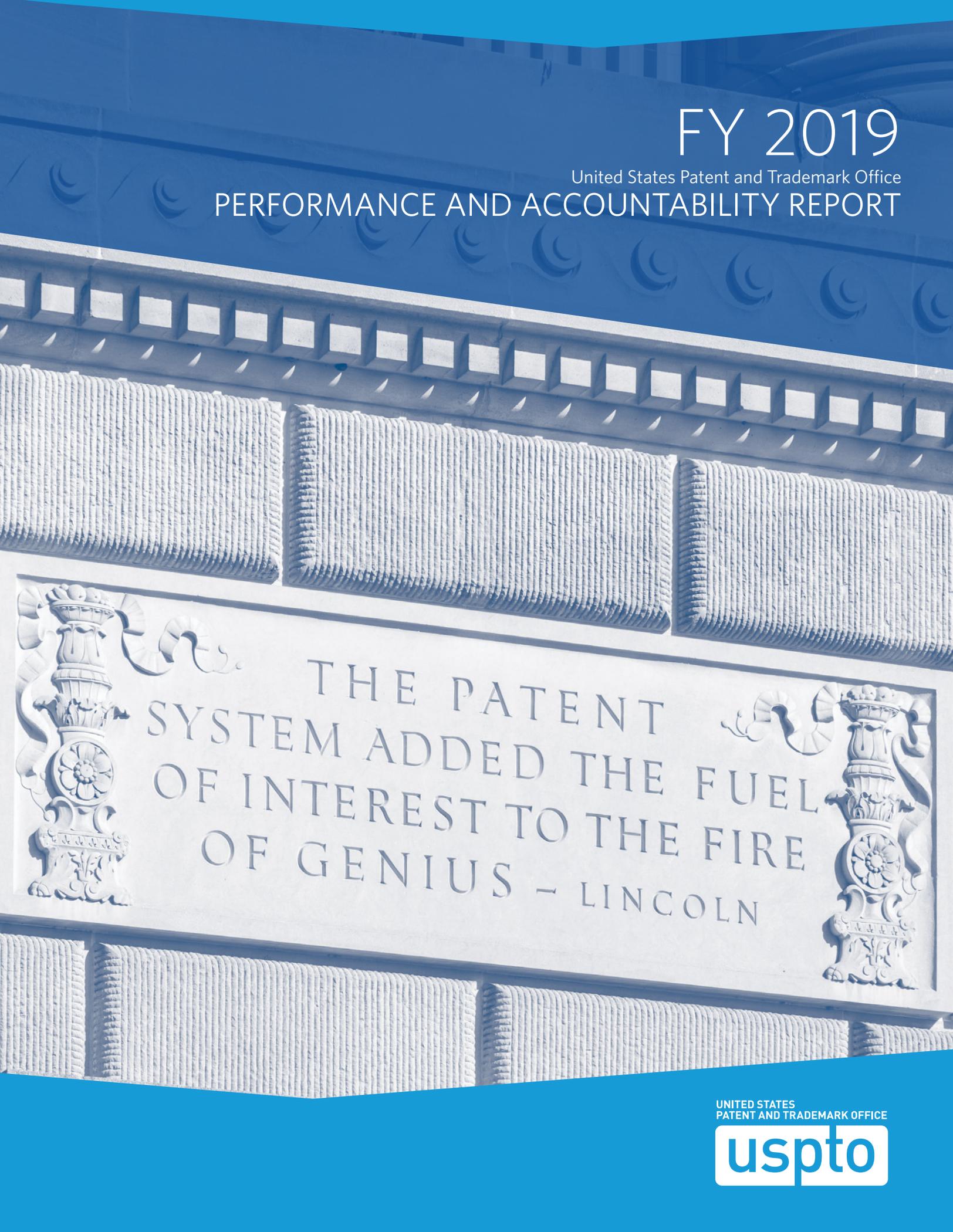


# FY 2019

United States Patent and Trademark Office

## PERFORMANCE AND ACCOUNTABILITY REPORT



THE PATENT  
SYSTEM ADDED THE FUEL  
OF INTEREST TO THE FIRE  
OF GENIUS - LINCOLN

UNITED STATES  
PATENT AND TRADEMARK OFFICE



## FINANCIAL AND RELATED HIGHLIGHTS

(Dollars in Thousands)	% Change 2019 Over 2018	For the Year Ended September 30, 2019	For the Year Ended September 30, 2018
Fund Balance with Treasury	3.2%	\$ 2,448,264	\$ 2,372,752
Property, Plant, and Equipment, Net	(12.9%)	459,341	527,081
Other Assets	33.7%	35,075	26,227
Total Assets	0.6%	\$ 2,942,680	\$ 2,926,060
Deferred Revenue	1.5%	\$ 984,971	\$ 970,889
Accounts Payable	(5.3%)	106,665	112,662
Accrued Payroll, Benefits, and Leave	7.2%	281,532	262,588
Other Liabilities	(0.7%)	145,321	146,344
Total Liabilities	1.7%	\$ 1,518,489	\$ 1,492,483
Net Position	(0.7%)	1,424,191	1,433,577
Total Liabilities and Net Position	0.6%	\$ 2,942,680	\$ 2,926,060
Total Earned Revenue	2.4%	\$ 3,388,671	\$ 3,309,388
Total Program Cost	4.7%	(3,478,168)	(3,321,475)
Net Cost from Operations	640.4%	\$ (89,497)	\$ (12,087)
Budgetary Resources Available for Spending	3.4%	\$ 3,880,416	\$ 3,751,315
Net Collections	(32.9%)	\$ (79,169)	\$ (117,951)
Federal Personnel	0.6%	12,652	12,579
On-Time Payments to Vendors	- %	99%	99%

## PERFORMANCE HIGHLIGHTS

Performance Measures	FY 2019 Target	FY 2019 Actual	Performance Results*
Patent Average First Action Pendency (months)	14.9	14.7	Met
Patent Average Total Pendency (months)	23.9	23.8	Met
Trademark Average First Action Pendency (months)	2.5-3.5	2.6	Met
Trademark Average Total Pendency (months)	12	9.3	Met
Trademark First Action Compliance Rate	95.5%	96.4%	Met
Trademark Final Compliance Rate	97.0%	97.4%	Met
Exceptional Office Action	45.0%	54.5%	Met
Trademark Applications Processed Electronically	88.0%	88.4%	Met
Percentage of prioritized countries for which intellectual property (IP) country teams have made progress on at least 3 of the 4 performance criteria: a. Institutional improvements of IP office administration for advancing IP rights; b. Institutional improvements of IP enforcement entities; c. Improvements in IP laws and regulations; d. Establishment of government-to-government cooperative mechanisms"	66.0%	66.0%	Met
Number of people, including Foreign Government Officials and U.S. Stakeholders, trained on best practices to protect and enforce IP	4,500	9,854	Met

\* The performance result of a given measure is either met (100% or greater of target), slightly below (95%-99% of the target), or not met (below 95% of target).

**Key:** Met (100% of target) Slightly below (95%-99% of target) Not met (below 95% of target)

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# MESSAGE

U.S. PATENT AND TRADEMARK OFFICE

Exterior shot of the USPTO headquarters in Alexandria, Va. (Photo: Jay Premack/USPTO)



Andrei Iancu

## MESSAGE FROM THE UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

It has been another successful year at the U.S. Patent and Trademark Office (USPTO), during which we have continued to advance our strategic goals and bolster our progress toward creating a pro-innovation, pro-intellectual property (IP) dialogue in the United States. I remain humbled by the opportunity to lead this remarkable agency and its nearly 13,000 dedicated employees. The work we do each day is vital to our nation's economy and technological developments. Looking back on fiscal year (FY) 2019, we have recommitted ourselves to maintaining and advancing an IP system that is reliable, predictable, and of high-quality.

### PATENTS

Throughout FY 2019, Patents made significant progress on key strategic imperatives that are important to both our employees and our customers. In January of this year, we issued revised guidance on subject matter eligibility to help clarify the analyses. Since then, we have trained virtually all examiners and Administrative Patent Judges (APJs).

At the end of the fiscal year, we reached our pendency goals. As of September 30, 2019, which is the end of FY 2019, the averages are 14.7 months for first action pendency and 23.8 months for total pendency. All along, we have maintained, and indeed improved, the quality of our examination. This achievement marks the USPTO's lowest first action pendency since January 2002, despite total application filings nearly doubling in that time, from 353,000 in FY 2002 to 667,000 in FY 2019.

Identifying the best prior art promotes compact prosecution and is necessary to issuing patents with appropriate claim scope that can better withstand challenges. A USPTO priority is to increase examiners' ability to find the best prior art during examination. As a result, the USPTO is working on numerous efforts to help examiners locate the best prior art, including:

- Increased training on proper search techniques and strategies, as well as training on search tools, particularly for foreign patents and non-patent literature.
- Providing additional resources to examiners who are search and classification experts, so that they can assist with prior art searches when needed.
- Piloting new processes, such as collaborative search efforts, to help improve searching skills and locating prior art.
- Exploring new technologies, such as artificial intelligence, and how we might leverage such technologies to assist with locating and retrieving prior art.

Finally, we recently informed our examining corps of important updates to the processes that support patent examination. We anticipate the updates to take effect in FY 2020 and FY 2021 via a phased rollout. We designed the updates to bring the examination process into better alignment with overall agency goals of providing

## MISSION-FOCUSED 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 Policy, Enforcement, and Protection Worldwide

**MISSION SUPPORT GOAL:** Deliver Organizational Excellence

predictable and reliable patent rights to stakeholders. Specifically, these updates revise:

- The method used to allot time for examination of patent applications;
- The process for assigning (routing) applications to examiners; and
- The evaluation of examiner performance of patent examining duties via the examiner performance appraisal plan.

These updates tailor the examination time allocations to the specific attributes of an application. As significant changes in patent prosecution have occurred in the decades since the current time goals were established, this modernization enables optimal pendency, cost, and quality levels to the benefit of our stakeholders and the resulting patent rights they hold. The updated routing process will better match each examiner's individual expertise with the unique inventive technologies disclosed in an application. Further, updates to the examiner performance appraisal provide a greater emphasis on search so that we can surface the best art of record at the earliest possible time in prosecution.

## TRADEMARKS

Trademark application filings increased by 5.4 percent in FY 2019, and our examining attorneys surpassed pendency and quality targets for the 14th consecutive year. We are continuing efforts to improve operational efficiency by transitioning to mandatory electronic filing by the end of the calendar year.

Electronic filing benefits our users and operations. We will continue to engage with the public to identify ways to streamline processes, lessen the financial burden on applicants, and more efficiently process trademark applications. We also took additional measures to improve the customer experience by implementing a series of surveys at various points in our business processes. The surveys provide deeper insight on customer usage and

enables us to better prioritize their needs.

In addition, in FY 2019, we took several important actions toward enhancing the accuracy of the U.S. Trademark Register and reducing fraudulent filings. Such actions include the expansion of random post-registration audits, implementation of a new U.S. Counsel Rule, and educating applicants and the public on counterfeiting. In addition, we prepared for transition to a log-in requirement for all trademark filings in October 2019.

## PATENT TRIAL AND APPEAL BOARD

The Patent Trial and Appeal Board successfully continued their efforts to increase consistency, transparency, and certainty of its proceedings. We conducted training for more than 260 APJs to ensure compliance with the 2019 Revised Patent Subject Matter Eligibility Guidance. To demonstrate our application of the 2019 revised guidance, we designated five decisions that analyzed claims under section 101 as informative.

In parallel, we implemented new processes to designate decisions as precedential and informative. Under these new processes, we designated 16 decisions as precedential and eight decisions as informative. This work in FY 2019 exceeded the total number of decisions designated as precedential and informative from the previous three years combined. The implementation of the Precedential Opinion Panel was another success in this fiscal year. The panel, which issues precedential decisions that involve matters of importance, includes the Director, Commissioner for Patents, and the Chief Administrative Patent Judge.

To align the way we construe claims in America Invents Act (AIA) trials with the federal district courts, we adopted the Phillips claim construction standard. We also created a pilot program to provide patent owners with new options for amending their claims in AIA trials. And we updated our Trial Practice Guide to improve and better reflect current practices and precedents.

## THE USPTO MISSION

**Fostering innovation, competitiveness, and economic growth, domestically and abroad, by delivering:**

- 1. High-quality and timely examination of patent and trademark applications,**
- 2. Guiding domestic and international intellectual property policy, and**
- 3. Delivering intellectual property information and education worldwide, with a highly skilled, diverse workforce.**

Lastly, we updated our IT infrastructure to integrate ex parte appeals and AIA trial proceedings into a single system. The update provides better docket management and reporting capabilities and expands the capabilities of regional office hearing rooms to permit remote viewing of oral hearings. Through all these changes, we continued to meet statutory deadlines for AIA trials while reducing the pendency and backlog of appeals.

### **TRADEMARK TRIAL AND APPEAL BOARD**

As part of the USPTO's ongoing effort to improve the accuracy of the U.S. Trademark Register, the Trademark Trial and Appeal Board (TTAB) is engaged in an expedited cancellation pilot program. The program uses existing Accelerated Case Resolution (ACR) tools in a targeted effort to expedite cancellation cases involving assertion of abandonment and non-use claims. In the first year of the pilot, we identified more than 160 cases as eligible for the program, with nearly 90 conferences being held involving the parties and both a TTAB interlocutory attorney and Administrative Trademark Judge. Parties in 15 cases agreed to use some form of ACR, whereas many others agreed to consideration of the possibility of the program. Our participation in the parties' mandated conferences has facilitated the settlement of many cases.

### **POLICY AND INTERNATIONAL AFFAIRS**

The Office of Policy and International Affairs continued to advise the administration and Congress on IP policy issues, including providing IP expertise in international trade matters. We also continued to develop and provide programs to improve IP systems in key countries and regions for the benefit of U.S. stakeholders. Participants included U.S. and foreign officials with IP-related responsibilities, such as Administrative Judges, prosecutors, patent and trademark examiners, and IP office administrators, as well as U.S. stakeholders. These included nearly 3,000 foreign government officials representing 123 countries. We also worked throughout FY 2019 to improve IP protection and enforcement for stakeholders around the world through our network of overseas IP attachés and U.S.-based IP specialists. These efforts included a variety of outreach programs throughout the year. We also continued our robust efforts to educate and collaborate with congressional stakeholders. In FY 2019, I appeared at three hearings before three separate congressional committees, and Commissioner Denison appeared at one congressional hearing. Topics at these

hearings included USPTO operations, as well as numerous patent and trademark policy issues.

### **INFORMATION TECHNOLOGY**

In FY 2019, the USPTO performed an assessment of its IT systems, infrastructure, and processes, and began stabilizing and modernizing IT. One of the first improvements was to move the critical Patent Application Location Monitoring (PALM) system from an aging server to new servers that are at least 10 times more reliable, 100 times faster, and consumes less than half of the power consumed by the prior server. We also retired the 20-year-old legacy fee-payment system when we deployed the next generation fee processing system.

### **FINANCIAL MANAGEMENT**

We are confident that the USPTO's financial and performance data are complete, reliable, accurate, and consistent. The USPTO, for the 27th consecutive year, earned an unmodified audit opinion on our annual financial statements. The independent auditors did not identify any material weaknesses or instances of non-compliance with the laws and regulations for the FY 2019 financial reporting period.

### **MILESTONES**

In 2019, our nation and the USPTO celebrated several momentous anniversaries, such as the 50th anniversary of the Apollo 11 mission to the moon and the 75th anniversary of the D-Day invasion to secure freedom from the hands of tyranny in Europe. A great many factors contributed to these monumental triumphs of humanity; however, neither would have been possible without the indelible spirit and perseverance of the American inventor, innovator, and entrepreneur. They, and the public they impact, are whom our agency has served for over two centuries and will continue to serve for years to come.



*Andrei Iancu*

*Under Secretary of Commerce for Intellectual Property and  
Director of the U.S. Patent and Trademark Office*

November 18, 2019

# INTRODUCTION



U.S. Secretary of Commerce Wilbur L. Ross delivers closing remarks at "Apollo 50: The Role of Intellectual Property in Space Commerce," an event held to commemorate the 50th anniversary of the first moon landing. (Photo: Jay Premack/USPTO)

## ABOUT THIS REPORT

The U.S. Patent and Trademark Office (USPTO) Performance and Accountability Report (PAR) provides information on the USPTO's programs and the results of the agency's programmatic and financial performance for fiscal year (FY) 2019. This report demonstrates to Congress, the administration, and to the public the USPTO's efforts to promote transparency and accountability over the resources entrusted to the agency. This [report](#) is available on the USPTO's website and satisfies the reporting requirements contained in the following legislation:

- Title 35 U.S. Code (U.S.C.) § 13;
- Federal Managers' Financial Integrity Act (FMFIA) of 1982;
- Chief Financial Officers Act of 1990;
- Government Management Reform Act of 1994;
- Federal Financial Management Improvement Act (FFMIA) of 1996;
- Reports Consolidation Act of 2000;
- Accountability of Tax Dollars Act of 2002;
- Improper Payments Information Act (IPIA) of 2002, as amended;
- Government Performance and Results Act (GPRA) Modernization Act of 2010;

- Leahy-Smith America Invents Act (AIA) of 2011; and
- Study of Underrepresented Classes Chasing Engineering and Science Success (SUCCESS) Act of 2018.

The USPTO's program and financial performance is summarized in the [USPTO Citizen Centric Report](#), which is typically published at the beginning of the calendar year and available on the USPTO website.

### CONTRIBUTORS

The financial and program performance information presented in this report is the joint effort of the Office of the Under Secretary and Director, the Patent organization, the Trademark organization, the Office of Policy and International Affairs (OPIA), the Patent Trial and Appeal Board (PTAB), the Trademark Trial and Appeal Board (TTAB), the Office of the Chief Information Officer (OCIO), the Office of the Chief Administrative Officer (OCAO), the Office of Equal Employment Opportunity and Diversity (OEEOD), the Office of the Chief Communications Officer (OCCO), the Office of the General Counsel (OGC), Office of the Ombudsman, and the Office of the Chief Financial Officer (OCFO).

## CERTIFICATE OF EXCELLENCE IN ACCOUNTABILITY REPORTING

The Association of Government Accountants (AGA) awarded the USPTO the Certificate of Excellence in Accountability Reporting (CEAR)<sup>®</sup> for its 2018 PAR. The USPTO also earned a best in class award under the category "Complete Agency Head Message" for its use of sidebars to highlight mission and strategic goals, presenting accomplishments for each strategic goal, and for presenting assurance on completeness and reliability of financial and performance information.

The CEAR program was established to improve accountability by streamlining reporting and improving the effectiveness of reports such as the PAR so that such publications clearly show what an agency has accomplished with public resources and the challenges that remain.



AGA's Certificates of Excellence in Accountability Reporting and last year's PAR cover

# YOUR GUIDE TO USING THIS REPORT

## This report is organized into four major sections, plus a glossary and URL index.

### MANAGEMENT'S DISCUSSION AND ANALYSIS SECTION

This section provides an overview of the USPTO's historical facts, mission, organization, and its strategic framework. A summary of significant case law developments and the agency's FY 2019 program and financial performance are provided, in addition to management's assessment of the challenges facing the USPTO and its assurances on the USPTO's internal controls. The program performance information is provided in more detail in the Performance Information Section, and the financial information is provided in more detail in the Financial Section.

### PERFORMANCE INFORMATION SECTION

The Performance Information Section details the USPTO's performance accomplishments relative to the agency's strategic plan as required by Office of Management and Budget (OMB) Circular A-11, "Preparation, Submission, and Execution of the Budget." This section identifies the USPTO's key and supporting performance metrics and presents results achieved under the strategic goals and objectives. An overview is also provided of how the performance data are verified and validated.

### FINANCIAL SECTION

A message from the USPTO's Acting Chief Financial Officer (CFO) opens this section, followed by the agency's audited financial statements, accompanying notes, required supplementary information, and the independent auditors' report.

### OTHER INFORMATION SECTION

This section provides the top management challenges facing the USPTO, as identified by the Inspector General (IG); a summary table of financial statement audit and management assurances; information on the agency's efforts to eliminate improper payments; information on the government-wide effort to reduce the federal footprint; matters related to the Federal Civil Penalties Inflation Adjustment Act of 1990; other administrative updates; and reporting requirements required under USPTO legislation (the Nature of Training Provided to the USPTO Examiners and FY 2019 Workload Tables).

### GLOSSARY OF ACRONYMS AND ABBREVIATIONS

The glossary lists and defines the acronyms used throughout this report.

### URL INDEX

For those using the paper version of the USPTO PAR, the items underlined in text can be found in the URL Index on page 199. It provides full web addresses for all hyperlinks included in the PAR narrative.

# MANAGEMENT'S DISCUSSION AND ANALYSIS



USPTO Director Andrei Iancu gives a keynote address on the "Role of U.S. Patent Policy in Domestic Innovation and Potential Impacts on Investment" at the U.S. Chamber of Commerce. This event, "Investing in American Innovation," was hosted by the Global Innovation Policy Center and the American Intellectual Property Law Association. (Photo: Jay Premack/USPTO)

U.S. CHAMBER

# MISSION AND ORGANIZATION OF THE USPTO

The USPTO's mission is derived from Article I, Section 8, Clause 8, of the U.S. Constitution, "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries," and from the Commerce Clause of the Constitution (Article I, Section 8, Clause 3) supporting the federal registration of trademarks. The USPTO's mission supports, among other things, business investment in research, development, and marketing. In the United States, patents (utility, plant, reissue, and design), trademarks, trade secrets, and copyrights are the principal means for establishing ownership rights in creations, inventions, and brands that can be used to generate tangible economic benefits to their owners.

Further, the USPTO has a statutory mandate (35 U.S.C. § 2(a)) to advise the President and all federal agencies, through the Secretary of Commerce, on national and international intellectual property (IP) policy issues. The USPTO is also authorized by statute to provide IP education worldwide, to conduct programs and studies on IP, and to interact with intergovernmental organizations and with other IP offices throughout the world.

In today's challenging and competitive global economy, the role of the USPTO in protecting America's IP remains critical to American competitiveness and economic success around the world. The potential value of IP protection in the United States is demonstrated by demand for the USPTO's patent and trademark-related products and services. Since the beginning of the 21st century, patent application filings from both domestic and foreign entities have more than doubled. Since 2001, the number of trademark application filings from U.S. residents has almost doubled, whereas filings from foreign entities have almost tripled. As an agency of the U.S. Department of Commerce, the USPTO is uniquely situated to support the Department's mission to create conditions conducive to economic growth by promoting innovation, entrepreneurship, competitiveness, and stewardship. The USPTO supports the Department of

Commerce's goal of accelerating American leadership through strengthening IP protection and U.S. economic and national security.

## OUR ORGANIZATION

As shown in Figure 1, the USPTO is led by the Under Secretary of Commerce for Intellectual Property and Director of the USPTO. The Patent Public Advisory Committee (PPAC) and the Trademark Public Advisory Committee (TPAC) advise the Under Secretary. The USPTO is composed of two major business lines, the Patent Business Line and the Trademark Business Line. The USPTO's policy and international work is spearheaded by OPIA. The USPTO also has several other supporting units that include information technology (IT); human resources; financial, legal, and administrative services; equal employment opportunity; and communications.

Headquartered in Alexandria, Va., the USPTO also has four regional offices, as seen in Figure 2: the Elijah J. McCoy Midwest Regional Office in Detroit, Mich.; the Rocky Mountain Regional Office in Denver, Colo.; the Silicon Valley Regional Office in San Jose, Calif.; and the Texas Regional Office in Dallas, Texas. The USPTO has one storage facility located in Pennsylvania.

The USPTO has evolved into a unique government agency. In 1991, under the Omnibus Budget Reconciliation Act (OBRA) of 1990, the USPTO became fully supported by user fees to fund its operations. In 1999, the American Inventors Protection Act (AIPA) established the USPTO as an agency with performance-based attributes. For example, the USPTO has a clear mission statement, measurable services, a performance measurement system that provides performance expectations to customers, and known sources of funding from those customers.

In 2011, the AIA was enacted, which provided temporary fee-setting authority that is essential to the USPTO's sustainable funding model.

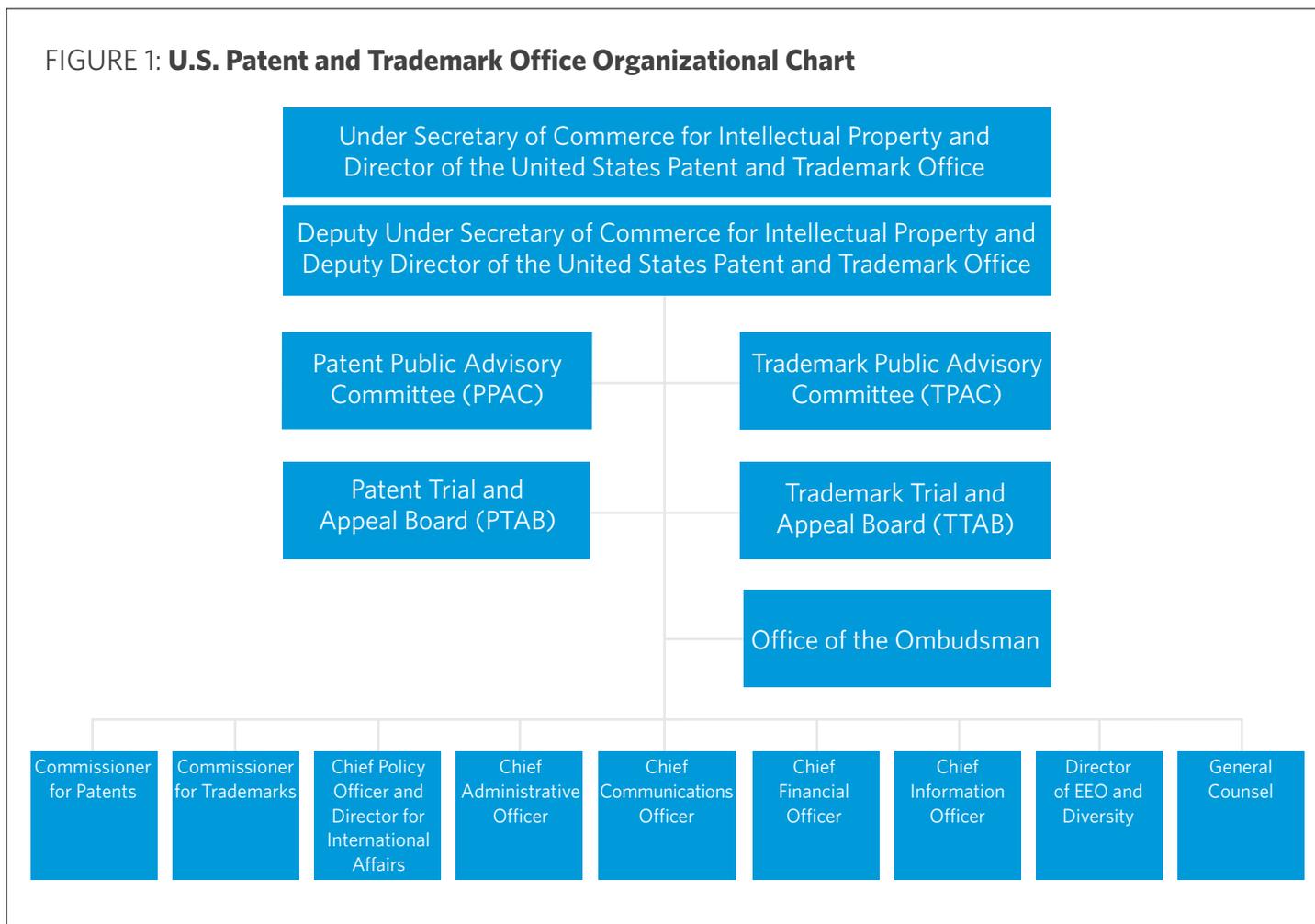
In 2018, the SUCCESS Act was enacted. Not only did the SUCCESS Act require that the USPTO study, report, and provide legislative recommendations to increase entrepreneurship and the number of patents applied for and obtained by women, minorities, and veterans (and by small businesses owned by women, minorities, and veterans), but it also amended the AIA to extend the USPTO's fee-setting authority until 2026.

