program, PCT filings would have to be examined by examiners, resulting in fewer U.S. national applications being processed, which would equate to reduced production and fewer fee collections. Funds are being reduced because of fewer projected filings.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	(\$5,309)	(\$4,880)	(\$4,431)	(\$3,959)	(\$3,465)
FTE	-	-	-	-	-

**Workload Processing Contracts.** Patent's largest contracts are driven by the growth and increasing experience and productivity of the examination workforce. Work due to increasing numbers of applications, examiner production, and output must be funded commensurately in order to continue processing work and issuing patents. Specifically funds will be used for:

- Front end processing, indexing and scanning of newly filed applications and incoming/outgoing documents, and quality assurance of electronic filings – based on the increase in electronically-filed applications, as well as the number of pages per application.

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- Data capture of applications subject to publication at 18 months as a pre-grant publication.
- Pre-grant and initial classification services whereby the contractor classifies all incoming applications once they have been through the initial security review.
- Patent publication, which includes the data capture of granted patents that generate both a text searchable file and an image file for paper printing and electronic dissemination on the Internet.
- Commercial data-base access for prior art searches; for example, Derwent, Dialog, Lexis-Nexis, Geneseq, etc.

Development and deployment of the PE2E system, which is currently planned for the end of 2013, is projected to have the following impacts on these workload processing contracts:

- An increase in eOffice Actions from 30-40 percent to 70 percent in FY 2015.
- An improvement in eFiling that will allow for a better document (patent application) and pre-examination in FY 2015.
- An improved applicant-to-Office interface will improve the ability to validate applications on line, which will reduce the burden of manual processing.
- There will be some level of manual processing of pre-examination and mailing of office actions until FY 2017, at which time these will be greatly reduced as a result of PE2E.

The savings resulting from deployment of PE2E, shown as lower requirements in FYs 2015-2017, would be redirected to the Patent operating reserve. There would be no impact on Patent performance metrics.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$31,880	\$45,250	\$61,171	\$63,778	\$75,556
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to increase patent application examination capacity can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

### Patent Process Change Initiatives

**Cooperative Patent Classification (CPC).** Funds are required for reclassification costs in accordance with the CPC agreement with the EPO to develop a joint classification system that will be aligned with the International Patent Classification (IPC) structure. To improve the effectiveness of the prior art search process, the USPTO and the EPO entered into a bilateral agreement to develop a joint classification system called the CPC system. CPC will be aligned with the IPC structure and will follow internationally accepted standards to facilitate data exchange and work sharing. In order to accomplish this, the USPTO must transition from its current U.S. Patent Classification (USPC) system to the CPC. Once this transition has been completed, the USPTO will be IPC-based and will have access to more foreign documents for search, thereby improving the overall quality of patents being issued. Reengineering the patent classification system will have a positive impact on patent quality and international harmonization, and will improve the efficiency of patent examination among the IP5 offices; i.e., the five largest IP offices (Europe, Japan, Korea, China, and the United States), which formed a partnership referred to as the IP5 to develop a collaborative IT structure, and processes and procedures for sharing information.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
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Amount (\$ in thousands)	\$1,812	\$215	\$324	\$439	\$562
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to re-engineer the patent process to increase efficiencies and strengthen effectiveness can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**Patent Quality Initiatives**

**Pendency Awards.** The USPTO established a task force to craft new PAPs for Supervisory Patent Examiners (SPEs) and patent examiners that would focus on enhanced examination quality, reduced application pendency and improved stakeholder responsiveness. A strong emphasis was placed on clearly defined objective measures that will be universally applied during the performance appraisal process. As a result, a new/revised Patent Examiner Pendency Award will be introduced in FY 2012 to better align the examiners' expected processing times with the Agency's statutory processing time targets to encourage better response time to applicants. These are:

- Average days applications are awaiting action on examiners' dockets;
- Time to respond to Board of Appeal decisions;
- Allowing no amendments to go over 75 days on an examiner's amended docket; and
- Working on more new applications.

The new award will go into effect in FY 2012, and funds are required to continue to pay out the pendency awards for additional eligible participants, based on the new PAPs.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$4,483	\$6,544	\$7,518	\$7,777	\$7,839
FTE	-	-	-	-	-

**Recruitment Bonus.** Recruitment bonuses were instituted in FY 2006 to increase our ability to hire and retain patent examiners and remain competitive. Due to the economic downturn and a new model to recruit patent examiner candidates with significant IP experience, recruitment bonuses are no longer needed. However, USPTO is committed to paying out the remaining recruitment bonuses to those examiners hired at the 5, 7 and 9 grades during their first four years. Therefore the USPTO is reducing the amount of funding needed to cover the remaining recruitment bonuses for these employees, and investing these resources back into the Patent Program.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	(\$5,277)	(\$6,375)	(\$6,502)	(\$6,632)	(\$6,765)
FTE	-	-	-	-	-

**Automation Training.** To improve and provide more effective examiner training, as well as provide training support to new automation initiatives such as CPC, PE2E and nationwide workforce, funds are required for contractor staff and equipment for interactive multimedia and webcast initiatives. Funds would be used for video teleconferencing/webcast equipment, video cameras and multimedia software, as well as contractor staff to train employees as they transition to new systems/tools. Enhanced training yields improved examiner quality in the overall patent examination process and ultimately results in greater production generated by examiners. Virtual training is particularly important as the number of teleworkers and nationwide workforce employees increase.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017

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Amount (\$ in thousands)	\$2,238	\$2,079	\$2,259	\$2,455	\$2,668
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to measure and improve patent quality can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

### Patent Stakeholder Relations Initiatives

**Educational Outreach Program.** Funds are used to provide domestic education outreach, knowledge enhancement and capacity building as it relates to IP by expanding regional conferences, university visits, and partnerships with Small Business Development Centers, entrepreneurial non-profit organizations, and congressional districts. An IP Assessment Tool will be offered to businesses through a web-based platform to educate business owners and entrepreneurs on ways of identifying and protecting IP. This is a joint initiative with the National Institute of Science and Technology (NIST) Manufacturing Extension Partnership (MEP). Phase I was funded by NIST, and Phase II of the IP Assessment Program will be funded by the USPTO with a focus of assisting new, high growth start-ups with their IP strategies and ways to use IP protection in business plans. The end result will be more applications of higher quality that result in innovation going to market, growing the economy and creating jobs. FY 2013 funding requirements are slightly reduced from the initial startup costs required for FY 2012.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	(\$285)	(\$309)	(\$319)	(\$328)	(\$337)
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to measure and improve employee and stakeholder relations can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**FY 2013 Program Change Summary**

Program Change:	<b>Sub-Activity #2: Patent Appeals and Interferences</b>	
Amount:	\$9.0 million	FTE: 43
Budget Activity:	Patent Program	

**Program Change Description**

The goal to optimize patent quality and timelines is being accomplished through the following objective:

- Improve Appeal and Post-Grant Processes

**Program Changes for FY 2013:**

Improve Appeal and Post-Grant Processes (+ \$9.0 million and 43 FTE): The USPTO requires an increase of \$9.0 million and 43 FTE for a total of \$60.8 million and 330 FTE to implement two critical initiatives at the BPAI. The BPAI requires additional hires to address the workload coming from the Patent Examining Corps, and the need to implement patent reform legislation.

This request supports the Department's Economic Growth goal to advance economic prosperity by using IP as a tool to create a business environment that cultivates and rewards new ideas, technologies, services, and products.

**Proposed Actions:**

The BPAI is an administrative tribunal that consists of Administrative Patent Judges (APJs) who review appeals cases and decide to affirm, reverse, or affirm in part a rejection in a patent application under appeal. APJs also review claims of interferences with existing patents and patent applications during the filing stage of a patent application. The BPAI will ultimately decide whom, if anyone is entitled to the right of the patent in question. The BPAI tracks information on each patent appeals case, *inter partes* case, and interference. The average number of cases under review at any given time is approximately 1,500, some of which can take more than a year to resolve. These requirements outline a consolidated effort to increase BPAI capacity, increase BPAI productivity and quality, and optimize workflow.

**Statement of Need and Economic Benefit:**

Decisions made by the BPAI on appeals involve some of the most important applications pending in the Office. When these decisions are delayed, it can and will continue to have an adverse impact on America's economy. When patents are developed commercially, they create jobs for the companies that are marketing products and for their suppliers, distributors, and retailers. The BPAI may have any one such patent in its inventory awaiting decision. Proper and promptly-issued patents are vital to the growth of the economy. Additionally, any one appeal may hold a scientific, engineering, or technological breakthrough in any number of fields, such as medicine, materials, electronics, or energy. A lack of adequate resources to review and decide on appeals can unnecessarily delay such breakthrough from reaching the market.

**Risk Assessment:**

Delaying decisions on appeal to the BPAI has an adverse impact on America's economy. When patents are developed commercially, they create jobs for the companies that are marketing the products, and for their suppliers, distributors and retailers. Proper and promptly-issued patents

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are vital to the growth of the economy. Fees otherwise payable to the USPTO are not received while an appeal remains undecided; e.g., continuation filing, issuance and maintenance fees.

**Increase BPAI Production.** Funds are required to match Patents' hiring, and address historic growth in workload. In FYs 2009, 2010 and 2011, the BPAI docketed 15,468, 12,538, and 13,900 *ex parte* appeals respectively, and is projecting over 13,000 docketed appeals in each of FYs 2012 and 2013. Funds were requested in FY 2012 for 45 positions and funds are currently required for an additional 46 positions. With additional staff and support resources in FYs 2012-2013, the BPAI will be able to more effectively manage the spike in inventory and stem an unacceptable pendency level. With these resources and a filing level of approximately 10,500 per year, by FY 2016 the BPAI will achieve a steady state of approximately 16,000 decisions per year and an appeal pendency level of approximately 20 months. This request will enable the BPAI to provide the timely and quality review and adjudication of appealed applications called for by stakeholders and ensures the BPAI's ability to meet specific objectives outlined in the *USPTO 2010-2015 Strategic Plan*. Delaying decisions on these appeals has a negative impact on America's economy, particularly job creation.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$4,618	\$8,549	\$8,950	\$9,248	\$9,567
FTE	22	46	46	46	46

**AIA Workload - BPAI.** The recently enacted AIA -- patent reform legislation -- creates new programs to be administered by the USPTO, and changes some that are currently being carried out. The BPAI, to be re-named the Patent Trial and Appeal Board, will be required to conduct four new or different trial proceedings: *Inter partes* reviews, post grant reviews, derivation proceedings, and a transitional program for covered business methods patents. Funds are required for 43 new positions to address anticipated work resulting from enactment this legislation. This request is based on the following:

- The date for filing petitions for *inter partes* reviews, transitional program for covered business method patents, post grant and derivations is one year after enactment.
- Post grant is only applicable for patents that are subject to first to file provisions (which provisions are not effective until March 2013).
- The transitional program will phase out eight years after the effective date.
- *Inter partes* review and post grant review filings will increase over time, while transitional program and derivation proceedings will remain constant.
- Derivation proceedings will cost approximately the same as interference proceedings, which they replace, and the transitional program for covered business method patents will cost approximately the same as a post grant proceeding.

It is critical that the BPAI supplement existing staff to conduct the four new proceedings, as well as carrying out implementation activities, such as creating and setting up processes and procedures for processing the new proceeding types, preparing training modules and programs for new hires, and developing user requirements for IT systems.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$4,353	\$10,030	\$15,632	\$23,610	\$29,874
FTE	21	52	77	113	139

**Schedules/Milestones/Deliverables** for the strategic objective to improve appeal and post-grant processes can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**FY 2013 Program Change Summary**

Program Change:	<b>Sub-Activity #3: Patent Information Resources</b>	
Amount:	\$7.4 million	FTE: 36
Budget Activity:	Patent Program	

**Program Change Description**

The goal to optimize patent quality and timelines is being accomplished through the following objective:

- Develop and Implement the Patent End-to-End Processing System

**Program Changes for FY 2013:**

Patent Information Resources (\$7.4 Million and 36 FTE): The USPTO requires an increase of \$7.4 million and 36 FTE for a total of \$160.5 million and 335 FTE to improve examination efficiency by managing a capital improvement fund.

**Proposed Actions:**

This program change includes the initiative designed to provide quality and timely examination of patent applications by continuing development of the PE2E IT capability.

**Statement of Need and Economic Benefit:**

This program change would improve IT infrastructure and tools.

**Risk Assessment**

The IT architecture and systems currently in place are inadequate and unable to evolve to meet the demands of the future. The continued dependency on inefficient and outdated automation will lead to an inability to support the USPTO's mission and goals.

**IP5 Work Sharing Program Management.** The USPTO is improving examination efficiency and using resources wisely through the development of work-sharing arrangements, which have evolved as a significant tool to attack the pendency issues. The five largest IP offices (Europe, Japan, Korea, China, and the United States) formed a partnership referred to as the IP5 to develop a collaborative IT structure, and processes and procedures for sharing information. In the FY 2012 President's Budget, the USPTO estimated FY 2013 costs of \$22.4 million. Since that time, the project has been re-scoped and the requirements have decreased.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	(\$3,709)	(\$3,913)	(\$3,016)	(\$2,460)	(\$1,574)
FTE	-	-	-	-	-

**CIF - Patent IT Capital Improvements.** In FY 2013, additional funding is required for Patent IT capital improvements, followed thereafter by a reduction to base. Part of this reduction, however, is being offset by the additional cost for new OCIO hires.

FY 2013 funds are required for Patent business projects, primarily for the PE2E portfolio, which was approved in October 2010 to create a new generation of patent systems built upon modern data formats to provide end-to-end processing. PE2E costs are peaking in FY 2013, followed by reductions as the project moves from the development stage to the maintenance stage in FY 2014 and beyond.

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In FY 2013, the OCIO needs to increase hiring of additional staff that are highly skilled in technical support. The current OCIO technical pool is not of sufficient size to meet the needs posed by USPTO's vital modernization efforts. In its next generation of IT, USPTO is moving away from an Automated Information System (AIS) model to a virtualized-services model. Sufficient staff highly versed in open-source technologies are needed to support a services-oriented model, enable increased system stability and performance, and support an agile-development environment. In addition, the OCIO will need sufficient technical staff to leverage the NIST Cloud (Virtualization) model that delineates Infrastructure as a Service (IaaS), Platform as a Service (PaaS), and Software as a Service (SaaS) and provide the capabilities to implement the changes called for in the OMB's "25 Point Implementation Plan to Reform Federal Information Technology Management." As PE2E moves into production, operational staff will be needed to provide technical direction, oversight and support for the new applications.

Additional information about the overall USPTO IT activities can be found in the "USPTO Information Technology Portfolio" section of the Introduction.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$11,062	(\$21,031)	(\$20,656)	(\$19,815)	(\$19,208)
FTE	36	55	55	55	55

**Schedules/Milestones/Deliverables** for the strategic objectives to improve patent pendency and quality by increasing work sharing, and developing and implementing PE2E processing system can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**PROGRAM CHANGE PERSONNEL DETAIL**

(Dollar amount in thousands)

Activity: Patents

Subactivity:

<b>Title:</b>	<b>Location</b>	<b>Grade</b>	<b>Number of Positions</b>	<b>Annual Salary</b>	<b>Total Salaries</b>
Patent Examiner	Alexandria, VA	GS 5	129	47,563	6,135,627
Patent Examiner	Alexandria, VA	GS 7	594	58,922	34,999,668
Patent Examiner	Alexandria, VA	GS 9	650	68,770	44,700,500
Patent Examiner	Alexandria, VA	GS 11	113	79,217	8,951,521
Patent Examiner	Alexandria, VA	GS 12	7	90,852	635,964
Patent Examiner	Alexandria, VA	GS 13	7	108,036	756,252
Patent Examiner	Alexandria, VA	Avg GS 9	-493	68,770	(33,903,610)
Administrative Patent Judges	Alexandria, VA	GS SES	34	165,300	5,620,200
Administrative Patent Judges- Patent Reform	Alexandria, VA	GS SES	43	165,300	7,107,900
Supv Paralegal	Alexandria, VA	GS 15	1	150,173	150,173
Paralegal Specialist	Alexandria, VA	GS 11	10	79,217	792,170
Patents Program & Resources Administrator	Alexandria, VA	GS 12	1	90,852	90,852
IT Specialist	Alexandria, VA	GS 9	6	58,511	351,066
IT Specialist	Alexandria, VA	GS 11	6	70,794	424,764
IT Specialist	Alexandria, VA	GS 12	13	84,855	1,103,115
IT Specialist	Alexandria, VA	GS 13	13	100,904	1,311,752
IT Specialist	Alexandria, VA	GS 14	13	119,238	1,550,094
IT Specialist	Alexandria, VA	GS 15	4	140,259	561,036
<b>Total</b>			<b>1,151</b>		<b>81,339,044</b>
Less Average Lapse		56%	693		45,944,304
Total full-time permanent (FTE)			458		35,394,740
2012 Pay Adjustment	0.0%				-
2013 Pay Adjustment	0.5%				176,974
<b>TOTAL</b>					<b>35,571,713</b>

**Personnel Data**

	<b>Number</b>
Full-Time Equivalent Employment	
Full-time permanent	458
Other than full-time permanent	0
Total	458

Authorized Positions:

Full-time permanent	1,151
Other than full-time permanent	0
Total	1,151

**PROGRAM CHANGE DETAIL BY OBJECT CLASS**  
**(Dollar amounts in thousands)**

Activity: **Patents**  
 Subactivity:

<b>Object Class</b>	<b>2013 Increase</b>
11 Personnel compensation	
11.1 Full-time permanent	35,572
11.3 Other than full-time permanent	
11.5 Other personnel compensation	11,905
11.8 Special personnel services payments	
11.9 Total personnel compensation	47,476
12 Civilian personnel benefits	5,049
13 Benefits for former personnel	
21 Travel and transportation of persons	1,437
22 Transportation of things	(13)
23.1 Rental payments to GSA	7,375
23.2 Rental payments to others	100
23.3 Communications, utilities and miscellaneous charges	70
24 Printing and reproduction	17,877
25.1 Advisory and assistance services	294
25.2 Other services	
25.3 Purchases of goods & services from Gov't accounts	1,148
25.4 Operation and maintenance of facilities	
25.5 Research and development contracts	
25.6 Medical care	
25.7 Operation and maintenance of equipment	
25.8 Subsistence and support of persons	
26 Supplies and materials	1,757
31 Equipment	14,943
32 Lands and structures	
33 Investments and loans	
41 Grants, subsidies and contributions	
42 Insurance claims and indemnities	
43 Interest and dividends	-
44 Refunds	
99 Total obligations	<b>97,514</b>

# TRADEMARK PROGRAM

## Exhibit 10 – Program Performance: Total Obligations

**Department of Commerce**  
**U.S. Patent and Trademark Office**  
**TRADEMARK PROGRAM**  
**PROGRAM AND PERFORMANCE: TOTAL OBLIGATIONS**  
 (Dollar amounts in thousands)

Activity: Trademark Program

Sub-Activity:		FY 2011 Actual		FY 2012 Current Plan		FY 2013 Base		FY 2013 Estimate		Increase/ (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Trademark Examining	Pos./Obl	591	93,547	635	99,676	635	102,630	653	102,585	18	(45)
	FTE	591	-	612	-	621	-	634	-	12	-
Trademark Appeals and <i>Inter Partes</i> Proceedings	Pos./Obl	58	9,320	71	10,095	71	11,032	71	11,032	-	-
	FTE	58	-	62	-	70	-	70	-	-	-
Trademark Information Resources	Pos./Obl	56	25,198	60	39,478	61	40,193	68	38,311	7	(1,881)
	FTE	53	-	59	-	61	-	65	-	4	-
Subtotal Direct	Pos./Obl	705	128,065	766	149,249	767	153,855	792	151,928	25	(1,927)
	FTE	702	-	733	-	752	-	769	-	17	-
Management Goal - Allocated	Pos./Obl	119	71,278	161	91,423	160	96,867	171	99,403	11	2,536
	FTE	117	-	131	-	156	-	163	-	8	-
<b>Total</b>	Pos./Obl	824	199,343	927	240,672	927	250,722	963	251,332	36	609
	FTE	819	-	864	-	908	-	932	-	24	-

## Exhibit 12 – Justification of Trademark Program and Performance

<b>FY 2013 Trademark Program Summary</b>
--

Program:	<b>Trademark Program</b>	
Base Resources:	\$250.7	FTE: 908
Bureau:	USPTO	
Budget Activity:	Trademark Program	

For FY 2013, the USPTO requires an increase of \$10.7 million and 68 FTE over the FY 2012 Current Plan (including a program change of \$.6 million and 24 FTE over the FY 2013 base program) for a total of \$251.3 million and 932 FTE for the Trademark Program.