**PATENT ORGANIZATION**

The Patent organization examines patent applications to determine whether the claimed invention is eligible for

patent protection, useful, adequately disclosed, and clearly defined. It also evaluates the claimed invention in comparison to a large body of technical information to determine whether it is novel and non-obvious. Patent examiners also respond to appeal briefs on applications appealed to the PTAB and prepare preliminary examination reports for international applications filed under the Patent Cooperation Treaty (PCT). The Patent organization also participates in policy development for examination, international patents office cooperation, and patent-focused educational and stakeholder outreach.

**FIGURE 1: U.S. Patent and Trademark Office Organizational Chart**



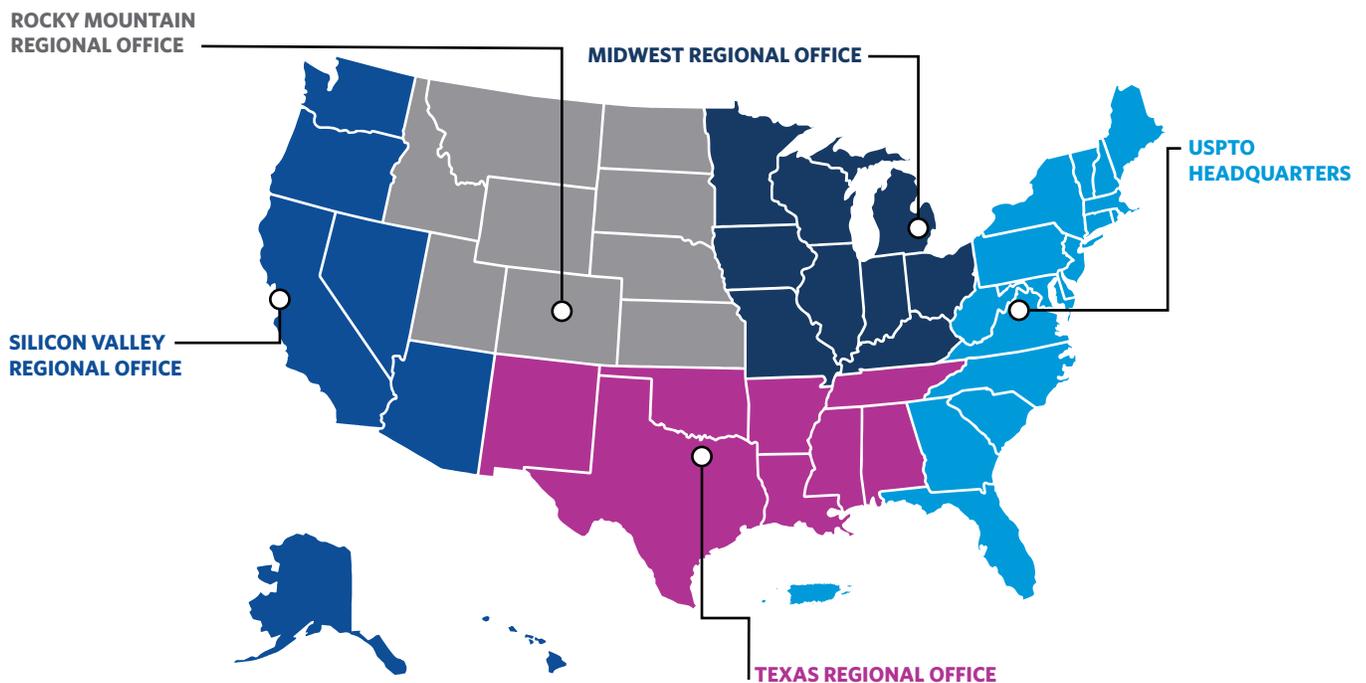
## TRADEMARK ORGANIZATION

The Trademark organization registers marks (i.e., trademarks, service marks, certification marks, and collective membership marks) that meet the requirements of the Trademark Act of 1946, as amended. It also provides notice to the public and businesses of the trademark rights claimed in pending applications and existing registrations. The core practice of the Trademark organization is examining applications for trademark registration. As part of this process, examining attorneys make determinations as to registrability under the provisions of the Trademark Act. This includes searching electronic databases for pending or registered marks that are confusingly similar to the mark in a subject application, preparing letters and communicating findings to applicants, approving applications to be published for opposition, and examining statements of use in applications filed under the Intent-to-Use provisions of Section 1(b) of the Trademark Act. The organization also examines and approves lawful maintenance documents and renewals of Trademark registrations. Moreover, the organization participates in policy development for examination, international trademark office cooperation, and trademark-focused educational and stakeholder outreach.

## POLICY AND INTERNATIONAL AFFAIRS

OPIA supports the Under Secretary and Director's Office in fulfilling the USPTO's statutory mandate to advise the Administration (through the Secretary of Commerce) and all federal agencies on all IP policy issues, to conduct programs and studies on IP, and to work with IP offices and intergovernmental organizations worldwide. OPIA's work includes advising the Secretary of Commerce and the Administration on the full range of IP policy matters; providing educational programs on IP; leading negotiations on behalf of the United States at the World Intellectual Property Organization (WIPO); providing expert assistance in negotiating the IP provisions of international trade agreements and advising on their implementation; managing the IP Attaché Program, through which IP experts are placed in cities throughout the world to promote appropriate IP protection; engaging with Congress and other federal agencies on IP legislation; and performing and supporting empirical studies of the economic impacts of IP and innovation.

FIGURE 2: **MAP OF THE USPTO HEADQUARTERS AND REGIONAL OFFICES**

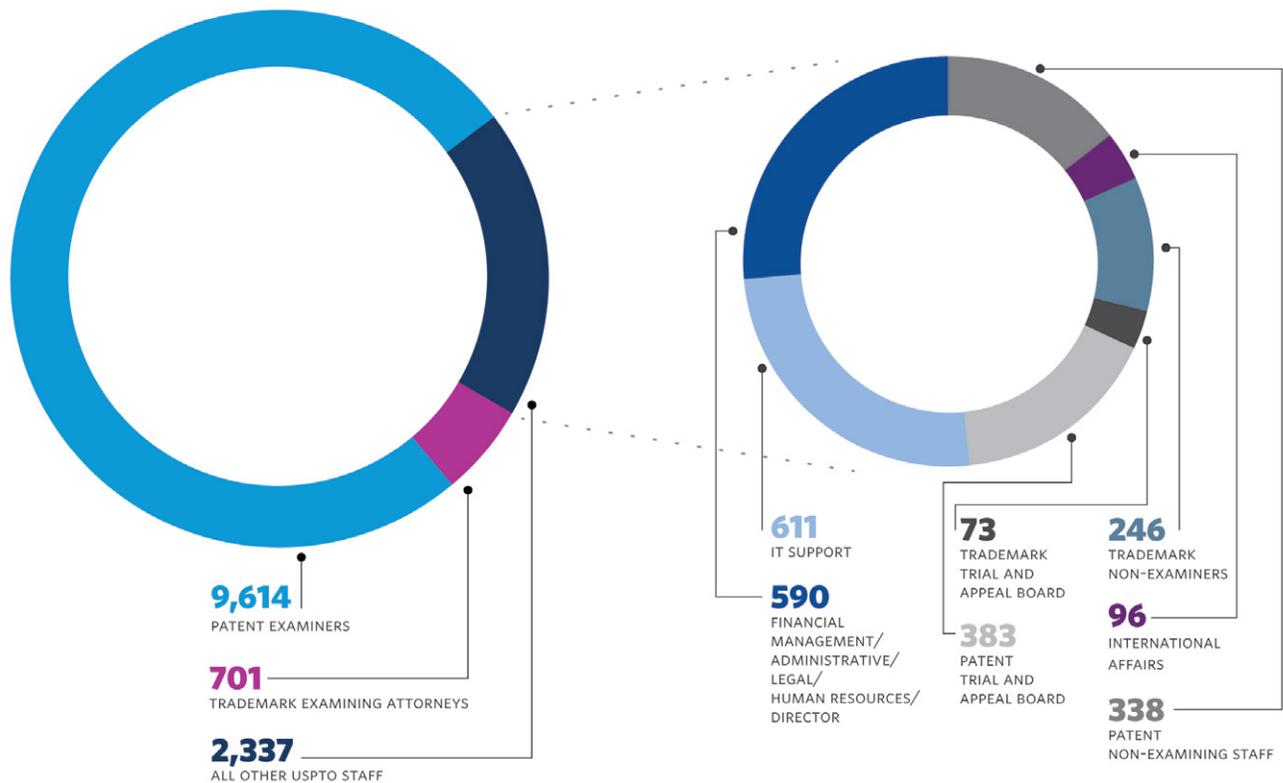


## OUR PEOPLE

At the end of FY 2019, the USPTO workforce (Figure 3) was composed of 12,652 federal employees, including 9,614 patent examiners, 701 trademark examining attorneys, 266 Administrative Patent Judges (APJs), 25 Administrative Trademark Judges (ATJs), and 2,046

other staff performing functions in areas including, but not limited to, patent and trademark trial and appeal boards, international affairs, congressional relations, IT support, financial management, administrative duties, legal affairs, human resources, and supporting the Under Secretary and Director's Office.

FIGURE 3: USPTO STAFFING



# SIGNIFICANT CASE LAW DEVELOPMENTS

## RECENT DECISIONS

The USPTO continues to play a critical role in shaping IP law through litigation, as both a party and as an amicus (i.e., “friend of the court”). The agency’s IP litigation responsibilities fall primarily to the Office of the Solicitor within the USPTO’s OGC. The Solicitor’s Office defends the agency’s IP policy and procedures in federal court, including the decisions of the agency’s two administrative boards (PTAB and TTAB), the decisions of the Director, and the agency’s rulemaking and policies. This litigation encompasses a broad spectrum of legal issues that affect both agency practice and substantive patent and trademark law.

In FY 2019, the USPTO worked with the U.S. Solicitor General’s Office on two important IP cases at the U.S. Supreme Court. In *Iancu v. Brunetti*, the issue was whether the Lanham Act’s prohibition against the registration of scandalous and immoral marks, enacted in 1946, violated the Free Speech clause of the First Amendment. Rejecting the government’s arguments for preserving the

constitutionality of the statutory provision, the Supreme Court held, 6-3, that the provision violated the First Amendment and that it could not, therefore, serve as a basis for refusing to register the word “FUCT” for adult and children’s clothing.

The USPTO also worked with the solicitor general to formulate the government’s position in *Return Mail v. U.S. Postal Service*. The case concerned whether a federal agency is a “person” capable of petitioning the USPTO to institute covered business method patent review. The post-grant review statutes (post-grant review, inter partes review, and covered business method) similarly state that a “person” can petition for those proceedings. The Supreme Court held that—absent an express statutory definition of the term “person” as including governmental bodies—the presumption against treating the government as a “person” applies even when it prevents the government or one of its agencies from accessing a benefit or favorable procedural device, such as the three types of administrative proceedings of the AIA.

# PERFORMANCE HIGHLIGHTS

## INTRODUCTION TO PERFORMANCE

The USPTO issued its *2018-2022 Strategic Plan* in 2018 (see Table 1). The Plan outlines the framework that enables the USPTO to respond to the demands of both the domestic and international customers for robust and timely IP products and services, and builds on our current level of organizational effectiveness and efficiency.

Highlights include:

- Issuing reliable IP rights;
- Aligning patent and trademark examination capacity with current and projected workloads;
- Stabilizing and modernizing IT;
- Enhancing the customer experience;
- Promoting a mission-oriented and quality-focused culture among USPTO employees;

- Providing assistance to Congress and the courts on IP;
- Maintaining a sustainable funding model; and
- Developing IP policy in the domestic and global environment.

The USPTO's achievements in these areas further the goal of maintaining the United States as the global leader in IP and are reflected in our 2018-2022 strategic goals, objectives, and initiatives. Over the coming years, the USPTO will continue to work toward three strategic goals and one mission support goal, which have been the foundation of USPTO operations for many years. These four goals also align with the Department of Commerce's strategic objective to "strengthen intellectual property protection."

# THE USPTO MISSION

**Fostering innovation, competitiveness, and job growth in the United States by conducting high-quality and timely patent and trademark examination and review proceedings in order to produce reliable and predictable intellectual property rights; guiding intellectual property policy and improving intellectual property rights protection; and delivering intellectual property information and education worldwide.**

# THE USPTO VISION

**Leading the nation and the world in intellectual property**

TABLE 1: 2018–2022 STRATEGIC PLAN

Strategic Goals with Resources Invested	Objectives
<b>Goal I: Optimize Patent Quality and Timeliness</b> Obligations: \$2,937.2 million Total Program Cost: \$3,069.1 million	Optimize Patent Application Pendency Issue Highly Reliable Patents Foster Innovation Through Business Effectiveness Enhance Operations of the Patent Trial and Appeal Board
<b>Goal II: Optimize Trademark Quality and Timeliness</b> Obligations: \$322.6 million Total Program Cost: \$347.2 million	Optimize Trademark Application Pendency Issue High-Quality Trademarks Foster Business Effectiveness Enhance Operations of the Trademark Trial and Appeal Board
<b>Goal III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Enforcement, and Protection Worldwide</b> Obligations: \$66.7 million Total Program Cost: \$61.9 million	Provide Leadership and Education on Domestic Intellectual Property Policy and Awareness  Provide Leadership and Education on International Intellectual Property Policy and Awareness
<b>MISSION SUPPORT GOAL: Deliver Organizational Excellence*</b>	Enhance Human Capital Management and Foster Employee Engagement Optimize Speed, Quality, and Cost-Effectiveness of Information Technology Delivery to Achieve Business Value Ensure Financial Sustainability to Facilitate Effective USPTO Operations Enhance the USPTO's Interaction with Internal and External Stakeholders and the Public at Large

\*The cost associated with Mission Support Goal activities is distributed among the USPTO's primary Strategic Goals I, II, and III.

## STRATEGIC PERFORMANCE FRAMEWORK

To fulfill the mission and goals included in the 2018–2022 *Strategic Plan*, the USPTO developed a comprehensive Strategic Performance Framework and quarterly Balanced Scorecard data, which guides and monitors implementation of its objectives, initiatives, and performance measures and indicators.

The USPTO's strategic goals are aligned to the U.S. Department of Commerce's strategic goals and objectives. These priorities support the U.S. Department of Commerce's strategic objective to "strengthen intellectual property protection," which works to protect IP both in the United States and abroad by providing strong and effective rights, encouraging the continued development of innovation, and "enforcing the Nation's trade laws and security laws," thus ensuring that foreign governments comply with IP-related international agreements.

For 2019, there were 10 Strategic Plan key performance outcome measures, all designed to monitor progress as the USPTO implements initiatives to achieve its strategic goals. Annual performance targets were developed for each measurable outcome. Supporting measures are metrics that support or facilitate progress on the key performance measures, and many can be seen online in the [USPTO's Data Visualization Center](#). In FY 2019, the USPTO met or exceeded its targets for 10 out of 10 key performance metrics. A summary of the key performance measurement results is provided in Tables 2 and 3. The FY 2019 USPTO performance results are illustrated in Table 3 and Figure 4. The goals and objectives for these performance commitments are outlined in the strategic framework presented in Table 3. A summary of strategic goal results by strategic goal is presented in Figure 4.

TABLE 2: SUMMARY OF FY 2019 KEY PERFORMANCE INDICATOR RESULTS

Strategic Goal	Total Number of Objectives	Total Number of Key Performance Indicators	Key Performance Indicators that Met Target	Key Performance Indicators that Were Slightly Below Target	Key Performance Indicators Where the Target was Not Met
<b>Goal I:</b> Optimize Patent Quality and Timeliness	4	2	2	-	-
<b>Goal II:</b> Optimize Trademark Quality and Timeliness	4	6	6	-	-
<b>Goal III:</b> Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Enforcement, and Protection Worldwide	2	2	2	-	-
<b>Mission Support Goal:*</b> Deliver Organizational Excellence	4	-	-	-	-
<b>TOTAL</b>	<b>14</b>	<b>10</b>	<b>10</b>	<b>0</b>	<b>0</b>

\*At the USPTO, the Mission Support Goal enables the three primary strategic goals for patent, trademark, and policy and international affairs. Mission Support Goal performance measures are subsets of the performance indicators contained within the first three strategic goals.

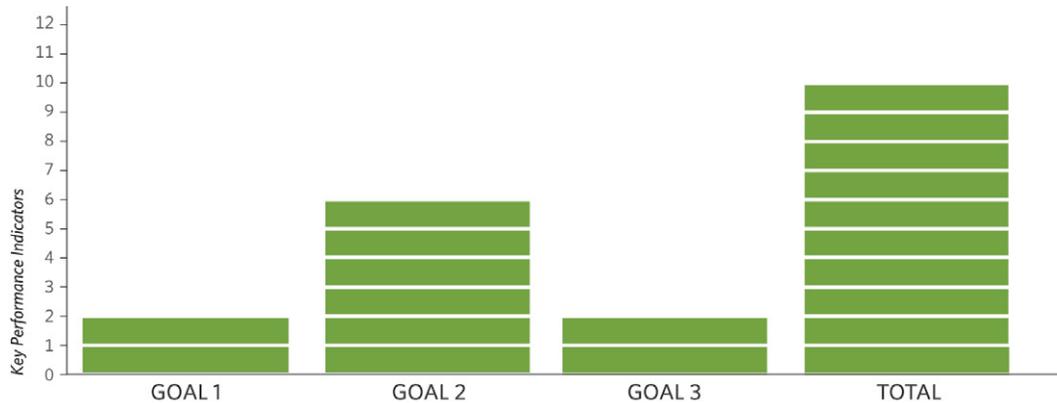
TABLE 3: SUMMARY OF KEY STRATEGIC GOAL RESULTS FOR FY 2014-2019

Strategic Goals Key Performance Measures	FY 2014 Actual	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Target	FY 2019 Actual*
<b>GOAL I: Optimize Patent Quality and Timeliness</b>							
Average First Action Pendency (months)	18.4	17.3	16.2	16.3	15.8	14.9	14.7
Average Total Pendency (months)	27.4	26.6	25.3	24.2	23.8	23.9	23.8
<b>GOAL II: Optimize Trademark Quality and Timeliness</b>							
Average First Action Pendency (months)	3	2.9	3.1	2.7	3.4	2.5-3.5	2.6
Average Total Pendency (months)	9.8	10.1	9.8	9.5	9.6	12.0	9.3
First Action Compliance Rate	95.8%	96.7%	97.1%	97.3%	96.9%	95.5%	96.4%
Final Compliance Rate	97.2%	97.6%	97.8%	98.3%	97.9%	97.0%	97.4%
Exceptional Office Action	43.0%	48.3%	45.4%	45.0%	48.0%	46.0%	54.5%
Applications Processed Electronically	80.7%	82.2%	84.8%	86.5%	87.9%	88.0%	88.4%
<b>GOAL III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Enforcement, and Protection Worldwide</b>							
Percentage of prioritized countries for which intellectual property (IP) country teams have made progress on at least 3 of the 4 performance criteria: <ul style="list-style-type: none"> <li>▪ Institutional improvements of IP office administration for advancing IP rights,</li> <li>▪ Institutional improvements of IP enforcement entities,</li> <li>▪ Improvements in IP laws and regulations, and</li> <li>▪ Establishment of government-to-government cooperative mechanisms.</li> </ul>	100.0%	100.0%	100.0%	100.0%	100.0%	66.0%	66.0%
Number of people, including Foreign Government Officials and U.S. Stakeholders, trained on best practices to protect and enforce IP	4,960	5,283	4,975	4,134	7,242	4,500	9,854

\*Current year actuals are preliminary and may change after the publication of this report. Subsequent changes, if any, will be reported in the FY 2020 Performance and Accountability Report.

Key: **Met (100% of target)** **Slightly below (95%-99% of target)** **Not met (below 95% of target)**

FIGURE 4: 2019 PERFORMANCE RESULTS BY STRATEGIC GOAL



At the USPTO, the Mission Support Goal enables the three primary strategic goals for patent, trademark, and policy and international affairs. Mission Support Goal performance measures are subsets of the performance indicators contained within the first three strategic goals.

**Key:** Met (100% of target) Slightly below (95%-99% of target) Not met (below 95% of target)

### SUMMARY OF STRATEGIC GOAL RESULTS

Table 3 highlights the FY 2019 actual performance results for the USPTO’s key performance measures against established goal objectives and performance targets. For those measures that have been retained from prior fiscal years, the table also includes actual performance

results for the past five fiscal years. For the latest updated status of these and other performance measures, please visit the USPTO’s [Data Visualization Center](#). More complete performance data are included in the Performance Information Section.

# MANAGEMENT CHALLENGES AND WHAT'S AHEAD

***Achieving success is not without its challenges. The USPTO is committed to overcoming its challenges in its implementation of strategic goals, objectives, and initiatives as enumerated in the 2018-2022 Strategic Plan. These challenges are detailed in the following section.***

## STABLE AND SUSTAINABLE FUNDING

The USPTO is a government agency with a strong commitment to delivering its mission; yet, because it is funded through user fees, in many ways it operates like a private sector business. The USPTO is a performance-based, production-oriented, revenue-generating entity (i.e., zero dollars received in taxpayer funding), with a demand-driven workload and budgetary requirements. These four pillars of the USPTO's operating model are inextricably linked. A change in any one of these pillars—agency performance targets, production capacity, funding availability, or consumer demand for the USPTO's services—can produce a ripple effect that can potentially impact the other three. As such, stable and sustainable funding continues to serve as the cornerstone for successfully accomplishing the USPTO's mission.

The USPTO's fees are set at rates intended to cover the cost of services provided, including maintaining prudent operating reserves, which are crucial for managing within the agency's complex and uncertain operating environment. The AIA (Pub. L. No. 112-29) attempted to provide the USPTO full and timely access to its fees by establishing the Patent and Trademark Fee Reserve Fund (PTFRF)—a separate Treasury account into which all fees collected in excess of the USPTO's annual appropriation are deposited and reserved for the USPTO's exclusive use. Further, the risk of fiscal events, like lapses in appropriations, necessitates mitigation strategies (e.g., the maintenance and strategic use of operating reserves) to minimize disruptions to our operations.

Beyond fiscal risk management, the USPTO's business needs and the IP environment constantly evolve. The USPTO must regularly assess and update its fee structure to ensure that the fees it charges support sound public policy while also generating sufficient income to fund effective and efficient agency operations.

Finally, as the agency evolves, the USPTO is looking not only to secure sustainable funding, but also to continue to optimize the management of its financial resources. In addition to budget management, this includes efforts to continue improving the USPTO's acquisition process and strategies to ensure that the agency is obtaining the best value from its contracts, as well as managing performance to ensure that it receives maximum returns from its investments in IT and other critical assets.

## RELIANCE ON INFORMATION TECHNOLOGY

The USPTO relies on IT as a mission-critical enabler for every aspect of its operation. Less than 20 years ago, most patent and trademark applications arrived on paper, and the USPTO expended vast resources to process that paper, including over four acres of public search rooms that housed paper copies of granted patents and trademarks. Since then, the USPTO has become increasingly "paperless," and the quality, efficiency, and productivity of today's patent and trademark operations depend, in large part, on the performance of our IT systems.

The USPTO conducts multi-year efforts to modernize its business systems and the supporting IT infrastructure to keep pace with emerging business needs, security, and technology standards. This includes providing a nationwide workforce "24/7/365" operational capability, improving IT support for examination and revenue-collection capabilities, providing IT recovery capabilities to sustain the business, making more successful and more reliable IT deployments, and enhancing the understanding of the interactions between IT and business functions. Although the USPTO strives for continuous improvement and optimization of all IT systems, there are rare instances in which the agency is faced with challenges.

At the end of the prior fiscal year, the USPTO decided to undertake significant efforts to strengthen the various legacy IT system components until such time that they are replaced. Throughout FY 2019, the USPTO performed an assessment of its IT systems, infrastructure, and processes, and embarked on 20 initiatives to stabilize, modernize, and better govern its IT processes. Among the first improvements was to move one of the most critical systems, Patent Application Location Monitoring (PALM) off an aging server and onto brand new servers that are at least 10 times more reliable, at least 100 times faster, and consumes less than half of the power consumed by the prior server. The next immediate priorities are to improve the availability of the PALM system infrastructure to reduce downtime impacts to examiners and the IP community.

The USPTO will continue to enhance its IT capabilities for both Patent and Trademark business areas and maintain effective legacy systems during the transition to their approaching retirement. These include implementing core electronic examination tools for document management and searching; improving interactions for filing, searching, payment, and communication; and making it easier and more secure to conduct business with the USPTO.

## LEGAL CHALLENGES

In FY 2019, the USPTO continued to face legal challenges with respect to the AIA and its regulations implementing the statute, including challenges to the appointment of PTAB APJs, under the Appointments Clause of the U.S. Constitution. Specifically, several litigants have challenged the constitutionality of the AIA on the basis that PTAB APJs exercise the authority of “principal officers,” even though they have only been appointed as

“inferior officers.” On October 31, 2019, the Court of Appeals for the Federal Circuit held that the appointment of the APJs by the Secretary of Commerce, as currently set forth in Title 35, violates the Appointments Clause, because the statute as currently constructed makes the APJs principal officers. *Arthrex v. Smith & Nephew*, No. 2018-2140, slip op. at 2 (Fed. Cir. Oct. 31, 2019). However, the Court also concluded that severing the portion of the Patent Act, restricting removal of APJs, is sufficient to render the APJs inferior officers and remedy the constitutional appointment problem.

Over the past decade, the Supreme Court and the Federal Circuit have issued several important decisions that have sharply changed the standards for patent eligibility under 35 U.S.C. § 101. Although Section 101 defines the categories of subject matter that are patent eligible (i.e., “any new and useful process, machine, manufacture, or composition of matter”), the courts have exempted certain categories of subject matter from patent-eligibility (e.g., abstract ideas, laws of nature, and natural phenomena). This has caused significant confusion. The USPTO issued new guidance in January 2019 to clarify the analyses at the USPTO with respect to § 101. The courts, however, are not bound by USPTO guidance. The Supreme Court may now take another look at this area of law, and in 2019 issued a call for the views of the Solicitor General in two cases. The USPTO's Solicitor's Office is currently working with the Office of the Solicitor General to formulate the government's position in *HP Inc. v. Berkheimer* and *Hikma v. Vanda*. *Berkheimer* concerns whether the question of patent eligibility is a purely legal inquiry or whether it involves underlying factual issues. *Hikma* concerns whether a method for treating a patient with a drug is patent eligible.

# SYSTEMS AND CONTROLS

## MANAGEMENT ASSURANCES

**O**n the basis of the USPTO's comprehensive internal control program during FY 2019, the USPTO can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations, reporting, and compliance with applicable laws and regulations as of September 30, 2019, was operating effectively. Accordingly, I am pleased to certify with reasonable assurance that our agency's systems of internal control, taken as a whole, comply with Section 2 of the Federal Managers' Financial Integrity Act of 1982. Our agency also is in substantial compliance with applicable federal accounting standards and the U.S. Standard General Ledger at the transaction level and with federal financial system requirements. Accordingly, our agency fully complies with Section 4 of the Federal Managers' Financial Integrity Act of 1982, with no material non-conformances.

In addition, the USPTO conducted its assessment of the effectiveness of our agency's internal control over reporting, which includes safeguarding of assets and compliance with applicable laws and regulations, in accordance with OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control. Based on the results of this evaluation, the USPTO provides reasonable assurance that its internal control over reporting as of June 30, 2019, was operating effectively and no material weaknesses were found in the design or operation of the internal control over reporting. In addition, no material weaknesses related to internal control over reporting were identified between July 1, 2019, and September 30, 2019.



Andrei Iancu

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

October 9, 2019

### **Federal Managers' Financial Integrity Act**

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

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

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

### **Federal Financial Management Improvement Act**

The FFMIA requires federal agencies to report on an agency's substantial compliance with federal financial management system requirements, federal accounting

standards, and the U.S. Standard General Ledger at the transaction level. In accordance with OMB Circular A-123, Appendix D, substantial compliance is achieved when an agency's financial management systems routinely provide reliable and timely financial information for managing day-to-day operations as well as to produce reliable financial statements, maintain effective internal control, and comply with legal and regulatory requirements. The USPTO complied substantially with the FFMIA for FY 2019.

## OTHER COMPLIANCE WITH LAWS AND REGULATIONS

### Federal Information Security Management Act

The USPTO remains vigilant in reviewing administrative controls over information systems and is always seeking methods of improving our security program. During FY 2019, the USPTO continued its dedicated efforts in support of compliance with Federal Information Security Management Act (FISMA) standards and improvement of our security program. The USPTO IT Security Program includes a strategy for continuous monitoring, which conducts credentialed compliance and vulnerability scans on servers, network devices, databases, and web-applications on a quarterly basis. The quarterly analysis is being performed to ensure that operating systems have been configured in accordance with their security baseline and appropriate software patch levels. Additionally, the IT Security Program has integrated artifacts to support Security Impact Analysis within the systems development lifecycle that allow assessment of testing requirements for systems undergoing new developments, enhancements, or maintenance. This proactive approach to security within the development process has successfully assessed changes and enabled security compliance for systems as they are being developed or updated.

The Chief Information Security Officer and the OCIO staff worked together to successfully meet the compliance requirements of FISMA, while also meeting OMB reporting requirements. All USPTO systems achieved a 100 percent FISMA compliance reporting level for FY 2019, with no deficiencies identified that are considered to be the result of any material weaknesses in internal control. As a result, the USPTO was able to

continue with continuous monitoring and provide an accurate summary of information consistent with OMB reporting requirements for year-end reporting.

The Inspector General's Statement of Management Challenges for the Department of Commerce (referred to in the Other Information section of this report) identifies IT security as a cause for concern department-wide, to include the USPTO. While the OIG continues to report IT security as a Commerce-wide concern, USPTO management does not agree that any of the USPTO-specific FISMA findings, either individually or collectively, rise to the level that would require treating the matter as a material weakness. As indicated, the USPTO's continuous monitoring and proactive approach to security compliance for systems provides the support for removing the material weakness at the USPTO.

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

### Improper Payments Elimination and Recovery Act

We continue to maintain internal control procedures that help monitor disbursement of federal funds for valid obligations. The USPTO continues to assess improper payment risks covering all programs and activities, as required by OMB Circular A-123, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*. These improper payment risk assessments include assessments of the control and procurement environments, and are now in the continuous process stage of being updated annually. Additional details can be found in the Other Information section of this report (see page 155).

### Prompt Payment Act

The Prompt Payment Act requires federal agencies to report on their efforts to make timely payments to vendors, including interest penalties for late payments. In FY 2019, the USPTO did not pay interest penalties on 99.7 percent of the 8,340 vendor invoices processed, representing payments of approximately \$894.8 million. Of the 25 invoices that were not processed in a timely manner, the USPTO was required to pay interest penalties on all 25 invoices. The USPTO paid \$5 in interest penalties for every million dollars disbursed in

FY 2019. Virtually all recurring payments were processed by electronic funds transfer in accordance with the electronic funds transfer provisions of the Debt Collection Improvement Act of 1996.

The USPTO continues to identify opportunities for new or improved business processes for improving its prompt payment percentage. Per OMB Memorandum M-15-19, Improving Government Efficiency and Saving Taxpayer Dollars Through Electronic Invoicing (July 17, 2015), federal agencies were required to transition to electronic invoicing for appropriate federal procurements by the end of FY 2018. In 2017, the USPTO reviewed various electronic invoicing options and made a selection. The solution was in place by the end of FY 2018 and vendor adoption began in FY 2019.

#### **Debt Collection Improvement Act**

The Debt Collection Improvement Act prescribes standards for the administrative collection, compromise, suspension, and termination of federal agency collection actions, and referral to the proper agency for litigation. Although the Act has no material effect on the USPTO since it operates with minimal delinquent debt, all debt more than 120 days old has been transferred to the U.S. Department of the Treasury for cross-servicing.

#### **Digital Accountability and Transparency Act of 2014**

The Digital Accountability and Transparency Act of 2014 (DATA Act) aims to increase the accessibility, accuracy, and usefulness of federal spending information. The DATA Act establishes government-wide data standards for financial data, seeks to simplify financial reporting, and provides consistent, reliable, accurate, and searchable spending data that is accurately displayed for taxpayers and policy makers on [USASpending.gov](https://www.usaspending.gov).

The budget, financial spending, and award data that are required to comply with the DATA Act are currently housed in a single source system at the USPTO. Most activities required to report the DATA Act information at the USPTO entail extracting, validating, and reconciling the data prior to submission to Treasury. With minimal operational business process changes, the USPTO continues to use existing system resources to comply with the reporting requirements. For all periods required during FY 2019, the USPTO reported financial and payment data in accordance with DATA Act requirements and data standards established by the Department of Treasury and OMB.

## **OTHER SYSTEMS AND CONTROL CONSIDERATIONS**

### **Financial Management Systems Strategy**

The Consolidated Financial System (CFS) provides support for core financial management, fee management, and planning and budgeting. The CFS leverages several commercial-off-the-shelf (COTS)/government-off-the-shelf (GOTS) products, including a core financial and acquisition tool (Momentum Financials), supplemental acquisition tools (Aeon), a travel tool (Concur), budgeting tools (Cognos Planning and Hyperion), an analytical tool (Alteryx), a cost accounting tool (Cost Perform), business intelligence tools (Business Objects and Tableau), and an extract, transform, and load tool (SAP Data Services). In addition to the source databases supporting each of these tools, CFS includes a data repository (APEX), a content repository (Cassandra and DataStax), and a data warehouse (Oracle).

The core financial management system supports award acquisition management, payroll management, travel management, accounting management, and funds management. These functions are automated in the Momentum Financials, eAcquisitions, Vendor Portal, and Concur systems. While most of the activities have been automated for well over 20 years, the acquisition capabilities are being further automated in the FY 2019 and FY 2020 timeframe with a focus on the interaction between the USPTO and its vendor community.

The services of the fee management system include: maintenance fee management, stored payment account management, pricing management, order management, and funds management. These capabilities are largely automated in the Fee Processing Next Generation (FPNG) product. During FY 2019, FPNG fully replaced the legacy fee collection system. Following this, enhancement of FPNG will be focused on additional external customer functionality (e.g., online refund requests and general deposit account authorizations), as well as further integration with internal USPTO examiner systems to streamline currently manual processes.

The planning and budgeting value streams encapsulate planning, forecasting, budgeting, and performance management. Central budget execution is automated in the Corporate Planning Tool system. This tool is being

replaced by the Enterprise Budget Tool (EBT) system, which will be geared towards both centralized (OCFO) and decentralized (business unit) budget capabilities. Central budget formulation and compensation projection are currently automated in the EBT. The EBT will be expanded to automate planning and performance management capabilities. The Analytics and Financial Forecasting

system is currently used for fee forecasting, but will be expanded to serve workload forecasting as well.

These capabilities are all supported by various information delivery systems including the Enterprise Data Warehouse, Electronic Library for Financial Management Systems, and Enterprise Information Portal.

# FINANCIAL DISCUSSION AND ANALYSIS

## FINANCIAL HIGHLIGHTS

The USPTO received an unmodified (clean) audit opinion from the independent public accounting firm of KPMG LLP on its FY 2019 financial statements, provided in the Financial Section of this report. This is the 27th consecutive year that the USPTO has received a clean opinion. Our unmodified audit opinion provides independent assurance to the public that the information presented in the USPTO financial statements is fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America. In addition, KPMG LLP reported no material weaknesses in the USPTO's internal control, and no instances of non-compliance with laws and regulations affecting the financial statements. KPMG LLP continues to report a significant deficiency related to IT security. Refer to the Other Information section for the Summary of Financial Statement Audit and Management Assurances.

The summary financial highlights presented in this section provide an analysis of the information that appears in the USPTO's FY 2019 financial statements

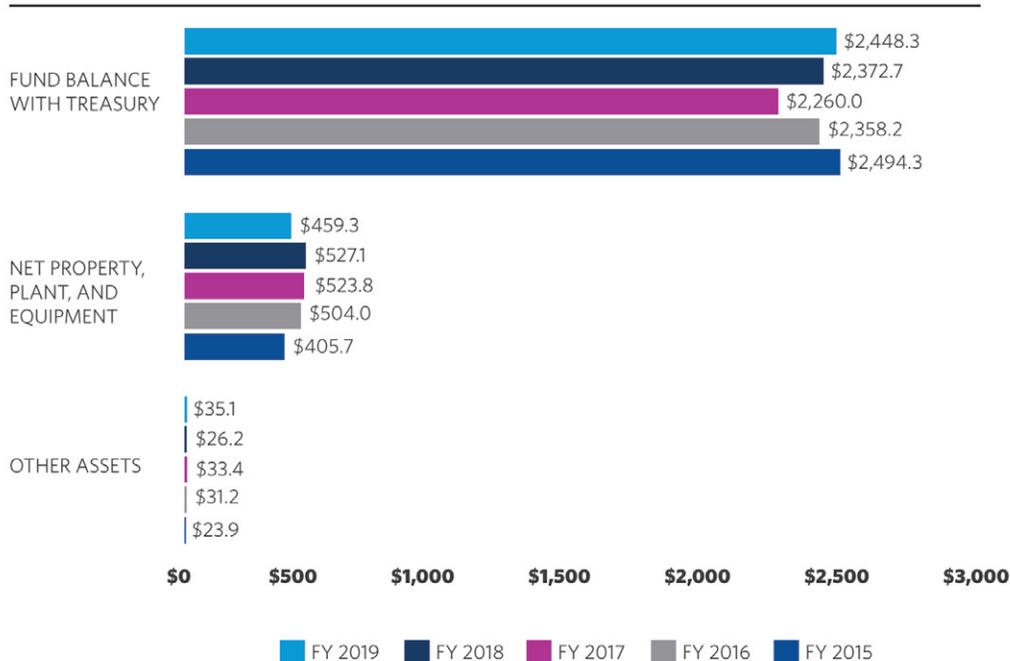
(amounts may vary slightly due to rounding). The USPTO financial management process ensures that management financial decision-making information is dependable, internal controls over financial reporting are effective, and that compliance with laws and regulations is maintained. The issuance of these financial statements is a component of the USPTO's objective to continually improve the accuracy and usefulness of its financial management information.

### Balance Sheet and Statement of Changes in Net Position

At the end of FY 2019, the USPTO's Balance Sheet (see page 109) presents total assets of \$2,942.7 million, total liabilities of \$1,518.5 million, and a net position of \$1,424.2 million.

Total assets increased during FY 2019. Overall, there has been an increase of 0.6 percent over the last four years, resulting largely from the increase in fee collections from customers (explained in more detail on page 31). The following graph shows the changes in assets during this period.

**COMPOSITION OF ASSETS (dollars in millions)**



Fund Balance with Treasury is the single largest asset on the Balance Sheet and represents 83.2 percent of total assets at the end of FY 2019. Approximately half of the Fund Balance with Treasury represents fees that the USPTO has collected, but has not been authorized to spend through the annual appropriation process including temporarily unavailable fees of \$937.8 million and unavailable special fund receipts under OBRA of \$233.5 million, which total \$1,171.3 million in unavailable fees. These funds require Congressional appropriation before they will be available for the USPTO's use. The Fund Balance with Treasury is also comprised of unpaid obligated funds of \$610.6 million, other funds held on deposit for customers of \$127.8 million, and unobligated funds carried over from one year to the next (operating reserve) of \$538.6 million.

The operating reserves are available for use without further Congressional appropriation and are maintained to permit the USPTO to plan for long-term financial stability, as well as temporary changes in our cash flow. As such, the operating reserves are not tied to a specific event and enable the USPTO to address fluctuations in revenues, unexpected demands on resources, or planned investments. In addition, the operating reserves are used to manage cash flow at the beginning of the fiscal year to ensure that the agency has adequate resources to sustain current operations. Total operating requirements exceed fee collections early in the year, when the USPTO must incur a number of large expenses related to payroll and large contracts. The operating reserves provide sufficient resources to continue operations until the collection of fees builds over the subsequent months.

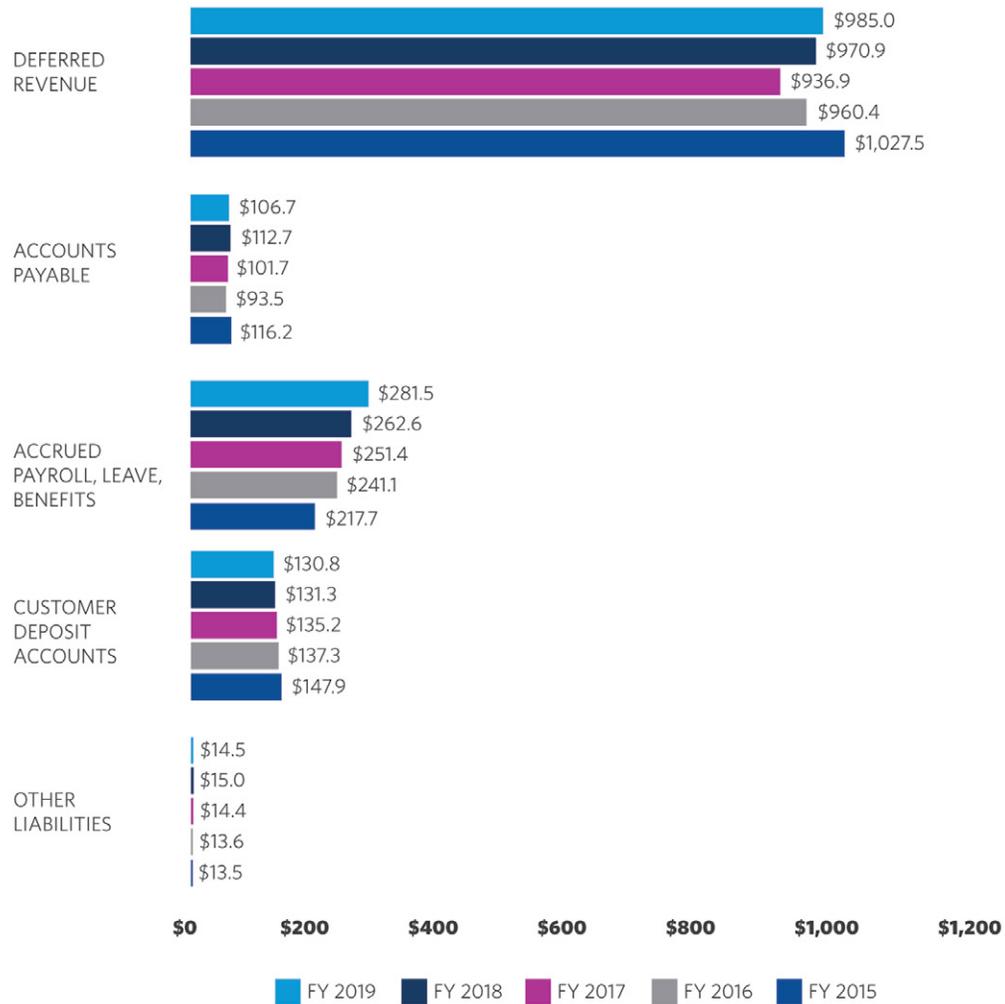
As required by 35 U.S.C. § 42(c)(3), the USPTO maintains and tracks two distinct operating reserve balances—one for Patent operations and one for Trademark operations. The Patent operating reserve increased from \$311.5 million (1.3 months of operating

expenses) at the end of FY 2018 to \$408.0 million (1.6 months of operating expenses) at the end of FY 2019, representing an increase of \$96.5 million, or 31.0 percent. This significant increase was the result of both higher than expected fee collections and total Patent spending for the year coming in below plan. The Trademark operating reserve decreased slightly from \$135.3 million (5.1 months of operating expenses) at the end of FY 2018 to \$130.7 million (5.0 months of operating expenses) at the end of FY 2019, representing a decrease of \$4.6 million, or 3.4 percent. The Patent operating reserve balance remained above the minimum planning level of \$300 million, and the Trademark balance was maintained at a balance close to the optimal level, both while continuing to focus on USPTO priorities, such as continuing to make progress on multi-year IT investments and achieving performance targets.

During FY 2019, the USPTO operated consistent with its strategic plan and continued investments in IT improvements, as is evident by the increase in the other major asset—property, plant, and equipment. The net balance of this asset has increased by \$53.6 million during the past four years, with the acquisition values of property, plant, and equipment increasing by \$407.3 million. The USPTO continues to modernize our IT systems by employing solutions that offer improved reliability, stronger cybersecurity protection, and an enhanced user experience. Continuing to make these investments will lead to future increases in IT hardware, software, and software in development balances. This was evidenced by an increase of \$353.8 million from FY 2015 through FY 2019 for IT hardware, software, and software in development. During the past four years, IT modernization efforts included system and software development projects in support of the Patents End-to-End, PTAB End-to-End, Trademark Next Generation, and Fee Processing Next Generation solutions.

Total liabilities increased from \$1,492.5 million at the end of FY 2018 to \$1,518.5 million at the end of FY 2019, representing an increase of \$26.0 million, or 1.7 percent. The following graph shows the composition of liabilities during the past five years.

**COMPOSITION OF LIABILITIES** (dollars in millions)



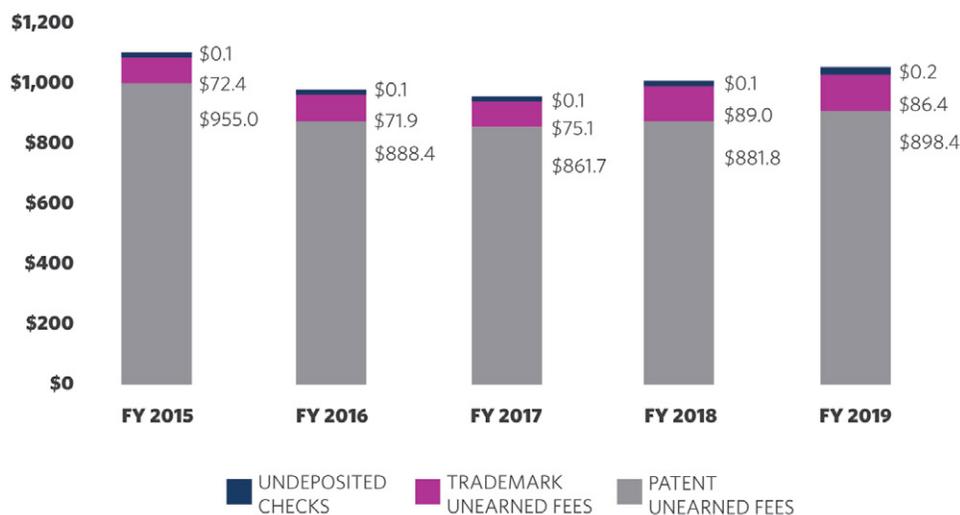
The USPTO's deferred revenue (i.e., fees collected for services that have not yet been provided) is the largest liability on the Balance Sheet. The liability for deferred revenue is estimated by analyzing the process for completing each fee service provided. The percentage incomplete based on the inventory of pending work and completion status is applied to fee collections to estimate the amount for deferred revenue liability.

FY 2019 resulted in an increase to the deferred revenue liability of \$14.1 million, or 1.5 percent from FY 2018. The deferred revenue liability includes unearned patent

and trademark fees, as well as an immaterial amount of undeposited checks. The unearned patent fees represented 91.2 percent of this liability for FY 2019. The following graph depicts the composition of the deferred revenue liability, in addition to the liability during each of the past five years.

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

**DEFERRED REVENUE (dollars in millions)**



The following table depicts the changes in the filings and pendency months during the past five years.

<b>Filings and Pendencies</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
Patent Filings <sup>1</sup>	618,062	650,411	650,350	647,572	665,231 <sup>2</sup>
<i>Percentage Change in Patent Filings</i>	(0.1)%	5.2%	0.0%	(0.4)%	2.7%
Average Patent First Action Pendency (months)	17.3	16.2	16.3	15.8	14.7
<i>Percentage Change in Average Patent First Action Pendency</i>	(6.0)%	(6.4)%	0.6%	(3.1)%	(7.0)%
Average Total Patent Pendency (months)	26.6	25.3	24.2	23.8	23.8
<i>Percentage Change in Total Patent Pendency</i>	(2.9)%	(4.9)%	(4.3)%	(1.7)%	0.0%
Trademark Filings	503,889	530,270	594,107	638,847	673,233
<i>Percentage Change in Trademark Filings</i>	10.7%	5.2%	12.0%	7.5%	5.4%
Average Trademark First Action Pendency (months)	2.9	3.1	2.7	3.4	2.6
<i>Percentage Change in Average Trademark First Action Pendency</i>	(3.3)%	6.9%	(12.9)%	25.9%	23.5%
Total Trademark Average Pendency (months)	10.1	9.8	9.5	9.6	9.3
<i>Percentage Change in Total Trademark Average Pendency</i>	3.1%	(3.0)%	(3.1)%	1.1%	(3.1)%

<sup>1</sup> Includes utility, plant, reissue, design, and provisional filings, as well as requests for continued examination (RCE).

<sup>2</sup> Preliminary data.

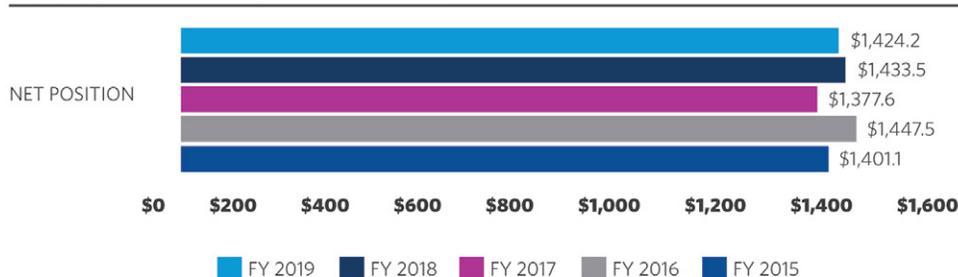
In FY 2019, despite a decrease in first action pendency of 1.1 months, unearned patent fees increased 1.9 percent as a result of increased patent filings and increased fee rates\* associated with the more recent applications. Deferred revenue associated with the patent process is expected to decrease in the coming years due to anticipated decreases in application pendencies. In the FY 2020 President's Budget, the number of patent applications filed from FY 2020 through FY 2024 is expected to gradually increase, with first action pendency decreasing to 14.0 months and total pendency decreasing to 22.4 months by FY 2024. The pendency decreases will result in patent deferred revenue decreases, which will be offset by fee increases in FY 2021 and the out years.

The deferred revenue associated with the trademark process decreased in FY 2019. Trademark deferred

revenue decreased by \$2.6 million, or 2.9 percent, from FY 2018, with an overall 19.3 percent decrease over the past four years. The FY 2019 decrease was consistent with a decrease in trademark first action pendency to 2.6 months and total trademark average pendency decreasing to 9.3 months. Estimates included in the FY 2020 President's Budget project the pendencies to remain constant in the upcoming years.

The Statement of Changes in Net Position (see page 111) presents the changes in the financial position of the USPTO due to results of operations (discussed in the next section). The movement in net position is primarily the result of the net income or net cost for the year. The change in the net position during the past five years is presented in the following graph.

\*Effective January 16, 2018.

**NET POSITION** (dollars in millions)**Statement of Net Cost**

The Statement of Net Cost (see page 110) presents the USPTO's results of operations by the following responsibility segments—Patent, Trademark, and Intellectual Property Policy, Protection and Enforcement Worldwide. The following table presents the USPTO's total results of operations for the past five fiscal years. In FY 2019, the USPTO generated a net cost of \$89.5 million. The net cost increased due to an increase in personnel services and benefit and depreciation and amortization program costs, offset by a smaller increase in earned fee collections.