<b>Program Description</b>
----------------------------

**Base Justification for FY 2013:**

The USPTO's Trademark Program, through its strategic goal to optimize trademark quality and timeliness, supports the Department's strategic objective to "facilitate IP protection by reducing patent and trademark pendency and increasing quality of issued patents and trademarks."

This strategic goal will be met by achieving the following objectives as set forth in the *USPTO 2010-2015 Strategic Plan*:

- Maintain Trademark First Action Pendency on Average Between 2.5-3.5 Months, with 12.0 Months or Less Final Pendency
- Continuously Monitor and Improve Trademark Quality
- Ensure Accuracy of Identifications of Goods and Services in Trademark Applications and Registrations
- Enhance Operations of Trademark Trial and Appeal Board (TTAB)
- Modernize IT System by Developing and Implementing the Trademark Next Generation IT System
- Develop a New Generation of Trademark Leaders

The base Trademark Program (\$250.7 million and 908 FTE) consists of the following four sub-activities that are described below. This program directly or indirectly contributes to the attainment of the Trademark strategic goal and objectives:

- Sub-Activity #1: Trademark Examining
- Sub-Activity #2: Trademark Appeals and *Inter Partes* Proceedings
- Sub-Activity #3: Trademark Information Resources
- Sub-Activity #4: Management Goal -- Allocated

The Trademark Program is dedicated to carrying out the Agency's mission to deliver "high quality and timely examination of ... trademark applications" in accordance with laws,

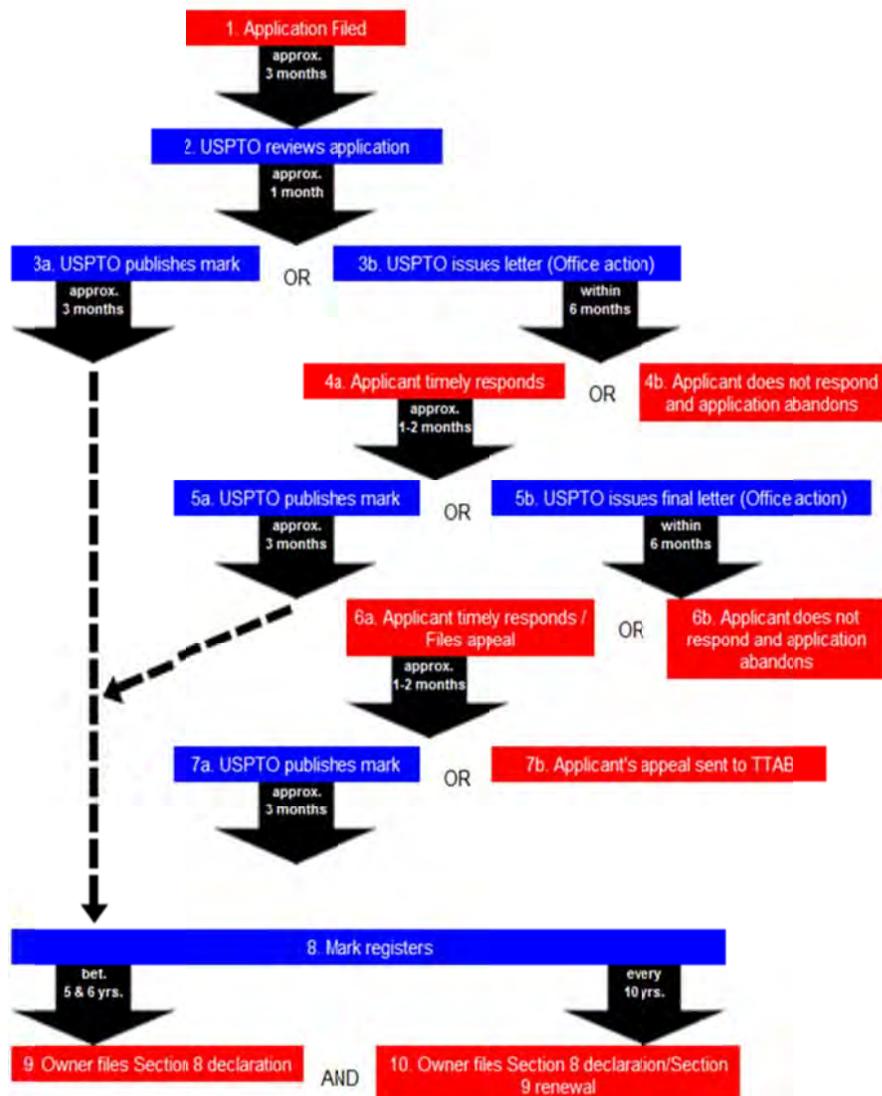
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regulations and practices, consistent with the strategies and objectives in the *USPTO 2010-2015 Strategic Plan*.

### Trademark Process

The trademark process begins when a customer desires information on trademarks or becomes interested in registering a trademark and proceeds to submit a trademark application based on a mark currently used, or intended for use, in commerce. During the examination process, trademark examining attorneys evaluate applications for compliance with current trademark laws, regulations, and policies. At this time, the applicant may submit amendments and the examining attorney may enter amendments or refuse registration unless certain requirements are met. Upon completion of the examination process, including any possible appeal from a refusal, a trademark application is published in the *Official Gazette*. Marks are published prior to registration to permit interested parties to file an opposition within a 30-day time period if they believe that they may be harmed by the registration. Those marks that pass through the opposition period without challenge, or survive any opposition, move along to issuance of either a trademark registration for an application based on use, or a notice of allowance for an application based on intent to use.

The examination of trademark applications consists of the activities shown on the following schematic, and major functions as described below.



**Sub-Activity #1: Trademark Examining (\$102.6 million and 621 FTE)**

The USPTO plays a critical role in providing notice of marks in use, or for which there is an intention to use, through its on-line resources of registered and pending trademarks. Prior to filing an application for registration, or establishing or investing in a mark, a business owner would be able to survey existing marks in use or proposed for use by utilizing on-line resources and support services available for customers to prepare and file their applications with the office. This support consists of the public search rooms located at the USPTO's facilities in Alexandria VA, support for the Patent and Trademark Depository Resource Centers (formerly Depository Libraries) located across the country, the USPTO on-line information trademark basics "how-to videos", frequently asked questions (FAQs manuals, search systems, electronic filing, and a customer service call center operated by the Trademark Assistance Center.

**Input Processing - \$8.9 million and 63 FTE**

More than 99 percent of trademark applications for registration of a mark are currently filed electronically, and 73 percent are processed electronically from receipt to final disposition. When an application is received at the USPTO, it is subject to a quality review process. In that process the electronically tagged application data is reviewed to add the international classification and design search codes that facilitate searching and examination. The tagged data in a trademark application is transferred automatically to the appropriate data fields in trademark electronic automated systems. Trademark automated systems are the source for application data that is used in the processing, examination, and maintenance of registered trademarks – as well as the information that is made available to the public through [www.uspto.gov](http://www.uspto.gov). The automated systems are also the source of the *Official Gazette*, which provides notice of marks approved by examiners, those in use and maintained by registrants, and those available to the public. Initial examination also encompasses the processing of applications filed under the Madrid Protocol.

**Examination Processing - \$90.9 million and 533 FTE**

One of nearly 400 Trademark examining attorneys will determine if the mark in each newly filed application is entitled to registration under the provisions of the Trademark Act. As part of the process, the examining attorney conducts a search of prior filed and registered marks to evaluate if a conflict exists between the mark in the application and a previously filed application or registration. Examining attorneys evaluate many types of marks, such as trademarks, service marks, certification marks, and collective membership marks against the criteria for registrability set out in the Trademark Act of 1946, as amended, and make a determination to approve or deny an application for registration. The examining attorney searches a database of more than 1,700,000 registered marks and 500,000 pending marks in order to determine if the mark in the subject application is confusingly similar to an existing mark.

An approved application is published prior to registration to provide notice to interested parties who may file an opposition to registration. Marks based on use in commerce that are unopposed, or survive any filed opposition, are registered. Marks filed based on intent to use receive a notice of allowance following the opposition period, if they are unopposed or survive any filed opposition, with registration occurring following issuance of a Notice of Allowance by the Office and subsequent filing and acceptance of a Statement of Use from the applicant.

*Quality and Training* are important components of the examination process. The resources required for a quality examination of a trademark application, and registration is integrated with the total examination costs.

Under the quality assurance program the results of an examiner's first and final office action are reviewed for the quality of the substantive basis for decision making, search strategy, evidence,

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and writing. Based on the data collected from those reviews, the Agency has targeted both electronic and traditional training initiatives addressing specific problem areas. This program also provides prompt feedback to examining attorneys when their work products are reviewed. Specific comments on any work product found to be either "excellent" or "deficient," are sent to the appropriate examining attorney and supervisor. As a result, training takes place on the micro level, with specific feedback, as well as on the macro level, with training modules that address trends, targeting topics that warrant improvement. As part of the USPTO's commitment to improving the quality of examination and ensuring that all examiners possess the knowledge, skills and abilities necessary to perform their jobs, examiners have the opportunity to take a series of self-paced e-learning tutorials. New e-learning modules are implemented throughout the year based on topics that are identified through quality review evaluations.

The Trademark Organization continues its efforts to improve quality in a cost-effective manner. To raise the bar, the Trademark Organization is emphasizing comprehensive excellence in office actions, which expands upon the existing first and final action standards for correct decision-making. A comprehensively excellent office action is one that reflects correct decision-making, includes excellent evidentiary support, and is exceptionally well-written.

A critical component of the trademark examination process is its policy and legal function. This consists of establishing trademark examination policy standards; serving as the authority on trademark laws, rules, and examining practices and procedures; implementing treaty obligations; implementing judicial and Trademark Trial and Appeal Board decisions; publishing rules for public comment and then publishing final rules; and maintaining the Trademark Manual of Examining Procedure. The costs of performing these functions are included in the cost of examination.

### **Trademark-Post Registration Processing - \$2.8 million and 25 FTE**

Trademark registrations can be maintained indefinitely, for as long as the registered mark is in use under the Trademark Act. Registrations require periodic renewal – every 10 years for marks on the Principal and Supplemental registers. In order to maintain rights to a mark, the owner must first file an affidavit five years from the date of registration. To renew a Trademark registration, the owner must file an acceptable affidavit and an application for renewal within one year before the end of every ten-year registration period. Owners of marks on the Principal Register can also make a claim of incontestability to claim exclusive rights after the mark has been in continuous use in commerce for a period of five consecutive years after the date of registration. The owner can also request to correct or amend a Trademark registration by filing requests.

Filings are examined for completeness and compliance with statutory requirements. 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 marks are no longer in use.

### **Sub-Activity #2: Trademark Appeals and Inter Partes Proceedings (\$11.0 million and 70 FTE)**

Administrative Trademark Judges on the TTAB review adverse registrability determinations by examining attorneys at the applicant's request, conduct opposition hearings where an interested party believes that it will be harmed by the registration of a published mark, and conduct other proceedings involving registrations where a third party wishes to challenge the validity of a registration.

**Sub-Activity #3: Trademark Information Resources (\$40.2 million and 61 FTE)**

Trademark Information activities coordinate the modernization, development and management of the Trademark IT systems, including Trademark support personnel who serve as business process experts in working with the IT technical experts by providing technical expertise and project management in the development of Trademark program systems supporting electronic filing, and Trademark business operations.

Operating, Maintaining and Making Capital Improvements to Trademark Business Systems are the responsibility of the OCIO, and include base level resources for modernizing Trademark IT by developing and implementing the Trademark Next Generation (TMNG) IT system.

Resources are also used for operating and maintaining the automated information systems that directly support the trademark process and make information available to the public. These activities are fully described in the "USPTO Information Technology Portfolio" section of the Introduction.

**Sub-Activity #4: Management Goal – Allocated (\$96.9 million and 156 FTE)**

This sub-activity represents all of the Management activities that support the accomplishment of the Trademark goal. These can be specifically Trademark-related, or cross-cutting management functions that are dedicated to supporting overall USPTO activities, such as financial management systems. These activities are further described under the Management goal. The costs are allocated to Trademarks and funded from trademark fee collections based on the Agency's ABI analysis and results.

**Significant Adjustments to Base (ATBs):**

The USPTO requires a net increase of 45 FTEs and \$10.1 million to fund adjustments to current programs for the Trademark Program activities. This increase will provide the annualization of the FTE increase and will also provide inflationary increases for non-labor activities, including service contracts, utilities, lease payments, and rent charges from the GSA.

**Program Gap Assessment:**

For the last several years, the Trademark Organization has met or exceeded its performance targets. The challenge, therefore, is to continue to maintain the timeliness and quality standards that users of the U.S. trademark system have come to expect. For example, maintaining pendency at current levels requires a balance between forecasted new filings and workloads, existing inventories, and examination capacity. Achieving this balance calls for dynamic resource allocation, appropriate staffing, and enhanced management tools.

**Schedule and Deliverables**

Schedules and deliverables are addressed in each Program Change section that follows.

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Trademark Program Performance Goals and Measurement Data								
	FY 2011 Actual	FY 2012 President's Budget	FY 2012 Current Estimate	FY 2013 Estimate	FY 2014 Estimate	FY 2015 Estimate	FY 2016 Estimate	FY 2017 Estimate
<i>(Dollars in thousands)</i>								
Total Balanced Disposals	780,821	840,500	818,500	848,500	889,000	957,000	1,042,000	1,121,000
Total Office Disposals	379,494	384,000	417,600	433,000	453,800	489,500	533,200	573,000
Applications Received – (Includes Additional Classes)	398,667	404,000	413,000	428,000	450,000	488,000	532,000	570,000
Applications Filed Percent Change Over Previous FY	8.1	N/A	3.6	3.6	5.1	8.4	9.0	7.1
Examining Attorneys On-Board at End-of-Year	378	366	396	414	434	462	505	539
Excellent First Action Rate (Percent) <sup>1</sup>	24.0	N/A	20.0	20.0	21.0	21.0	22.0	22.0
Total Cost Per Trademark Office Disposal	\$541	\$621	\$621	\$634	\$632	\$596	\$562	\$536
First Action Compliance Rate (Percent)	96.5	95.5	95.5	95.5	95.5	95.5	95.5	95.5
Without funding increase		95.5	95.5	95.5	95.5	95.5	95.5	95.5
Final Compliance Rate (Percent)	97.0	97.0	97.0	97.0	97.0	97.0	97.0	97.0
Without funding increase		97.0	97.0	97.0	97.0	97.0	97.0	97.0
Average First Action Pendency (Months)	3.1	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5	2.5 - 3.5
Without funding increase		2.5 - 3.5	2.5 - 3.5	3.5 - 4.5	3.5 - 4.5	3.5 - 4.5	4.5 - 5.5	4.5 - 5.5
Average Total Pendency (Months) Excluding Suspended and Inter Partes Proceedings	10.5	12.0	12.0	12.0	12.0	12.0	12.0	12.0
Without funding increase		12.0	12.0	12.5	13.0	13.0	13.5	14.0
Applications Processed Electronically (Percent)	73	70	74	76	78	80	80	80
Without funding increase		70	70	68	66	64	64	64

<sup>1</sup> The "excellent first action" rate is a new quality measure for FY 2011.

# Exhibit 13 – 15: Trademark Program Changes by Sub-Activity

Exhibit 13

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR 2013  
(Dollar amounts in thousands)

		2013 Base		2013 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Trademark Program	<i>Pos./Obl.</i>	767	153,855	792	151,928	25	(1,927)
	<i>FTE</i>	752		769		17	
<i>Trademark Examining</i>	<i>Pos./Obl.</i>	635	102,630	653	102,585	18	(45)
	<i>FTE</i>	621		634		12	
Workload-related Increase	<i>Pos./Obl.</i>					18	(45)
	<i>FTE</i>					12	
<i>Trademark Information Resources</i>	<i>Pos./Obl.</i>	61	40,193	68	38,311	7	(1,881)
	<i>FTE</i>	61		65		4	
Trademark IT Improvements	<i>Pos./Obl.</i>					-	29
	<i>FTE</i>					-	
CIF Trademark IT Capital Improvements	<i>Pos./Obl.</i>					7	(1,910)
	<i>FTE</i>					4	

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Exhibit 13 Continued

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR 2013  
(Dollar amounts in thousands)

		FY 2013 Increase (Decrease)		FY 2014 Increase (Decrease)		FY 2015 Increase (Decrease)		FY 2016 Increase (Decrease)		FY 2017 Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Trademark Program	Pos./Obl.	25	(1,927)	49	(499)	84	146	133	1,615	170	2,597
	FTE	17		40		79		124		163	
<i>Trademark Examining</i>	<i>Pos./Obl.</i>	<i>18</i>	<i>(45)</i>	<i>42</i>	<i>2,312</i>	<i>77</i>	<i>7,079</i>	<i>126</i>	<i>12,542</i>	<i>163</i>	<i>17,017</i>
	<i>FTE</i>	<i>12</i>		<i>33</i>		<i>72</i>		<i>117</i>		<i>156</i>	
Workload-related Increase	Pos./Obl.	18	(45)	42	2,312	77	7,079	126	12,542	163	17,017
	FTE	12		33		72		117		156	
<i>Trademark Information Resources</i>	<i>Pos./Obl.</i>	<i>7</i>	<i>(1,881)</i>	<i>7</i>	<i>(2,810)</i>	<i>7</i>	<i>(6,933)</i>	<i>7</i>	<i>(10,927)</i>	<i>7</i>	<i>(14,419)</i>
	<i>FTE</i>	<i>4</i>		<i>7</i>		<i>7</i>		<i>7</i>		<i>7</i>	
Trademark IT Improvements	Pos./Obl.		29		304		494		1,098		1,187
	FTE										
CIF Trademark IT Capital Improvements	Pos./Obl.	7	(1,910)	7	(3,114)	7	(7,428)	7	(12,025)	7	(15,607)
	FTE	4		7		7		7		7	

**FY 2013 Program Change Summary**

Program Change:	<b>Sub-Activity #1: Trademark Examining</b>	
Amount:	(\$.05 million)	FTE: 12
Budget Activity:	Trademark Program	

**Program Change Description**

The strategic goal to optimize trademark quality and timeliness is being accomplished through the following objective for which funds are required in FY 2013:

- Maintain Trademark First Action Pendency on Average Between 2.5-3.5 Months, with 12.0 Months or Less Final Pendency

**Program Changes for FY 2013:**

Maintain Trademark First Action Pendency on Average Between 2.5-3.5 Months, with 12.0 Months or less Final Pendency (decrease \$.05 million and increase 12 FTE): The USPTO will decrease funding by \$.05 million and increase FTE by 12 for a total of \$102.6 million and 634 FTE to adjust trademark application examination capacity with the revised estimated workloads. This will enable the Trademark Organization to process incoming work in a timely manner. Filings of new trademark applications showed robust year to year growth rates of eight percent from 2010-2011. The positive momentum in new application filings is expected to continue although at a somewhat lower rate influenced by the economic recovery that is still underway.

The projected increase in trademark application filings requires an increase in examination capacity to continue to meet pendency and quality performance goals. The Office plans to resume hiring of examining attorneys to replace attritions that have occurred over the past three years. Performance has been managed over that time through the judicious use of overtime and incentive awards.

Filings of new applications are expected to increase on average by about four percent year over year. To handle the expected increase in workloads, the Office plans to increase examination staff by a total of 18 new positions. Offsetting the incremental costs, the Office expects savings in overtime usage due to timely hiring and appropriate levels of production incentive awards.

The Trademark Organization is making good use of its electronic systems and is successfully motivating applicants to conduct correspondence electronically. About 99 percent of all new applications and the great majority of post registration affidavits are filed electronically. With higher end-to-end electronic processing, the Office will realize cost reductions that offset the incremental cost of the new hires in FY 2013.

**Proposed Actions:**

This program change will enable the USPTO to maintain trademark pendency at the current levels by addressing the need to balance forecasted new filings and workload (application classes are projected to increase four percent per year in FY 2013 and more than four percent beyond FY 2013), existing inventories, and examination capacity.

This request supports the Department's Economic Growth goal to advance economic prosperity by using IP as a tool to create a business environment that cultivates and rewards new ideas, technologies, services and products.

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### **Statement of Need and Economic Benefits:**

Trademark application filings (classes) showed robust year-to-year growth rates of eight percent from 2010-2011. This positive momentum in new application filings is expected to continue, although at a somewhat lower rate influenced by the economic recovery that is still underway.

The Trademark Organization performs a valuable function by identifying the source of products and services, and being an indicator of reliable quality to the consumer. A mark registered with the USPTO serves as *prima facie* evidence of ownership and the right to use the mark, can provide access to the Federal court system, and when registered with U.S. Customs and Border Protection, can be used to stop the importation of infringing goods. Timely indication of the viability of a trademark application enables businesses to develop their financial and marketing plans.