The Statement of Net Cost compares earned fees to costs incurred during a specific period of time. It is not

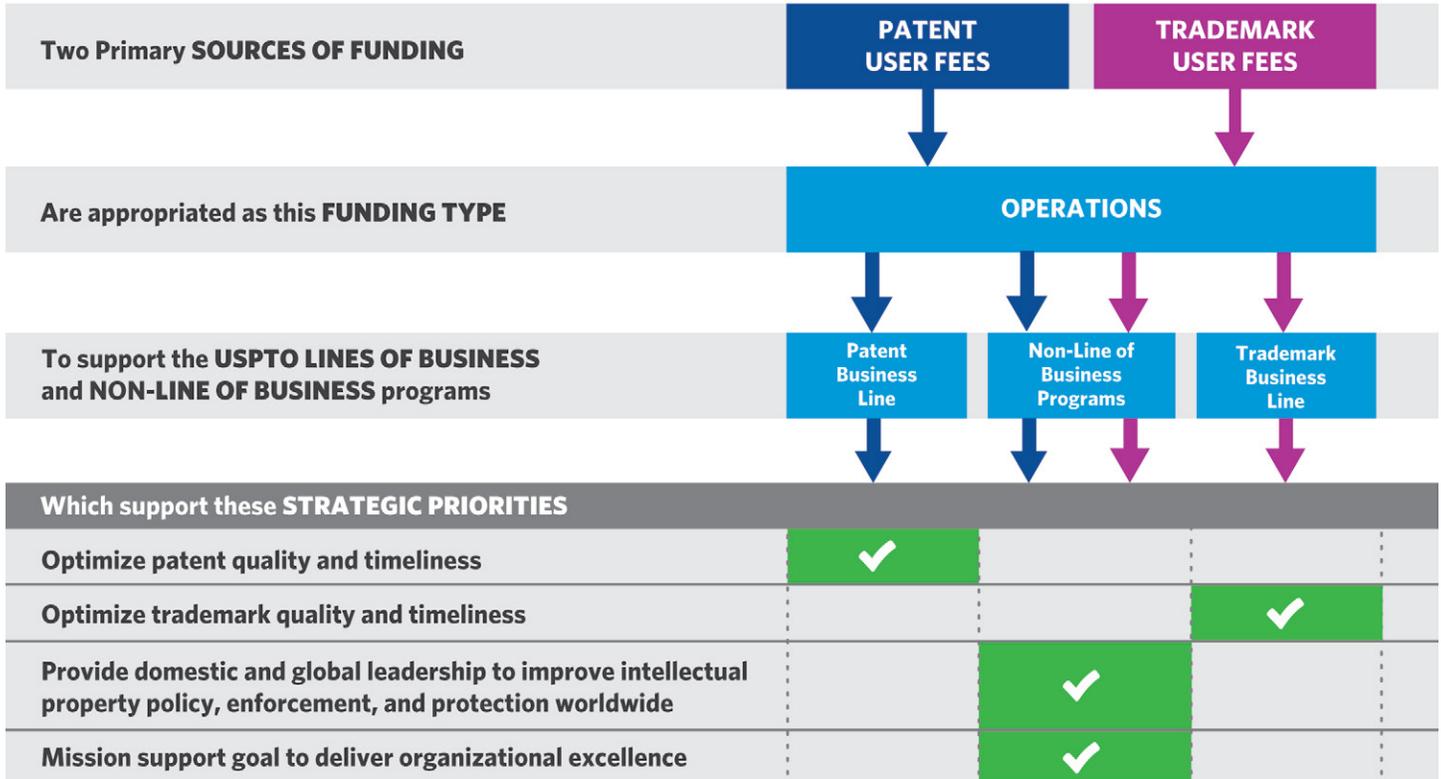
necessarily an indicator of net income or net cost over the life of a patent or trademark. Net income or net cost for the fiscal year is dependent upon work that has been completed over the various phases of the production life cycle. The net income calculation is based on earned fees during the fiscal year being reported, regardless of when those fees were collected. Maintenance fees also play a large part in whether a total net income or net cost is recognized, as these fees are considered earned immediately. Maintenance fees collected in FY 2019 are a reflection of the number of patents issued 3.5, 7.5, and 11.5 years ago that customers have elected to renew, rather than a reflection of patents issued in FY 2019. Therefore, maintenance fees can have a significant impact on matching costs and revenue.

Net Income/(Cost) (dollars in millions)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Earned Revenue	\$ 3,074.0	\$ 3,133.4	\$ 3,105.3	\$ 3,309.4	\$ 3,388.7
Program Cost	(3,012.8)	(3,119.6)	(3,193.4)	(3,321.5)	(3,478.2)
Net Income/(Cost)	\$ 61.2	\$ 13.8	\$ (88.1)	\$ (12.1)	\$ (89.5)

**Earned Revenue**

The USPTO's earned revenue is derived from the fees collected for patent and trademark products and services. Fee collections are recognized as earned revenue when the activities to complete the work associated with the fee are completed. The graphic below shows the USPTO funding resources and how they are used to deliver organization excellence.

**USPTO RESOURCES AND HOW THEY ARE USED**



Earned revenue totaled \$3,388.7 million for FY 2019, an increase of \$79.3 million, or 2.4 percent, over FY 2018 earned revenue of \$3,309.4 million. Of revenue earned during FY 2019, \$793.8 million related to fee collections that were deferred for revenue recognition in prior fiscal years, \$1,345.6 million related to maintenance fees collected during FY 2019, which were considered earned immediately, \$1,244.9 million related to work performed for fees collected during FY 2019, and \$4.4 million were other reimbursable amounts.

During FY 2019, the total number of patent filings increased by 2.7 percent over the prior year. This increase is due primarily to an increase in serialized

(new) patent filings of 4.9 percent, with a slower 0.7 percent growth in requests for continued examination. These increases and the resultant increase in patent deferred revenue would typically cause a decrease in earned revenue, however, the increase in patent fee rates causing an increase in total collections resulted in an increase in earned revenue.

During FY 2019, the number of trademark applications increased by 5.4 percent over the prior year. The decrease in trademark deferred revenue, coupled with the increase in application filings and the increase in trademark balanced disposals, contributed to an increase in revenue earned.

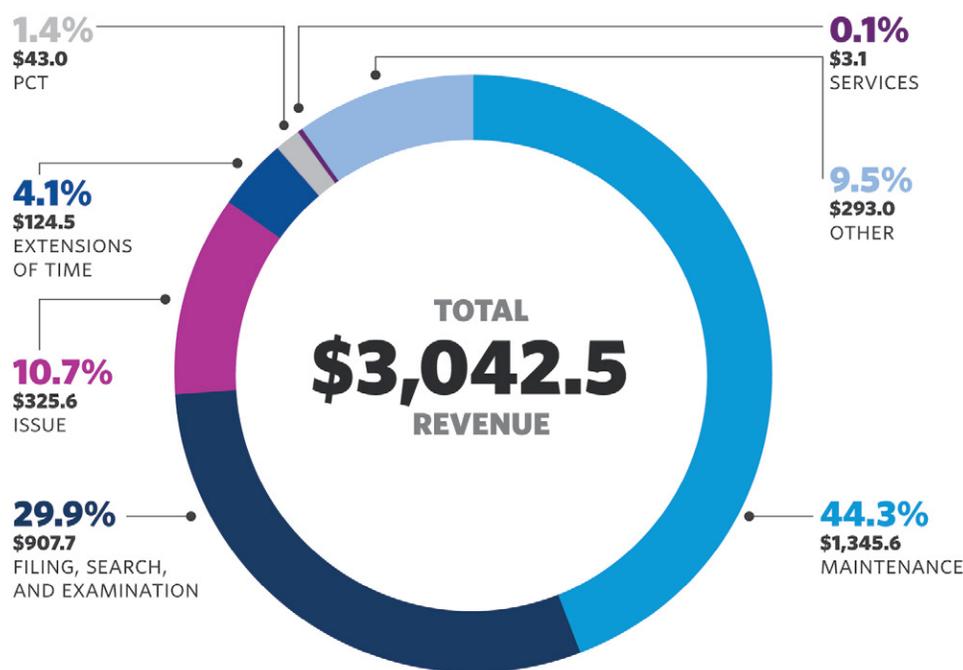
**FY 2019 EARNED REVENUE (dollars in millions)**



**Patent**

Traditionally, the major components of earned revenue derived from patent operations are maintenance fees; initial application fees for filing, search, and examination; and issue fees. These fees account for approximately 84.9 percent of total patent income. The following chart depicts the relationship among the most significant patent fee types.

**FY 2019 PATENT REVENUE BY FEE TYPE (dollars in millions)**



Patent maintenance fees are the largest source of earned revenue by fee type. During FY 2019, maintenance fee collections decreased \$63.8 million, or 5.4 percent, from FY 2018.

In order to maintain exclusive rights, a patent holder must pay maintenance fees at three separate intervals: 3.5, 7.5, and 11.5 years from the date a patent is issued. Failure to pay these fees results in the lapse of patent protection, and the rights provided by a patent are no longer enforceable. Maintenance fees can be paid during the "window period," the six-month period preceding each due date. Additionally, a maintenance fee can be paid, with a surcharge, during the "grace period," which is the six-month period immediately following each due date. If a maintenance fee has not been paid in a timely manner and the owner of the patent wants to have the patent rights reinstated, a petition and proper fees are required. Maintenance fees are recognized immediately as earned revenue and fluctuations in both the timing of renewal payments and the rates of renewal may have a significant impact on the total earned revenue of the USPTO. The following table below shows the renewal rates for all three stages of maintenance fees based on the year the patent was issued.

Maintenance fee payments are needed to fund operations (the revenue from renewals helps to recoup costs incurred during the initial patent process); therefore, the USPTO closely monitors payment behaviors (both rates of renewal and timing of payment) to forecast maintenance fee revenue.

When analyzing patent renewal rates, no significant fluctuations have been observed. The payment window for some patents issued in 2015 (first stage), 2011 (second stage), and 2007 (third stage) has not yet closed. Using the data available at the end of FY 2019, the trend in first stage patent renewal rates is comparable to the past few years. An analysis of second stage patent renewal rates shows a minor downward trend, and thus far, the yearly renewal rate is 1.6 percent below the previous year. When looking at the third stage patent renewal rates, thus far, the yearly renewal rate is 0.3 percent below last year. The decision to renew a patent is influenced by many factors including, but not limited to, Federal court decisions, IP budgets, the perceived value of the patent, USPTO's fee rates, and the economy.

Patent Renewal Rates Issue Date	First Stage	Second Stage	Third Stage
1999	85.5%	67.7%	49.5%
2000	85.6%	68.6%	51.1%
2001	86.2%	68.0%	50.3%
2002	87.5%	67.4%	47.7%
2003	88.6%	69.4%	48.0%
2004	88.7%	70.7%	47.4%
2005	87.5%	69.3%	46.0%
2006	85.9%	67.4%	44.2%
2007	87.3%	67.4%	43.9%*
2008	88.1%	66.8%	
2009	87.3%	66.5%	
2010	86.5%	65.9%	
2011	85.6%	64.3%*	
2012	85.6%		
2013	86.1%		
2014	86.3%		
2015*	85.7%*		

Note: The "First Stage" refers to the end of the fourth year after the initial patent is issued, the "Second Stage" refers to the end of the eighth year after the initial patent is issued, and the "Third Stage" refers to the end of the twelfth year after the initial patent is issued. For example, 86.3 percent of the patents issued in 2014 paid the first stage maintenance fee.

\*Preliminary data. The data in this table are through September 30, 2019, and the first stage payment window for some patents issued in 2015, second stage renewals for patent issued in 2011, and third stage renewals for patents issued in 2007 does not close until December 31, 2019. The full calendar year data for 2015, 2011, and 2007 will be available in the FY 2020 PAR. Past year's data have been revised from prior year reports.

Application fee revenue earned upon filing increased from \$86.4 million in FY 2018 to \$95.2 million in FY 2019 (increase of 10.2 percent), with the number of serialized (new) application filings increasing from 426,964 to 447,968 over the same period (increase of 4.9 percent). At the same time, total filings (i.e., including Request for Continued Examination (RCE) filings) increased from 647,572 to 665,231 (increase of 2.7 percent) during this same period. This is likely due to multiple factors, including both customer responses to the revised fee rates (effective January 16, 2018), as well as proactive steps the agency has taken to reduce the need for RCEs. The FY 2020 President's Budget projects a slight decrease in total patent filings in FY 2020—again, owing to reductions in RCEs—with net increases beginning in

FY 2021 through FY 2024, which will contribute to continued budgetary resources, as well as earned fee revenue.

Earned issue fee revenue increased from \$280.4 million in FY 2018 to \$325.6 million in FY 2019 (increase of 16.1 percent), with the number of patents issued decreasing slightly from 339,512 to 338,584 over the same period (decrease of 0.3 percent). The increase in earned issue fee revenue is related to the increase in fee rates, while the decrease in patent issues is in line with a slight decrease in the patent allowance rate. The FY 2020 President's Budget projects that patents issued will gradually increase, which may result in increases in maintenance fees in future years.

**Trademark**

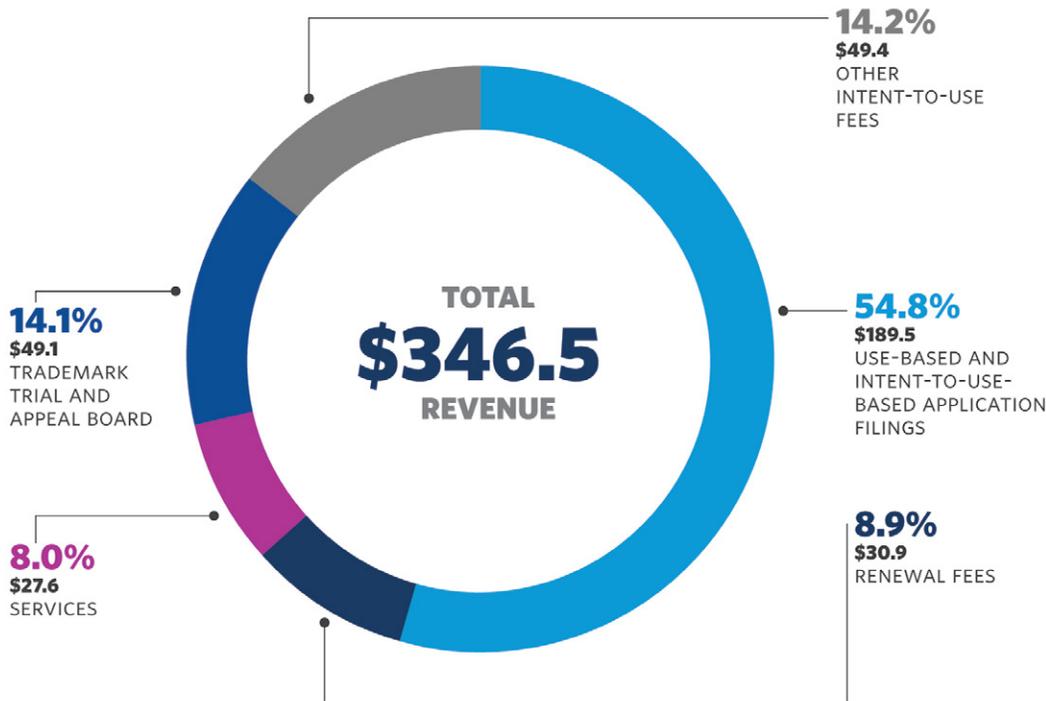
Trademark fees are comprised of application filing, renewals, services, and TTAB fees. Additional fees are charged for intent-to-use filed applications, as additional requirements must be met for registration. The following chart depicts the relationship among the most significant trademark fee types.

Earned revenue for trademark filings increased from \$160.6 million in FY 2018 to \$189.5 million in FY 2019, with the number of trademarks registered increasing from 367,382 to 396,836 over the same period, increases of 18.0 percent and 8.0 percent, respectively. The FY 2020 President's Budget projects that trademark

applications filed will continue to increase, which will contribute to the continued growth in budgetary resources, as well as earned fee revenue.

Trademark registrations are a recurring source of revenue. To some extent, renewal fees recoup costs incurred during the initial examination process (though the Trademark business line is less dependent on renewal fees than the Patent business line is on maintenance fees). As shown below, the renewal rates for trademarks have declined slightly over the last several years; however, renewals remain a source of continued earned revenue.

**FY 2019 TRADEMARK REVENUE BY FEE TYPE (dollars in millions)**



Trademark Renewal Rates*	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019 <sup>1</sup>
Renewals	32.4%	32.1%	31.0%	30.6%	27.6%

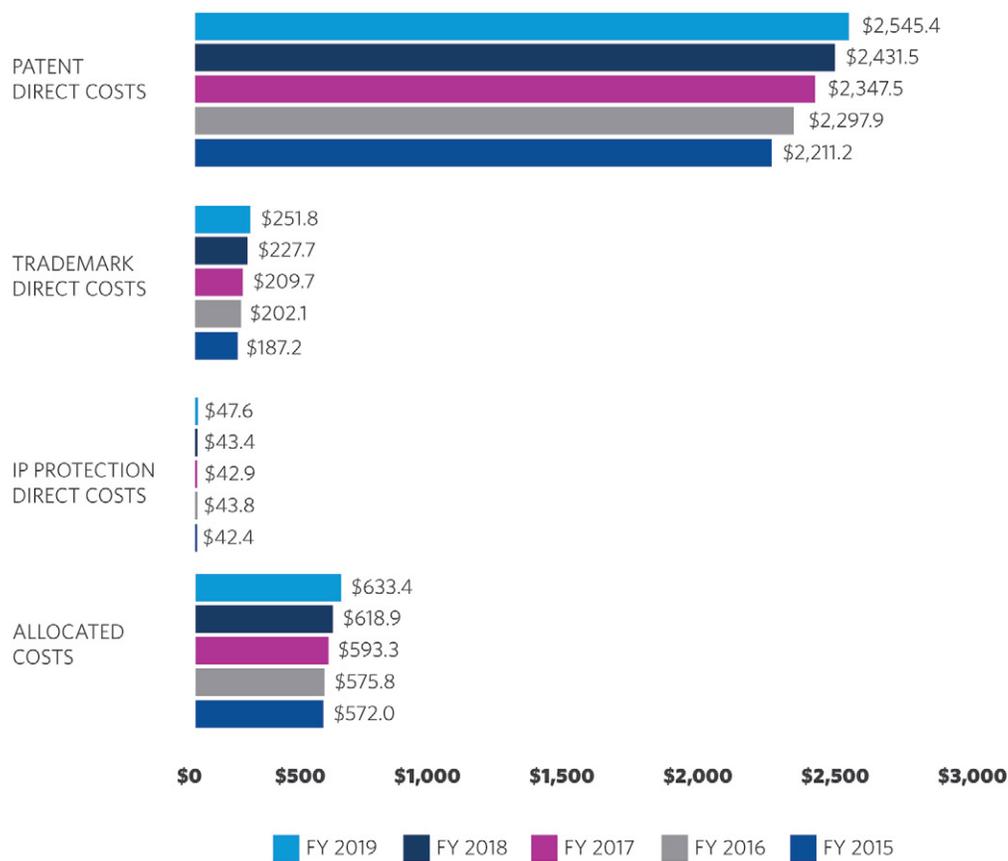
\* Note: The renewals occur every 10th year for registered trademarks. For example, in FY 2019, 27.6 percent of the trademarks registered 10 years ago were renewed.  
<sup>1</sup> Preliminary data

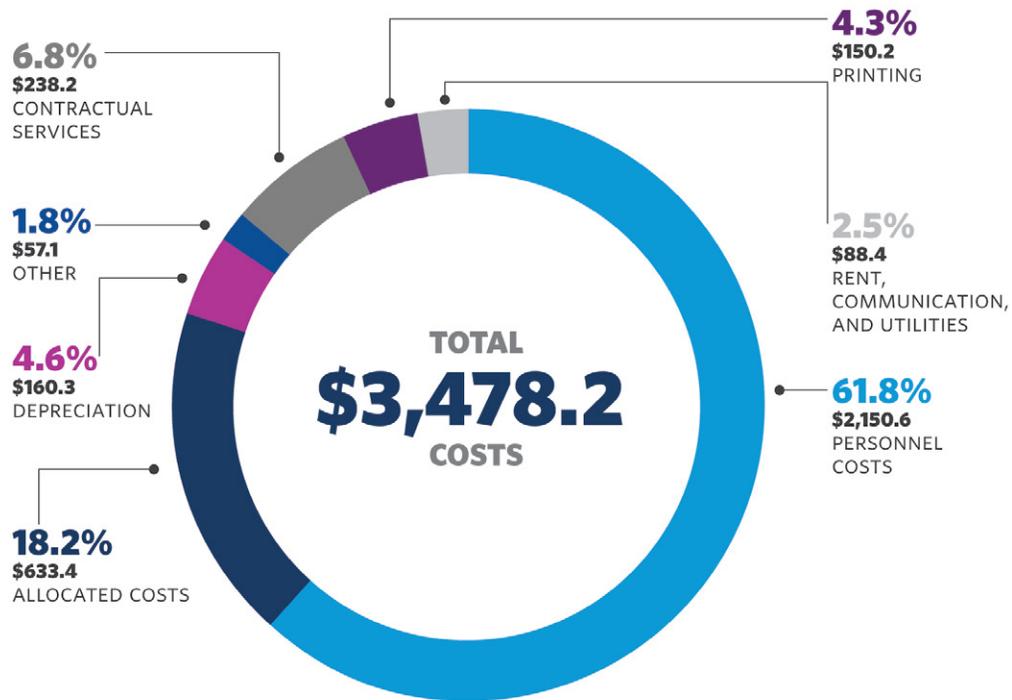
**Program Costs**

Program costs totaled \$3,478.2 million for the year ended September 30, 2019, an increase of \$156.7 million, or 4.7 percent, over FY 2018 program costs of \$3,321.5 million. The USPTO's most significant program cost is personnel services and benefits, which comprise approximately 66.8 percent of the USPTO's total program costs. Any significant change or fluctuation in staffing or pay rate directly impacts the change in total

program costs from year to year. Total direct and allocated personnel services and benefits costs for the year ended September 30, 2019, were \$2,324.2 million, an increase of \$89.9 million, or 4.0 percent, over FY 2018 personnel services and benefits costs of \$2,234.4 million. This change primarily reflects an increase in payroll compensation and benefit costs resulting from salary increases, as well as a slight net increase of personnel, from 12,579 at the end of FY 2018 to 12,652 at the end of FY 2019.

**USPTO PROGRAM COSTS (dollars in millions)**



**FY 2019 PROGRAM COSTS\*** (dollars in millions)

\*All costs except those designated as allocated are direct costs. Allocated costs include the same type of costs as those that are direct; however, they include mission-enabling costs.

Total depreciation costs—the combined total of those included as direct costs and those allocated to the business areas—represent the next largest increase in costs for the year ended September 30, 2019. The total depreciation costs were \$230.1 million, an increase of \$11.2 million, or 5.1 percent, over FY 2018 depreciation costs of \$218.9 million. This increase reflects the completion of several next-generation IT projects that were placed in use in conjunction with our effort to modernize IT systems from end-to-end.

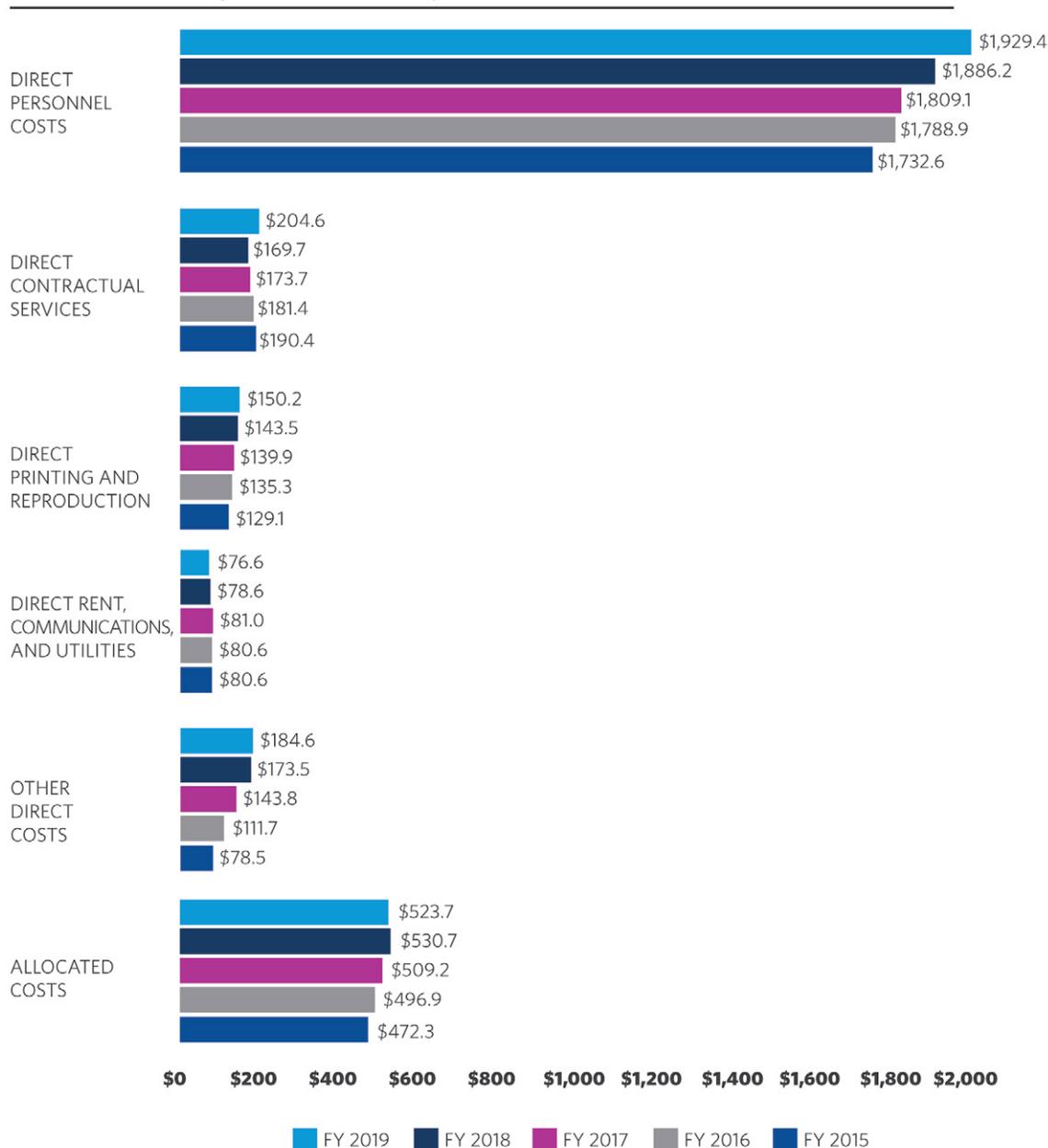
In setting its annual spending plans, the USPTO maximizes resources directed to its mission areas. For FY 2019, costs directly attributable to the Patent, Trademark, and IP protection business areas represent 81.8 percent of total USPTO costs. The remaining costs, representing support costs, are allocated to the business areas using activity-based cost accounting. Allocated costs increased 2.3 percent over the past year.

**Patent**

Total costs for the Patent program increased \$385.6 million, 14.4 percent, from FY 2015 through FY 2019. The Patent organization's most significant direct program costs relate to personnel services, which account for 51.0 percent of the increase in total direct cost of Patent operations during the past four years. Patent personnel costs for the year ended September 30, 2019, were \$1,929.4 million, an increase of \$63.2 million, or 3.4 percent, over FY 2018 personnel costs of \$1,866.2 million. This change primarily reflects an increase in payroll compensation and benefit costs resulting from

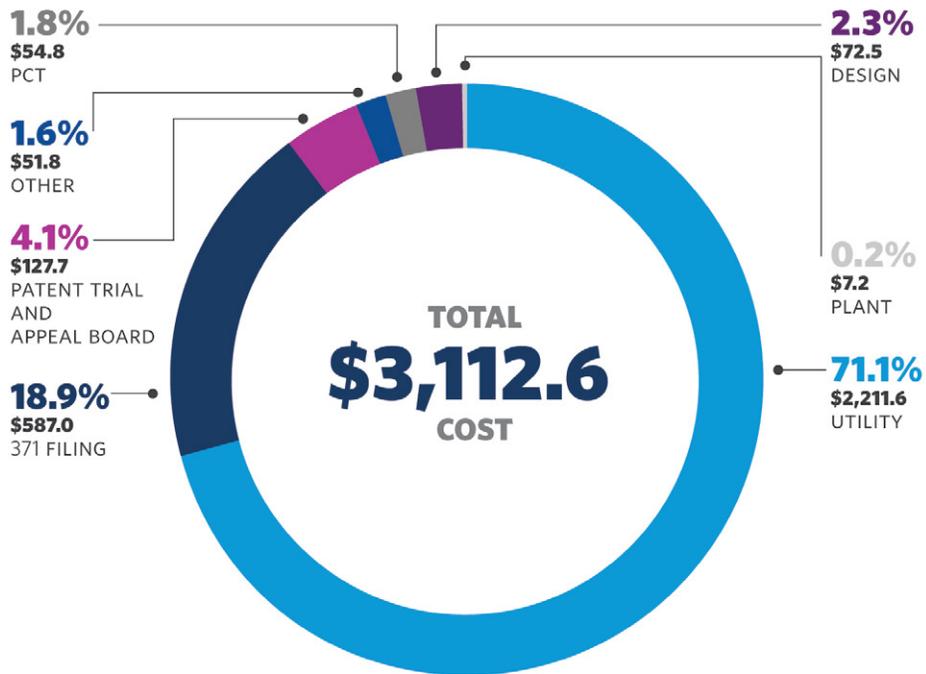
salary increases, as well as a slight net increase of 22 personnel, from 9,947 at the end of FY 2018 to 9,969 at the end of FY 2019. Direct Patent contractual services costs were \$204.6 million, an increase of \$34.9 million, or 20.6 percent, over FY 2018 contractual service costs of \$169.7 million. This change is primarily reflective of IT contractual cost increases for modernizing Patent eCommerce, as well as for stabilization and modernization of several Patent systems, to include PALM, Patents End-to-End, PTAB End-to-End, and the Patent Application Information Retrieval system.

**PATENT COSTS (dollars in millions)**



Patent costs were predominantly spread over two patent products: utility patents and 371 filings (international applications). The cost percentages presented are based on direct and indirect costs allocated to patent operations and are a function of workload volumes processed in each product area.

**FY 2019 PATENT COST BY PRODUCT** (*dollars in millions*)



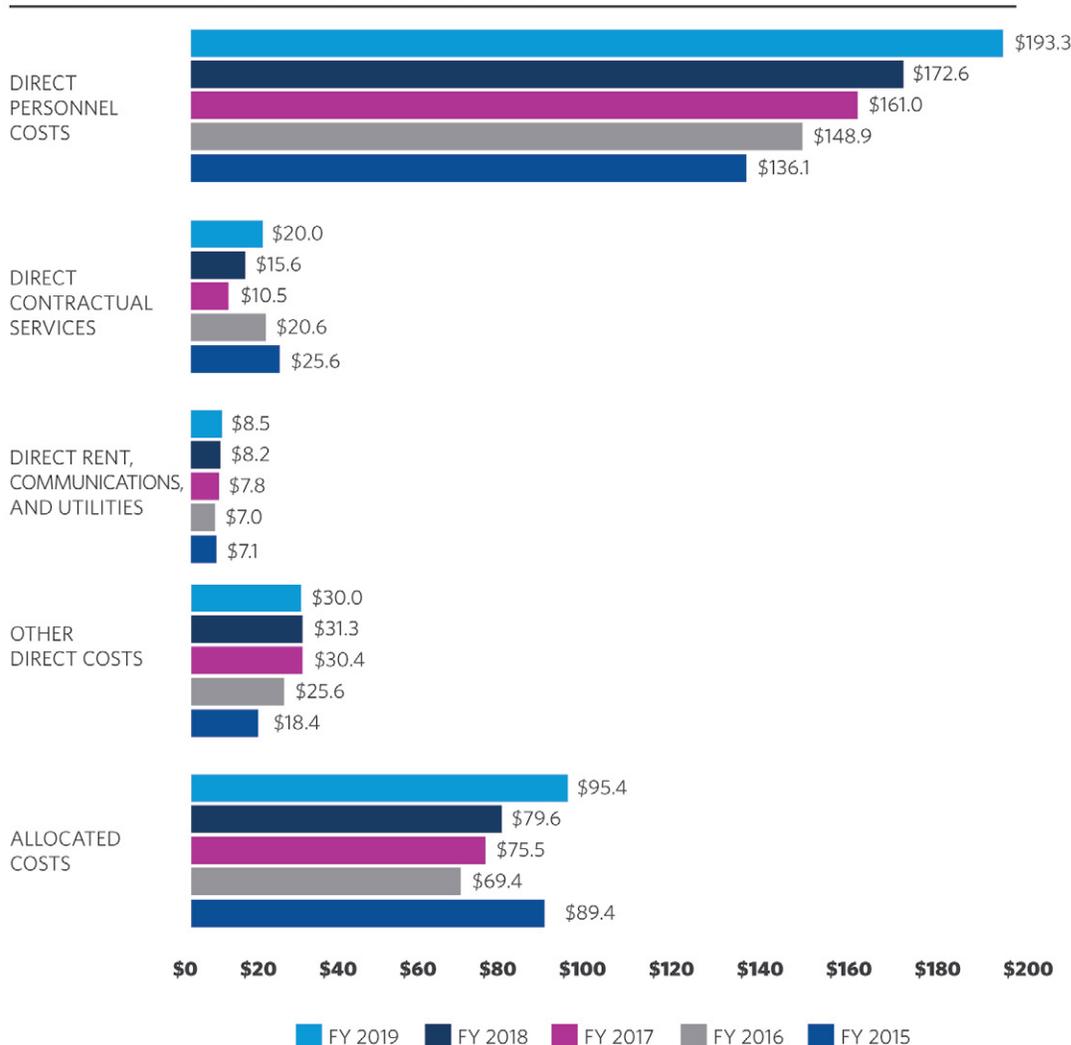
**Trademark**

Total costs for the Trademark program increased \$70.6 million, 25.5 percent, from FY 2015 through FY 2019. The Trademark organization's most significant direct program costs relate to personnel services, and account for 81.0 percent of the increase in total direct cost of Trademark operations during the past four years. Trademark personnel costs for the year ended September 30, 2019, were \$193.3 million, an increase of \$20.7 million, or 12.0 percent, over FY 2018 personnel costs of \$172.6 million. This change primarily reflects an increase in payroll compensation and benefit costs resulting from salary increases, as well as a net increase of 55 personnel, from 889 at the end of FY 2018 to 994 at the end of FY 2019. Trademark contractual services costs accounted for the second largest increase for Trademark operation costs for

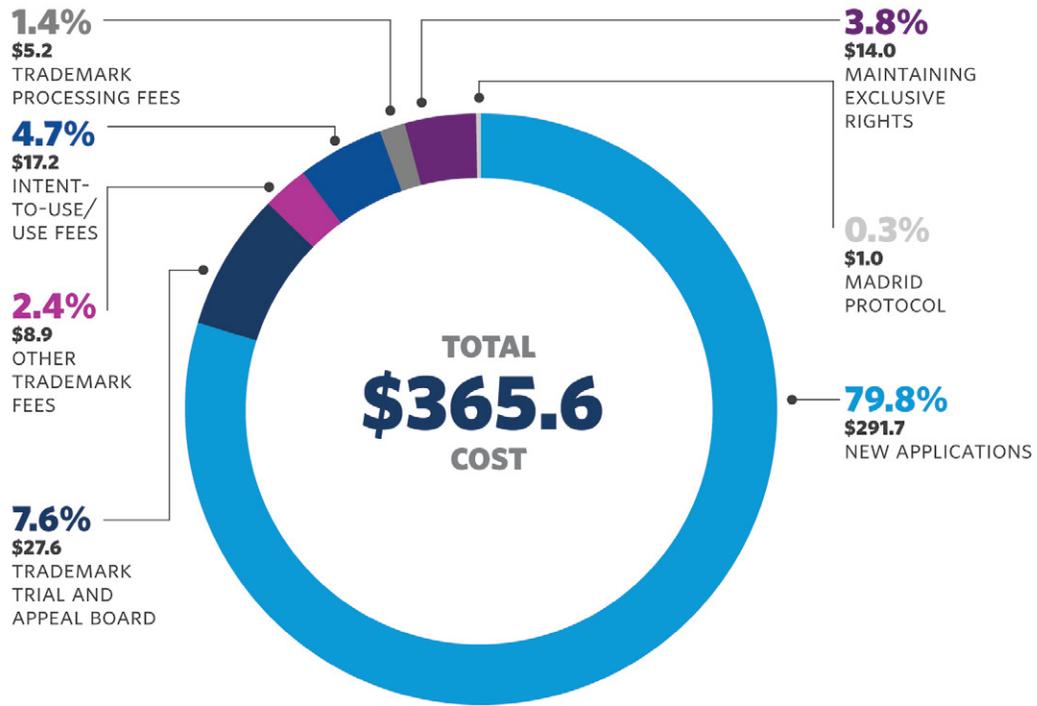
the year ended September 30, 2019. Direct Trademark contractual services costs were \$20.0 million, an increase of \$4.4 million, or 28.2 percent, over FY 2018 contractual service costs of \$15.6 million. This change is primarily reflective of IT contractual cost increases for several Trademarks systems, including Trademark Quality Review System, Trademark Reporting and Data Mart, Madrid system, and Trademark Electronic Application Submission.

The overall cost percentages presented in the following pie chart are based on both direct costs and indirect costs allocated to trademark operations and are a function of workload volumes processed in each product area.

**TRADEMARK COSTS (dollars in millions)**



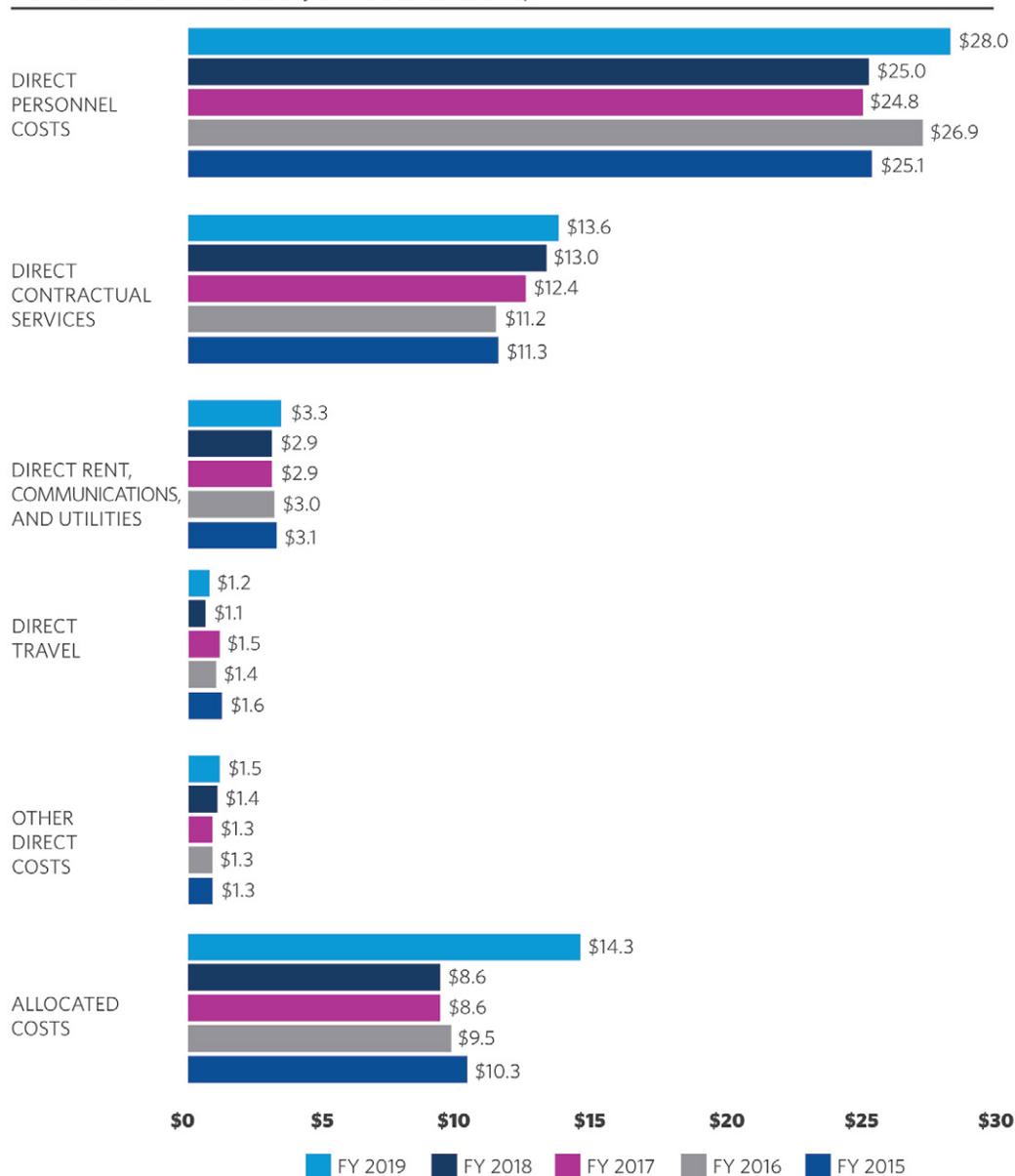
**FY 2019 TRADEMARK COST BY PRODUCT** (dollars in millions)



**Intellectual Property Policy, Enforcement, and Protection Worldwide**

Total costs for the IP Protection program increased \$9.2 million, or 17.5 percent, from FY 2015 through FY 2019. The most significant direct program costs for IP Protection in FY 2019 relate to personnel services and account for 45.2 percent of the total cost for IP Protection operations. For the year ended September 30, 2019, the costs for policy, protection, and enforcement of IP worldwide increased from \$52.0 million at the end of FY 2018 to \$61.9 million, an increase of \$9.9 million, or 19.0 percent. These costs were incurred in line with the activities discussed on pages 71-81.

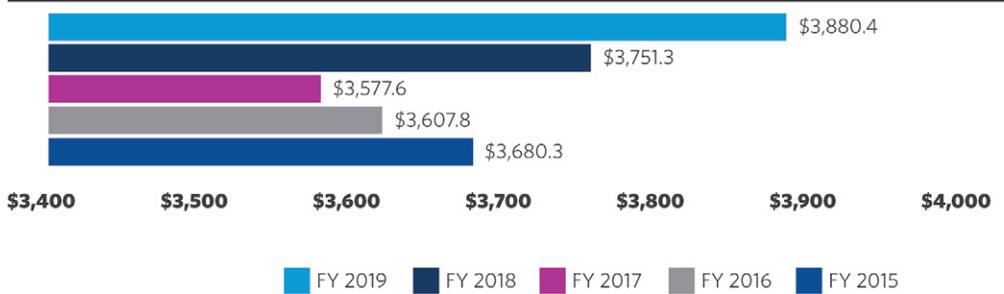
**INTELLECTUAL PROPERTY POLICY, ENFORCEMENT, AND PROTECTION COSTS (dollars in millions)**



**Statement of Budgetary Resources**

During FY 2019, total budgetary resources available for spending was 3.4 percent greater than the amount available in the preceding year, with a 5.4 percent increase over the past four fiscal years. The change in budgetary resources available for use is depicted in the following bar graph. In FY 2019, budgetary resources increased due to patent fee rate increases and trademark application filing increases. However, in years where the customer demand for patent and trademark services is not as high, such as in FY 2017, budgetary resources are at lower amounts.

**ANNUAL GROWTH IN AVAILABLE BUDGETARY RESOURCES**  
(dollars in millions)

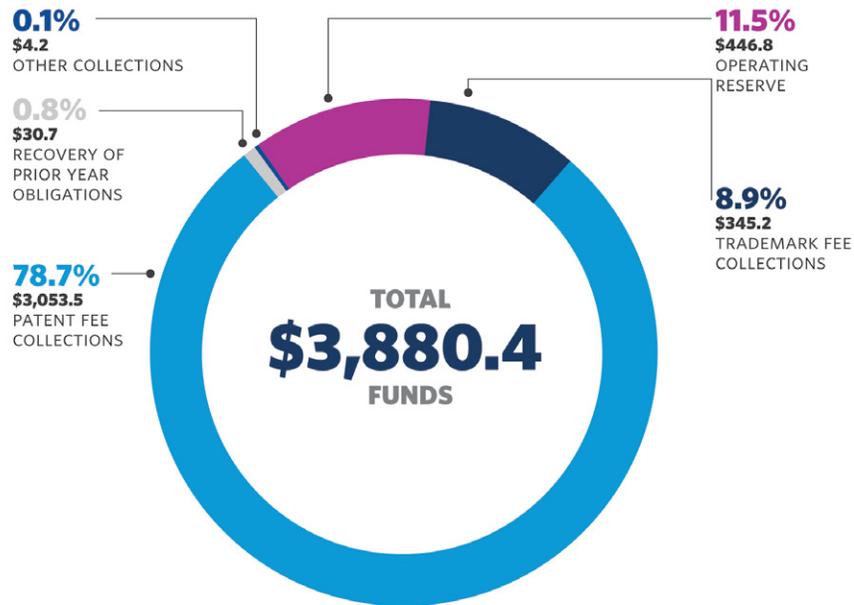


The USPTO was provided appropriation authority to spend anticipated fee collections in FY 2019 for an amount up to \$3,370.0 million. In FY 2019, the USPTO collected fees in excess of the anticipated fee collections appropriated; patent and trademark fee collections amounted to \$3,398.7 million (see the following *Sources of Funds* chart). Prior to 2012, when the USPTO was not appropriated the authority to spend all fees collected, the excess was recognized as temporarily unavailable fee collections. However, the AIA established a statutory

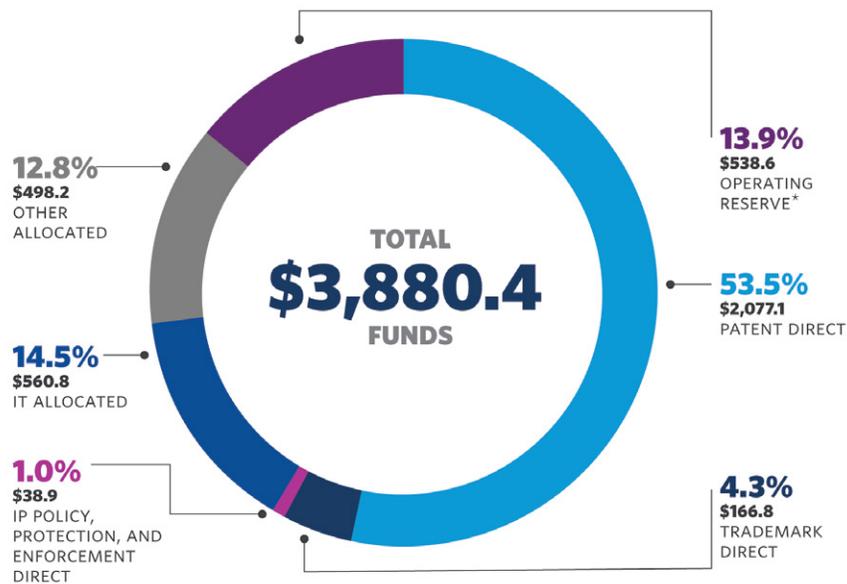
provision allowing the USPTO to deposit in the Patent and Trademark Fee Reserve Fund fees collected in excess of the appropriated levels for each fiscal year. During FY 2019, the USPTO collected \$28.7 million of user fees that were deposited in the Patent and Trademark Fee Reserve Fund. The FY 2019 appropriation provided the authorization for the USPTO to spend those fees without further appropriation, and those fees are available without fiscal limitation until expended.

The following pie charts present the budgetary resources made available to the USPTO in FY 2019 and the use of such funds representing FY 2019 total obligations incurred and the operating reserve, as reflected on the Statement of Budgetary Resources.

**FY 2019 SOURCES OF FUNDS (dollars in millions)**



**FY 2019 USES OF FUNDS (dollars in millions)**



\*These funds are retained and carried forward into FY 2020.

During FY 2019, the USPTO did not collect any fees that were designated as temporarily unavailable. As a result, the \$937.8 million in temporarily unavailable fee collections at the end of FY 2013 remained the same through FY 2019.

The following table illustrates amounts of fees that Congress has appropriated to the USPTO for spending over the past five fiscal years, as well as the cumulative unavailable fee collections.

Temporarily Unavailable Fee Collections (dollars in millions)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Fiscal year fee collections	\$ 3,008.8	\$ 3,063.2	\$ 3,078.9	\$ 3,337.4	\$ 3,398.7
Fiscal year collections appropriated	(3,008.8)	(3,063.2)	(3,078.9)	(3,337.4)	(3,398.7)
Fiscal year unavailable collections	\$ -	\$ -	\$ -	\$ -	\$ -
Prior year collections unavailable	937.8	937.8	937.8	937.8	937.8
Subtotal	\$ 937.8	\$ 937.8	\$ 937.8	\$ 937.8	\$ 937.8
Special fund unavailable receipts	233.5	233.5	233.5	233.5	233.5
Cumulative temporarily unavailable fee collections	\$ 1,171.3	\$ 1,171.3	\$ 1,171.3	\$ 1,171.3	\$ 1,171.3

In addition to the temporarily unavailable balances, collections of \$233.5 million are unavailable in accordance with the OBRA of 1990 and are deposited in a special fund receipt account at the Treasury. These cumulative unavailable fee collections remain in the USPTO's general fund account at the U.S. Department of the Treasury (Treasury) until appropriated for use by Congress.

#### Limitation on Financial Statements

The principal financial statements included in this report have been prepared by USPTO management to report the financial position and results of operations of the USPTO, pursuant to the requirements of 31 U.S.C. § 3515(b). Although the statements have been prepared from the books and records of the USPTO in accordance with Generally Accepted Accounting Principles (GAAP) for federal entities and the formats prescribed in OMB Circular A-136 (revised), the statements are in addition

to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the understanding that they are for a component of the U.S. Government, a sovereign entity.

#### Management Responsibilities

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

# PERFORMANCE INFORMATION

Unaudited. Please see the accompanying auditors' report.

After his high school graduation, and Howard Jones was unsure where the rest of the world would take him. So his mother told him where to start: college. He listened and at Virginia Polytechnic Institute discovered an aptitude for physics and mathematics, starting the journey that led to dramatic innovations and improvements in antenna technology. His idea was to create an antenna to its object, a breakthrough that is used in the vast majority of spacecraft today.

At the U.S. Army Research Labs described Jones as an "inspiring leader," his enthusiasm in tackling team projects, but also for his commitment to the field itself. He volunteered extensively, taught electronics to high school students and was very active in professional organizations.

He lived far from where he grew up, but his work took him around the world. His technology is on board Voyager 1, which has traveled beyond our solar system, and his personal impact on the lives of engineers is immeasurable.

"... engineering isn't always sitting down at a desk. You go into labs, machine shops, plating shops, and you meet with different types of people."



## Patent Nos. 6,387,981; 6,572,693 & 6,730,156

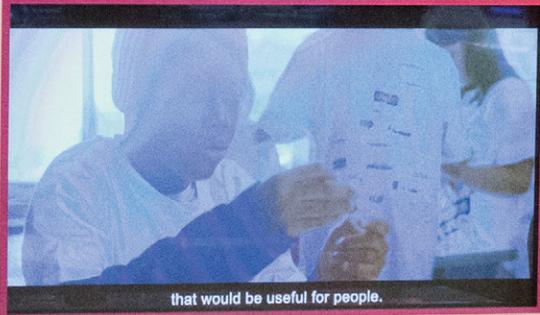
When you smile, there is a chance that chemist Sumita Mitra is smiling with you. She is the inventor of a breakthrough dental restoration material that is the first to use nanomaterials.

Working in the dental division of 3M, Mitra led a multidisciplinary team to create the patented nanocomposite material Filtek™ Supreme Universal Restorative. They wanted to help dentists and their patients by combining aesthetics and performance in one product: existing materials forced dentists to choose one or the other.

Mitra's invention harnesses the biomechanical and chemical properties of nanoparticles to create a versatile, superior dental-filling material that matches the beauty of natural teeth while able to withstand years of wear. Filtek Supreme is strong enough for use in all teeth, including hard-working molars, which is why it has been used in more than 600 million dental restorations worldwide, and counting.

As a chemist at 3M for more than 30 years, Mitra's 98 U.S. patents have fueled a new era of advanced dental technologies, dental health—and smiles.

"Just doing the science is not the end in itself. One has to be able to make it into a process that can produce a product that will be useful."



that would be useful for people.

## LYCRA® FIBER (SPANDEX) Patent No. 3,023,192

We have Joseph Shivers and his persistent and creative mind. The material that has brought events and comfort to so many has shined his project to create a fiber to replace the uncomfortable fibers in women's foundation garments. But Shivers was being

In 1958 he produced the fiber that would become more versatile than dreamed. The lightweight synthetic elastic material can withstand detergents. More importantly, it can expand five times its length. Commonly known as spandex, LYCRA is the trademark name of

Spandex found an eager market in the 1970s fitness culture. In today's multibillion-dollar industry, Spandex has since expanded into other realms, including the health care and automotive industries. It is the snug flexibility on our bodies that millions appreciate every

"Sometimes when I am in a store, I'll walk over and peek at a label. It'll say 25% Lycra, and I'm just tickled."