### **Risk Assessment:**

Trademark Examining supports the mission of the Agency to convey federal registration of trademarks. Increasing examination staffing capacity is necessary to continue to deliver timely examination decisions and high quality registrations. The activity is a high priority for the Agency, and is funded through user fees that directly support the activity. Failure to support spending authority that directly contributes to examination would undermine the mission of the Agency; impair relationships with user groups and stakeholders that support fee funded operations; and negatively impact the Agency's responsibility to render decisions regarding federal registration and maintain pendency goals. Current and future fee collections will also be negatively impacted by a reduction or delay in examination and processing of applications which generate additional revenues as subsequent filings become due following notice of allowance and registration.

**Trademark Workload-Related Increase.** The Trademark Organization requires a \$.05 million decrease and an increase of 12 FTE for a total of \$102.6 million and 634 FTE to adjust trademark application examination capacity with the revised estimated workloads. This will enable the Trademark Organization to process incoming work in a timely manner. The positive momentum in new application filings is expected to continue although at a somewhat lower rate influenced by the economic recovery that is still underway. The projected increase in trademark application filings requires an increase in examination capacity to continue to meet pendency and quality performance goals. With electronic filings and higher end to end electronic processing, the office continues to realize offsetting cost reductions in contract services that support manual paper based processes.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	(\$45)	\$2,312	\$7,079	\$12,542	\$17,017
FTE	12	33	72	117	156

**Schedules/Milestones/Deliverables** for the strategic objective to maintain trademark first action pendency on average between 2.5-3.5 months with 12.0 months or less final pendency can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**FY 2013 Program Change Summary**

Program Change:	<b>Sub-Activity #3: Trademark Information Resources</b>	
Amount:	(\$1.9 million)	FTE: 4
Budget Activity:	Trademark Program	

**Program Change Description**

The goal to optimize trademark quality and timelines is being accomplished through the following objective:

- Modernize IT system by developing and implementing the Trademark Next Generation IT system

**Program Changes for FY 2013:**

Trademark Information Resources (-\$1.9 million and 4 FTE): The USPTO requires a decrease of \$1.9 million for a total of \$38.3 million and 65 FTE to improve examination efficiency by managing a capital improvement fund.

**Proposed Actions:**

This program change includes the initiative to continue establishing the TMNG IT capability.

**Statement of Need and Economic Benefit:**

This program change continues to improve Trademark operations and facilitate accomplishment of the Trademark goal to optimize trademark quality and timeliness.

**Risk Assessment:**

The IT architecture and systems currently in place are inadequate and unable to evolve to meet the demands of the future. The continued dependency on inefficient and outdated automation will lead to an inability to support the USPTO's mission and goals.

**Trademark IT Improvements.** The Trademark Organization will be scaling up to manage the migration to the new IT infrastructure and the deployment of new functionalities once the next generation infrastructure is developed and implemented over the next few years.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$29	\$304	\$494	\$1,098	\$1,187
FTE	-	-	-	-	-

**CIF - Trademark IT Improvements.** In FY 2013, the Trademark Program requires less overall funding than currently provided in the base program to improve its IT capability and continue establishing the next generation of Trademark IT capability. This reduction to base is net of additional resources needed to support the acceleration of the TMNG project primarily in the FY 2012 – 2014 time period, and for an increase in positions in the OCIO to work on Trademark IT improvements.

The TMNG project plan has two major components: platform and business functionality. Platform changes address system availability and flexibility through separation and virtualization, cloud computing, and infrastructure enhancement. Functionality addresses access and ease of use through a common user interface, web and business services, data access and program enhancements. Platform changes are already underway and expected to

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be completed by FY 2013. Functionality project plans, still under development, are based trademark priorities that will initially focus on improving systems that support the core business and examination functions.

In FY 2013, the OCIO needs to increase hiring of additional staff skilled in technical support. The current OCIO technical pool is not of sufficient size to meet the needs posed by USPTO's vital modernization efforts. In its next generation of IT, USPTO is moving away from an Automated Information System (AIS) model to a virtualized-services model. Sufficient staff highly versed in open-source technologies are needed to support a services-oriented model, enable increased system stability and performance, and support an agile-development environment. In addition, the OCIO will need sufficient technical staff to leverage the NIST Cloud (Virtualization) model that delineates Infrastructure as a Service (IaaS), Platform as a Service (PaaS), and Software as a Service (SaaS) and provide the capabilities to implement the changes called for in the OMB's "25 Point Implementation Plan to Reform Federal Information Technology Management." In FY 2013, a TMNG moves into production, operational staff will be needed to provide technical direction, oversight and support for the new applications.

Additional information about the overall USPTO IT activities can be found in the "USPTO Information Technology Portfolio" section of the Introduction.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	(\$1,910)	(\$3,114)	(\$7,428)	(\$12,025)	(\$15,607)
FTE	4	7	7	7	7

**Schedules/Milestones/Deliverables** for the strategic objectives to modernize IT systems by developing and implementing the TMNG IT system can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**PROGRAM CHANGE PERSONNEL DETAIL**

(Dollar amount in thousands)

Activity: Trademarks  
 Subactivity:

<b>Title:</b>	<b>Location</b>	<b>Grade</b>	<b>Number of Positions</b>	<b>Annual Salary</b>	<b>Total Salaries</b>
TM Examiner Attorney	Alexandria, VA	GS 11	18	68,712	1,236,816
IT Specialist	Alexandria, VA	GS 11	1	68,712	68,712
IT Specialist	Alexandria, VA	GS 12	1	82,359	82,359
IT Specialist	Alexandria, VA	GS 13	2	97,936	195,872
IT Specialist	Alexandria, VA	GS 14	2	115,731	231,462
IT Specialist	Alexandria, VA	GS 15	1	136,134	136,134
<b>Total</b>			<b>25</b>		<b>1,951,355</b>

less Lapse		33%	<u>8</u>		<u>658,704</u>
Total full-time permanent (FTE)			17		1,292,651
2012 Pay Adjustment	0.0%				-
2013 Pay Adjustment	0.5%				<u>6,463</u>
<b>TOTAL</b>					<b>1,299,114</b>

<b>Personnel Data</b>	<b>Number</b>
Full-Time Equivalent Employment	
Full-time permanent	17
Other than full-time permanent	<u>0</u>
Total	17

Authorized Positions:	
Full-time permanent	25
Other than full-time permanent	<u>0</u>
Total	25

**PROGRAM CHANGE DETAIL BY OBJECT CLASS**  
**(Dollar amounts in thousands)**

Activity: **Trademarks**  
 Subactivity:

<b>Object Class</b>	<b>2013 Increase</b>
11 Personnel compensation	
11.1 Full-time permanent	1,299
11.3 Other than full-time permanent	
11.5 Other personnel compensation	66
11.8 Special personnel services payments	
11.9 Total personnel compensation	1,365
12 Civilian personnel benefits	367
13 Benefits for former personnel	
21 Travel and transportation of persons	(1)
22 Transportation of things	1
23.1 Rental payments to GSA	-
23.2 Rental payments to others	-
23.3 Communications, utilities and miscellaneous charges	(1)
24 Printing and reproduction	(3)
25.1 Advisory and assistance services	-
25.2 Other services	(832)
25.3 Purchases of goods & services from Gov't accounts	-
25.4 Operation and maintenance of facilities	
25.5 Research and development contracts	
25.6 Medical care	
25.7 Operation and maintenance of equipment	
25.8 Subsistence and support of persons	
26 Supplies and materials	22
31 Equipment	(2,846)
32 Lands and structures	
33 Investments and loans	
41 Grants, subsidies and contributions	
42 Insurance claims and indemnities	
43 Interest and dividends	-
44 Refunds	
99 Total obligations	<b>(1,927)</b>

**INTELLECTUAL PROPERTY POLICY,  
PROTECTION AND ENFORCEMENT  
PROGRAM**

## Exhibit 10 – Program Performance: Total Obligations

**Department of Commerce**  
**U.S. Patent and Trademark Office**  
**Intellectual Property Policy Protection and Enforcement Program**  
**PROGRAM AND PERFORMANCE: TOTAL OBLIGATIONS**  
 (Dollar amounts in thousands)

Activity: Intellectual Property Policy

Sub-Activity:		FY 2011 Actual		FY 2012 Current Plan		FY 2013 Base		FY 2013 Estimate		Increase/ (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Policy and Administrative Support	Pos./Obl	55	14,482	80	21,254	79	23,743	86	25,255	7	1,512
	FTE	53		63		78		83		5	
Governmental Affairs	Pos./Obl	8	1,274	10	1,789	10	2,052	10	2,052	0	-
	FTE	8		9		10		10		0	
Global Intellectual Property Academy (GIPA)	Pos./Obl	18	6,549	19	8,485	20	8,793	23	9,489	3	697
	FTE	18		18		20		22		2	
IPR Attaché Program	Pos./Obl	2	6,251	2	8,663	2	8,769	4	9,918	2	1,149
	FTE	2		2		2		4		2	
IP PP&E Information Resources	Pos./Obl		11		702	0	712		623	0	(89)
	FTE					0				0	
Subtotal Direct	Pos./Obl	83	28,568	111	40,892	111	44,068	123	47,338	12	3,270
	FTE	81		92		110		119		9	
Management Goal - Allocated	Pos./Obl	45	15,092	65	18,563	65	20,530	68	20,997	3	467
	FTE	42		49		60		61		2	
<b>Total</b>	Pos./Obl	128	43,660	176	59,455	176	64,598	191	68,335	15	3,737
	FTE	122		142		170		181		11	

## Exhibit 12 – Justification of IP Policy, Protection and Enforcement (IP PP&E) Program and Performance

### FY 2013 IP PP&E Program Summary

Program:	<b>IP PP&amp;E Program</b>	
Base Resources:	\$64.6 million	FTE: 170
Bureau:	USPTO	
Budget Activity:	IP PP&E Program	

For FY 2013, the USPTO requires an increase of \$8.9 million and 39 FTE over the FY 2012 Current Plan (including a program change of \$3.7 million and 11 FTE over the FY 2013 base program) for a total of \$68.3 million and 191 FTE for the IP PP&E Program.

### Program Description

**Base Justification for FY 2013:**

The USPTO's IP PP&E Program, through its strategic goal to provide domestic and global leadership to improve IP policy, protection and enforcement worldwide, supports the Department's strategic objective to expand international markets for U.S. firms and inventors by improving the protection and enforcement of IP rights.

The USPTO strategic goal will be met by achieving the following objectives as set forth in the *2010-2015 Strategic Plan*:

- Provide Domestic Leadership on IP Policy Issues and Development of a National IP Strategy
- Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights

The base IP PP&E Program (\$64.9 million and 178 FTE) consists of the following six sub-activities that are described below. This program and its sub-activities directly or indirectly contribute to the attainment of the strategic goal and objectives:

- Sub-Activity #1: Policy and Administrative Support
- Sub-Activity #2: Governmental Affairs (GA)
- Sub-Activity #3: Global Intellectual Property Academy (GIPA)
- Sub-Activity #4: Intellectual Property Rights Attaché Program
- Sub-Activity #5: IP PP&E Information Resources
- Sub-Activity #6: Management Goal -- Allocated

**Sub-Activity #1: Policy and Administrative Support (\$23.7 million and 78 FTE)**

The Administrator for Policy and External Affairs (OPEA) is the principal advisor to the Under Secretary on public policy matters relating to IP protection including proposed legislation and international activities of the United States. OPEA includes attorneys in various subject matter fields (trade, enforcement, patents, copyright, and trademarks) who perform the policy and

## **FY 2013 President's Budget**

representation work, and representation travel, as well as program analysts and a number of administrative support specialists who support the entire office.

### **Intellectual Property Policy**

OPEA plays a critical role in the U.S. Government's (USG) efforts and obligations to provide IP technical assistance throughout the world, which includes providing policy advice, and defining a course or method of action that is intended to guide and determine present and future decisions on IP.

OPEA participates in the World Intellectual Property Organization (WIPO), a specialized agency of the United Nations (UN) devoted to IP matters. WIPO has standing committees devoted to IP law. The USPTO initiates, crafts, coordinates, negotiates, and represents the USG position. The OPEA also participates in the World Trade Organization (WTO), which is an international forum for liberalizing trade. The United States is a member and has worked to include a substantial IP component known as the Trade-Related Aspects of IP (TRIPS) agreement. The USPTO provides technical expertise in IP dispute-settlement cases before the WTO, in support of and at the request of the office of the U.S. Trade Representative (USTR). The USPTO has been the USG's IP technical representative in several cases, most recently in the USG's successful copyright challenge to certain aspects of China's IP regime. OPEA also participates at the World Health Organization (WHO), which is the directing and coordinating authority for health within the UN system. IP issues surround access to medicines for influenza pandemics, among others.

OPEA's statutory obligation to provide IP guidance and advice to the Administration with respect to international IP policy and protection includes bilateral, regional, and multilateral IP discussions, and IP-Office cooperation leading directly to patent work sharing. These efforts benefit the USG and U.S. interests -- especially American companies and entities seeking to do business overseas -- by ensuring the availability and enforceability of IP rights, thereby leveling the playing field for U.S. IP-based trade. Some of these initiatives include supporting Free Trade Agreement (FTA), Trilateral, and IP5 cooperative activities, and working to simplify and harmonize administrative and technical processing of patent and trademark applications.

OPEA also coordinates patent cooperative activities with the Japan Patent Office (JPO), the European Patent Office (EPO), the Korean IP Office, and the State IP Office of the People's Republic of China (PRC) through the IP5, which lead to work-sharing and patent prosecution highway (PPH) projects that will help address the patent backlog.

### **Chief Economist**

The Chief Economist (CE) is the primary advisor to the Under Secretary regarding all economic issues at the USPTO. The CE undertakes research that influences and guides USPTO regulatory initiatives and policy recommendations with respect to the broader functioning of IP systems. This involves long-term research and policy planning on an ongoing basis. The CE assists the USPTO and other USG agencies by evaluating market data and trends to assist in targeting examination, enforcement, and outreach resources. The CE also conducts research into the causes and consequences of significant developments in U.S. markets, prevailing practices among users and producers of IP, and U.S. IP policy.

### **Sub-Activity #2: Governmental Affairs (GA) (\$2.1 million and 10 FTE)**

GA formulates legislative and policy proposals, and prepares supporting documentation to carry out the legislative and policy proposals, as well as supporting documentation to carry out the legislative programs and policy of USPTO. Staff also reviews and prepares analyses of legislative proposals concerning IP matters that originated in other executive agencies or that

were proposed by members of the Congress. GA prepares congressional testimony on IP for the Under Secretary, and other USPTO and Departmental officials, and maintains liaison with the Congress, the IP bar associations, industry, and others concerned with proposed and pending legislation. The group analyzes other IP-related policy issues that are before the Executive Branch and obtains public views through various means, including public hearings. The mission of the office is to advance the legislative agenda of the Under Secretary; generate goodwill; provide education and outreach; prepare for hearings and legislation; manage responses to congressional inquiries; and liaison with the Department and other agencies.

**Sub-Activity #3: Global Intellectual Property Academy (GIPA) (\$8.8 million and 20 FTE)**

GIPA provides training, technical assistance and capacity building programs and activities to foreign government officials from other IP offices or other foreign government officials responsible for IP enforcement policy or law enforcement. These may include customs officials, police officers, IP enforcement office administrators, public prosecutors, and members of the judiciary. Programs for U.S. right holders on protecting IP rights in the global marketplace are also offered, with specialized programs on doing business in China, with plans to also offer similar programs on doing business in the other BRIC – Brazil, Russia, India and China -- countries, specifically India, Brazil and Russia.

Specific programs include:

- High-level capacity building and technical assistance training to foreign government officials (judges, prosecutors, customs officials, IP enforcement personnel, as well as officials from IP offices).
- Providing patent officials from other countries with patent examiner training at the Patent Training Academy, with financial support from those countries.
- Conducting an advanced trademark examination program for examiners from other IP offices, such as Brazil and India. The program provides the senior examiners with an in-depth analysis of the U.S. approach to the examination of trademark applications.
- Organizing and hosting capacity-building joint projects, such as those conducted with the Asia Pacific Economic Cooperation (APEC); the Association of South East Asian Nations (ASEAN); and the Pacific Islands Forum (PIF) capacity-building events.
- Conducting study tour programs on IP rights enforcement and the U.S. legal system for foreign government judges and prosecutors.

**Sub-Activity #4: Intellectual Property Rights (IPR) Attaché Program (\$8.8 million and 2 FTE)**

The attaché program was formally instituted in 2006 to promote the value and importance of strong IP protection and enforcement internationally for the benefit of U.S. foreign, economic, and political interests. Since its creation, the IPR Attaché Program has placed individuals in seven countries: Brazil, China (posts exist in Beijing, Guangzhou, and Shanghai), Egypt, India, Russia, Switzerland, and Thailand. There are currently attachés at all posts except Egypt and Russia. The IPR attaché Program is closely aligned with and supports achievement of USPTO's mission, the IP PP&E strategic goal, and the objectives identified in the *USPTO 2010-2015 Strategic Plan*. The IPR attachés bring unique technical IP expertise and experience to their posts. Attachés have helped influence laws, regulations, and IPR practices in their host countries.

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### **Sub-Activity #5: IP PP&E Information Resources (\$0.7 million)**

IP PP&E Information Resources include a minimal level of base resources for making capital improvements to, as well as operating and maintaining existing, IP PP&E systems. The USPTO IT activities are fully described in the "USPTO Information Technology Portfolio" section of the Introduction.

### **Sub-Activity #6: Management Goal – Allocated (\$20.5 million and 60 FTE)**

This sub-activity represents all of the management activities that support accomplishment of the IP PP&E goal. These can be specifically IP PP&E related or cross-cutting functions that are dedicated to overall USPTO activities, such as financial management systems. These activities are described under the Management Goal while the costs are allocated to the IP PP&E program based on the Agency's ABI analysis and results.

### **Significant Adjustments to Base (ATBs):**

The USPTO requires a net increase of 28 FTEs and \$5.1 million to fund adjustments to current programs for the IP PP&E Program activities. This increase will provide the annualization of the FTE increase and will also provide inflationary increases for non-labor activities, including service contracts, utilities, lease payments, and rent charges from the GSA.

### **Program Gap Assessment:**

Given the demonstrated importance of high-quality IP, the USPTO is a key component of the Administration's strategy to encourage American innovation and global competitiveness. As a result, the USPTO is striving to overcome the challenges to maintaining effective IP rights, which include: gathering data on how IP rights function in the marketplace, deepening the dialogue on global IP policy, facilitating technical cooperation with foreign countries, optimizing the interaction of the IP system with other legal regimes, arriving at agreement on standards for IP protection, and improving IP enforcement.

<b>Schedule and Deliverables</b>
----------------------------------

Schedules and deliverables are addressed in each Program Change section that follows.