USPTO Deputy Director Laura Peter addresses a Women's History Month event, sponsored by the Federally Employed Women Bright Knights Chapter, at the National Inventors Hall of Fame Museum. (Photo: Jay Premack/USPTO)

# INTRODUCTION TO THE USPTO'S PERFORMANCE GOALS AND RESULTS

The Performance Section presents a detailed discussion of the USPTO's performance results by objectives within each strategic goal based on the *USPTO 2018-2022 Strategic Plan*. This is the first year that the USPTO has operated under this new plan. The [2018-2022 Strategic Plan](#) is available via the USPTO website.

The USPTO strategic performance framework, provided in the Performance Highlights section of this PAR's Management's Discussion and Analysis, is designed to strengthen the capacity of the USPTO by focusing on a specific set of goals and the steps the USPTO must take to reach them, which include:

- Optimize patent and trademark application pendency;
- Issue highly reliable patents;
- Issue high-quality trademarks;
- Foster business effectiveness;
- Enhance operations of both PTAB and TTAB;
- Provide leadership and education on domestic and international IP policy and awareness;
- Enhance human capital management and foster employee engagement;
- Optimize speed, quality, and cost-effectiveness of IT delivery;
- Ensure financial stability for effective operations; and
- Enhance interactions with internal and external stakeholders and the public.

These steps also support the U.S. Department of Commerce's focus to accelerate American leadership, enhance job creation, strengthen U.S. economic and national security, fulfill constitutional requirements and support economic activity, and deliver customer-centric service excellence.

## PERFORMANCE AUDITS AND EVALUATIONS

The Office of the Inspector General (OIG) completed and issued four final audit reports in FY 2019 for the USPTO. The OIG issued 24 recommendations in these reports for the USPTO to take corrective actions to mitigate the audit findings. The USPTO concurred with all recommendations and began or has taken steps to address the recommendations.

The first report, [USPTO Needs to Improve Management Over the Implementation of the Trademark Next Generation System](#), found that the USPTO did not provide effective oversight of Trademark Next Generation (TMNG) system implementation as follows:

- USPTO IT investment board members did not exercise adequate oversight to correct or terminate underperforming TMNG investments;
- Weaknesses exist in the Capital Planning and Investment Control (CPIC) process; and
- The USPTO provided ineffective project management and oversight for the TMNG examination tool.

The OIG issued six recommendations to mitigate these findings.

The USPTO's planned corrective actions in response to these report findings are:

- Review its existing CPIC policies and procedures to assess their continued efficacy, relevance, and clarity;
- Update IT CPIC policies and procedures to establish and document actions taken when an IT investment is not meeting expectations;
- Review all pending TMNG investments and proposed IT investments to confirm that each has a complete cost estimate prior to approval; and

- Establish critical success factors and measurement criteria to ensure that the TMNG examination tool meets USPTO requirements.

The second report, [\*\*USPTO Could Improve Oversight Practices to Close Out Contract Files by Complying with Acquisition Regulations and Policies\*\*](#), found that the USPTO contracting officials did not properly administer closeout procedures; specifically, contracting officers did not close out task/delivery orders in a timely manner, and order files lacked evidence that key closeout steps were completed. Furthermore, contracting officials did not ensure that contracting officer representatives (CORs) had met their continuous learning requirements to maintain their certifications or properly appoint CORs prior to their providing technical oversight for orders. In addition, order files were not always properly maintained. The OIG issued five recommendations to mitigate these findings.

The USPTO's planned corrective actions in response to these report findings are:

- Issue and enforce a contract close-out policy that complies with federal and Department of Commerce's close-out requirements.

The USPTO has completed and issued a procurement memorandum for CORs' and task order managers' roles and responsibilities and created an electronic system of record to improve oversight of personnel who have access to both hard copy and electronic procurement files.

The third report, [\*\*Inadequate Management of Active Directory Puts USPTO's Mission at Significant Cyber Risk\*\*](#), found that vulnerability scanning practices were inadequate, and critical vulnerabilities were not remediated in a timely manner. The OIG issued eight recommendations to mitigate these findings.

The USPTO planned corrective actions in response to this report are:

- Review current account information in active directory for role and privileges needed;
- Remove any inactive accounts;
- Review accounts identified as having weak credential encryption; and
- Identify legacy systems that cannot utilize single sign-on and provide expected system retirement dates.

The fourth report, [\*\*USPTO Did Not Provide Adequate Oversight of Monetary Awards to Ensure Patent Examiners Receive Accurate Payments\*\*](#), found that the USPTO patent examiners monetary awards were not granted in compliance with the relevant award criteria or sufficiently documented. Furthermore, the report found that the USPTO did not (a) have a standardized process to calculate award payments, (b) validate the addition or accuracy of examiner-related hours included in award calculations, or (c) provide adequate evidence to support award payments. The OIG "did not find significant errors for full-time examiners" (96 percent of the patent examiner corps in FY 2016) or "incidents of fraud, illegal acts, violations, or abuse." The OIG issued five recommendations for the USPTO.

Although, the USPTO validated that virtually all of the FY 2016 patent examiner monetary awards were accurately paid, the USPTO is in the process of implementing corrective actions to mitigate the audit findings. The USPTO response in the issued final report indicates that it will continue to develop and document additional management guidance to enhance consistency and accuracy in patent examiner award calculations, including additional guidance in consideration of examining-related activities and manual adjustments to award calculations. Finally, the USPTO will consider and implement any necessary additional controls to increase the quality and accuracy of year-end ratings forms.

## PERFORMANCE DATA VERIFICATION AND VALIDATION

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

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

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

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

## COMMISSIONERS' PERFORMANCE FOR FY 2019

The AIPA, Title VI, Subtitle G, the Patent and Trademark Office Efficiency Act, requires that an annual performance agreement be established between the Commissioner for Patents and the Secretary of Commerce, and the Commissioner for Trademarks and the Secretary of Commerce. The Commissioners for Patents and Trademarks have FY 2019 performance agreements with the Secretary of Commerce, which outline the measurable organizational goals and objectives for which they are responsible. They may be awarded a bonus, based on an evaluation of their performance as defined in the agreement, of up to 50 percent of their base salary. The results achieved in FY 2019 are documented in this report in the performance information for Strategic Goals I and II. FY 2019 bonus information was not available at the time this report was published. That information will be provided in next year's PAR. For FY 2018, the Commissioner for Patents was awarded a bonus of 21.1 percent of base salary. The Commissioner for Trademarks was awarded a bonus of 21.1 percent of base salary.

# PATENTS:

## STRATEGIC GOAL I

### WHAT IS A PATENT?

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

There are three types of patents: utility, design, and plant. Utility patents may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof. Design patents may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture. Plant patents may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant. For a detailed look at the **patent application examination process**, please visit our website.

## STRATEGIC GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS

The USPTO is dedicated to carrying out its mission to deliver “high-quality and timely examination of patent applications” in accordance with laws, regulations, and practices and consistent with the goals and objectives in the USPTO 2018–2022 *Strategic Plan*. This goal and its key performance measures directly support the Department of Commerce Priority Goal to Accelerate Patent Processing. For additional information on the [USPTO’s performance metrics](#), please visit [Performance.gov](#).

Economic growth in the United States is driven by creating new and better ways of producing goods and services, a process that triggers new and productive investments. American innovators and businesses rely on the legal rights associated with patents to reap the benefits of those innovations. Processing patent applications in a high-quality and timely manner advances economic prosperity by using IP as a tool to create a business environment that cultivates and protects new ideas, technologies, services, and products.

Between the end of FY 2018 and the end of FY 2019, average first action pendency decreased by 7 months (to 14.7 months), and total pendency remained at 23.8 months. First action pendency measures the time from when an application is filed until it receives an initial determination of patentability by the patent examiner. Total pendency measures the time from filing until an application is either issued as a patent or abandoned (see Tables 4 and 5).

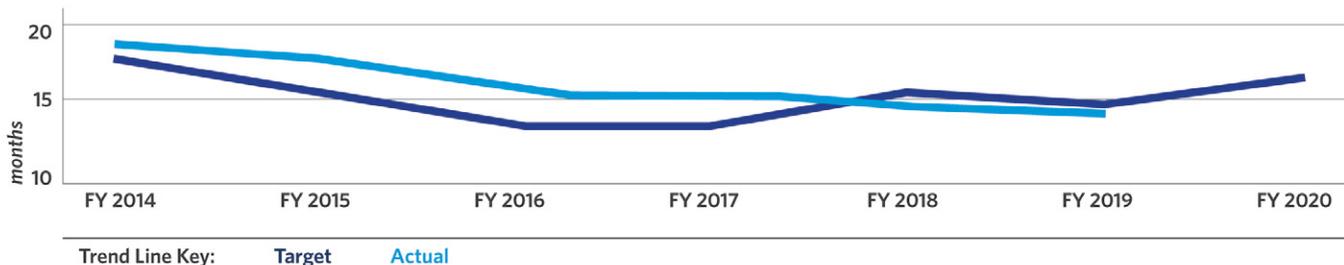
The USPTO’s dedicated employees continue to make great strides in managing the inventory of unexamined patent applications. The agency saw a 4.9 percent increase in serialized filings, resulting in a utility, plant, and reissue patent application inventory of 553,899 at the end of FY 2019. The Request for Continued Examination (RCE\*) inventory rose slightly to 21,129 at fiscal year-end.

Table 4: **PATENT AVERAGE FIRST ACTION PENDENCY (MONTHS)**

Fiscal Year	Target	Actual
2014	17.4	18.4
2015	16.4	17.3
2016	14.8	16.2
2017	14.8	16.3
2018	15.4	15.8
2019	14.9	14.7
2020	16.2	

**Target met.**

**Trend:** The trend line indicates that the performance trend is positive with some variability of the direction of the trend line in predicting future results. Additional discussion for this measure can be found on page 51.



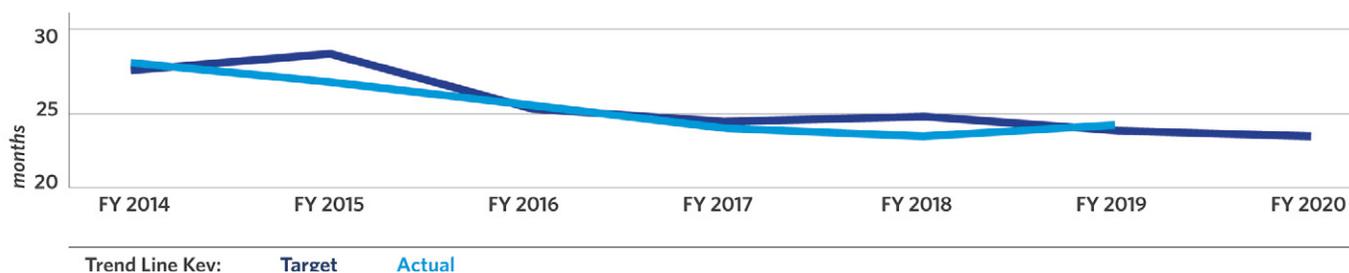
\*An RCE is a request by an applicant to reopen prosecution of the patent application after prosecution of the application is closed. For additional information, see [www.uspto.gov/patent/initiatives/rce-outreach](http://www.uspto.gov/patent/initiatives/rce-outreach).

Table 5: **PATENT AVERAGE TOTAL PENDENCY (MONTHS)**

Fiscal Year	Target	Actual
2014	26.7	27.4
2015	27.7	26.6
2016	25.4	25.3
2017	24.8	24.2
2018	25.0	23.8
2019	23.9	23.8
2020	23.8	

**Target met.**

**Trend:** The trend line indicates that the performance trend is positive with little variability of the direction of the trend line in predicting future results. Additional discussion for this measure can be found on page 51.



## OBJECTIVE 1: OPTIMIZE PATENT APPLICATION PENDENCY

### Accelerate Patent Processing

The USPTO maintained a focus on meeting the administration's FY 2019 Agency Priority Goal (APG) of accelerating patent processing by reducing patent application pendency to less than 15 months for first action pendency and less than 24 months for total pendency. This APG is one of [four 24-month goals](#) that were set by the Department of Commerce at the end of 2017. In FY 2019, the USPTO achieved 14.7 months for first action pendency and 23.8 months for total pendency. Our success in meeting the APG is the direct result of the efforts of our employees, at all levels, to drastically improve analyses, streamline processes, and clarify approaches that benefit currently filed patent applications, as well as future patent applications. These efforts included an emphasis on a first-in-first-out management of examiner dockets at the patent-examining level, which required complex data analysis to better prioritize applications without sacrificing quality, as well as increasing efficiencies to accelerate the overall patent examination process at the application-processing level.

### Align Production Capacity with Incoming Workload

The Patents organization constantly reviewed pendency within various areas to align production capacity with incoming workload. Every year, analysis is performed to determine the areas of high pendency, and new examiner hires are placed in these areas. In addition, throughout the year, work from areas of high pendency is routinely redistributed to examiners in low pendency areas where technology expertise overlaps. In FY 2021, a new application routing process will be implemented, which will further assist in normalizing pendency throughout the examining corps.

### Identify and Offer Additional Prosecution Options

The USPTO continued to evaluate programs designed to advance the progress of a patent application and to provide applicant assistance, including programs such as [Track One for Prioritized Examination](#), [First Action Interview Pilot Program](#), [Quick Path Information Disclosure Statement \(QPIDS\)](#), the [After Final Consideration Pilot 2.0 \(AFCP 2.0\)](#), and [Patents 4 Patients \(the Cancer Immunotherapy Pilot Program\)](#). As a result of this continued evaluation, QPIDS was established as a permanent program this year. In addition, effective September 3, 2019, the limit on the

number of Track One requests that may be granted in a fiscal year was increased from 10,000 to 12,000.

### Leverage Value Obtained from International Work Products

The USPTO continued to be a global leader in developing work-sharing programs that result in efficiencies for patent applicants and examiners. The USPTO continued to optimize its Patent Prosecution Highway (PPH) programs, which have proven to increase efficiencies and decrease costs for applicants filing in multiple offices. The USPTO also continued its stewardship of the Global Dossier, a set of business services that provide a single point of access to related applications filed in multiple patent offices at no cost to users. In addition, the USPTO continued to pilot innovative collaborative search programs to enhance predictability and reliability of IP rights worldwide.

## OBJECTIVE 2: ISSUE HIGHLY RELIABLE PATENTS

### Deliver Effective and Efficient Programs

The Patent organization has been identifying ways to improve efficiency, effectiveness, and accountability by developing a framework to analyze alignment of activities with the mission and role of the agency and by developing appropriate proposals that lead to improvement. Table 6 provides the relative cost-effectiveness of the entire patent examination process over time, or the efficiency with which the organization applies its resources to production.

### Refine Production Standards to Achieve Patent Quality Expectations and Goals

The USPTO recently informed its examining corps of significant updates, anticipated to take effect beginning in FY 2020, which will bring processes that support patent examination into better alignment with the USPTO's goals of providing predictable and reliable patents rights to stakeholders. In particular, these updates revise the time allotted for the examination of patent applications, the process for assigning applications to examiners (application routing), and the evaluation of examiner performance of patent examining duties via the examiner performance appraisal plan.

The new method for assigning examination time is more transparent and flexible—it can be adjusted as the patent examination job or prosecution conditions change. This flexibility will allow maintaining the appropriate levels of time needed to provide stakeholders confidence in the certainty of any resultant patent rights, while also enabling optimal pendency, cost, and quality levels.

The new application routing process will better match the unique technological profile of each application with the work experience of a particular examiner, thereby enhancing the process of assigning applications to examiners with the requisite expertise and experience.

The updated performance appraisal plan establishes a roadmap for enhanced patent quality by providing examiners with a list of exemplary practices in the areas

Table 6: **TOTAL COST PER PATENT PRODUCTION UNIT**

Fiscal Year	Target	Actual
2014	\$4,633	\$3,940
2015	\$4,646	\$4,086
2016	\$4,687	\$4,198
2017	\$4,607	\$4,312
2018	\$4,786	\$4,593
2019	\$5,142	\$4,633
2020	\$5,220	

Target met.

of search, clarity of the written prosecution record, and principles of compact prosecution. This roadmap provides a greater emphasis on search by highlighting the importance of searching the inventive concept as disclosed in an application so as to identify the best prior art in the case at the earliest possible time in prosecution.



The USPTO Commissioner for Patents, Drew Hirshfeld, speaks at the Women's Entrepreneurship Symposium. (Photo: Jay Premack/USPTO)

### **Increase Examiners' Ability to Obtain the Best Prior Art During Examination**

The USPTO provided many resources for examiners to assist with prior art searches. These include making available experts to help with search strategies based on technology and classification, as well as assistance with available search tools. There is also an effort underway to determine how IT, such as artificial intelligence, can be leveraged to assist with locating and retrieving relevant prior art for examiners.

The USPTO also tested new processes via pilot programs that can help with enhancing prior art searches. This included, for example, collaborative search pilots among not only USPTO examiners, but also among USPTO examiners and examiners from foreign offices. The USPTO also recently concluded a pilot program to help examiners identify applications that would benefit from a pre-search interview, so that easily resolved issues, such as claim construction, can be addressed prior to performing an initial prior art search.

The Post Grant Outcomes pilot program aimed to provide examiners the most useful post grant information from various sources, such as AIA trial proceedings before the PTAB. The goal of this program is to improve the consistency of patentability determinations in related pending patent applications by notifying examiners when

they have an application related to an AIA trial proceeding, streamlining access to the contents of the AIA trial proceedings, and determining and disseminating best practices for evaluating those proceedings. At the beginning of FY 2019, a feature was added to the examination toolkit to facilitate and assist an examiner to readily access documents directly related to a pending application. Since its launch, over 2,062 cases have been identified as a part of this program. Post Grant Outcomes serves to assist examiners in their examination process by not only making access to prior art easier, but also by fostering improved patent quality. For more information on the Post Grant Outcomes Program, please visit the [Post Grant Outcomes website](#).

The Access to Relevant Prior Art Initiative explored ways to import relevant prior art and supplemental information by using script-based logic to identify applications automatically, subsequently using a machine-learning algorithm in the processing of the identified applications. Relevant prior art and supplemental information would be imported from sources such as related U.S. applications and counterpart foreign and PCT applications. The initiative is being developed and released in phases. Phase 1 launched in FY 2019 to a limited group of art units and imports prior art from an immediate U.S. parent application. A user interface was developed and implemented for examiners to allow them to review and consider all imported prior art.

### **Provide Clear Patent Examination Guidance: Subject Matter Eligibility and 35 U.S.C. § 112 Guidance**

The USPTO issued new subject matter eligibility guidance in a Federal Register notice published on January 7, 2019, revising the procedure for determining whether a patent claim or patent application claim is directed to a judicial exception—a law of nature, natural phenomenon, or an abstract idea—under the first step of the *Mayo/Alice* framework. The guidance is designed to increase the certainty and predictability of the patent eligibility analysis and to clarify the analysis to guide examiners and the public in finding the appropriate lines to draw with respect to patent eligible subject matter.

The USPTO also issued new guidance, in a Federal Register notice published on January 7, 2019, for the examination of claims in patent applications that contain functional language, particularly patent applications in which functional language is used to claim computer-implemented inventions. The new guidance addresses

written description and enablement issues under 35 U.S.C. § 112(a), particularly relating to computer-implemented functional claims that recite only the idea of a solution or outcome to a problem without reciting how the solution or outcome is accomplished. The new guidance also addresses issues related to the examination of computer-implemented functional claims having means-plus-function limitations under 35 U.S.C. § 112(f).

### Improve Content, Delivery, and Timeliness of Technical and Legal Training

Training for patent examiners at all levels is critical to producing reliable and predictable IP rights, and the USPTO is committed to providing the best training to its examiners.

As noted in a previous section, the USPTO issued new subject matter eligibility guidance in 2019. Training for USPTO personnel began on the same day as the guidance's publication. Although all patent examiners received training, those examiners that were most impacted by the guidance received more in-depth training and received additional follow-on training later in the year. The USPTO also provided training for its external stakeholders via online sessions and posted the training materials on the USPTO website for anyone to review. These trainings were well-attended and positively received.

The USPTO also focused on improving examiners' ability to access prior art in light of the ever expanding amount of prior art and the numerous ways in which it can be accessed. As part of this effort, the USPTO made training available for examiners on searching non-patent

literature, which was tailored to the technology in which they examine. The USPTO also continued to collaborate with its stakeholders to provide technical training for examiners to enhance their subject matter expertise. For example, the Patent Examiner Technical Training Program (PETTP) provided a forum for industry and academia experts to voluntarily provide technical training to patent examiners. In addition, the Site Experience Education (SEE) program provided an opportunity for commercial, industrial, and academic institutions to voluntarily host patent examiners for technical site visits. Both of these programs—PETTP and SEE—helped keep patent examiners trained and updated on the latest technologies and innovations in their field of examination.

### OBJECTIVE 3: FOSTER INNOVATION THROUGH BUSINESS EFFECTIVENESS

#### Use Patent Quality Data to Identify Areas for Improvement

The USPTO continues to evaluate patent quality by measuring and evaluating its work products. Review quality assurance specialists from the Office of Patent Quality Assurance (OPQA) review a random sample of employee work products for compliance with Title 35 of the U.S.C. and the relevant case law at the time of the patentability determination. The feedback and data obtained from these reviews allows the USPTO to better identify quality trends earlier in the examination process and to address any issues with corrective measures, such as training. In FY 2019, OPQA completed 12,000 reviews. Table 7 shows the results in correctness of office actions that the USPTO achieved during FY 2019.

Table 7: **PATENT CORRECTNESS INDICATORS**

Statute	Goal	Actual
35 U.S.C. § 101 (including utility and eligibility)	>97%	97.7%
35 U.S.C. § 102 (prior art compliance)	>95%	94.4%
35 U.S.C. § 103 (prior art compliance)	>93%	89.9%
35 U.S.C. § 112(a),(b) (including (a)/(b) rejections related to 35 U.S.C. § 112(f))	>93%	92.2%

The USPTO also captures external perception of USPTO quality through semi-annual surveys. The external survey is sent to approximately 3,000 randomly selected, frequent-filing customers and is used to help validate the USPTO's internal quality data. The survey focuses on the extent to which examiners adhere to rules and procedures; the correctness, clarity, and consistency of rejections made; and overall examination quality.

Stakeholder satisfaction with overall examination quality continues to rise in the survey with approximately 10 stakeholders now citing quality as *Good* or *Excellent* for every stakeholder that reported quality as *Poor* or *Very Poor* in the most recent survey.

Another effort to provide feedback to examiners on searching prior art in FY 2019 is a pilot program called *OPQA Feedback on Search*. As part of this pilot, quality reviewers from OPQA perform searches in a random sample of applications and provide the examiner a feedback report, which includes the reviewer's strategy plus feedback related to the examiner's search. The examiner and the reviewer also have an opportunity to discuss their strategies in a meeting. This pilot is currently ongoing with results expected next fiscal year.

### Enhance Patent Customer Experience

The USPTO continued to assist small businesses and under-resourced inventors through pro se assistance and education and outreach programs. The Pro Se Assistance Center helped make the patent system more transparent and reduced obstacles for unrepresented patent applicants through targeted outreach efforts via walk-in, one-on-one assistance, telephone, email, and at education and outreach events.

The USPTO collaborated with other federal government agencies to deliver outreach programs to increase knowledge and awareness of the benefits and importance of IP and the various USPTO resources available to assist small businesses and independent inventors in navigating through the patent system and obtaining and maintaining the appropriate protection for their inventions. For a more in-depth discussion about this subject, please see Mission Support Goal, Objective 4, "Enhance the USPTO's Interactions with Internal and External Stakeholders and the Public at Large" on page 97.

The USPTO also captured external perception of USPTO quality through semi-annual surveys. The external survey was sent to approximately 3,000 randomly selected, frequent-filing customers and was used to help validate the USPTO's internal quality data. The survey focused on the extent to which examiners adhere to rules and procedures; the correctness, clarity, and consistency of rejections made; and overall examination quality. Stakeholder satisfaction with overall examination quality continued to rise in the survey with approximately 10 stakeholders now citing quality as *Good* or *Excellent* for every stakeholder that reported quality as *Poor* or *Very Poor* in the most recent survey.

Education and assistance to independent inventors was also provided virtually via the [Inventor Info Chat](#) and Patent Virtual Assistance program (currently in collaboration with seven Patent and Trademark Resource Centers (PTRCs)). More information about the [Pro Se Assistance Program](#) is available online.



USPTO Director Andrei Iancu at the USPTO Community Day. (Photo: Jay Premack/USPTO)

### Support the Pro Se Art Unit

Established in October 2014, the USPTO's Pro Se Art Unit continued to provide dedicated educational and practical resources to small businesses, independent inventors, and under-resourced inventors. In FY 2019, around 1,200 patents were granted in applications handled by examiners in the Pro Se Art Unit. Through education and enhanced customer service, the Pro Se Art Unit helped increase accessibility to patent protection with almost 37 percent of all pro se applications examined by the Pro Se Art Unit resulting in a patent grant. In addition, examiners in the Pro Se Art Unit worked with unrepresented applicants in thousands of applications to help make the patent system more transparent and understandable. By working proactively with unrepresented applicants, from filing through disposal, the USPTO hopes to identify, streamline, and ameliorate procedural obstacles for first-time filers. Over 5,450 pro-se-filed applications were assigned to the Pro Se Art Unit as of the end of FY 2019.

In addition, best practices were shared internally with patent examiners in "Working with Pro Se Applicants" refresher training and externally through *Inventor's Eye* articles, webinars, and a newly developed Pro Se Basic Training Series.

### Engage Through Customer Partnership Meetings

The USPTO continued to enhance customer partnerships in an effort to provide an informal conduit for all stakeholders to share insights and experiences that improve patent prosecution in specific technology areas. The USPTO hosted almost a dozen Customer Partnership Meetings this year across multiple technology centers (TCs), including those focused on communications (TC 2600), biotechnology/chemical/pharmaceutical (TC 1600), mechanical disciplines (TCs 3600/3700), semi-conductor and other electrical arts (TC 2800), and business methods (TC 3600). The USPTO also hosted a "Design Day" and "Partnering in Patents" events. This increased interactivity between the USPTO and external stakeholders in specific technology areas aims to enhance relationships and improve resolution of future prosecution-related issues. For more information on Customer Partnership Meetings, please visit the [Customer Partnership Meeting website](#).

## OBJECTIVE 4: ENHANCE OPERATIONS OF THE PATENT TRIAL AND APPEAL BOARD

### Enhancing the Consistency, Transparency, and Certainty of Patent Trial and Appeal Board Proceedings

A number of improvements to PTAB processes and proceedings have been made to enhance PTAB operations, as well as the consistency, transparency, and certainty of ex parte appeals and AIA trial proceedings.

First, PTAB processes for issuing precedential and informative decisions have been set forth in a standard operating procedure to increase the number of precedential decisions that govern PTAB proceedings. In the past, the PTAB issued only a handful of precedential and informative decisions every few years. Under its new process, 16 precedential decisions and eight informative decisions have already been designated within the first year on a wide variety of topics, ranging from discretionary denial of institution to live testimony at oral hearings to submission of new evidence at the rehearing stage. In addition, a precedential opinion panel was established, consisting of the director, commissioner for patents, and chief administrative judge in order to issue decisions on topics of importance. This precedential opinion panel has issued two precedential decisions and has one additional decision in process.

Second, the PTAB has made several revisions to the AIA trial procedures. PTAB changed the standard used to construe patent claims in AIA trials to match that applied by the federal district courts. PTAB also established a pilot program to revamp the claim amendment process in AIA trials, offering preliminary guidance to patent owners on a first set of proposed amended claims as well as the opportunity to present a second set of amended claims. PTAB also published a notice in the Federal Register to explain alternative ways that patent owners might secure amended claims outside of the trial process through the use of reissue and reexamination procedures. PTAB likewise issued a second update to the trial practice guide to capture existing PTAB practices in writing, including topics such as additional discovery, joinder, and multiple petitions.

Third, PTAB conducted training for all administrative judges to ensure consistent application of the 2019 Revised Patent Subject Matter Eligibility Guidance. Of the eight decisions designated as informative in 2019, five aim to aid examiners and the public in understanding how to apply the 2019 Revised Patent Subject Matter Eligibility Guidance.

The PTAB continues to collect public input and to carefully evaluate its proceedings to identify additional improvements. All the while, PTAB has successfully met all statutory deadlines for AIA trials and has continued to work through the oldest appeals in an effort to meet its appeal pendency goal of 12 months. PTAB will continue to manage resources to equalize pendency across all technologies. PTAB also expects to bolster its engagement efforts with the venture capital and independent inventor communities to educate them about ex parte appeals and AIA trials. In the past, PTAB did not have much interaction with these communities and has determined that mutual benefit could be gained through more frequent collaboration.

### Enhance PTAB Operations

The PTAB has taken steps to strengthen its infrastructure to better support ex parte appeals and AIA trial proceedings by enhancing IT capabilities and the usage of hearing facilities in the regional offices.

The USPTO maintains hearings rooms for use by the public in all four regional offices—Midwest, Texas, Rocky Mountain, and Silicon Valley. The parties to an AIA trial proceeding or an ex parte appeal can appear and present

argument from any of these locations. To facilitate hearing attendance from a regional office, the PTAB has taken steps to update the technology available in these remote hearing rooms. Specifically, the PTAB has equipped the hearing rooms with additional screens to offer supplemental views of the administrative judges, the counsel, and any demonstratives that the parties may want to present. The PTAB has completed these audiovisual updates in Denver and similarly will update the other hearing rooms in the coming months.

The PTAB also has offered more opportunities to view a proceeding from one of the regional offices. For example, the PTAB has updated its hearing orders to give parties the option of requesting remote hearing attendance from any regional office. Upon the grant of such a request, counsel may appear at a hearing at USPTO headquarters, whereas in-house counsel or the client may watch from the approved regional office and thus increase the accessibility of PTAB proceedings. PTAB intends to monitor usage of its remote hearing rooms and seek opportunities to educate the public about the availability of these facilities.

PTAB continues to train and develop its management team through weekly educational sessions and an annual off-site training day. In addition, PTAB has established more regular and effective lines of communication and feedback from management to all levels within the organization. Through these interactions, PTAB aims to maintain strong employee engagement, low attrition, and to foster a fully committed workforce.



Quarterly meeting of the Patent Public Advisory Council on May 2, 2019, at the USPTO. (Photo: Jay Premack/USPTO)

# TRADEMARKS:

## STRATEGIC GOAL II

### WHAT IS A TRADEMARK OR SERVICE MARK?

A trademark or service mark is a word, name, symbol, device, or any combination thereof. It distinguishes the goods and services of one seller or provider from those of others and indicates the source of the goods and services. Federal registration of a mark is not required but has several advantages, including notice to the public of the registrant's claim of ownership of the mark, legal presumption of ownership nationwide, and a presumption of the exclusive right to use the mark on or in connection with the goods and services identified in the registration. A registered trademark may be recorded with the U.S. Customs and Border Protection. The U.S. Customs and Border Protection has the ability to obtain and seize imported goods that violate a registered trademark owner's IP rights in the United States.

For an overview of the trademark application, registration, and maintenance process, visit [www.uspto.gov/trademarks-getting-started/trademark-process](https://www.uspto.gov/trademarks-getting-started/trademark-process).

## STRATEGIC GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS

### OBJECTIVE I: OPTIMIZE TRADEMARK APPLICATION PENDENCY

The USPTO implements trademark laws of the United States for the benefit of consumers and businesses. Federal trademark registrations facilitate the protection of goods and services and allow consumers to better identify their choices in the marketplace. The USPTO's Trademarks operations are guided by the strategic goal to optimize trademark quality and timeliness.

The USPTO provides high-quality trademarks within target pendencies. Pendencies measure trademark timeliness. For well over a decade, first actions have been provided in fewer than 3.5 months, and trademarks have been registered in fewer than 12 months, on average. The USPTO and its trademark stakeholders consider these pendency rates to be optimal. Average first action pendency was 2.6 months at the end of FY 2019, having declined from 3.4 months at the end of FY 2018 as a result of a pendency initiative and in spite of a 5.4 percent increase in applications. In FY 2019, the number of trademark applications processed completely electronically continued a positive trend to 88.4 percent. First and final action compliance rates, which measure trademark quality, exceeded 96 percent this fiscal year. The USPTO is positioned to maintain this strong performance as filings continue to increase.

Trademarks works closely with stakeholders to develop pendency goals that maintain an optimal pendency level, increase examination efficiency, and meet the expectations of the IP community. The organization balances examination capacity with incoming applications and inventory by using production incentives, overtime, career development details, and additional staffing.

The economy is resilient, but a measure of uncertainty is inevitable in a competitive global market. This reality contributes to volatility and challenges in the USPTO's ability to project application filings levels and to develop precise forecasts. Despite these factors, the USPTO managed resources and staffing this year to maintain the timeliness that stakeholders have come to expect.

The organization expects an increase of 2.8 percent in trademark filings in FY 2020. The Trademarks organization

will continue to monitor the economy and other factors and adjust resources to ensure that capacity meets the expected increase in application volume.

#### Achieve Optimal Pendencies

First action pendency measures the time between receipt of a trademark application and when the USPTO makes an initial decision. In FY 2019, first action pendency was 2.6 months, within the optimum target range of 2.5-3.5 months.

The average number of months from date of filing to notice of abandonment, notice of allowance, or registration is total pendency. Trademarks averaged 9.3 months in FY 2019 and has sustained optimal pendency (see Tables 8 and 9). This is an important indicator for stakeholders when making business decisions.

#### Efficiencies Gained Through Electronic Processing

Electronic processing of trademark applications throughout the entire prosecution cycle increased to 88.4 percent of applications disposed in FY 2019, as shown in Table 10. The USPTO will continue to engage with the public to identify ways to streamline processes, lessen the financial burden on applicants by offering fee options, and efficiently process trademark applications to maintain optimal pendencies.

In FY 2018, the USPTO proposed a new rule to ensure exclusive electronic filing and communication. In Federal Register, 83 Fed. Reg. 24701, the agency proposed to amend the rules for filing trademark cases and the rules related to the Madrid Protocol for international registration of marks. The new rule mandates electronic filing of trademark applications and submissions associated with trademark applications and registrations, and it requires the designation of an email address for receiving USPTO correspondence. The USPTO later published a new rule (84 Fed. Reg. 37081), which delayed implementation from October 5, 2019, to December 21, 2019. Complete end-to-end electronic processing of trademark-related submissions improves administrative efficiency through electronic file management, optimized workflow processes, and reduced processing errors. The electronic filing requirement also ends the subsidization of paper filing by electronic filers.

Table 8: **TRADEMARK AVERAGE FIRST ACTION PENDENCY (MONTHS)**

Fiscal Year	Target	Actual
2014	2.5 - 3.5	3.0
2015	2.5 - 3.5	2.9
2016	2.5 - 3.5	3.1
2017	2.5 - 3.5	2.7
2018	2.5 - 3.5	3.4
2019	2.5 - 3.5	2.6
2020	2.5 - 3.5	

**Target met.**

**Trend:** The trend line indicates that the performance is meeting goals within the expected target range of 2.5 to 3.5 months. Additional discussion for this measure can be found on page 60.



Table 9: **TRADEMARK AVERAGE TOTAL PENDENCY (MONTHS)**

Fiscal Year	Target	Actual
2014	12.0	9.8
2015	12.0	10.1
2016	12.0	9.8
2017	12.0	9.5
2018	12.0	9.6
2019	12.0	9.3
2020	12.0	

**Target met.**

**Trend:** The trend line indicates that the performance trend is meeting goals within the target range. Additional discussion for this measure can be found on page 60.

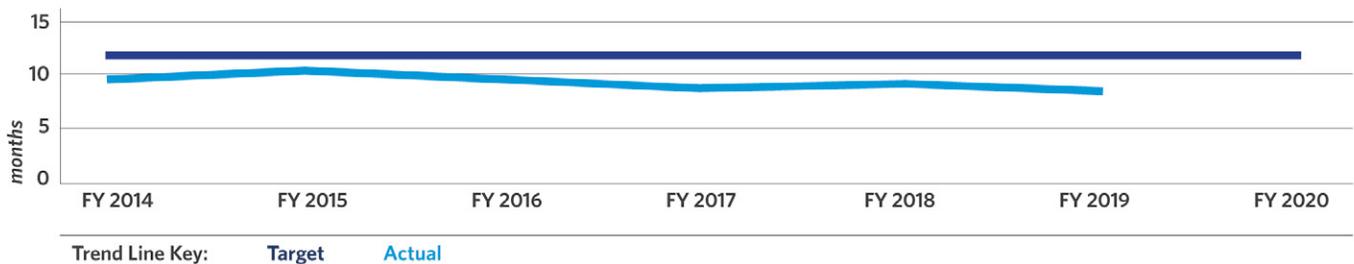


Table 10: **TRADEMARK APPLICATIONS PROCESSED ELECTRONICALLY**

Fiscal Year	Target	Actual
2014	78.0%	80.7%
2015	80.0%	82.2%
2016	82.0%	84.8%
2017	82.0%	86.5%
2018	86.0%	87.9%
2019	88.0%	88.4%
2020	88.0%	

**Target met.**

**Trend:** The trend line indicates positive performance. Additional discussion for this measure can be found on page 60.



## OBJECTIVE 2: ISSUE HIGH-QUALITY TRADEMARKS

Trademark examination quality is determined by the first and final compliance rate. Quality is assessed through an in-process review of the decisions made by the USPTO concerning compliance with the Trademark Act. Reviews are completed on first office actions and the examining attorney's final action approval or denying registration of a mark (see Tables 11 and 12).

Quality measurement takes into account adherence to registrability standards and the comprehensive excellence of USPTO actions, including research, writing, legal decision-making, and evidence. Trademarks routinely achieves quality targets and sustains high performance by standardizing training and feedback, promoting electronic filing and processing, increasing use of online tools and enhanced processes, and adopting more rigorous customer-centric measures. All three Trademark quality targets were met again in FY 2019, demonstrating the effectiveness of the organization's specialized training, online tools, and enhanced communication. The first action compliance rate is the total number of first actions without substantive decision-making errors made, substantive decision-making errors missed, and/or

substandard refusals under Section 2 of the Trademark Act divided by the total number of first actions reviewed. The final compliance rate is the total number of cases without substantive decision-making errors divided by the total number of reviewed final actions and cases approved for publication.

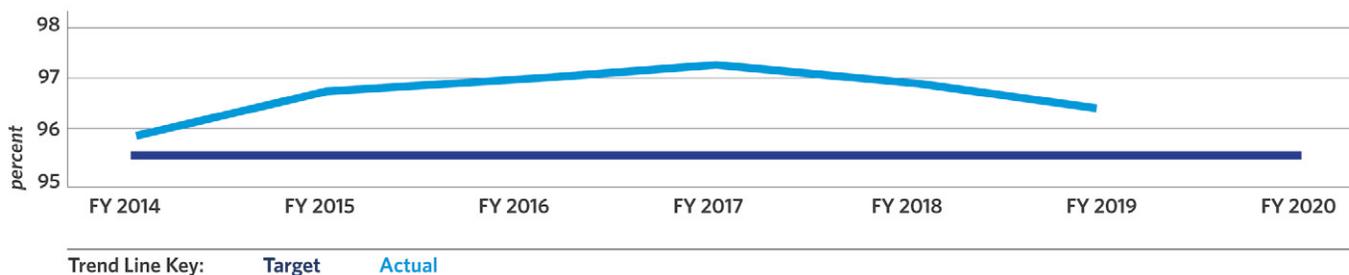
The USPTO has consistently exceeded its targets for the Exceptional Office Action, the most comprehensive quality measure (see Table 13). This illustrates the USPTO's commitment to ongoing excellence in searching, developing supporting evidence, writing office actions, and communicating decisions. The measure demonstrates the USPTO's holistic approach to quality and is calculated by the number of cases in which (a) there are no decision-making errors of any kind, (b) the search is sufficient, and (c) the writing and evidence for every issue raised is rated as excellent divided by the total number of first actions reviewed. The USPTO continues to concentrate on trademark quality by developing guidelines specific to quality review findings. The target has been raised consistently to reflect not only the new level of quality, but also to consider the impact of hiring a significant number of new examining attorneys and implementing new procedures or processes.

Table 11: **TRADEMARK FIRST ACTION COMPLIANCE RATE**

Fiscal Year	Target	Actual
2014	95.5%	95.8%
2015	95.5%	96.7%
2016	95.5%	97.1%
2017	95.5%	97.3%
2018	95.5%	96.9%
2019	95.5%	96.4%
2020	95.5%	

**Target met.**

**Trend:** The trend line indicates that the performance is maintaining standards within the target. This measure is the percentage of applications reviewed meeting the criteria for decision making for the first office action under the Trademark Act. Additional discussion for this measure can be found on page 62.



Mandatory training session for Trademark examining attorneys at the USPTO. (Photo: Jay Premack/USPTO)

The USPTO continues its multifaceted training program for its trademark examining attorneys and support staff. New examining attorneys are first trained in the classroom and then work with a mentor for an extended period. Experienced examining attorneys are provided with continuing training resources to improve performance. This includes in-house legal training by the USPTO's Office of Trademark Quality Review, ongoing trademark case law updates, and examination guidelines provided by the Legal Policy Office. The USPTO provides continuing legal education on relevant industry topics by outside lawyers and stakeholders and offers continued

training on best practices to utilize IT to provide new research resources and procedures to minimize errors. The USPTO continues to engage stakeholders in verifying trademark quality findings; offering user-group-provided, industry-specific training; and working with industry experts on updating identifications for goods and services. The USPTO provides regular meetings and roundtables with outside constituent groups, a customer call center, and an email box for direct communication with customers who provide valuable feedback about examination quality.

Table 14 shows how the USPTO evaluates the efficiency of the trademark examination process, as measured by the average cost of a trademark disposal compared with trademark direct and indirect costs. This efficiency measure is calculated by dividing total expenses associated with the examination and processing of trademarks (including associated overhead and allocated expenses), as well as multi-year investments in IT by outputs or office disposals. Actual results are based on total trademark-related expenditures office-wide compared with office disposals (e.g., abandoned and registered applications, etc.).

Table 12: **TRADEMARK FINAL COMPLIANCE RATE**

Fiscal Year	Target	Actual
2014	97.0%	97.2%
2015	97.0%	97.6%
2016	97.0%	97.8%
2017	97.0%	98.3%
2018	97.0%	97.9%
2019	97.0%	97.4%
2020	97.0%	

**Target met.**

**Trend:** The trend line indicates that the performance is maintaining standards within the target. This measure is the percentage of applications reviewed meeting the criteria for decision making for registration based on the examiner's approval or denial of the application including first office actions under the Trademark Act. Additional discussion for this measure can be found on page 62.



Table 13: **TRADEMARK EXCEPTIONAL OFFICE ACTION**

Fiscal Year	Target	Actual
2014	28.0%	43.0%
2015	36.0%	48.3%
2016	40.0%	45.4%
2017	40.0%	45.0%
2018	45.0%	48.0%
2019	46.0%	54.5%
2020	47.0%	

**Target met.**

**Trend:** The trend line indicates positive performance. Additional discussion for this measure can be found on page 62.

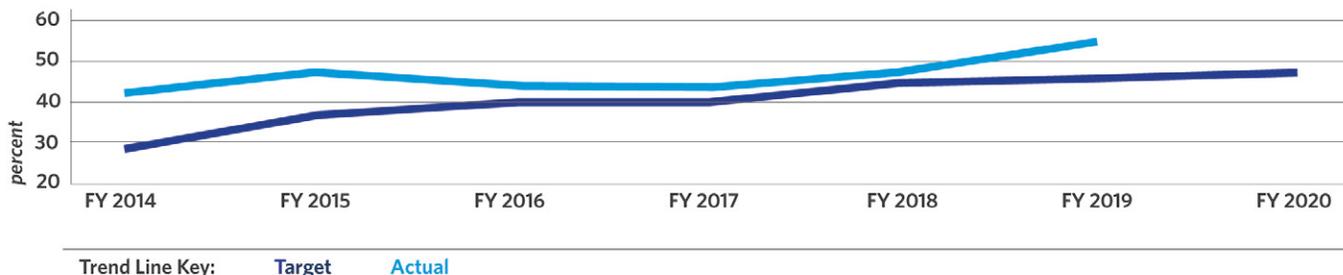


Table 14: **TOTAL COST PER TRADEMARK OFFICE DISPOSAL**

Fiscal Year	Target	Actual
2014	\$650	\$559
2015	\$673	\$667
2016	\$590	\$600
2017	\$561	\$586
2018	\$540	\$576
2019	\$536	\$600
2020	\$575	

**Target not met.**

### OBJECTIVE 3: FOSTER BUSINESS EFFECTIVENESS

#### Deliver a Comprehensive Information Technology Solution

In July 2019, USPTO senior leaders agreed to a new approach to deliver a full IT suite of applications to the Trademark business unit. Execution of an approximate three-year effort is scheduled to begin in the second quarter of FY 2020.

This new platform supplements the TMNG investment, which was launched in 2010 to replace legacy IT systems within the Trademark business unit. The initial goal of TMNG was to provide a web-based, cloud-enabled, and user-centered, end-to-end solution that was faster, more practical, more feature-rich, and more reliable for USPTO employees, trademark applicants, trademark owners, and the public at large. Given its scope, TMNG was sequenced into several “investments,” a term applied to a significant IT effort aimed at solving a defined business problem or need. The first phase of the TMNG initiative was a successful investment to dissociate Trademark IT systems from Patent IT systems by using “separation and virtualization.” The Trademark Status and Document Retrieval (TSDR) application was also delivered as part of the original TMNG investment.

Once the original TMNG investment was closed, the TMNG-2 investment commenced. The goal of TMNG-2 was to replace Trademark end-to-end workflow applications in a multi-year agile development effort. A second investment was established at the same time to replace the legacy intake applications, to build a next generation identification manual, and to develop an

electronic registration process. The identification manual and the electronic registration process were delivered as planned, but a replacement of legacy intake applications has not been delivered. After Phase 1, the subsequent investments were not delivered as planned. Upon review and evaluation before and during ongoing planning and prioritization discussion across the enterprise, resources for the remaining originally planned investments have been redirected for continued work in a new project. Much of TMNG remains viable, and the new project will leverage a great deal of what was previously developed and delivered. It will also introduce artificial intelligence and machine-learning solutions, as well as robust analytical and quality-enhancing features to ensure that the USPTO remains the global gold standard for IP electronic intake, processing, and mark certification.

#### Leveraging Business and Artificial Intelligence to Enhance Operations

The USPTO increased its use of business intelligence technologies to analyze data and produce usable information to help management make informed business decisions. In FY 2019, the Trademark Analytics group collaborated with stakeholders across the Trademark organization to build data models and to create dashboards and data visualizations. These tools help establish production targets and optimize staffing, as well as monitor production, pendency, and inventory. The results of these efforts were leveraged to drive training, improve processes, and achieve consistency across Trademarks. The impact to Trademarks has been positive, and in turn, has resulted in an increase in data requests from internal stakeholders throughout the USPTO. Over the next several years, the USPTO plans to build on this success by introducing artificial intelligence

capabilities to enhance predictive capabilities to more proactively meet the needs of Trademarks. Envisioned artificial intelligence capabilities will allow for more rapid and extensive image-searching, more tools to determine and mitigate fraudulent activities, and automated processes to increase production and improve quality.

### **Reducing Improper and Suspicious Filings and Safeguarding the Registry**

In FY 2019, the USPTO increased investments to target possibly fraudulent/bad faith trademark application filings and to help strengthen the integrity of the Trademark Register. The USPTO received a record 673,233 trademark application classes in FY 2019, but the agency also experienced increases in possibly fraudulent/bad faith trademark application and registration maintenance filings, which contribute to trademark cluttering (i.e., trademarks on the register that are not in use). Although the majority of filings are legitimate, some come with fake or altered specimens of use and false claims of use in U.S. commerce, and many appear to be pro se but are actually filed by unauthorized individuals from the filing country. A large percentage of these applicants choose the most economical filing option, but these applications can be expensive for the USPTO to examine, which poses financial risk to the organization. We have found that at least one country offers financial incentives to its citizens to encourage application filings outside of the country, which may partially explain filing increases in the United States. In response, the USPTO has taken a number of regulatory, operational, and administrative actions to address these challenges, which include:

- **U.S. Counsel Rule:** Effective August 3, 2019, the USPTO requires trademark applicants, registrants, and parties before the TTAB not domiciled in the United States to retain U.S. counsel so that there is a U.S.-licensed attorney responsible for the application and all other matters before the USPTO. The attorney is required to confirm that he or she is an active member in good standing of the U.S. bar. The new rule promises to be instrumental in ensuring the accuracy of submissions to the USPTO and helping enforce foreign applicant compliance with U.S. statutory and regulatory requirements.
- **Random Audits:** To maintain a trademark registration, between years five and six after the date of registration and every 10 years after the date

of registration, a registrant must file a maintenance document certifying that the mark is being used on all goods and services listed in the registration and must provide a specimen of use for each class of goods or services in the registration. The USPTO randomly audits maintenance documents and asks for additional proof of use for two additional goods or services in each class. If the registrant responds without providing the requested information, the USPTO requests proof of use for all goods and services in the registration. More than 60 percent of audited registrations have at least one good or service that must be deleted due to non-use. The USPTO recently doubled the number of registrations it audits to 5,000 per year based on the results of the initial effort.

- **Refusals of Registrations:** The USPTO updated its guidance to examining attorneys regarding reviews of specimens of use that appear to have been digitally altered or mocked-up. Examining attorneys now issue a refusal to register when a specimen is suspicious, along with an inquiry requesting additional information regarding use.
- **Specimen Database:** The USPTO is working to develop a searchable database of specimens so that it can better detect when the same image has been used by multiple applicants for different marks.
- **Post-Registration Proceedings:** The TTAB implemented a pilot program to identify procedures to accelerate disposition of cases claiming non-use or abandonment.
- **Exclusion Orders:** The Commissioner for Trademarks has excluded specific foreign practitioners from appearing before the USPTO when appropriate.
- **Secure Login:** As of October 26, 2019, the USPTO requires all applicants filing a trademark document to log in through [myuspto.gov](https://myuspto.gov) in order to file. By early 2020, this process will also require identification authentication.
- **Plain English Declaration:** In the declaration, an applicant or registrant makes a series of sworn statements regarding ownership and use of the mark on the listed goods and services. The USPTO has revised the declaration to make it more readable and understandable and to require that

boxes be checked by the signatory to make the declaration easier for the declarant to read and confirm.

These specified actions demonstrate the USPTO's commitment to protecting trademarks, but our efforts have also received national legislative attention. On July 18, Commissioner Mary Boney Denison testified before the U.S. House Subcommittee on Courts, Intellectual Property, and the Internet. The hearing, titled "Counterfeits and Cluttering: Emerging Threats to the Integrity of the Trademark System and the Impact on American Consumers and Businesses," featured expert testimony from leaders across the federal, academic, and not-for-profit sectors. Commissioner Denison provided an overview of the challenges and detailed the USPTO's current and planned efforts to strengthen the accuracy and integrity of the U.S. trademark register. For more details, please refer to Commissioner Denison's statement on the U.S. House Committee on the [Judiciary's website](#) or [watch the hearing](#).

### Improving the Customer Experience

Trademarks continued to execute a customer experience strategic plan to provide consistent, clear, and intuitive services to trademark customers. This focus on customer experience—what a customer thinks, feels, and does during interactions with the USPTO—enables the Trademarks business unit to bring customers to the center of what it does. In FY 2019, Trademarks implemented four customer surveys across various customer touchpoints. This included a survey on our office actions (official letters) sent during the examination of a trademark application to an applicant from a Trademark examining attorney. Placing a survey at this touchpoint enables the USPTO to gain insight into the customer experience as our staff conveys critical information to our customers for the first time.

The Trademarks business unit met all requirements associated with the Customer Experience Cross-Agency Priority Goal 4, established in the President's management agenda. The requirements, outlined by OMB in Circular A-11, Section 280, include conducting a customer experience maturity self-assessment and developing a customer experience action plan. The USPTO is also required to collect customer sentiment data and report specific data sets in dashboards to OMB, which will make the information publicly accessible.



USPTO Commissioner for Trademarks, Mary Boney Denison, gives a statement and testimony on emerging threats to the integrity of the trademark system to the U.S. House Committee on the Judiciary, Subcommittee on Courts, Intellectual Property, and the Internet during a hearing in the Rayburn House Office Building. (Photo: Jay Premack/USPTO)

### Education and Outreach

The USPTO engages with small businesses around the country with information about trademark basics, enforcement measures, and tools for protecting and enforcing trademark rights. These educational programs and materials target groups generally not acquainted with trademark information, such as non-trademark attorneys, the small business community, the entrepreneurial community, and students. The USPTO also partners with colleges and universities, entrepreneurship clubs, and similar groups to present lectures on trademarks and the importance of a strong mark that is both federally registrable and legally protectable.

The Trademarks organization recently launched a five-year nationwide public awareness anti-counterfeiting campaign, which is now in the research phase. On June 6, the USPTO hosted an anti-counterfeiting and brand protection event with The McCarthy Institute and the OPIA at USPTO headquarters in Alexandria, Va. Event participants included policymakers, practitioners, business owners, and USPTO staff. Topics included fighting counterfeits in a global market, utilizing new technologies to protect brands, enlightening allies in the fight against counterfeiting, consumer protection, and the role of government.