**IP PP&E Performance Goal and Measurement Data**

<i>(Dollars in thousands)</i>	FY 2011 Actual	FY 2012 President's Budget	FY 2012 Current Plan	FY 2013 Estimate	FY 2014 Estimate	FY 2015 Estimate	FY 2016 Estimate	FY 2017 Estimate
Percent of prioritized countries for which country teams have implemented at least 75% of action steps in the country-specific action plans toward progress along following dimensions: 1. Institutional improvements of IP office administration for advancing IP rights 2. Institutional improvements of IP enforcement entities 3. Improvements in IP laws and regulations 4. Establishment of government-to-government cooperative mechanisms	100%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%
Without funding		50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%
Percent of foreign officials trained who have initiated or implemented a positive change in the IP systems in their organization and/or countries.	Baseline	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%	75.0%
Without funding		50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%

## Exhibit 13 – 15: IP Policy, Protection and Enforcement Program Changes by Sub-Activity

Exhibit 13

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR 2013  
(Dollar amounts in thousands)

		2013 Base		2013 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Direct Total, Intellectual Property Policy, Protection and Enforcement Program	Pos./Obl.	111	44,068	123	47,338	12	3,270
	FTE	110		119		9	
<i>Policy and Administrative Support</i>	Pos./Obl.	79	23,743	86	25,255	7	1,512
	FTE	78		83		5	
Global IP Initiatives	Pos./Obl.					5	1,138
	FTE					4	
Global Electronic Office	Pos./Obl.					2	375
	FTE					2	
<i>Global Intellectual Property Academy</i>	Pos./Obl.	20	8,793	23	9,489	3	697
	FTE	20		22		2	
GIPA Technological Capabilities	Pos./Obl.					3	697
	FTE					2	
<i>IPR Attaché Program</i>	Pos./Obl.	2	8,769	4	9,918	2	1,149
	FTE	2		4		2	
Posting of IP Attachés	Pos./Obl.	-				2	1,149
	FTE	-				2	
<i>IP PP&amp;E Information Resources</i>	Pos./Obl.	-	712	-	623	-	(89)
	FTE	-		-		-	
CIO IPP&E	Pos./Obl.					-	(89)
	FTE					-	

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Exhibit 13 Continued

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR 2013  
(Dollar amounts in thousands)

		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
		Personnel	Amount								
Direct Total, Intellectual Property Policy, Protection and Enforcement Program	Pos./Obl.	12	3,270	12	3,613	12	3,733	12	3,842	12	4,009
	FTE	9		12		12		12		12	
<i>Policy and Administrative Support</i>	Pos./Obl.	7	1,512	7	1,872	7	1,907	7	1,921	7	1,956
	FTE	5		7		7		7		7	
Global IP Initiatives	Pos./Obl.	5	1,138	5	1,376	5	1,398	5	1,400	5	1,421
	FTE	4		5		5		5		5	
Global Electronic Office	Pos./Obl.	2	375	2	496	2	508	2	521	2	535
	FTE	2		2		2		2		2	
<i>Global Intellectual Property Academy</i>	Pos./Obl.	3	697	3	689	3	706	3	724	3	768
	FTE	2		3		3		3		3	
GIPA Technological Capabilities	Pos./Obl.	3	697	3	689	3	706	3	724	3	768
	FTE	2		3		3		3		3	
<i>IPR Attaché Program</i>	Pos./Obl.	2	1,149	2	1,196	2	1,258	2	1,324	2	1,405
	FTE	2		2		2		2		2	
Posting of IP Attachés	Pos./Obl.	2	1,149	2	1,196	2	1,258	2	1,324	2	1,405
	FTE	2		2		2		2		2	
<i>IP PP&amp;E Information Resources</i>	Pos./Obl.	-	(89)	-	(144)	-	(137)	-	(127)	-	(119)
	FTE	-		-		-		-		-	
CIO IPP&E	Pos./Obl.	-	(89)	-	(144)	-	(137)	-	(127)	-	(119)
	FTE	-		-		-		-		-	

## FY 2013 President's Budget

### FY 2013 Program Change Summary

Program Change:	<b>Sub-Activity #1 Policy and Administrative Support</b>	
Amount:	\$1.5 million	FTE: 5
Budget Activity:	IP PP&E Program	

### Program Change Description

The goal to improve IP policy, protection and enforcement will be achieved by carrying out the following objective, either through base resources or with the funding requirements identified and documented below.

- Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights

#### **Program Changes for FY 2013:**

Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights (\$1.5 million and + 5 FTE): The USPTO requires an increase of \$1.5 million and 5 FTE to provide leadership on IP policies by taking the lead on global IP initiatives, staffing to support global IP initiatives, and increasing the number of IP rights attaché postings.

This request supports the Department's Economic Growth goal to expand international markets for U.S. firms and inventors by improving the protection and enforcement of IP rights.

#### **Proposed Actions:**

Funds would be used to raise awareness globally of the importance of strong IP rights and enforcement capabilities. This will be done through training, technology, and staffing.

#### **Statement of Need and Economic Benefits:**

The USPTO is committed to raising public awareness, both domestically and internationally, of the link between IP rights protection, innovation, exports, and economic growth.

To fulfill its responsibility in promoting innovation and competitiveness, the USPTO must work to ensure that U.S. IP systems continually adapt to new technological advances; that foreign IP offices similarly adapt and improve their IP systems; that efforts to adapt and improve IP systems are based on the best available data; and that the IP rights of U.S. businesses are protected at home and abroad.

#### **Risk Assessment:**

With the current level of attention on the role of IP in a strong economy, the major risk is the lost opportunity to capitalize on that attention, to explore and find solutions to current IP challenges, and to modernize the international filing system, increase efficiency, and reduce costs for all concerned.

**New Hires to Support Global IP Initiatives.** Funds are required to fill five positions to expand the policy staff capacity to provide IP leadership globally and to address the following:

- Continue to pursue substantive patent harmonization by preparing a meaningful package of issues for consideration, as well as new proposals for going forward.

- Anticipate conclusion of the Trans-Pacific Partnership (TPP) Agreement and the need for OPEA to respond to requests for patent, trademark, copyright, and enforcement technical assistance, training and capacity building, for example, for Brunei, Chile, Malaysia, Peru, Vietnam and others.
- Develop an IP discipline on U.S. law and practice comprising curricula of 10-12 semester long courses on all aspects of U.S. IP law and practice, which will permit GIPA to expand its training of foreign government officials.
- In conjunction with the Trademark Trilateral, conduct a series of roundtable discussions with U.S. and foreign officials to propose and explore solutions for national trademark offices that would address the problem of bad faith filings at trademark offices around the world.
- Handle China enforcement-related duties, such as coordination of enforcement activities and training with the IP attachés, coordinate with USG agencies (e.g., the National IPR Coordination Center) on China-related activities and programs, and serve as liaison with the IP Working Group on APEC on China enforcement matters.

Failure to fund this initiative would represent a lost opportunity to make improvements while there is such a large focus on IP and to capitalize on that momentum to move harmonization along to the benefit of all IP offices.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$1,138	\$1,376	\$1,398	\$1,400	\$1,421
FTE	4	5	5	5	5

**The Global Electronic Office (GEO).** The advent and development of effective electronic communications (e.g., secure broadband) enables the USPTO to take a leadership role in eliminating duplication and distribution of patent and trademark application documents by creating an architecture wherein there is a single electronic patent or trademark dossier/file used by all stakeholders in the process (offices, applicants, and the public) whether an application is filed internationally under the Paris Convention or using a WIPO service (PCT or Madrid). Such dossiers would have a universal format and could either be centrally hosted in a “cloud” environment or (at least initially) distributed among the offices of first (priority) filing. Patent and trademark applicants use electronic filing – currently about 92 percent of patent and 97 percent of trademark at the USPTO. This means that the vast majority of stakeholders no longer uses paper applications, and is likely to welcome modernization where new, streamlined automation replaces the former reliance on paper-based practices.

Funds are required for two positions (a patent and a trademark expert) to develop the GEO concept and serve as dedicated liaisons with the other Trilateral and IP5 Offices. In addition to salaries and benefits, funds are required for associated costs, such as travel to meet with partner offices. The IT project itself would be developed by the OCIO.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$375	\$496	\$508	\$521	\$535
FTE	2	2	2	2	2

**Schedules/Milestones/Deliverables** for the strategic objective to provide leadership on international policies for improving the protection and enforcement of IP rights can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

## FY 2013 President's Budget

### FY 2013 Program Change Summary

Program Change:	<b>Sub-Activity #3: Global Intellectual Property Academy</b>	
Amount:	\$0.7 million	FTE: 2
Budget Activity:	IP PP&E Program	

### Program Change Description

The goal to improve IP policy, protection and enforcement will be achieved by carrying out the following objective, both through base resources and with the funding requirements identified and documented below.

- Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights

#### **Program Changes for FY 2013:**

Improved GIPA Technological Capabilities (+\$0.7 million and 2 FTE): The USPTO requires an increase of \$0.7 million and 2 FTE to improve GIPA technological capabilities.

#### **Proposed Actions:**

The USPTO proposes to improve GIPA's capacity for delivering technical assistance on IP practices and laws to enable countries to come into compliance with membership requirements for the WTO or a FTA.

#### **Statement of Need and Economic Benefits:**

GIPA provides training, technical assistance, and capacity building programs and activities to foreign government officials from other IP offices or other foreign government officials responsible for IP enforcement policy or law enforcement, such as customs officials, police officers, IP enforcement office administrators, public prosecutors, and members of the judiciary, as well as U.S. right holders. All of these programs focus on the protection and enforcement of IP rights.

#### **Risk Assessment:**

The opportunities possible with improved GIPA technological capabilities are immense and will contribute to USPTO being a world leader of improved IP protection and enforcement. Absent this funding, GIPA will continue to offer quality programming for the training of foreign IP officials in traditional program offerings, but there would be a lost opportunity to meet a wider audience with advanced programming and utilizing e-learning options.

**Improved GIPA Technological Capabilities.** Funds are required for three technicians with expertise to produce and deliver e-Learning training modules, and acquire additional offsite servers that would provide an enhanced user experience and promote wider dissemination of USPTO policy by tracking user activity on the site. This would enable GIPA to deliver technical assistance on IP practices and laws to bring countries into compliance with membership requirements for the WTO or a FTA. GIPA's e-Learning training is linked to the technical assistance that the USPTO is mandated to perform under terms of membership in the WTO and a number of FTAs, and supports the initiative to provide domestic education outreach, knowledge enhancement, and capacity building. Absent this funding, there is a lost opportunity to meet a wider audience with advanced programming and utilizing e-Learning options.

## FY 2013 President's Budget

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount ( <i>\$ in thousands</i> )	\$697	\$689	\$706	\$724	\$768
FTE	2	3	3	3	3

**Schedules/Milestones/Deliverables** for the strategic objective to provide leadership on international policies for improving the protection and enforcement of IP rights can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

## FY 2013 President's Budget

### FY 2013 Program Change Summary

Program Change:	<b>Sub-Activity #4: Intellectual Property Rights Attaché Program</b>	
Amount:	\$1.1 million	FTE: 2
Budget Activity:	IP PP&E Program	

### Program Change Description

The goal to improve IP policy, protection and enforcement will be achieved by carrying out the following objective, either through base resources or with the funding requirements identified and documented below.

- Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights

#### **Program Changes for FY 2013:**

Posting of IP Attachés (+\$1.1 million and 2 FTE): The USPTO requires an increase of \$1.1 million and 2 FTE to expand the IPR attaché program.

#### **Proposed Actions:**

The USPTO proposes to expand the IPR attaché program in order to focus on issues in South Asia, and Latin and South America.

#### **Statement of Need and Economic Benefits:**

The USPTO created its IPR attaché program to address country-specific and regional IP problems in key parts of the world. The primary responsibilities of the attachés are: advancing U.S. policy abroad; dialoguing with foreign counterparts on IP issues; providing training and technical assistance for foreign counterparts; supporting U.S. companies and right holders abroad; facilitating enforcement of IP laws and regulations; and promoting public awareness of IP issues. The work done by some of the current attachés has resulted in collaborative efforts with the host country IP offices which, ultimately, will help reduce patent pendency in the United States. Three agreements that have been signed as a result of the efforts between the IPR attachés in-country and USPTO personnel, and the host countries, merit mentioning:

- Russia – the primary focus of a recently signed MOU with Rospatent will be to raise awareness for IP protection, and to build work-sharing programs, including a PPH agreement, in order to reduce backlogs and shorten patent pendency;
- China – a PPH pilot program began in December 2011 as a result of the MOU; and
- Brazil – the MOU focuses on cooperative efforts between two agencies on matters related to the acquisition, utilization, and protection of IP rights.

#### **Risk Assessment:**

The major risk is the lost opportunity to bring USPTO's global IP harmonization policies and training to these developing countries IP offices and governments. The protection and enforcement of IP rights internationally is a critical objective of the Administration and this objective will be set back if these postings are not filled.

**Posting of IPR Attachés.** Funds required for FY 2013 would be used to expand the program beyond the BRIC countries – Brazil, Russia, India and China – by establishing two new attaché posts each headed by an IPR attaché and staffed with 2-4 locally employed staff (LES). The importance of the IP enforcement efforts in these critical countries is enormous and represents the four economies with the greatest trading challenges and piracy activity.

- One post will be established in South Asia, based in New Delhi, India. The challenges in India have allowed little opportunity for the current attaché to focus on the other countries in the region. This new attaché posting will focus on IP issues in Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan and the Maldives.
- Another post will be established for Latin and South America to help meet U.S. Treaty obligations associated with, for example, the Andean Free Trade Agreement and the Central America Free Trade Agreement (CAFTA)

Postings are for a two to five year period. When USPTO employees are posted, during their time abroad they leave the USPTO, and become Foreign Commercial Service (FCS) employees with full return rights to the USPTO. Costs other than salary and benefits (for the attaché and LES) include program funds to conduct training and technical assistance, travel within the region, Embassy office space rental, charges for security within the Embassy and other International Cooperative Administrative Support Services charges associated with Embassy space, housing and education allowances for attaché children of school age. FCS suggests budgeting at the rate of 4.7 percent increase per year.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$1,149	\$1,196	\$1,258	\$1,324	\$1,405
FTE	2	2	2	2	2

**Schedules/Milestones/Deliverables** for the strategic objective to provide leadership on international policies for improving the protection and enforcement of IP rights can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

## FY 2013 President's Budget

### FY 2013 Program Change Summary

Program Change:	<b>Sub-Activity #5: IP PP&amp;E Information Resources</b>	
Amount:	(\$.09 million)	FTE: 0
Budget Activity:	IP PP&E Program	

### Program Change Description

The goal to provide global leadership to improve IP policy, protection and enforcement is being accomplished through the following objective:

- Improve IT Infrastructure and Tools

#### **Program Changes for FY 2013:**

IP PP&E Information Resources (-\$.09 Million): The USPTO requires a decrease of \$.09 million for a total of \$.6 million to improve tools used by the IP PP&E Program.

#### **Proposed Actions:**

This program change includes the initiative to continue ensuring the effective use of IT systems for the accomplishment of this goal.

#### **Statement of Need and Economic Benefit:**

This program change would improve IT infrastructure and tools.

#### **Risk Assessment:**

The IT architecture and systems currently in place are inadequate and unable to evolve to meet the demands of the future. The continued dependency on inefficient and outdated automation will lead to an inability to support the USPTO's mission and goals.

**CIF – IP PP&E IT Capital Improvements.** In FY 2013 and the out years, the IP PP&E Program requires fewer funds to improve its IT capability.

Additional information about the overall USPTO IT activities can be found in the "USPTO Information Technology Portfolio" section of the Introduction.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	(\$89)	(\$144)	(\$137)	(\$127)	(\$119)
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to improve IT infrastructure and tools can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

**PROGRAM CHANGE PERSONNEL DETAIL**

(Dollar amount in thousands)

Activity: IP PP&E

Subactivity:

<b>Title:</b>	<b>Location</b>	<b>Grade</b>	<b>Number of Positions</b>	<b>Annual Salary</b>	<b>Total Salaries</b>
Attorney Advisor	Alexandria, VA	GS 15	2	155,500	311,000
Attorney Advisor	Alexandria, VA	GS 15	5	155,500	777,500
Patent/TM Attorney Advisor	Alexandria, VA	GS 15	2	140,259	280,518
IT/AV Specialist	Alexandria, VA	GS 13	3	100,904	302,712
<b>Total</b>			<b>12</b>		<b>1,671,730</b>
less Lapse		25%	3		409,229
Total full-time permanent (FTE)			9		1,262,501
2012 Pay Adjustment	0.0%				-
2013 Pay Adjustment	0.5%				6,313
<b>TOTAL</b>					<b>1,268,814</b>

**Personnel Data**

	<b>Number</b>
Full-Time Equivalent Employment	
Full-time permanent	9
Other than full-time permanent	0
Total	9
Authorized Positions:	
Full-time permanent	12
Other than full-time permanent	0
Total	12

**PROGRAM CHANGE DETAIL BY OBJECT CLASS**  
**(Dollar amounts in thousands)**

Activity: **IP PP&E**  
 Subactivity:

<b>Object Class</b>	<b>2013 Increase</b>
11 Personnel compensation	
11.1 Full-time permanent	1,269
11.3 Other than full-time permanent	
11.5 Other personnel compensation	93
11.8 Special personnel services payments	
11.9 Total personnel compensation	1,361
12 Civilian personnel benefits	357
13 Benefits for former personnel	
21 Travel and transportation of persons	325
22 Transportation of things	-
23.1 Rental payments to GSA	-
23.2 Rental payments to others	-
23.3 Communications, utilities and miscellaneous charges	-
24 Printing and reproduction	-
25.1 Advisory and assistance services	275
25.2 Other services	840
25.3 Purchases of goods & services from Gov't accounts	-
25.4 Operation and maintenance of facilities	
25.5 Research and development contracts	
25.6 Medical care	
25.7 Operation and maintenance of equipment	
25.8 Subsistence and support of persons	
26 Supplies and materials	15
31 Equipment	96
32 Lands and structures	
33 Investments and loans	
41 Grants, subsidies and contributions	
42 Insurance claims and indemnities	
43 Interest and dividends	-
44 Refunds	
99 Total obligations	<b>3,270</b>

# MANAGEMENT PROGRAM

## Exhibit 10 – Program Performance: Total Obligations

**Department of Commerce**  
**U.S. Patent and Trademark Office**  
**MANAGEMENT PROGRAM**  
**PROGRAM AND PERFORMANCE: DIRECT OBLIGATIONS**  
 (Dollar amounts in thousands)

Activity: Management Program

Sub-Activity:		FY 2011 Actual		FY 2012 Current Plan		FY 2013 Base		FY 2013 Estimate		Increase/ (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
Executive Direction and Communications	Pos./Obl	33	4,002	53	5,567	55	6,604	55	6,604	-	-
	FTE	24		33		38		38		-	-
Financial Management Services	Pos./Obl	89	17,564	109	25,149	109	26,965	110	27,052	1	87
	FTE	88		96		109		109		0	-
Human Resource Management and Administrative Services	Pos./Obl	177	33,047	218	39,975	219	44,003	224	45,053	5	1,051
	FTE	175		192		219		223		4	
Legal Services	Pos./Obl	74	13,491	118	17,228	118	21,710	132	23,964	14	2,253
	FTE	75		90		117		127		10	-
Management Information Resources	Pos./Obl	17	18,509	21	41,627	21	42,596	21	43,275	-	679
	FTE	17		18		21		21		-	-
IT Infrastructure and IT Support Services	Pos./Obl	329	220,244	408	250,166	400	263,348	438	278,803	38	15,455
	FTE	334		340		400		425		25	
Miscellaneous General Expense	Pos./Obl	-	200,197	-	227,911	-	240,770	-	241,635	-	865
	FTE	-		-		-		-		-	-
<b>Total</b>	Pos./Obl	719	507,053	927	607,624	922	645,994	980	666,384	58	20,390
	FTE	714		770		904		943		40	
<b>Management Goal - Allocation:</b>											
Patent Program	Pos./Obl	555	420,682	702	497,637	696	528,597	740	545,984	44	17,387
	FTE	555	0	589	0	688	0	719	0	30	0
Trademark Program	Pos./Obl	119	71,278	161	91,423	160	96,867	171	99,403	11	2,536
	FTE	117	0	131	0	156	0	163	0	8	0
IPPP&E Program	Pos./Obl	45	15,092	65	18,563	65	20,530	68	20,997	3	467
	FTE	42	0	49	0	60	0	61	0	2	0
Total Management Goal Allocation	Pos./Obl	719	507,053	927	607,624	922	645,994	980	666,384	58	20,390
	FTE	714		770		904		944		39	

## Exhibit 12 – Management Program and Performance

### FY 2013 Management Program Summary

Program:	<b>Management Program</b>	
Base Resources:	\$646.0 million*	FTE: 904
Bureau:	USPTO	
Budget Activity:	Management Program	

The costs associated with the Management Program activities have already been allocated to the Patent, Trademark, and IP PP&E programs using the Agency's ABI results. In total for FY 2013, the USPTO requires an increase of \$58.8 million and 174 FTE over the FY 2012 Current Plan (including a program change of \$20.4 million and 40 FTE over the FY 2013 base program) for a total of \$666.4 million and 944 FTE for the Management Program.

### Program Description

#### **Base Justification for FY 2013:**

The USPTO's Management Program, through its strategic goal to achieve organizational excellence, enables the USPTO to carry out its mission and accomplish its goals and objectives. The USPTO's management goal is consistent with the DOC management themes of: customer service, organizational excellence, and workforce excellence.

This strategic goal will be met by achieving the following management objectives as set forth in the *USPTO 2010-2015 Strategic Plan*:

- Improve IT Infrastructure and Tools
- Implement a Sustainable Funding Model for Operations
- Improve Employee and Stakeholder Relations

The Management Program (\$646.0 million and 904 FTE) is organized into the following seven sub-activities which are described below. This Program and its sub-activities are dedicated to carrying out the Agency's mission in a manner that meets all Federal rules and regulations, and is consistent with sound resource management, solid workforce planning, corporate support services, and effective use of IT.

- Sub-Activity #1: Executive Direction and Communications
- Sub-Activity #2: Financial Management Services
- Sub-Activity #3: Human Resource Management and Administrative Services
- Sub-Activity #4: Legal Services
- Sub-Activity #5: Management Information Resources
- Sub-Activity #6: IT Infrastructure and IT Support Services
- Sub-Activity #7: Miscellaneous General Expense

## **FY 2013 President's Budget**

### **Sub-Activity #1: Executive Direction and Communications (\$6.6 million and 38 FTE)**

Executive Direction and Communications entail determining the policies and directing the programs of the USPTO. The Under Secretary and Director receives advice from the Patent Public Advisory Committee and the Trademark Public Advisory Committee on office policies, goals, performance, budget, and user fees. Communications entails media relations and speech writing; business liaison, outreach and community relations; internal communications; and museum services, special events, and web services.

### **Sub-Activity #2: Financial Management Services (\$27.0 million and 109 FTE)**

Financial Management Services contributes to the efficient and effective management of organizational resources in support of the strategic goals by:

- Ensuring that USPTO's annual performance supports the strategic plan, that the budget is efficiently and effectively formulated and executed to achieve optimal performance levels across all business units, and actionable information is provided to executive management.
- Awarding quality, fiscally responsible and timely procurement actions by anticipating and exceeding stakeholders' ever-changing needs with their knowledge of business practices and market dynamics, innovative strategies, and well defined and standardized processes.
- Implementing and managing financial accounting and control systems, collecting financial data, and analyzing financial reports leading to sound financial decisions. These activities have enabled the USPTO to earn an unqualified audit opinion on its annual financial statements for 18 consecutive years, and the Association of Government Accountants' Certificate of Excellence in Accountability Reporting award for eight consecutive years.

### **Sub-Activity #3: Human Resource Management and Administrative Services (\$44.0 million and 219 FTE)**

Efficient and effective human resources management, under the responsibility of the Chief Administrative Officer (CAO), entails:

- Developing and implementing a comprehensive strategic human capital plan to enable the USPTO to attract and retain an inclusive workforce at the optimum level required by business units. This includes hiring large numbers of patent examiners, as well as staff for other organizations, and focusing on talent management, results-oriented performance culture, leadership, and development.
- Continuing and expanding the award winning telework programs, and creating a long-distance telework pilot to facilitate employee recruitment, training, and retention.

Efficient and effective administrative services, under the responsibility of the CAO, entail providing an environment that creates a productive and safe workplace. This is accomplished by:

- Overseeing a broad range of administrative and employee service programs (i.e., security and safety, facilities management, printing and graphics, mail center operations, move services, transportation services, conference services, and file repository services) responsive to the needs of the USPTO workforce.
- Administering facility related discussions with multiple landlords, and in partnership with GSA, negotiating multiple leases to ensure a safe environment for the USPTO staff and visitors.
- Developing program office policy and procedural guidance, and providing Agency liaison with the local government and city officials.

**Equal Employment Opportunity and Diversity (EEO)**

The promotion of equal employment opportunity and a diverse workforce is achieved by providing: reasonable accommodation of disabilities, strategic affirmative employment, special emphasis programs, workforce diversity, EEO complaints processing and alternative dispute resolution processing, and facilitating identification, recruitment, development, and retention of a diverse and multicultural work force. The EEO organization reports directly to the Office of the Director and Deputy Director.

**Sub-Activity #4: Legal Services (\$21.7 million and 117 FTE)**

Legal services provided by the offices under the General Counsel entail:

- The Office of the Solicitor (SO) serves as legal counsel to the USPTO on IP law matters, and works in collaboration with the DOC on interagency IP law matters. Primary responsibilities of the SO include defending decisions by the BPAI and the TTAB before the United States Court of Appeals for the Federal Circuit (CAFC) and the federal district courts; representing the Under Secretary in district court actions that are filed against the USPTO pursuant to the Administrative Procedure Act (APA); providing legal advice on IP law policy and regulation; prosecuting attorneys and agents who practice before the Agency for alleged ethical violations or misconduct, and defending USPTO employees at deposition.
- The Office of General Law (OGL) represents the USPTO in legal matters other than those involving IP, such as providing advice, written legal opinion, and litigation in areas concerning the management of the USPTO, and administrative, employment, contract/procurement, fiscal, and labor law.
- The Office of Enrollment and Discipline (OED) evaluates applications of persons seeking registration as attorneys and agents, and reciprocal recognition of Trademark agents; registering and maintaining a roster of registered attorneys and agents to practice before the USPTO in patent cases; and investigating and bringing disciplinary proceedings against registered attorneys and agents as well as attorneys practicing in trademark matters.

**Sub-Activity #5: Management Information Resources (\$42.6 million and 21 FTE)**

Management Information Resources includes a base level of resources for ongoing operations and maintenance, and making capital improvements to management business systems, as fully described in the "USPTO Information Technology Portfolio" section of the Introduction.

**Sub-Activity #6: IT Infrastructure and IT Support Services (\$263.3 million and 400 FTE)**

IT Infrastructure and IT Support Services include a base level of resources for operating and maintaining the underlying infrastructure supporting the business systems and the IT support services (e.g., Operations and Maintenance), making capital improvements to those same IT infrastructure and support services, and disseminating information to the public. A full description is included in the "USPTO Information Technology Portfolio" in the Introduction.

**Sub-Activity #7: Miscellaneous General Expense (\$240.8 million)**

This sub-activity entails cross-cutting functions that affect all USPTO employees and or operations, such as space rental, utilities, lease management, security, telecommunications, transportation, postage, and the USPTO's participation in the DOC Working Capital Fund. It also includes funding for post-retirement benefits, whereby the USPTO is required to fund the present costs of post-retirement benefits for the Federal Employees Health Benefits (FEHB) Program, Federal Employees Group Life Insurance (FGLI) Program, and the Civil Service

## **FY 2013 President's Budget**

Retirement System (CSRS) and the Federal Employees Retirement System (FERS) pension liabilities. Funds for this purpose are transferred to the OPM.

### **Significant Adjustments to Base (ATBs):**

The Management Program activities ATBs have already been allocated back to the three main goal activities and included with their costs.

### **Program Gap Assessment:**

Fulfilling the USPTO's mission requires strong leadership and collaborative management. This overarching management goal focuses on the shared responsibility that is a prerequisite for achieving success; namely, sound resource management, solid workforce planning, corporate support services, and effective use of IT, which are critical as the USPTO grows and modernizes, and in light of the changes to the patent and financial management systems resulting from implementation of the AIA.

### **Schedule and Deliverables**

Schedules and deliverables are addressed in each Program Change section that follows.

# Exhibit 13 – 15: Management Program Changes by Sub-Activity

Exhibit 13

Department of Commerce  
U.S. Patent and Trademark Office

INCREASES FOR 2013  
(Dollar amounts in thousands)

		2013 Base		2013 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
Total, Management Program	<i>Pos./Obl.</i>	922	645,994	980	666,384	58	20,390
	<i>FTE</i>	904		943		40	
Human Resources Management and Administrative Services	<i>Pos./Obl.</i>	219	44,003	219	44,103	-	100
	<i>FTE</i>	219		219		-	
	HRLOB End User Training						100
	<i>Pos./Obl.</i>						
	<i>FTE</i>						
<i>Legal Services</i>	<i>Pos./Obl.</i>	118	21,710	128	23,351	10	1,641
	<i>FTE</i>	117		125		8	-
	New Hires to Address Solicitor's Office (SO) Workload					4	633
	<i>Pos./Obl.</i>					3	
	<i>FTE</i>					5	782
	AIA - Solicitor's Office					4	
	<i>Pos./Obl.</i>					1	226
	<i>FTE</i>					1	
	AIA - Office of General Law						
	<i>Pos./Obl.</i>						
	<i>FTE</i>						
<i>Management Information Resources</i>	<i>Pos./Obl.</i>	21	42,596	21	43,275	-	679
	<i>FTE</i>	21		21		-	
	FedTraveler						735
	<i>Pos./Obl.</i>						
	<i>FTE</i>						
	CIF-Management Capital Improvements						(56)

**FY 2013 President's Budget**

**Exhibit 13 continued**

		2013 Base		2013 Estimate		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount
<i>IT Infrastructure and IT Support Services</i>	<i>Pos./Obl.</i>	400	263,348	438	278,803	38	15,455
	<i>FTE</i>	400		425		25	
Operation and Maintenance Telecommunications	Pos./Obl.					-	4,034
	FTE					-	
Nationwide Workforce Telecommunications	Pos./Obl.					-	5,314
	FTE					-	
Operation and Maintenance Project Requirements	Pos./Obl.					38	10,878
	FTE					25	
CIF-Capital IT Hardware Replacement Program (CHIRP)	Pos./Obl.					-	(4,771)
	FTE					-	
<i>Miscellaneous General Expense (MGE)</i>	<i>Pos./Obl.</i>	-	240,770	10	243,284	10	2,515
	<i>FTE</i>	-		7		7	
Energy Assessments	Pos./Obl.					-	361
	FTE					-	
Re-Carpet and Re-Paint Townhouses	Pos./Obl.					-	504
	FTE					-	
Management UCR	Pos./Obl.					10	1,650
	FTE					7	

**FY 2013 President's Budget**

Department of Commerce  
U.S. Patent and Trademark Office

**INCREASES FOR 2013\***  
(Dollar amounts in thousands)

		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
<b>Total, Management Program</b>	<i>Pos./Obl.</i>	<b>58</b>	<b>20,390</b>	<b>77</b>	<b>46,457</b>	<b>76</b>	<b>42,369</b>	<b>84</b>	<b>48,616</b>	<b>87</b>	<b>52,146</b>
	<i>FTE</i>	<b>40</b>		<b>73</b>		<b>74</b>		<b>80</b>		<b>84</b>	
<i>Human Resources Management and Administrative Services</i>	<i>Pos./Obl.</i>	-	<b>100</b>	-	-	-	-	-	-	-	-
	<i>FTE</i>	-		-		-		-		-	
HRLOB End User Training	<i>Pos./Obl.</i>	-	<b>100</b>	-	-	-	-	-	-	-	-
	<i>FTE</i>	-		-		-		-		-	
<b>Legal Services</b>		<b>10</b>	<b>1,641</b>	<b>19</b>	<b>3,485</b>	<b>23</b>	<b>4,662</b>	<b>33</b>	<b>6,534</b>	<b>37</b>	<b>7,754</b>
		<b>8</b>		<b>17</b>		<b>22</b>		<b>31</b>		<b>36</b>	
New Hires to Address Solicitor's Office (SO) Workload	<i>Pos./Obl.</i>	4	633	6	1,180	8	1,623	10	2,070	10	2,259
	<i>FTE</i>	3		6		8		10		10	
AIA - Solicitor's Office	<i>Pos./Obl.</i>	5	782	12	2,077	14	2,807	22	4,227	26	5,253
	<i>FTE</i>	4		10		14		20		25	
AIA - Office of General Law	<i>Pos./Obl.</i>	1	226	1	228	1	232	1	237	1	242
	<i>FTE</i>	1		1		1		1		1	
<i>Management Information Resources</i>	<i>Pos./Obl.</i>	-	<b>679</b>	-	<b>(3,437)</b>	-	<b>(10,222)</b>	-	<b>(10,136)</b>	-	<b>(10,133)</b>
	<i>FTE</i>	-		-		-		-		-	
FedTraveler	<i>Pos./Obl.</i>	-	735	-	756	-	749	-	743	-	742
	<i>FTE</i>	-		-		-		-		-	
CIF-Management Capital Improvements	<i>Pos./Obl.</i>		(56)		(4,193)		(10,971)		(10,880)		(10,875)
	<i>FTE</i>										

# FY 2013 President's Budget

		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
		Increase (Decrease)		Increase (Decrease)		Increase (Decrease)		Increase (Decrease)		Increase (Decrease)	
		Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount	Personnel	Amount
<i>IT Infrastructure and IT Support Services</i>	<i>Pos./Obl.</i>	38	15,455	38	42,047	38	44,143	38	49,364	38	51,638
	<i>FTE</i>	25		38		38		38		38	
Operation and Maintenance Telecommunications	Pos./Obl.	-	4,034	-	6,327	-	8,603	-	11,202	-	11,812
	FTE	-		-		-		-		-	
Nationwide Workforce Telecommunications	Pos./Obl.	-	5,314	-	1,900	-	1,972	-	2,048	-	1,870
	FTE	-		-		-		-		-	
Operation and Maintenance Project Requirements	Pos./Obl.	38	10,878	38	20,195	38	18,265	38	20,407	38	21,834
	FTE	25		38		38		38		38	
CIF-Capital IT Hardware Replacement Program (CHiRP)	Pos./Obl.	-	(4,771)	-	13,625	-	15,303	-	15,706	-	16,122
	FTE	-		-		-		-		-	
<i>Miscellaneous General Expense (MGE)</i>	<i>Pos./Obl.</i>	10	2,515	20	4,362	15	3,786	13	2,855	12	2,887
	<i>FTE</i>	7		18		14		11		10	
Energy Assessments	Pos./Obl.	-	361	-	260	-	560	-	260	-	460
	FTE	-		-		-		-		-	
Re-Carpet and Re-Paint Townhouses	Pos./Obl.	-	504	-	-	-	-	-	-	-	-
	FTE	-		-		-		-		-	
Management UCR	Pos./Obl.	10	1,650	20	4,102	15	3,226	13	2,595	12	2,427
	FTE	7		18		14		11		10	

**FY 2013 Program Change Summary**

Program Change:	<b>Sub-Activity #3: Human Resources Management and Administrative Services</b>	
Amount:	\$0.1 million	FTE: 0
Budget Activity:	Management Program	

**Program Change Description**

The goal to achieve organizational excellence is being accomplished through the following objective and initiatives for which funds are required in FY 2012.

- Improve IT Infrastructure and Tools
- Improve the user experience

**Program Changes for FY 2013:**

Human Resources Line of Business (HR LOB) (+\$0.1 million): The USPTO requires an increase of \$.1 million for end-user training for the HR LOB, for a total of \$44.1 million and 219 FTE for the sub-activity. This request supports the Department's Theme of Organizational Excellence.

**Proposed Actions:**

Funding this request will ensure effective use of IT which is an essential component in achieving organizational excellence.

**Statement of Need and Economic Benefits:**

IT is a mission-critical enabler for every USPTO business function. This sub-activity includes the resources required to train end users to effectively use systems.

**Risk Assessment:**

Absent funding, the USPTO could be left with less than optimal usage of a human resources IT system.

**Human Resources Line of Business (HR LOB) End User Training.** In FY 2012-2013, the USPTO plans to implement a modern HR automated information system, which is an opportunity to improve the efficiency and quality of HR processing. The USPTO, along with other Federal organizations, will move to using the Department of Treasury's HR Connect system as part of the HR LOB. The HR LOB aims to make government HR more efficient and effective by modernizing, standardizing, consolidating and integrating systems. Additional training is required, beyond that provided as part of the Department of Treasury's basic package, to enable all USPTO end-users to successfully use the new system.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$100	\$0	\$0	\$0	\$0
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to improve IT infrastructure and tools can be found in the work plans identified in the Balanced Scorecard that accompanies the USPTO 2010-2015 Strategic Plan.

## FY 2013 President's Budget

### FY 2013 Program Change Summary

Program Change:	<b>Sub-Activity #4: Legal Services</b>	
Amount:	\$1.6 million	FTE: 8
Budget Activity:	Management Program	

### Program Change Description

Legal services provided by the Office of the General Counsel help achieve the management goal of organizational excellence by providing legal counsel to the USPTO on all IP law matters, representing the USPTO on non-IP legal matters, and registering and maintaining a roster of registered attorneys and agents to practice before the USPTO in patent cases. In particular, the Office of the Solicitor (SO) must be staffed in such a manner to address work resulting from decisions made by the BPAI and TTAB, and work that will be the result of implementation of the AIA.

#### **Program Changes for FY 2013:**

Staff to address current and projected workload (+\$1.6 million and + 8 FTE): The USPTO requires an increase of \$1.6 million and 8 FTE for a total of \$23.4 million and 125 FTE to address current and projected workload.

#### **Proposed Actions:**

To operate in a truly businesslike manner, the USPTO must establish and maintain strong legal skills by hiring and retaining a skilled and diverse workforce.

#### **Statement of Need and Economic Benefit:**

The USPTO strategic goals cannot be achieved without quality legal services for issues that affect both stakeholders and employees.

#### **Risk Assessment:**

Absent funding, the SO will be required to file for extensions of time for filing Court briefs, which is generally a detrimental practice and one that is not sustainable in the long term. Specifically, extensions defer work resulting in larger backlogs and longer case pendency time; lengthen the time of the appeal, which appellants generally do not like because they want decisions as soon as possible, and the Court does not like them because it increases their case pendency; and risk damaging the USPTO's reputation with the Court and their willingness to continue to grant extensions because we are treating their deadlines as meaningless. Failure to fund requirements to implement patent law reform will put the Agency in jeopardy of meeting effective date requirements.

**New Hires to Address Solicitor's Office (SO) Workload.** Positions are required for the Solicitor's office (SO), which has experienced a significant increase in work, including appeals from BPAI decisions to the CAFC, OED disciplinary cases, district court cases, amicus participation in IP cases (Supreme Court and other), *inter partes* patent and trademark case monitoring, legal advice to the DOC, Department of Justice (DOJ), USPTO Director and business units, *Official Gazette* notice review, and deposition and subpoena requests. It is imperative that the SO uphold the Agency's decisions in BPAI proceedings when they go to the CAFC to ensure that BPAI proceedings live up to their potential as cost-effective mechanisms

for challenging questionable patents. Likewise, the SO must be diligent in not requesting extensions of time in significant numbers of cases as parties will lose confidence in these proceedings as an alternative to litigation. Accordingly, it is important that the SO be adequately staffed to mount strong and timely defense of the USPTO's positions in these cases before the CAFC. At the same time, the number of OED cases referred to the SO is increasing. In these cases, SO attorneys act as a prosecutor representing the OED Director throughout pre-trial, trial and post-trial briefing stages, and in any appeals of the administrative decision. SO attorneys are getting involved earlier in OED cases with the objective of settling more of them. This earlier introduction of SO attorneys requires more resources and time.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$633	\$1,180	\$1,623	\$2,070	\$2,259
FTE	3	6	8	10	10

**AIA Workload – SO.** As the USPTO constructs its procedures to implement new patent reform provisions – such as post grant review, *inter partes* reviews, supplemental examination, and derivation proceedings – the SO will need to conduct legal research and provide legal advice to various groups within the USPTO to ensure the new procedures are well-grounded in the law. In addition, the SO will participate in the drafting and review of the rules and regulations that are promulgated by the USPTO as part of patent reform (currently estimated at about 30 rulemaking packages). Once implemented, the AIA is projected to result in hundreds of BPAI decisions per year in post-grant and *inter partes* review cases, a significant number of which will be appealed to the CFAC. The legislation also places time restrictions on discipline cases and will greatly impact the OED. Funds are required for seven new hires to address anticipated work resulting from implementation of the AIA, and a total of 26 new positions in FY 2013-2017.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$782	\$2,077	\$2,807	\$4,227	\$5,253
FTE	4	10	14	20	25

**AIA Workload – OGL.** The OGL will be required to draft and review the rules and regulations that are promulgated by the USPTO as part of AIA implementation (currently estimated at about 30 rulemaking packages). The AIA also places time restrictions on discipline cases and will greatly impact the OED, which in turn impacts the workload demands on the OGL. Funds are required for one SES position to address anticipated work resulting from implementation of the AIA.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$226	\$228	\$232	\$237	\$242
FTE	1	1	1	1	1

**Schedules/Milestones/Deliverables** for the strategic goal to achieve organizational excellence are in the Work Plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

## FY 2013 President's Budget

### FY 2013 Program Change Summary

Program Change:	<b>Sub-Activity #5: Management Information Resources</b>	
Amount:	\$0.7 million	FTE: 0
Budget Activity:	Management Program	

### Program Change Description

The goal to achieve organizational excellence is being accomplished through the following objective and initiatives for which funds are required in FY 2013.

- Improve IT Infrastructure and Tools: Ensure effective use of IT
- Develop and implement the next generation of fee processing system (FPNG)

#### **Program Changes for FY 2013:**

Improve IT Tools (+\$0.7 million): The USPTO requires an increase of \$0.7 million for a total of \$43.3 million and 21 FTE to make improvements to the business systems supporting financial management. This request supports the Department's Theme of Organizational Excellence.

#### **Proposed Actions:**

Funding this request will improve the USPTO's management systems and ensure effective use of IT which is an essential component in achieving organizational excellence.

#### **Statement of Need and Economic Benefits:**

IT is a mission-critical enabler for every USPTO business function. This sub-activity includes the resources required to keep the USPTO's management support functions operational to meet the needs of the USPTO's mission programs.

#### **Risk Assessment:**

Absent funding, the USPTO could be left without a modern fee processing system, thereby being unable to satisfy the increasing level of demand for USPTO products and services, and without a viable travel product, which would negatively impact those USPTO employees who must travel as part of their job performance.

**FedTraveler.** Funds are required in FY 2013 to replace FedTraveler with a new e-Gov Travel Service (ETS) application if FedTraveler is not selected by GSA to remain one of the supported vendors. Also, FedTraveler may decide to not compete for the new contract since they were bought by HP® and may not be viewed as a profitable business line. Funds would be used to replace the COTS travel product and replace the custom integration with Momentum. This will enable the USPTO to continue providing travel services to its employees at or above the level provided today and continue compliance with Federal regulations. Without this investment, the USPTO would be left processing travel documents without the benefit of an automated solution. Not only is this against Federal Travel Regulation requirements that Federal Agencies use an ETS, but this would also be a very large cost to the USPTO.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$735	\$756	\$749	\$743	\$742
FTE	-	-	-	-	-

**CIF – Management Capital Improvements.** In FY 2013, funding is required to keep the USPTO's management support functions operational and improved to meet the needs of the USPTO's mission programs. In particular, funds would be used to complete development of the FPNG capability. Funding estimates are below base because projects are transitioning to the maintenance phase.

Additional information about the overall USPTO IT activities can be found in the "USPTO Information Technology Portfolio" section of the Introduction.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	(\$56)	(\$4,193)	(\$10,971)	(\$10,880)	(\$10,875)
FTE	-	-	-	-	-

**Schedules/Milestones/Deliverables** for the strategic objective to improve IT infrastructure and tools can be found in the work plans identified in the Balanced Scorecard that accompanies the *USPTO 2010-2015 Strategic Plan*.

## FY 2013 President's Budget

### FY 2013 Program Change Summary

Program Change:	<b>Sub-Activity #6: IT Infrastructure and IT Support Services</b>	
Amount:	\$15.5 million	FTE: 25
Budget Activity:	Management Program	

### Program Change Description

The goal to achieve organizational excellence is being accomplished through the following objective and initiatives for which funds are required in FY 2013:

- Improve IT Infrastructure and Tools

#### **Program Changes for FY 2013:**

Improve IT infrastructure and tools (\$15.5 million and 25): The USPTO requires an increase of \$15.5 million and 25 FTE to make the USPTO data easily accessible to USPTO customers, partners, industry and the public; simplify user interfaces to USPTO systems, and expand the technologies used to collaborate within and with the USPTO; and replace the aging IT infrastructure with expandable, reliable, secure technologies.

This supports the Department's Theme of Organizational Excellence.

#### **Proposed Actions:**

Funding these requirements will improve the USPTO Web site with Web 2.0 assistance technologies, expand collaboration tools and expand e-learning, all contributing to an improved user experience. Funding also will stabilize and consolidate the USPTO data centers, expand the network, expand business continuity and disaster recovery capabilities, stabilize desktops, and improve cyber-security.

#### **Statement of Need and Economic Benefits:**

IT is a mission-critical enabler for every USPTO business function. The productivity of patent and trademark operations is directly correlated to the performance of its IT systems, which are in dire need of modernization. To accomplish its performance-based strategies, the USPTO must engage in an aggressive multi-year effort to upgrade its IT infrastructure by updating automation processes, stabilizing the aging data centers and networks, and evolving to web-based virtualized computing technologies.

#### **Risk Assessment:**

Without a 21<sup>st</sup> century IT system, the USPTO will be unable to satisfy an increasing level of demand for USPTO products and services.

**O&M - Telecommunications.** Funds are required in FY 2013 to continue to meet the USPTO's telecommunications needs for which \$7.5 million was included in the FY 2012 President's Budget to address a significant increase in telecommunications traffic due to:

- Remote government workers (i.e., teleworking, hoteling),
- Video-teleconferencing,
- Remote IT/Data Facilities (i.e., Boyers, PA), and
- Remote contractors.

Over the next several years, the USPTO expects to see an even higher level of usage, above today's workloads, to accommodate:

- Nationwide Workforce,
- Data.gov,
- Electronic collaboration with applicants,
- Work-sharing with other IP offices, and
- Increased Business Continuity and Disaster Recovery capability.

Connections to Remote Facilities - Funds will continue to be used to install additional high speed circuits and expand the capacity of circuits at Boyers, which are required to allow all patent and trademark data to be replicated to the Boyers Disaster Recovery site, and complete transition of all existing circuits between Alexandria and remote facilities to the new Network contract, and upgrade them to comply with the OMB mandate.

Internet Connections – Funds are required to increase the “broadband” capacity of the USPTO’s internet connections to accommodate a greater data transfer workload due to initiatives such as Nationwide Workforce, Data.gov, and work-sharing.

SONET Ring Connections - All voice and data telecommunication circuits enter and exit USPTO Headquarters, in Alexandria, via a high-speed, redundant “SONET Ring” infrastructure operated and maintained by Verizon. With plans to expand, increase, and upgrade the existing number and type of circuits for the Internet and Remote Facilities, action and funding is required to upgrade and expand the SONET Ring. These resources will enable the Office to issue a scope of work to Verizon.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$4,034	\$6,327	\$8,603	\$11,202	\$11,812
FTE	-	-	-	-	-

**Nationwide Workforce Telecommunications.** Funds are required to continue supporting the telecommunication needs for the nationwide workforce. This initiative, shown in the Patent Program, would provide for a USPTO presence in three metropolitan areas. Funds were requested for the first satellite office in Detroit, Michigan in the FY 2012 President’s Budget. Funds are being requested for FY 2013 under the Patent Program for space, travel, furniture, staff and office equipment for the two additional sites, in addition to the telecommunications’ requirements noted below.

Additional information about the overall USPTO IT activities can be found in the “USPTO Information Technology Portfolio” section of the Introduction.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$5,314	\$1,900	\$1,972	\$2,048	\$1,870
FTE	-	-	-	-	-

**O&M Project Requirements.** In FY 2013, the OCIO needs to significantly increase hiring of additional staff that are highly skilled in technical support. The current OCIO technical pool is not of sufficient size to meet the needs posed by USPTO's vital modernization efforts. In its next generation of IT, USPTO is moving away from an Automated Information System (AIS) model to a virtualized-services model. Sufficient staff highly versed in open-source technologies are needed to support a services-oriented model, enable increased system stability and performance, and support an agile-development environment. In addition, the OCIO will need sufficient technical staff to leverage the NIST Cloud (Virtualization) model that delineates Infrastructure as a Service (IaaS), Platform as a Service (PaaS), and Software as a Service

## FY 2013 President's Budget

(SaaS) and provide the capabilities to implement the changes called for in the OMB's "25 Point Implementation Plan to Reform Federal Information Technology Management." As FPNG moves into production, operational staff will be needed to provide technical direction, oversight and support for the new applications.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$10,878	\$20,195	\$18,265	\$20,407	\$21,834
FTE	25	38	38	38	38

**CIF - Capital IT Hardware Replacement Program (CHiRP).** FY 2013 funds are required to replace end-of life IT equipment located within USPTO IT facilities and deployed to employees and contractors. Starting in FY 2014, \$16 million will be needed to refresh the capital hardware replacement cycle.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	(\$4,771)	\$13,625	\$15,303	\$15,706	\$16,122
FTE	0	0	0	0	0

**Schedules/Milestones/Deliverables** for the strategic objective to improve IT infrastructure and tools can be found in the Work Plans identified in the Balanced Scorecard that accompanies the *2010-2015 Strategic Plan*.

**FY 2013 Program Change Summary**

Program Change:	<b>Sub-Activity #7: Miscellaneous General Expense (MGE)</b>	
Amount:	\$2.5 million	FTE: 7
Budget Activity:	Management Program	

**Program Change Description**

The goal to achieve organizational excellence is accomplished by meeting cross cutting requirements that affect all USPTO employees and or operations.

**Program Changes for FY 2013:**

Centralized Administrative Requirements (\$2.5 million and + 7 FTE): The USPTO requires \$2.5 million and 7 FTE to refurbish the USPTO space and comply with energy-efficiency related Executive Orders.

This supports the Department's Theme of Organizational Excellence.

**Proposed Actions:**

Funds are required to maintain the USPTO's facilities in the most cost-efficient manner.

**Statement of Need and Economic Benefits:**

Pro-actively investing in the upkeep of facilities enables the USPTO to provide a safe and comfortable work environment, which is a key measure in retaining employees.

**Risk Assessment:**

The required energy assessment is a critical tool in developing the best projects to achieve energy savings and environmental goals. The risk of not taking advantage of the opportunity presented by the main campus leaseholder to re-carpet and re-paint the townhouses is that more and more carpet repairs would be required and there would be dissatisfaction among employees that their space was sub-par to the rest of the campus.

**Energy Assessments.** Funds are required to comply with Executive Orders #13154 (Federal Leadership in Environmental, Energy and Economic Performance) and #13423 (Strengthening Federal Environmental, Energy, and Transportation Management) to perform full energy assessments. The primary expected result is to identify projects that will reduce energy usage and carbon emissions and promote sustainability. The USPTO is being monitored for green scorecard compliance under the DOC umbrella, and is strongly urged to reduce energy costs by 30 percent. Funds will be used (1) bring on a specialized contractor to fully evaluate energy usage in the Randolph Square building and develop applicable strategies for improvement; (2) participate in Demand Response/Load Rolling Program "FlexConnect through Energy Connect", and (3) implement projects based on 2011 Carlyle Campus energy assessment project, including purchasing Renewable Energy Credits. This is going to be very challenging as the Carlyle campus and Randolph Square are newer buildings and already very energy efficient.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$361	\$260	\$560	\$260	\$460
FTE	-	-	-	-	-

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**Re-Carpet and Re-Paint Townhouses.** Funds are required to refurbish the townhouses in conjunction with landlord refurbishment of the USPTO facilities. Unlike the main campus, the lease for the two townhouses does not include a requirement for the landlord to re-carpet or paint. In October 2012, we will have occupied the townhouses for over seven years and the industry standard for replacing carpet and repainting is every eight years. The main campus leaseholder – LCOR – will begin re-carpeting and re-painting the main campus in the summer of 2011 and should be completed by FY 2013. These funds will be used to award a contract to LCOR to re-carpet and re-paint the townhouses to take advantage of the competitive, negotiated rates that LCOR has obtained from their vendors for both the carpet tile and labor.

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$504	\$0	\$0	\$0	\$0
FTE	-	-	-	-	-

**Unit Cost Rate (UCR).** When the USPTO hires additional patent examiners, there is an ancillary impact on support organizations (e.g., more personnel-type actions to be processed, more employee-related legal services to be provided, etc.). Therefore, the USPTO has established a UCR which reflects the incremental cost impact on support units that is attributable to the increase or decrease in workload associated with net new patent examiner hires. In FY 2013, these funds are supplemental to other initiatives for new hires/support costs, and would be distributed as follows:

Organization	Personnel Positions/FTE	Amount
Office of General Counsel	4 / 2.4	\$612
Chief Administrative Officer	5 / 4.1	\$951
Chief Financial Officer	1 / 0.4	\$87

	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Amount (\$ in thousands)	\$1,650	\$4,102	\$3,226	\$2,595	\$2,427
FTE	7	18	14	11	10

**PROGRAM CHANGE PERSONNEL DETAIL**

(Dollar amount in thousands)

Activity: Management  
 Subactivity:

<b>Title:</b>	<b>Location</b>	<b>Grade</b>	<b>Number of Positions</b>	<b>Annual Salary</b>	<b>Total Salaries</b>
HR Specialist	Alexandria, VA	GS 13	5	100,904	504,520
Attorney	Alexandria, VA	GS 15	6	155,500	933,000
Paralegal	Alexandria, VA	GS 12	2	97,333	194,666
Paralegal	Alexandria, VA	GS 7	1	54,875	54,875
Attorney	Alexandria, VA	GS 15	1	152,635	152,635
Paralegal	Alexandria, VA	GS 12	2	84,855	169,710
Patent/TM Attorney	Alexandria, VA	GS 15	2	155,500	311,000
Accountant	Alexandria, VA	GS 7	1	58,922	58,922
IT Specialist	Alexandria, VA	GS 9	2	58,511	117,022
IT Specialist	Alexandria, VA	GS 11	7	70,794	495,558
IT Specialist	Alexandria, VA	GS 12	4	84,855	339,420
IT Specialist	Alexandria, VA	GS 13	11	100,904	1,109,944
IT Specialist	Alexandria, VA	GS 14	11	119,238	1,311,618
IT Specialist	Alexandria, VA	GS 15	3	140,259	420,777
<b>Total</b>			<b>58</b>		<b>6,173,667</b>
less Lapse		38%	18		3,838,275
Total full-time permanent (FTE)			40		2,335,392
2012 Pay Adjustment	0.0%				-
2013 Pay Adjustment	0.5%				11,677
<b>TOTAL</b>					<b>2,347,069</b>

**Personnel Data**

	<b>Number</b>
Full-Time Equivalent Employment	
Full-time permanent	40
Other than full-time permanent	0
Total	40
Authorized Positions:	
Full-time permanent	58
Other than full-time permanent	0
Total	58

**PROGRAM CHANGE DETAIL BY OBJECT CLASS**  
**(Dollar amounts in thousands)**

Activity: **Management**  
 Subactivity:

<b>Object Class</b>	<b>2013 Increase</b>
11 Personnel compensation	
11.1 Full-time permanent	2,347
11.3 Other than full-time permanent	
11.5 Other personnel compensation	352
11.8 Special personnel services payments	
11.9 Total personnel compensation	2,700
12 Civilian personnel benefits	2,116
13 Benefits for former personnel	
21 Travel and transportation of persons	(8)
22 Transportation of things	0
23.1 Rental payments to GSA	-
23.2 Rental payments to others	-
23.3 Communications, utilities and miscellaneous charges	358
24 Printing and reproduction	2
25.1 Advisory and assistance services	-
25.2 Other services	13,376
25.3 Purchases of goods & services from Gov't accounts	21
25.4 Operation and maintenance of facilities	
25.5 Research and development contracts	
25.6 Medical care	
25.7 Operation and maintenance of equipment	
25.8 Subsistence and support of persons	
26 Supplies and materials	4
31 Equipment	1,825
32 Lands and structures	
33 Investments and loans	
41 Grants, subsidies and contributions	
42 Insurance claims and indemnities	
43 Interest and dividends	(4)
44 Refunds	
99 Total obligations	20,390

**EXHIBITS: 16 – 32**

## Exhibit 16 – Summary of Requirements by Object Class

Department of Commerce  
U.S. Patent and Trademark Office

**SUMMARY OF REQUIREMENTS BY OBJECT CLASS**  
(Dollar amounts in thousands)

<b>Object Class</b>	FY 2011 Actuals	FY 2012 Current Plan	FY 2013 Base	FY 2013 Estimate	Increase/ Decrease over 2013 Base
11.1 Salaries	1,033,127	1,110,273	1,239,518	1,281,555	42,037
11.5 Other personnel compensation	79,924	119,745	124,551	136,502	11,951
<b>11.9 Total personnel compensation</b>	<b>1,113,051</b>	<b>1,230,018</b>	<b>1,364,069</b>	<b>1,418,057</b>	<b>53,988</b>
12.1 Civilian personnel benefits	369,203	389,447	436,369	443,173	6,804
21 Travel and transportation of persons	3,019	7,677	7,785	9,538	1,754
22 Transportation of things	289	386	391	379	(12)
23.1 Rental payments to GSA	89,762	98,444	100,263	100,263	0
23.2 Rental payments to others	9,967	10,136	10,309	10,309	0
23.3 Commun., util., and misc. charges	13,559	29,075	29,332	37,233	7,901
24 Printing and reproduction	90,648	107,355	108,858	126,734	17,876
25.1 Advisory and assistance services	32,800	42,457	43,051	44,509	1,457
25.2 Other services from non-federal sources	115,567	149,592	151,687	156,822	5,135
25.3 Other goods and services from federal sources	23,523	30,449	30,875	31,920	1,045
25.4 Operation and maintenance of facilities	7,745	10,025	10,166	10,510	344
25.7 Operation and maintenance of equipment	160,731	208,053	210,966	218,108	7,141
26 Supplies and materials	41,458	41,796	42,381	44,180	1,799
31 Equipment	86,958	151,409	153,529	167,547	14,019
32 Land and Structures	1,043				0
4x Insurance claims , indemnities, and refunds	1,573	286	290	286	(4)
<b>99.9 Total Obligations</b>	<b>2,160,895</b>	<b>2,506,605</b>	<b>2,700,320</b>	<b>2,819,568</b>	<b>119,247</b>
Fee Collections	(2,303,656)	(2,528,872)	(2,953,241)	(2,953,241)	0
Less prior year other income/recoveries	(21,125)	(23,000)	(23,000)	(23,000)	0
Less prior year unobligated balance	(222,674)	(177,705)	(221,972)	(221,972)	0
Less end year unobligated balance	177,705	221,972	495,893	376,646	(119,247)
Total Budget Authority	(208,855)	(1,000)	(2,000)	(2,000)	(0)
Personnel Data					
Full-Time equivalent Employment:	9,991	10,507	11,689	12,212	523
Authorized Positions:	10,210	11,838	11,803	13,049	1,246

## Exhibit 32 – Appropriation Language

### PATENT AND TRADEMARK OFFICE SALARIES AND EXPENSES (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the United States Patent and Trademark Office (USPTO) provided for by law, including defense of suits instituted against the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, ~~\$2,706,313,000~~ \$2,953,241,000 to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections of fees and surcharges assessed and collected by the USPTO under any law are received during fiscal year ~~2012~~ 2013, so as to result in a fiscal year ~~2012~~ 2013 appropriation from the general fund estimated at \$0: *Provided further*, That during fiscal year ~~2012~~ 2013, should the total amount of such offsetting collections be less than ~~\$2,706,313,000~~ \$2,953,241,000 this amount shall be reduced accordingly: *Provided further*, That any amount received in excess of ~~\$2,706,313,000~~ \$2,953,241,000 in fiscal year ~~2012~~ 2013 and deposited in the Patent and Trademark Fee Reserve Fund shall remain available until expended: *Provided further*, That the Director of USPTO shall submit a spending plan to the Committees on Appropriations of the House of Representatives and the Senate for any amounts made available by the preceding proviso and such spending plan shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That from amounts provided herein, not to exceed \$900 shall be made available in fiscal year ~~2012~~ 2013 for official reception and representation expenses: *Provided further*, That in fiscal year ~~2012~~ 2013 from the amounts made available for "Salaries and Expenses" for the USPTO, the amounts necessary to pay (1) the difference between the percentage of basic pay contributed by the USPTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) as provided by the Office of Personnel Management (OPM) for USPTO's specific use, of basic pay, of employees subject to subchapter III of chapter 83 of that title, and (2) the present value of the otherwise unfunded accruing costs, as determined by OPM for USPTO's specific use of post-retirement life insurance and post-retirement health benefits coverage for all USPTO employees who are enrolled in Federal Employees Health Benefits (FEHB) and Federal Employees Group Life Insurance (FEGLI), shall be transferred to the Civil Service Retirement and Disability Fund, the ~~Employees Life Insurance~~ FEGLI Fund, and the ~~Employees Health Benefits~~ FEHB Fund, as appropriate, and shall be available for the authorized purposes of those accounts: *Provided further*, That any differences between the present value factors published in OPM's yearly 300 series benefit letters and the factors that OPM provides for USPTO's specific use shall be recognized as an imputed cost on USPTO's financial statements, where applicable: *Provided further*, That notwithstanding any other provision of law, all fees and surcharges assessed and collected by USPTO are available for USPTO only pursuant to section 42(c) of title 35, United States Code, as amended by section 22 of the Leahy-Smith America Invents Act (Public Law 112-29): *Provided further*, That within the amounts appropriated, ~~\$1,000,000~~ \$2,000,000 shall be transferred to the "Office of Inspector General" account for activities associated with carrying out investigations and audits related to the USPTO.

## FY 2013 President's Budget

### Explanation of Proposed Changes to Appropriation Language

Proposed Changes	Explanation
<p>... [\$2,706,313,000] \$2,953,241,000</p> <p>... fiscal year [2012] 2013</p>	<p>Retains the appropriation language as enacted for FY 2012, but changes the amount available to the USPTO in FY 2013 to be equal to the total amount of fees collected during FY 2013, and changes all references to FY 2012 to FY 2013.</p>
<p>That within the amounts appropriated, <del>\$1,000,000</del> [\$2,000,000] shall be transferred to the "Office of Inspector General" account for activities associated with carrying out investigations and audits related to the USPTO.</p>	<p>Increases the amount to be transferred to the Office of the Inspector General to \$2 million for FY 2013.</p>

### Legislative Authorities

The programs of the USPTO are conducted under the following main legislative authorities:

- 15 U.S.C. 1051-1141n contain provisions of the Trademark Act that govern the administration of the USPTO's trademark registration system, provide for administrative proceedings before the USPTO, and set forth procedures relating to international registration of trademarks pursuant to the Madrid Protocol;
- 15 U.S.C. 1511 states that the USPTO is under the jurisdiction and subject to the control of the Department of Commerce;
- 35 U.S.C. 1-13, 21-26, 32-33, 100-105, 111-122, 131-135, 141-146, 151-157, 161-164, 171-173, 251-256, 261, 262, 267, 301-307, and 311-318 contain basic authorities for administration of patent laws, derived from the Act of July 19, 1952, and subsequent enactments;
- 35 U.S.C. 41 provides for collection of specific fees for identified services and establishment of fees at an estimated average cost for processing, services or materials not specified;
- 35 U.S.C. 41(i)(2) provides for deployment of automated search systems of the Office to the public;
- 35 U.S.C. 42(d) provides that the Director may refund any fee paid by mistake or in excess of that required;
- 35 U.S.C. 181-188 provides authorities for actions relating to secrecy of certain inventions and filing of applications in foreign countries;
- 35 U.S.C. 361-368, 371-375 contain authorities related to Patent Cooperation Treaty applications, national stage entry and related procedures;
- 35 U.S.C. 376 authorizes the USPTO to charge fees for activities related to the Patent Cooperation Treaty, and the Director may set fee amounts, except for the international and handling fees.
- Leahy Smith America Invents Act (Pub. L. No. 112-29) provides specific authority for the USPTO to collect a number of fees related to patent services, including a 15 percent surcharge on most patent fees and a prioritized examination fee.

# APPENDICES

## Appendix 1 - Interim Adjustments to the USPTO 2010-2015 Strategic Plan

In September 2010, the USPTO submitted the *USPTO 2010-2015 Strategic Plan* to the Congress. The Plan had undergone a rigorous review by stakeholders, employees, the Patent Public Advisory Committee, the Trademark Public Advisory Committee, and the Congress.

The *USPTO 2010-2015 Strategic Plan* identified a number of challenges that the USPTO would have to overcome in order to fully deliver on the Plan's performance commitments. These challenges were documented in the Introduction to the Plan, and one was particularly important to the Agency's commitment to reduce patent pendency and the patent application backlog.

- Funding authority to support Agency performance objectives.

The USPTO's FY 2011 President's Budget that was submitted to the Congress in January 2010 had requested \$2.3 billion to be collected from user fees under the existing fee schedule, plus fees from a proposed 15 percent temporary increase to certain patent fees which was estimated to generate approximately \$224 million. These funds would have been used to restore critical spending cuts taken in FY 2009 and FY 2010 (during the economic downturn) and would have been used to invest in the new patent hires needed to reduce patent pendency to first office action to 10 months and average total pendency to 20 months.

The Federal government operated under a continuing resolution for approximately one-half of FY 2011. When full-year funding was enacted, the requested 15 percent temporary increase in patent fees was not approved. This FY 2011 funding scenario had a negative impact on the USPTO's ability to fully implement the strategic plan. In addition to other cuts, such as freezing overtime and deferring new initiatives, the USPTO was able to fund only 85 percent of the patent examiner hires planned for FY 2011. As a result, the reduction of patent pendency for first office actions to 10 months and average total pendency to 20 months cannot feasibly be accomplished until 2015 and 2016 respectively as stated in the FY 2013 Budget (compared to 2014 and 2015 as noted in the strategic plan).

Although the USPTO had been on track to implement a number of Patent initiatives in the Plan, because of the reduced funding in the Full-Year Continuing Appropriations Act, the USPTO also had to delay the effective date of the final rule to implement Track I of the "Three-Track" initiative, defer opening of the Detroit Satellite Office that is part of Nationwide Workforce, and reduce contracting for Patent Cooperation Treaty Chapter I prior art searches. These initiatives remain unchanged; however, their implementation has been negatively impacted by the FY 2011 funding scenario.

On September 16, 2011, the President signed the America Invents Act (AIA) into law. This legislation provides for a 15 percent interim increase to patent fees which went into effect on September 26, 2011. It also gives the USPTO fee setting authority for a period of seven years. The USPTO is currently developing a fee schedule that will undergo extensive external review and is expected to become effective in February 2013. In lieu of granting the USPTO access to all of its annual fee collections, the AIA established a Patent and Trademark Fee Reserve Fund in Treasury. Any fee amounts collected over and above the appropriated amount would be deposited in this Fund and could be made available to the USPTO via the appropriations process.

These legislated funding and fee provisions will enable the USPTO to continue implementation of the *2010-2015 Strategic Plan*, and to implement the substantive patent provisions of the AIA.

Under the Patent goal, there are no significant changes to the objectives and initiatives other than changing the initiative under objective 2 from "hire approximately 1,000 examiners in both FY 2011 and FY 2012" to "hire an optimum patent examining workforce to meet backlog and pendency targets."

The Trademark Organization, with the objective to "Maintain Trademark First Action Pendency on Average between 2.5-3.5 Months with 13 Months Final Pendency" has continued to meet or exceed these pendency targets. The Trademark Organization, therefore, is changing its target for average total pendency from 13.0 months to 12.0 months or less.

The AIA changes the name of the Board of Patent Appeals and Interferences (BPAI) to the Patent Trial and Appeal Board (PTAB), which will be done in September 2012. The BPAI is presently reviewing its measures and work plans as a result of improving its management structure and oversight. A key part of this review includes further efforts to improve the appeal and post-grant processes. BPAI is currently working on plans for implementing the new post-grant processes proposed by Congress, as well. Furthermore, the Board changed its initiative to "Increase BPAI capacity through additional hires and new chambers organization" with "Increase BPAI capacity through additional hires and optimization of organizational structure."

Overall, the *USPTO 2010-2015 Strategic Plan* included a Balanced Scorecard which identified performance measures and work plans that have been and will continue to be monitored internally as a management tool for tracking progress in meeting each element of the plan. A notable change includes the addition of a new externally-reported performance measure which tracks the percent of foreign officials trained by the Global IP Academy who have initiated or implemented a positive change in the IP systems in their organization and/or countries.

The USPTO has established five new measures to track implementation of the AIA requirements as follows:

Under the goal to Optimize Patent Quality and Timeliness:

- Publish AIA Group 2 Final Rules by August 17, 2012
- Complete 100 percent of AIA Studies in accordance with statutory due dates
- Implement 100 percent of new AIA Programs in accordance with statutory due dates

Under the USPTO's Management Goal:

- Target Outreach to AIA Specific Topics
- Publish AIA Fee Setting Notice of Proposed Rulemaking by June 2012

## Appendix 2: FY 2011 Fee Report

<u>Fee Code</u>	<u>Fee Title</u>	<u>Fee Rates</u>	President's Budget <u>Plan Collections</u>	<u>Actual Collections</u>
Patent Fee Summary:				
	Patent Application Filing Fees		\$513,178,553	\$492,915,670
	Patent Issue Fees		335,843,907	331,547,499
	Pre-Grant Publication Fees		56,468,160	66,043,940
	Patent Maintenance Fees		785,748,520	820,162,898
	Patent Extension Fees		162,822,055	125,062,180
	Patent Appeal Fees		35,046,430	26,900,000
	Patent Revival Fees		18,383,450	14,841,015
	Patent Cooperation Treaty (PCT) Fees		131,662,210	124,095,243
	Other Patent Processing Fees		39,318,155	32,661,896
	Patent Attorney/Agent Enrollment Fees		1,249,740	1,018,567
	Patent Service Fees		30,482,306	35,963,528
	Corporate Fees		122,698	112,722
	<b>Total Patent Fees</b>		<b>\$2,110,326,184</b>	<b>\$2,071,325,158</b>
Trademark Fee Summary:				
	Trademark Processing Fees		\$193,457,907	\$210,895,030
	Trademark Madrid Protocol Fees		12,563,623	14,695,976
	Trademark Service Fees		5,359,703	6,741,212
	Corporate Fees		16,200	12,653
	<b>Total Trademark Fees</b>		<b>\$211,397,433</b>	<b>\$232,344,871</b>
<b>Total United States Patent and Trademark Office Fees</b>			<b>\$2,321,723,617</b>	<b>\$2,303,670,029</b>
Patent Filing Fees (Large Entity):				
1001	Utility Application Filing	\$850	\$0	\$80
1004	Reissue Application Filing	850	0	770
1005	Provisional Application Filing	250	13,643,500	12,079,854
1007	CPA - Design Filing	440	6,160	0
1011	Filing of Utility Patent Application	380	69,517,580	66,367,910
1012	Filing of Design Patent Application	250	3,985,000	3,169,875
1013	Filing of Plant Patent Application	250	145,000	116,200
1014	Filing of Reissue Patent Application	380	194,560	173,250
1017	CPA - Design Filing	250	123,250	102,980
	Surcharge - Late Filing, Search or Examination Fee,			
1051	Oath or Declaration	130	7,743,450	7,463,300
1052	Surcharge - Late Provisional Filing Fee or Cover Sheet	50	143,850	121,050
1081	Utility Application Size	310	3,564,932	2,718,660
1082	Design Application Size	310	4,467	26,910
1083	Plant Application Size	310	619	270
1084	Reissue Application Size	310	1,765	6,750
1085	Provisional Application Size	310	1,193,170	998,990
1111	Search of Utility Patent Application	620	112,404,760	107,843,780

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1112	Search of Design Patent Application	120	2,072,200	1,467,920
1113	Search of Plant Patent Application	380	220,400	174,290
1114	Search of Reissue Patent Application	620	317,440	279,750
1201	Independent Claims in Excess of Three	250	28,873,000	23,522,906
1202	Total Claims in Excess of Twenty	60	37,936,020	32,560,826
1203	Multiple Dependent Claims	450	1,717,650	1,326,720
1204	Reissue Independent Claims in Excess of Three	250	338,750	214,088
1205	Reissue Total Claims in Excess of Twenty	60	416,220	291,500
1311	Examination of Utility Patent Application	250	45,735,250	44,216,580
1312	Examination of Design Patent Application	160	2,550,400	2,059,340
1313	Examination of Plant Patent Application	200	116,000	89,620
1314	Examination of Reissue Patent Application	750	384,000	339,970
1801	Request for Continued Examination	930	91,756,590	101,797,530
1809	Filing a Submission after Final Rejection	810	0	56,700
1810	Each Additional Invention to be Examined	810	0	3,240
1817	Request for Prioritized Examination	4,800	0	2,328,000
1821	Reexamination Independent Claims in Excess of Three	250	105,000	205,380
1822	Reexamination Total Claims in Excess of Twenty	60	162,480	426,952
	<b>Total Patent Filing Fees (Large Entity)</b>		<b>\$425,373,464</b>	<b>\$412,551,941</b>
	Patent Filing Fees (Small Entity):			
2001	Utility Application Filing	\$425	\$0	\$1,590
2005	Provisional Application Filing	125	11,615,375	10,184,930
2006	CPA-Utility Filing	490	0	(375)
2007	CPA-Design Filing	220	1,980	0
2011	Filing of Utility Patent Application	190	2,234,400	1,631,214
2012	Filing of Design Patent Application	125	1,328,375	1,566,318
2013	Filing of Plant Patent Application	125	48,250	62,710
2014	Filing of Reissue Patent Application	190	27,360	26,120
2017	CPA-Design Filing	125	41,125	24,795
2019	CPA-Reissue Filing	190	0	165
	Surcharge - Late Filing, Search or Examination Fee,			
2051	Oath or Declaration	65	1,992,510	1,912,365
2052	Surcharge - Late Provisional Filing Fee or Cover Sheet	25	130,475	97,100
2081	Utility Application Size	155	415,839	656,540
2082	Design Application Size	155	1,174	2,295
2083	Plant Application Size	155	157	0
2084	Reissue Application Size	155	154	135
2085	Provisional Application Size	155	551,942	480,285
2111	Search of Utility Patent Application	310	24,133,190	21,886,985
2112	Search of Design Patent Application	60	690,755	710,450
2113	Search of Plant Patent Application	190	73,340	93,920
2114	Search of Reissue Patent Application	310	44,640	42,200
2201	Independent Claims in Excess of Three	125	5,782,000	4,342,124
2202	Total Claims in Excess of Twenty	30	10,769,040	8,451,123
2203	Multiple Dependent Claims	225	394,875	316,375
2204	Reissue Independent Claims in Excess of Three	125	40,875	33,485
2205	Reissue Total Claims in Excess of Twenty	30	76,470	70,382
2311	Examination of Utility Patent Application	125	9,766,750	8,944,670
2312	Examination of Design Patent Application	80	850,160	995,630

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2313	Examination of Plant Patent Application	100	38,600	48,315
2314	Examination of Reissue Patent Application	375	54,000	51,450
2801	Request for Continued Examination	465	10,414,140	11,410,905
2809	Filing a Submission after Final Rejection	405	0	9,315
2810	Each Additional Invention to be Examined	405	0	405
2817	Request for Prioritized Examination	2,400	0	312,000
2821	Reexamination Independent Claims in Excess of Three	125	8,625	39,160
2822	Reexamination Total Claims in Excess of Twenty	30	14,070	51,376
4011	Electronic Filing of Utility Patent Application	95	6,264,442	5,907,272
	<b>Total Patent Filing Fees (Small Entity)</b>		<b>\$87,805,089</b>	<b>\$80,363,729</b>
	<b>Total Patent Application Filing Fees</b>		<b>\$513,178,553</b>	<b>\$492,915,670</b>

### Patent Issue Fees (Large Entity):

1501	Utility Issue	\$1,740	\$281,147,460	\$281,299,590
1502	Design Issue	990	13,288,770	10,317,440
1503	Plant Issue	1,370	986,400	637,370
1511	Reissue Issue	1,740	1,179,720	839,500
1506	Suspense Account for Partial Issue Payments		78,057	40,454
	<b>Total Patent Issue Fees (Large Entity)</b>		<b>\$296,680,407</b>	<b>\$293,134,354</b>

### Patent Issue Fees (Small Entity):

2501	Utility Issue	\$870	\$33,986,550	\$33,672,395
2502	Design Issue	495	4,811,400	4,394,600
2503	Plant Issue	685	250,710	187,370
2511	Reissue Issue	870	114,840	158,780
	<b>Total Patent Issue Fees (Small Entity)</b>		<b>\$39,163,500</b>	<b>\$38,413,145</b>
	<b>Total Patent Issue Fees</b>		<b>\$335,843,907</b>	<b>\$331,547,499</b>

### Pre-Grant Publication Fees:

	Publication Fee for Early, Voluntary or Normal			
1504	Publication	\$300	\$56,062,500	\$65,568,000
1505	Publication Fee for Republication	300	45,300	49,800
1803	Request for Voluntary Publication or Republication	130	31,330	40,040
1808	Processing Fee, Except in Provisional Applications	130	329,030	386,100
	<b>Total Pre-Grant Publication Fees</b>		<b>\$56,468,160</b>	<b>\$66,043,940</b>

### Patent Maintenance Fees (Large Entity):

1551	First Stage Maintenance	\$1,130	\$113,784,096	\$127,314,530
1552	Second Stage Maintenance	2,850	287,206,128	295,471,590
1553	Third Stage Maintenance	4,730	309,793,384	323,007,030
1554	First Stage Surcharge In Grace Period	150	340,730	426,980
1555	Second Stage Surcharge In Grace Period	150	379,080	459,960
1556	Third Stage Surcharge In Grace Period	150	230,230	271,570
	Maintenance Surcharge After Expiration - Unavoidable			
1557	Late Payment	700	(3,500)	10,500
	Maintenance Surcharge After Expiration - Unintentional			
1558	Late Payment	1,640	2,840,480	3,283,280
1559	Unassigned Maintenance Fee Payments		1,000,000	1,774,458
	<b>Total Patent Maintenance Fees (Large Entity)</b>		<b>\$715,570,628</b>	<b>\$752,019,898</b>

### Patent Maintenance Fees (Small Entity):

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2551	First Stage Maintenance	\$565	\$12,703,398	\$13,119,055
2552	Second Stage Maintenance	1,425	28,446,363	27,347,710
2553	Third Stage Maintenance	2,365	28,480,181	27,045,180
2554	First Stage Surcharge in Grace Period	75	200,265	264,800
2555	Second Stage Surcharge in Grace Period	75	222,495	228,775
2556	Third Stage Surcharge in Grace Period	75	125,190	137,480
	<b>Total Patent Maintenance Fees (Small Entity)</b>		<b>\$70,177,892</b>	<b>\$68,143,000</b>
	<b>Total Patent Maintenance Fees</b>		<b>\$785,748,520</b>	<b>\$820,162,898</b>
	Patent Extension Fees (Large Entity):			
1251	Extension for Response within First Month	\$150	\$17,311,350	\$13,093,170
1252	Extension for Response within Second Month	560	29,222,480	21,910,767
1253	Extension for Response within Third Month	1,270	63,115,520	46,914,864
1254	Extension for Response within Fourth Month	1,980	6,722,000	5,007,925
1255	Extension for Response within Fifth Month	2,690	10,646,080	8,461,149
	<b>Total Patent Extension Fees (Large Entity)</b>		<b>\$127,017,430</b>	<b>\$95,387,875</b>
	Patent Extension Fees (Small Entity):			
2251	Extension for Response within First Month	\$75	\$2,916,225	\$2,297,465
2252	Extension for Response within Second Month	280	6,103,440	4,786,054
2253	Extension for Response within Third Month	635	19,734,400	16,720,385
2254	Extension for Response within Fourth Month	990	2,534,000	1,911,079
2255	Extension for Response within Fifth Month	1,345	4,516,560	3,959,322
	<b>Total Patent Extension Fees (Small Entity)</b>		<b>\$35,804,625</b>	<b>\$29,674,305</b>
	<b>Total Patent Extension Fees</b>		<b>\$162,822,055</b>	<b>\$125,062,180</b>
	Patent Appeal Fees (Large Entity):			
1401	Notice of Appeal to Board of Appeals	\$620	\$19,459,940	\$14,158,280
1402	Filing a Brief in Support of an Appeal	620	10,800,400	8,828,160
1403	Filing a Brief in Support of an Appeal	1,240	1,403,680	1,178,560
	<b>Total Patent Appeal Fees (Large Entity)</b>		<b>\$31,664,020</b>	<b>\$24,165,000</b>
	Patent Appeal Fees (Small Entity):			
2401	Notice of Appeal to Board of Appeals	\$310	\$2,258,350	\$1,734,870
2402	Filing a Brief in Support of an Appeal	310	998,200	840,355
2403	Request for an Oral Hearing	620	125,860	148,175
	<b>Total Patent Appeal Fees (Small Entity)</b>		<b>\$3,382,410</b>	<b>\$2,723,400</b>
1405	Petitions to the Chief Administrative Patent Judge	\$400	\$0	\$11,600
	<b>Total Patent Appeal Fees</b>		<b>\$35,046,430</b>	<b>\$26,900,000</b>
	Patent Revival Fees (Large Entity):			
1452	Petition to Revive Unavoidably Abandoned Application	\$620	\$104,780	\$41,660
1453	Petition to Revive Unintentionally Abandoned Application	1,860	7,813,860	5,593,460
1814	Statutory Disclaimer	160	6,309,120	5,271,460
	<b>Total Patent Revival Fees (Large Entity)</b>		<b>\$14,227,760</b>	<b>\$10,906,580</b>
	Patent Revival Fees (Small Entity):			
2452	Petition to Revive Unavoidably Abandoned Application	\$310	\$79,980	\$43,280
2453	Petition to Revive Unintentionally Abandoned Application	930	3,235,470	3,142,480
2814	Statutory Disclaimer	80	840,240	748,675

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	Total Patent Revival Fees (Small Entity)		\$4,155,690	\$3,934,435
	Total Patent Revival Fees		\$18,383,450	\$14,841,015
	PCT Application Fees (Large Entity):			
1611	USPTO is not IPEA nor ISA	\$0	\$0	\$1,110
1613	Filing with EPO or JPO Search Report	0	0	870
1614	Independent Claims in Excess of Three	250	5,685,500	4,764,890
1615	Total Claims in Excess of Twenty	60	9,096,960	6,182,400
1616	Multiple Dependent Claims	450	1,404,900	1,177,080
	Search or Examination Fee, Oath or Declaration after 30			
1617	Months from Priority Date	130	2,774,330	2,971,410
1618	English Translation After 30 Months from Priority Date	130	256,620	280,930
1631	Filing of PCT National Stage Application	380	16,945,340	16,632,220
1632	PCT National Stage Search - All Other Situations	620	301,320	198,600
1633	PCT National Stage Examination - All Other Situations	250	11,114,750	11,149,380
1641	PCT National Stage Search - US was the ISA	120	240,840	189,440
	PCT National Stage Search - Search Report Prepared			
1642	and Provided to USPTO	490	20,474,160	20,825,260
1681	PCT National Stage Application Size	310	1,244,030	1,033,740
	Total PCT Application Fees (Large Entity)		\$69,538,750	\$65,407,330
	PCT Application Fees (Small Entity):			
2609	IPEA is USPTO	\$0	(\$360)	(\$360)
2613	Filing with EPO or JPO Search Report	0	0	890
2614	Independent Claims in Excess of Three	125	1,135,500	946,765
2615	Total Claims in Excess of Twenty	30	2,347,110	1,886,375
2616	Multiple Dependent Claims	225	233,775	221,475
	Search of Examination Fee, Oath or Declaration after 30			
2617	Months from Priority Date	65	521,040	615,550
2631	Filing of PCT National Stage Application	190	2,630,930	2,544,810
2632	PCT National Stage Search - All Other Situations	310	115,940	86,470
2633	PCT National Stage Examination - All Other Situations	125	1,699,750	1,712,925
2641	PCT National Stage Search - US was the ISA	60	162,000	108,270
	PCT National Stage Search - Search Report Prepared			
2642	and Provided to USPTO	245	2,578,380	2,814,130
2681	National Stage Application Size	155	162,595	184,560
	Total PCT Application Fees (Small Entity)		\$11,587,020	\$11,121,860
	Total PCT Application Filing Fees		\$81,125,770	\$76,529,190
	PCT Processing Fees:			
1601	PCT Transmittal Fee	\$240	\$12,102,000	\$11,320,500
	PCT Search Fee - Regardless of whether there is a			
1602	corresponding application	2,080	35,659,520	33,669,560
1603	PCT Search Fee - Prior US Application Filed	2,080	0	1,050
1604	Supplemental Search per Additional Invention	2,080	1,048,320	1,062,880
1605	PCT - Preliminary Examination (USPTO is ISA)	600	1,341,600	870,600
1606	PCT - Preliminary Examination (USPTO is not ISA)	750	351,000	298,500
1607	Supplemental Examination per Additional Invention	600	24,000	6,000
1619	PCT - Late Payment		10,000	336,963
	Total PCT Processing Fees		\$50,536,440	\$47,566,053

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<b>Total PCT Application and Processing Fees</b>		<b>\$131,662,210</b>	<b>\$124,095,243</b>
Other Patent Processing Fees:			
1053	Non-English Specification	\$130	\$281,450
1451	Petition to Institute a Public Use Proceeding	1,510	57,380
1454	Acceptance of an Unintentionally Delayed Claim for Priority	1,410	1,613,040
1455	Filing an Application for Patent Term Adjustment	200	852,800
1456	Request for Reinstatement of Term Reduced	400	18,400
1457	Extension of Patent Term	1,120	71,680
1458	Initial Application for Interim Extension	420	8,400
1459	Subsequent Application for Interim Extension	220	3,520
1460	Petitions to the Director	0	0
1462	Petitions to the Director (Group I)	400	809,600
1463	Petitions to the Director (Group II)	200	707,200
1464	Petitions to the Director (Group III)	130	882,050
1802	Expedited Examination of Design Application	900	158,400
1804	Request for Publication of SIR - Prior to Examiner Action	920	4,600
1805	Request for Publication of SIR - After Examiner Action	1,840	108,560
1806	Submission of Information Disclosure Statement	180	27,000,000
1807	Processing Fee for Provisional Applications	50	103,500
1811	Certificate of Correction	100	818,000
1812	Request for Ex Parte Reexamination	2,520	1,496,880
1813	Request for Inter Partes Reexamination	8,800	5,262,400
1816	Processing fee for correcting inventorship in a patent Status of Maintenance Fee Payment (Uncertified Statement)	130	0
8016		10	20
8022	Publication in Official Gazette	25	2,175
8026	Handling Fee for Incomplete or Improper Application	130	48,100
1815	Suspense Account for Other Patent Processing Fees		10,000
1999	Patent Unassigned Fees		(1,000,000)
<b>Total Other Patent Processing Fees</b>		<b>\$39,318,155</b>	<b>\$32,661,896</b>
Patent Attorney Enrollment Fees:			
9001	Application Fee for Examination	\$40	\$164,720
9003	Attorney Fee - Registration to Practice or Grant of Limited Recognition	100	276,700
9004	Attorney Fee - Reinstatement to Practice	100	1,560
9005	Attorney Fee - Certificate of Good Standing as an Attorney or Agent	10	2,300
9006	Attorney Fee - Certificate of Standing as an Attorney or Agent, Suitable for Framing	20	240
9010	For Test Administration by Commercial Entity	200	769,600
9011	For Test Administration by USPTO	450	2,250
9012	Review of Decision by the OED Director under 11.2(c)	130	2,730
9013	Review of Decision of the OED Director under 11.2(d)	130	3,640
9014	Application Fee for Person Disciplined, Convicted of a Felony or Certain Misdemeanors under 11.7(h)	1,600	16,000
9024	Unspecified other services, excluding labor		10,000
9025	Attorney Fee - Registration to Practice or Grant of Limited Recognition	100	0

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<b>Total Patent Attorney Enrollment Fees</b>			<b>\$1,249,740</b>	<b>\$1,018,567</b>
Patent Service Fees:				
8001	Printed Copy of Patent without Color	\$3	\$391,986	\$557,775
8003	Printed Copy of Plant Patent in Color	15	2,760	5,355
Color Copy of Patent (Other than Plant) or SIR with Color				
8004	Drawing	25	0	200
8005	Patent Application Publication	3	22,761	13,890
8007	Copy of Patent Application as Filed, if Provided on Paper	20	1,078,620	2,071,620
Copy of Patent Related File Wrapper and Paper				
8008	Contents of 400 or Fewer Pages, if Provided on Paper	200	499,200	476,800
Additional Fee for Each Additional 100 Pages or Portion				
8009	of Patent Related File Wrapper and Contents	40	106,720	157,280
Certification of Patent-Related File Wrapper and Paper				
8010	Contents	25	29,000	48,200
Copy of Patent Related File Wrapper and Contents if				
Provided Electronically other than on a Physical				
8011	Electronic Medium as Specified	55	125,455	186,395
Additional Fee for Each Continuing Physical Electronic				
8012	Medium in Single Order	15	45	4,800
Copy of Office Records, Except Copies of Applications as				
8013	Filed	25	175,350	229,575
Assignment Records, Abstract of Title and Certification,				
8014	per Patent	25	684,675	1,014,850
8017	Copy of Non-US Document	25	25	0
8019	Local Delivery Box Rental, Annually	50	3,350	0
8020	International Type Search Report	40	280	40
Recording Each Patent Assignment, Agreement or Other				
8021	Paper	40	23,416,520	28,964,720
8023	Labor Charge for Services	40	200,000	264,320
8024	Unspecified Other Services, Excluding Labor		60,000	63,478
8031	Computer Records, At Cost		2,220,926	285,520
8901	REPS		403,070	357,679
8902	Self Service Copy Charge, per Page	0.25	1,059,413	1,258,629
8903	Unspecified Other Services		0	54
8904	Annual Library Subscription	50	2,150	2,349
<b>Total Patent Service Fees</b>			<b>\$30,482,306</b>	<b>\$35,963,528</b>
Corporate Fees:				
9101	Processing Each Payment Refused or Charged Back	\$50	\$12,000	\$11,033
9201	Establish or Reinstate Deposit Account	10	3,310	2,715
Service Charge for Below Minimum Balance on Deposit				
9202	Accounts	25	107,125	98,584
9209	Partial service charge for closing a deposit account		263	389
<b>Total Corporate Fees</b>			<b>\$122,698</b>	<b>\$112,722</b>
<b>Total Patent Fees</b>			<b>\$2,110,326,184</b>	<b>\$2,071,325,158</b>
Trademark Processing Fees:				
6001	Application for Registration (Paper Correspondence)	\$375	\$3,632,625	\$2,102,360

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6002	Amendment to Allege Use (Paper Correspondence)	100	56,000	46,000
6003	Statement of Use (Paper Correspondence)	100	335,700	269,700
6004	Extension of Time for Filing a Statement of Use (Paper Correspondence)	150	500,700	381,450
6005	Petitions to the Director (Paper Correspondence)	100	163,500	59,500
6006	Division of Applications (Paper Correspondence)	100	95,900	13,100
6008	Additional Fee for Failure to Satisfy TEAS Plus Requirements	50	0	9,500
6201	Application for Renewal (Paper Correspondence)	400	1,228,800	1,246,000
6203	Additional Fee for Renewal Application in Grace Period (Paper Correspondence)	100	49,800	25,000
6204	Correcting Deficiency in Renewal Application	100	500	0
6205	Filing Affidavit Under Section 8 (Paper Correspondence)	100	706,100	690,000
6206	Filing Section 8 Affidavit during Grace Period (Paper Correspondence)	100	103,600	73,800
6207	Correcting a Deficiency in a Section 8 Affidavit	100	80,000	17,400
6208	Filing Affidavit Under Section 15 (Paper Correspondence)	200	560,600	589,000
6210	Publication of Mark Under Section 12c	100	0	100
6211	Issuing New Certificate of Registration	100	16,700	1,400
6212	Certificate of Correction, Registrant's Error	100	7,400	7,200
6214	Filing Amendment to Registration	100	153,600	16,300
6215	Filing \$71 affidavit, per class	100	0	6,700
6216	Filing \$71 affidavit grace period, per class	100	0	500
6401	Petition to Cancel (Paper Correspondence)	300	33,107	34,800
6402	Notice of Opposition (Paper Correspondence)	300	72,000	48,600
6403	Ex Parte Appeal (Paper Correspondence)	100	25,900	24,300
6991	Recordal Application Fee	20	0	780
6992	Renewal Application Fee	20	0	520
6993	Late Fee for Renewal Application	20	0	40
6994	Application fee for reactivation of insignia, per request	20	0	140
6999	Trademark Unassigned Fees		0	103,955
7001	Application for Registration (Electronic Correspondence)	325	75,933,325	80,655,960
7002	Amendment to Allege Use (Electronic Correspondence)	100	743,500	718,700
7003	Statement of Use (Electronic Correspondence)	100	6,378,500	8,367,500
7004	Extension of Time for Filing a Statement of Use (Electronic Correspondence)	150	24,536,100	29,964,000
7005	Petitions to the Director (Electronic Correspondence)	100	1,880,700	1,964,900
7006	Division of Applications (Electronic Correspondence)	100	52,800	269,300
7007	TEAS Plus	275	29,834,750	33,502,425
7008	Additional Fee for Failure to Satisfy TEAS Plus Requirements	50	122,300	118,400
7201	Application for Renewal (Electronic Correspondence)	400	19,253,200	20,362,000
7203	Additional Fee for Renewal Application in Grace Period (Electronic Correspondence)	100	573,000	494,900
7204	Correcting Deficiency in Renewal Application	100	0	(100)
7205	Filing Affidavit Under Section 8 (Electronic Correspondence)	100	11,062,400	12,040,500
7206	Filing Section 8 Affidavit during Grace Period (Electronic Correspondence)	100	1,191,000	1,245,700
7207	Correcting a deficiency in a \$8 affidavit	100	0	72,200
7208	Filing Affidavit Under Section 15 (Electronic Correspondence)	200	10,652,800	11,882,600

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7212	Certificate of Correction, Registrant's Error	100	141,400	337,000
7214	Filing amendment to registration	100	27,100	3,500
7215	Filing §71 affidavit, per class	100	0	200
7401	Petition to Cancel (Electronic Correspondence)	300	629,100	649,200
7402	Notice of Opposition (Electronic Correspondence)	300	2,325,900	2,127,900
7403	Ex Parte Appeal (Electronic Correspondence)	100	297,500	350,100
<b>Total Trademark Processing Fees</b>			<b>\$193,457,907</b>	<b>\$210,895,030</b>

### Trademark Madrid Protocol Fees:

6901	Certifying an International Application - Single Application (Paper Correspondence)	\$100	\$4,300	\$3,300
6902	Certifying an International Application - More than One Application (Paper Correspondence)	150	1,350	0
6904	Filing a Notice of Replacement (Paper Correspondence)	100	400	0
6907	Transmitting a Subsequent Designation (Paper Correspondence)	100	0	100
7901	Certifying an International Application - Single Application (Electronic Correspondence)	100	423,500	626,900
7902	Certifying an International Application - More than One Application (Electronic Correspondence)	150	132,300	190,800
7904	Filing a Notice of Replacement (Electronic Correspondence)	100	0	1,100
7905	Filing an Affidavit Under 71 of the Act (Electronic Correspondence)	100	0	119,900
7906	Surcharge for Filing an Affidavit Under 71 During Grace Period (Electronic Correspondence)	100	0	3,700
7907	Transmitting a Subsequent Designation (Electronic Correspondence)	100	40,700	66,500
7931	Application Fee Filed at WIPO	325	10,703,550	10,734,100
7932	Renewal Fee Filed at WIPO	400	260,400	376,800
7933	Subsequent Designation Fee Filed at WIPO	325	881,400	751,075
9990	International Bureau Unassigned Fees		115,723	1,821,701
<b>Total Trademark Madrid Protocol Fees</b>			<b>\$12,563,623</b>	<b>\$14,695,976</b>

### Trademark Service Fees:

8501	Printed Copy of Registered Mark	\$3	\$393	\$159
8503	Certified Copy of Registered Mark, with Title and/or Status	15	138,645	130,695
8504	Certified Copy of Registered Mark, with Title and/or Status (Expedited)	30	112,710	87,030
8507	Certified Copy of Trademark Application as Filed	15	279,675	414,210
8508	Copy of Trademark File Wrapper and Contents (Certified or Uncertified)	50	35,750	36,850
8513	Copy of Trademark Document (Certified or Uncertified)	25	14,725	14,125
8514	Assignment Records, Abstracts of Title and Certification per Registration	25	38,325	37,450
8521	Recording Trademark Assignment, Agreement or Other Paper	40	1,209,600	1,298,760
8522	For Second and Subsequent Marks in the Same Document	25	3,444,000	4,646,875
8523	Labor Charge for Services	40	33,040	49,040

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8524	Unspecified Other Trademark Services, Excluding Labor		2,000	2,960
8531	Trademark Computer Records		15,833	2,455
8901	REPS		9,166	4,183
8902	Self Service Copy Charge, per Page	0.25	24,091	14,719
8904	Annual Library Subscription	50	1,750	1,701
	<b>Total Trademark Service Fees</b>		<b>\$5,359,703</b>	<b>\$6,741,212</b>
	Corporate Fees:			
9101	Processing Each Payment Refused or Charged Back	\$50	\$1,600	\$1,239
9201	Establish or Reinstate Deposit Account	10	440	305
	Service Charge for Below Minimum Balance on Deposit			
9202	Accounts	25	14,125	11,066
9209	Partial service charge for closing a deposit account		35	44
	<b>Total Corporate Fees</b>		<b>\$16,200</b>	<b>\$12,653</b>
	<b>Total Trademark Fees</b>		<b>\$211,397,433</b>	<b>\$232,344,871</b>
	<b>Total United States Patent and Trademark Office Fees</b>		<b>\$2,321,723,617</b>	<b>\$2,303,670,029</b>

## Appendix 3 – USPTO Fee Collections Estimates and Assumptions

USPTO Fee Collections							
Estimates and Assumptions							
	FY 2011	FY 2012			FY 2013		
(Dollars in Millions)	Actual	Revised Low Estimate	Revised Working Estimate	Revised High Estimate	President's Budget Low Estimate	President's Budget Working Estimate	President's Budget High Estimate
Date of Projection	October 2011	February 2012	February 2012	February 2012	February 2012	February 2012	February 2012
<b>Total USPTO Fee Collections</b>	<b>\$2,304</b>	<b>\$2,451</b>	<b>\$2,529</b>	<b>\$2,697</b>	<b>\$2,811</b>	<b>\$2,953</b>	<b>\$3,120</b>
Total Patent Fee Collections	\$2,071	\$2,205	\$2,276	\$2,438	\$2,569	\$2,687	\$2,842
Total Trademark Fee Collections	\$232	\$246	\$253	\$259	\$242	\$267	\$278
<b>Major Patent Fee Collections:</b>							
Filing (with Excess Claims)	\$493	\$603	\$619	\$651	\$718	\$765	\$822
Issue and Publication	\$398	\$475	\$499	\$531	\$577	\$606	\$645
Maintenance	\$820	\$725	\$745	\$831	\$784	\$807	\$849
PCT	\$124	\$135	\$137	\$139	\$155	\$161	\$165
Extensions of Time	\$125	\$145	\$153	\$161	\$173	\$182	\$191
Other	\$111	\$122	\$123	\$125	\$162	\$166	\$170
<b>Assumptions Used to Develop Fee Collection Estimates</b>							
Filing Growth Rates:	Filings growth rate 5% (506,924 UPR filings, 152,644 RCEs). Trademark filings growth rate 85% (398,667 filings).	Filings growth rate estimated to be 3%; RCE filings estimated at 30% of patent filings. Trademark filings growth estimated at -1%. These filing rates are based on conservative estimates of continued economic growth.	Filings growth rate estimated to be 5%; RCE filings estimated at 29% of patent filings. Trademark filings growth estimated at 4%. These filing rates are based on moderate estimates of continued economic growth.	Filings growth rate estimated to be 7%; RCE filings estimated at 28% of patent filings. Trademark filings growth estimated at 9%. These filing rates are based on high estimates of continued economic growth.	Filings growth rate estimated to be 2%; RCE filings estimated at 27% of patent filings with elasticity assumptions. Trademark filings growth estimated at -10%. These filing rates are based on conservative estimates of continued economic growth.	Filings growth rate estimated to be 5%; RCE filings estimated at 26% of patent filings with elasticity assumptions. Trademark filings growth estimated at 4%. These filing rates are based on moderate estimates of continued economic growth.	Filings growth rate estimated to be 6%; RCE filings estimated at 25% of patent filings. Trademark filings growth estimated at 7%. These filing rates are based on high estimates of continued economic growth.
Patent Issue:	Patents printed of 233,135.	Patents printed of 238,000 based on conservative estimates of increased patent examination production efficiencies.	Patents printed of 251,000 based on moderate estimates of increased patent examination production efficiencies.	Patents printed of 263,000 based on high estimates of increased patent examination production efficiencies.	Patents printed of 287,000 based on conservative estimates of increased patent examination production efficiencies.	Patents printed of 302,000 based on moderate estimates of increased patent examination production efficiencies.	Patents printed of 317,000 based on high estimates of increased patent examination production efficiencies.
Patent Maintenance (Post Renewal):	Renewal rates: 101.3% first stage, 89.5% second stage and 84.0% third stage	Renewal rates: 82% first stage, 69% second stage and 66% third stage. These estimated renewal rates are based on conservative estimates of continued economic growth and patent demand.	Renewal rates: 84% first stage, 72% second stage and 67% third stage. These estimated renewal rates are based on moderate estimates of continued economic growth and patent demand.	Renewal rates: 94% first stage, 80% second stage and 75% third stage. These estimated renewal rates are based on high estimates of continued economic growth and patent demand.	Renewal rates: 88% first stage, 78% second stage and 72% third stage with conservative estimates of continued economic growth and patent demand.	Renewal rates: 91% first stage, 81% second stage and 74% third stage with moderate estimates of continued economic growth and patent demand.	Renewal rates: 95% first stage, 84% second stage and 77% third stage with high estimates of continued economic growth and patent demand.
Enhanced Examination Timing Assumptions:	Track 1 filings: 852 filings	Track 1: 10,000 filings.	Track 1: 10,000 filings.	Track 1: 20,000 filings.	Track 1 filings: 10,000	Track 1 filings: 10,000	Track 1 filings: 20,000 filings
Fee Adjustments:	15% increase to certain patent fees per AIA beginning September 26, 2011. \$2.2 million in surcharge collections; \$2.6 million in prioritized examination fees collected.	CPI of 0.0%, with the continuation of the 15% increase to patent statutory and RCE fees	CPI of 0.0%, with the continuation of the 15% increase to patent statutory and RCE fees	CPI of 0.0%, with the continuation of the 15% increase to patent statutory and RCE fees	CPI of 1.9%, and continuation of 15% increase to patent statutory fees until fee restructure beginning in February 2013	CPI of 1.9%, and continuation of 15% increase to patent statutory fees until fee restructure beginning in February 2013	CPI of 1.9%, and continuation of 15% increase to patent statutory fees until fee restructure beginning in February 2013