### Providing Access to Pro Bono Trademark Legal Services Through Law School Clinics

The USPTO assists patent and trademark applicants by providing pro bono services through its Law School Clinic Certification Program, which includes 52 actively participating colleges and universities. The program benefits both law school programs and the business owners they represent in filing applications and obtaining trademark

protection. The selection committee chooses schools based on their solid IP curricula, pro bono services to the public, and their community networking and outreach. The program enables law students enrolled in participating schools to process patent and trademark applications before the USPTO under the close guidance of an approved faculty supervisor. In FY 2019, 633 trademark applications were filed through the program, compared with 581 in FY 2018.

For a more in-depth discussion on pro bono services, see Mission Support Goal, Objective 4, “Enhance Internal and External Relations” on page 97.

#### **Collaboration with Global Peers and Stakeholders**

The Trademark organization works in close cooperation with its international IP partners to exchange ideas for the benefit of the trademark community. The 2019 TM5 (comprised of the five largest trademark offices worldwide) Midterm Meeting was held on May 18, 2019, in Boston, Mass. TM5 is comprised of the China National Intellectual Property Administration, the European Union Intellectual Property Office (EUIPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), and the USPTO. A central part of the meeting focused on the progress of 15 cooperative projects on a wide range of topics, including bad faith trademarks, quality management, user association involvement, and image search.

At the associated TM5 User Session, the five offices reported on their latest initiatives and cooperative projects with approximately 50 representative users from various countries. The next TM5 annual meeting will be held in Tokyo, Japan, in December 2019.

For further information on international cooperation, see Strategic Goal III, Objective 2, “Provide Leadership and Education on International Intellectual Property Policy and Awareness” on page 75.

#### **OBJECTIVE 4: ENHANCE OPERATIONS OF THE TRADEMARK TRIAL AND APPEAL BOARD**

The TTAB continues to monitor and evaluate the impact of the January 14, 2017, amendments to the Rules of Practice in Trademark cases. The transition to mandatory electronic filing and electronic communication between the parties has been successful and has contributed to the enhancement of operations at the TTAB. TTAB

continues to issue precedential orders that clarify and interpret certain aspects of the rules.

The TTAB continues to market to parties in trial cases the use of streamlined processes and procedures, including customizable variations of the accelerated case resolution (ACR) process, and FY 2019 saw an increase in the number of cases in which parties agree to use some form of ACR. Further, as part of the USPTO’s ongoing effort to improve the accuracy of the U.S. Trademark Register, TTAB is engaged in an expedited cancellation pilot program. The program uses existing ACR tools in a targeted effort to expedite cancellation cases involving assertion of abandonment and non-use claims.

In the first year of the pilot, more than 160 cases were identified as eligible for the program, with nearly 90 conferences held involving the parties and both a TTAB attorney and an ATJ. Parties in 15 cases agreed to use some form of ACR, whereas many others agreed to consideration of the possibility of the program. Settlement of many cases has been facilitated by TTAB participation in the parties’ mandated conferences.

The TTAB expanded its call for stakeholder input on the Standard Protective Order and received additional public comment through June 2019. The FY 2019 call for comments sought more specific comments than the FY 2018 call by asking more targeted questions and by marketing the call for comments more directly to various bar groups and organizations of customers. The effort resulted in an increased number of comments. Additional comments are still welcome.



Quarterly meeting of the Trademark Public Advisory Committee (TPAC) on July 26, 2019, at the USPTO. Left to right: TPAC Vice Chair Elisabeth Escobar and Commissioner for Trademarks Mary Boney Denison. (Photo: Jay Premack/USPTO)

TTAB remains committed to the transparent reporting of data and performance measures and continues to report its statistics and trends to the TPAC and at stakeholder events and Continuing Legal Education programs throughout the year. As of the end of FY 2019, the number of new cases being commenced, including appeals and trial cases, increased by 6.2 percent above the filing level for FY 2018. More significantly, the number of cases (appeals and trials) maturing to the point of being ready for a final decision increased by 14.5 percent over FY 2018. In addition, the percentage of trial cases in this category has increased. Trial cases, as a percentage of all cases requiring disposition on the merits, constituted approximately one-third of such cases, whereas they were less than one-quarter just a few years ago. Pend-ency measures for the time to decision on contested motions and time to decision on the merits increased in FY 2019, which was due largely to the increase in trial cases being filed and requiring disposition on the merits.

In FY 2018, TTAB delayed hiring administrative judges to fill vacancies created by the retirement of multiple ATJs, because the number of cases requiring disposition on the merits fell from FY 2017. To address the pendulum swing in FY2019 toward a larger number of cases, particularly trial cases, requiring disposition on the merits, TTAB on-boarded one deputy chief ATJ and three new ATJs; five new interlocutory attorneys were added in the last month of FY 2018 and were integrated into the staff in FY 2019. Additional ATJ and interlocutory attorney hires are anticipated in FY 2020.

TTAB continues to maintain its emphasis on written decisions that show full command of the facts, well-supported reasoning on law and policy, and overall consistency, yielding procedurally predictable processes. The TTAB has maintained its commitment to the on-time issuance of its annual revision of the Trademark Board Manual of Procedure in a searchable format and PDF. TTAB also continues to fulfill its commitment to

developing the law by issuing precedential opinions and orders, with such decisions issued in FY 2019 covering a wide variety of substantive and procedural matters.

To further the USPTO's commitment to public outreach, the TTAB and PTAB participated in joint hearing programs at Georgia State University in Atlanta, Ga., and at Northwestern University Law School in Chicago, Ill. Multiple interlocutory attorneys and ATJs participated in various other outreach events throughout the country, including moot court competitions in Dallas, Texas, and Atlanta, Ga.; 2019 Trademark Office Comes to California events in Los Angeles and San Francisco; the International Trademark Association Annual Meeting in Boston, Mass.; American Intellectual Property Law Association spring meeting/roundtable in Philadelphia, Pa., and St. Louis, Mo.; and the American Intellectual Property Law Association boot camp in Arlington, Va., among others.

To support the TTAB's mandate for 100 percent electronic filing and the subsequent mandate for the same by the Trademark examining operation, the TTAB continues to focus on the stabilization of its legacy IT systems, including the online system for submission of electronic filings to TTAB (Electronic System for Trademark Trials and Appeals), the electronic case file workflow system (TTABIS), and the public-facing online system for viewing TTAB case records (TTABVUE).

Updates that resolved critical issues and fixes were necessary, and aging technology was replaced where possible. TTAB continues to partner with Trademarks and the OCIO to provide information and support for efforts that focus on the development of next generation systems for appeal and trial cases. In addition, the aging equipment in the TTAB hearing room in Alexandria, Va., was upgraded in FY 2019 to better serve parties, examining attorneys, and administrative judges who appear for hearings before the TTAB.

# INTELLECTUAL PROPERTY: STRATEGIC GOAL III

## WHAT IS THE ROLE OF THE USPTO AND INTELLECTUAL PROPERTY POLICY?

The USPTO advises the President—through the Secretary of Commerce—and federal agencies on national and international IP policy issues, including IP protection and enforcement in other countries. The USPTO's strategic plan highlights these activities in Strategic Goal III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Enforcement, and Protection Worldwide.

## STRATEGIC GOAL III: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, ENFORCEMENT, AND PROTECTION WORLDWIDE

The USPTO is authorized by statute to provide guidance, to conduct programs and studies, and to interact with worldwide IP offices and international intergovernmental organizations on matters involving IP. The USPTO's initiatives to fulfill this mandate are reflected under Strategic Goal III. It leads negotiations on behalf of the United States at WIPO; advises the administration on the negotiation and implementation of the IP provisions of international trade agreements; advises the Secretary of Commerce and the administration on a full range of IP policy matters, including in the areas of patents, designs, copyright, trademarks, plant variety protection, and trade secrets; conducts empirical research on IP-related matters; and provides educational programs on the protection, use, and enforcement of IP.

### **OBJECTIVE 1: PROVIDE LEADERSHIP AND EDUCATION ON DOMESTIC INTELLECTUAL PROPERTY POLICY AND AWARENESS**

The USPTO works to meet Objective 1 by playing a leadership role in domestic and international IP initiatives and policy development for the administration and by engaging with Congress and federal agencies on legislative efforts to improve the IP system. In addition to providing policy formulation, the USPTO conducts a variety of educational and training programs on IP by encouraging and undertaking empirical studies on the economic impacts of IP and innovation and by improving access to IP-related data.

#### **Provide Domestic Policy Formulation and Guidance on Key Issues in All Fields of Intellectual Property Enforcement and Protection**

Throughout FY 2019, USPTO officials provided policy formulation and guidance by organizing numerous briefings for congressional staff and by conducting public meetings to solicit stakeholder views on a range of IP policy matters, including patent-eligible subject matter, protecting trade secrets, and combatting fraudulent trademark applications.

#### ***Patent Subject-Matter Eligibility Dialogues***

During FY 2019, the USPTO worked to revise its patent subject-matter eligibility guidelines, with the goal of providing clarity on the “abstract idea” judicial exception. It assisted Congress, as requested, in reporting challenges that the USPTO has faced in the wake of court decisions on § 101 of the Patent Act, and convened an international meeting on October 23–25, 2018, under the IP5 banner, on patent subject-matter eligibility to compare the eligibility standards of the world's five largest IP offices. This three-day seminar involved an in-depth analysis of examples in the area of life-sciences and computer-implemented inventions.

#### ***Artificial Intelligence Conference***

Artificial intelligence is expected to produce a new wave of innovation and creativity. At the same time, it poses novel challenges and opportunities for IP policy. In January 2019, the USPTO convened leading thinkers, policy makers, academics, and practitioners to examine the growing capabilities of artificial intelligence, its potential economic impacts, and its implications for IP policy and law.



USPTO Director Andrei Iancu speaks with exhibitors at a conference on the intellectual property policy considerations of artificial intelligence, which was held at USPTO headquarters on January 31, 2019. (Photo: Jay Premack/USPTO)

**Internet Policy Task Force**

As part of the work of the Department of Commerce's Internet Policy Task Force, in partnership with the National Telecommunications and Information Administration, in FY 2019 the USPTO followed up on recommendations made in the Internet Policy Task Force green paper, Copyright Policy, Creativity and Innovation in the Digital Economy. This work included organizing a public meeting in March 2019 on developing the digital marketplace for copyrighted works.

**European Union's Digital Single Market Initiative**

The USPTO played a leading role in FY 2019 in the administration's ongoing analysis of the copyright-related proposals in the European Commission's Digital Single Market Initiative, as well as the early stages of activity by the European Commission and Member States in implementing the directive.

**Improving the Accuracy of the U.S. Trademark Register**

Foreign applicants for U.S. trademarks have been increasingly filing inaccurate, and possibly fraudulent, papers with the USPTO, often with the assistance of unauthorized foreign practitioners. In FY 2019, the USPTO worked to devise ways of responding to this surge in the number of foreign applications, including rulemaking to require foreign-domiciled applicants to be represented by an attorney licensed to practice in the United States.

**Engage Other U.S. Government Agencies, Stakeholders, and Congress on Legislation That Improves the Intellectual Property System**

Throughout FY 2019, the USPTO continued to engage Congress, other U.S. government agencies, state and local elected officials, and stakeholders to discuss, promote, and implement effective and balanced IP-related legislation, policies, and administrative actions, as well as the operational needs of the USPTO. This engagement included matters involving patent subject-matter eligibility, conduct of post-issuance patent review proceedings, trends in trademark application filings, technical assistance regarding drug pricing proposals that impact the patent system, copyright small claims proceedings, cooperative educational efforts with the Small Business Administration, and USPTO operational matters related to the agency's fee-setting authority and telework programs.

In FY 2019, Director Andrei Iancu engaged in discussions with members of Congress and stakeholders about many of these issues, highlighted the agency's priorities, and strengthened communications and relationships.

The USPTO's efforts with congressional leadership led to an extension of the agency's fee-setting authority in October 2018. Congress extended the USPTO's fee-setting authority for an additional eight years (until September 16, 2026) when it passed the SUCCESS Act of 2018. As a result, the USPTO's financial stability is enhanced by strengthening its fee-based business model and allowing it to continue to set user fees to recoup its operational costs.

**Congressional Hearings**

During FY 2019, Director Iancu testified at three congressional hearings, including a general oversight hearing before the Senate Judiciary Committee's Subcommittee on Intellectual Property on March 13, 2019; a general oversight hearing before the House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Internet (House Judiciary IP Subcommittee) on May 9, 2019; and an oversight hearing before the Senate Appropriations Committee's Subcommittee on Commerce, Justice, Science, and Related Agencies on April 2, 2019. In addition, on July 18, 2019, Commissioner Denison delivered testimony before the House Judiciary IP Subcommittee on the rise in improper trademark submissions.

**Briefings and Congressional Staff Events**

USPTO staff provided briefings for congressional staff on budgetary, operational, and IP policy issues, including efforts focused on patent subject-matter eligibility, gender diversity within the patent system, prescription drug prices and patents, post-issuance patent review proceedings, and trademark and geographical indications initiatives.

During FY 2019, the USPTO supported various congressional events that focused on IP issues. These included programs for Capitol Hill staff and the public, co-hosted by the Congressional App Challenge and the Congressional Maker Caucus. The USPTO also hosted events on Capitol Hill and at its headquarters celebrating World IP Day.

**Regional and Local Events**

The USPTO conducted outreach to federal, state, and local elected officials in FY 2019 and hosted events that featured remarks from numerous government officials. In February 2019, for example, U.S. Reps. Doug Collins and Hank Johnson joined USPTO Director Iancu in addressing the importance of IP at an event in Atlanta, Ga., hosted by the U.S. Chamber of Commerce. In addition, Director Iancu met with business leaders in U.S. Rep. Lou Correa’s congressional district to share information on recent USPTO initiatives. In March 2019, U.S. Rep. Martha Roby delivered remarks highlighting the important contributions of women inventors at the USPTO renaming ceremony of the Clara Barton Auditorium. In June 2019, U.S. Rep. Hank Johnson gave keynote remarks at the USPTO Forum on Brand Protection and Anti-Counterfeiting Strategies. In November 2018, USPTO staff traveled to Chicago to participate in the Inclusive Innovation Forum co-hosted by U.S. Rep. Danny Davis and WIPO to discuss the report “Progress and Potential: A Profile of Women Inventors on U.S. Patents,” and in February 2019, Director Iancu and U.S. Rep. Zoe Lofgren convened a roundtable on diversity in tech held at the USPTO Silicon Valley Regional Office.

**Provide Domestic Education on Intellectual Property at All Levels, Including to U.S. Government Agencies, Stakeholders, the Public, and State and Local Communities**

The USPTO provides IP educational programming both to improve IP laws and their administration around the world and to enhance IP awareness and technical capacity. USPTO programming for U.S. stakeholders raises awareness of the importance of IP in an innovation economy and provides education about navigating foreign IP systems.

In FY 2019, OPIA conducted over 140 such training activities through its Global Intellectual Property Academy (GIPA), serving over 9,500 individuals (see Figures 5 and 6), exclusive of the efforts of the USPTO’s regional offices. Approximately 45 percent of all individuals served were domestic IP rights owners and users, and approximately 55 percent were patent, trademark, and copyright officials; prosecutors; police; customs officials; and IP policymakers.

Figure 5: **EDUCATIONAL PROGRAMS CONDUCTED BY GIPA, BY QUARTER, FY 2019**

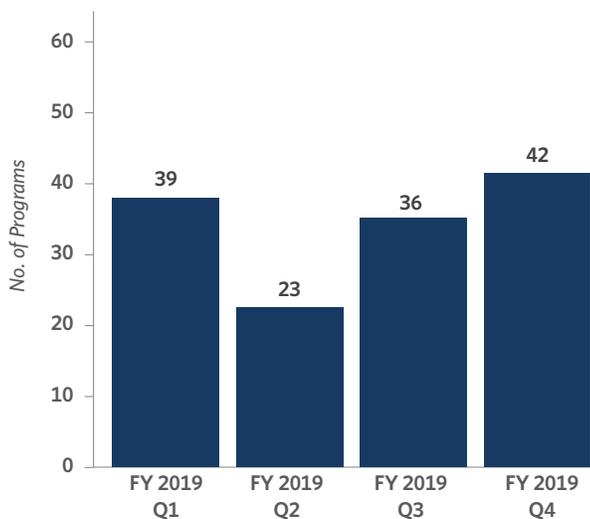
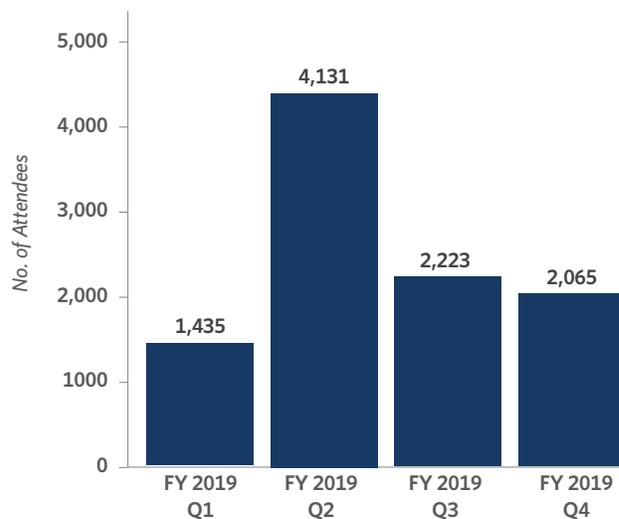


Figure 6: **ATTENDEES TRAINED BY GIPA, BY QUARTER, FY 2019**



In FY 2019, GIPA's domestic IP outreach focused on the importance of IP protection and enforcement to U.S. companies doing business abroad. Attendees included representatives of U.S. small- and medium-sized enterprises (SMEs), IP practitioners, academics, and IP rights owners and users.

GIPA also presented programs for U.S. officials and policymakers to provide updates on domestic IP law and policy. In FY 2019, 11 programs addressed such topics as IP protection and enforcement basics, and IP and consumer behavior.

#### ***Forum on Brand Protection and Anti-Counterfeiting Strategies***

On June 6, 2019, the USPTO held a public forum on brand protection and anti-counterfeiting strategies. It brought together speakers and more than 400 participants, representing a broad range of interests, to discuss current and developing trends in brand protection, the role of trademarks in the online economy, and strategies to combat counterfeiting.

#### ***Roundtable on Intellectual Property and Consumer Behaviors***

On November 29, 2018, the USPTO convened a roundtable discussion for U.S. government agencies on the latest developments, trends, and studies concerning consumer public awareness, educational outreach and messaging, and attitude and behavior research around respect for IP and anti-counterfeiting and anti-piracy messaging campaigns.

#### ***Workshop on Intellectual Property and Consumer Protection***

On April 23–25, 2019, the USPTO and the National Attorneys General Training and Research Institute's Center for Consumer Protection held a workshop at the USPTO's Texas Regional Office in Dallas. The program focused on the intersection of consumer protection issues and IP enforcement and brought together approximately 30 state assistant attorneys general, as well as officials from several Caribbean countries.

#### **Leveraging Technology to Increase Domestic and International Education, Training, and Outreach at All Levels**

In addition to conducting live, in-person programs, the USPTO continued to utilize technology to make

its training programs more efficient and to expand their reach. When possible, IP awareness programs are webcast live. In FY 2019, GIPA presented 16 programs with a distance-learning or remote engagement component. GIPA also continued a two-year quarterly webinar initiative to provide IP education to grantees of the Small Business Administration's Small Business Innovation Research and Small Business Technology Transfer programs.

In FY 2019, GIPA continued its nearly decade-long commitment to produce on-demand content through distance-learning modules on the USPTO website. These modules are available in five languages and cover six different areas of IP protection. This on-demand content collectively has drawn more than 99,000 unique views.

#### **Advocate for the Value of Intellectual Property as a Critical Driver of Innovation and Creativity**

The USPTO's work on developing IP policy is supported by empirical studies, including on the economic impacts of IP and innovation. These are conducted through the Office of the Chief Economist (OCE). OCE publishes reports on domestic and international policy issues and disseminates preliminary research through the USPTO Economic Working Paper series.

In FY 2019, the USPTO released a report entitled "Progress and Potential: A Profile of Women Inventors on U.S. Patents." It profiled women inventors named on U.S. patents from 1976 to 2016 and examined the trends and characteristics of their patents. It showed that women still comprise a small minority of patented inventors and highlighted the untapped potential of women to spur innovation in the United States. The USPTO also released four working papers and published four papers in academic journals during FY 2019. The USPTO hosted several domestic and international conferences in FY 2019. It also partnered with several academic institutions, including Northwestern University and Cardozo Law School, to co-host conferences on legal and policy developments in IP and their economic implications.

The USPTO is leading a multi-year, interagency effort to encourage empirical research on IP enforcement, particularly in the areas of illicit trade in counterfeit goods, patents, commercial scale piracy, and trade secret theft. In FY 2019, the group published an online inventory

of resources for use by scholars and policymakers interested in researching IP enforcement. It also completed two reports on the state of the evidence and understanding on the existing and emerging issues relevant to commercial-scale piracy and trade in counterfeit goods.

### **Improved Transparency of and Access to Intellectual-Property-Related Data**

The USPTO continues to expand its efforts to improve the utility of IP data. In FY 2019, it enhanced the performance and data coverage of PatentsView, the patent data web tool that allows users to explore more than 40 years of data on inventors, their organizations, locations, and overall patenting activity.

In FY 2019, the USPTO released new and updated datasets in forms convenient for both public use and academic research on matters relevant to IP, entrepreneurship, and innovation. The USPTO also continued its collaborative efforts with the University of San Diego to create new data products on patent litigation.

## **OBJECTIVE 2: PROVIDE LEADERSHIP AND EDUCATION ON INTERNATIONAL INTELLECTUAL PROPERTY POLICY AND AWARENESS**

The USPTO advances this objective in many settings and through a variety of undertakings. It helps lead efforts to improve IP rights systems in other countries, it provides technical expertise in the negotiation and implementation of international agreements that improve IP rights protection and enforcement, and it places a particular emphasis on China, working with the administration to improve IP protection and enforcement in that country. In performing these activities, the USPTO draws on subject-matter experts in the OPIA and its network of IP attachés based around the world.

### **Provide International Policy Formulation and Guidance on Key Issues in All Fields of Intellectual Property Enforcement and Protection**

Throughout FY 2019, the USPTO provided policy advice and technical expertise on domestic and international IP matters to multiple federal agencies, including the Office of the United States Trade Representative (USTR), the Office of the U.S. Intellectual Property Enforcement Coordinator, the Department of State, and other bureaus of the U.S. Department of Commerce.

The USPTO advised the USTR in the negotiation of trade agreements, on Trade Policy Reviews undertaken at the World Trade Organization (WTO), and on the proposed accessions of over 22 countries to the WTO. The Trade Policy Review process allows WTO members to examine each other's trade policies on an agreed-upon schedule.

The USPTO also assisted the USTR in the preparation of its annual review of global developments on trade and IP, the Special 301 Report. This report identifies U.S. trading partners that have not provided appropriate IP protection and enforcement, or market access, for U.S. rights holders.

The USPTO assisted USTR in the preparation of its annual Notorious Markets List. The list highlights prominent online and physical marketplaces that reportedly engage in and facilitate substantial piracy and counterfeiting.

The USPTO also provided advice to the USTR on its Section 301 investigation, "China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation"; helped with a case that the United States filed against China at the World Trade Organization on "Certain Measures Concerning the Protection of Intellectual Property Rights"; and provided assistance in the preparation of sections of the USTR's National Trade Estimate Report that relate to IP. The USPTO also provided advice to the State Department with regard to the negotiation of revisions needed to renew the U.S.-China Science and Technology Agreement.

The USPTO serves as the IP advisor to the Department of Commerce's National Telecommunications and Information Administration, which represents the U.S. government in the Governmental Advisory Committee of the Internet Corporation for Assigned Names and Numbers. In FY 2019, the USPTO focused on several internet-related priority issues for IP stakeholders, the most critical of which involves ensuring continued access to WHOIS domain name registrant contact information. The USPTO was also instrumental in evaluating the treatment of geographic terms in generic top-level domains and tools for protecting against cybersquatting.

### **Provide Leadership, Support, and Advice to the Administration in Negotiating and Monitoring Compliance with Intellectual Property Agreements and Intellectual Property Provisions in Trade Agreements**

In FY 2019, the USPTO continued to provide expert technical advice on IP protection and enforcement in connection with ongoing negotiations of trade agreements and to monitor the implementation of existing trade agreements. It is important to note that the USPTO served as technical experts in the negotiation of the United States–Mexico–Canada Agreement.

The USPTO also assisted the Department of Commerce and the USTR in examining trade agreement compliance and abuse. The USPTO advised the USTR on IP issues relating to the WTO, including 14 Trade Policy Reviews during FY 2019. At the USTR's request, the USPTO assisted in trade negotiations with China. The USPTO provided technical advice to the USTR on IP issues and participated in exploratory discussions with the United Kingdom held by the U.S.–U.K. Trade and Investment Working Group. It participated in discussions on potential free trade agreements with Japan and the Philippines.

The USPTO also participated in negotiations of the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters, providing technical expertise to the State Department in successfully obtaining the exclusion of IP cases from the scope of the convention.

In addition, the USPTO advised the State Department on numerous IP issues that arose in the Organization for Economic Cooperation and Development, including those related to new member accession and Organization for Economic Cooperation and Development studies on artificial intelligence, counterfeiting, and the digital economy.

### **Lead Administration Efforts at the World Intellectual Property Organization and Other International Organizations to Improve Intellectual Property Enforcement, Protection, and Cooperation Worldwide**

The USPTO represents the U.S. government in IP discussions in intergovernmental organizations, such as WIPO, and with forums of the world's largest IP offices (the IP5, TM5, and the Industrial Design 5 (ID5)—each involving the relevant offices of the United States, China,

Europe, Korea, and Japan). Its efforts are focused on furthering U.S. IP policy, enhancing the international framework administered by WIPO, and improving IP systems in general.

#### ***WIPO Patent Cooperation Treaty***

The United States is a member of the WIPO-administered PCT. The PCT system enables inventors to apply for patent protection in multiple countries via a single international patent application.

One of the PCT's undertakings is the Collaborative Search and Examination pilot, through which examiners from the IP5 collaborate on corresponding PCT applications pending at their respective offices. The program helps U.S. rights holders by facilitating more comprehensive reviews of their PCT patent applications through a high-quality collaborative search. In FY 2019, the USPTO continued to lead the United States' participation in a successful effort to enhance the program's operational phase, including by increasing USPTO participation in a program to simplify the payment of PCT fees.

#### ***WIPO Advisory Committee on Enforcement***

In FY 2019, the USPTO maintained an active presence at meetings of the WIPO Advisory Committee on Enforcement through written and oral submissions and by highlighting U.S. government activities on public awareness and IP enforcement.

#### ***WIPO Standing Committee on Copyright and Related Rights***

In FY 2019, the USPTO led the administration's efforts at the WIPO Standing Committee on Copyright and Related Rights. These efforts focused on a proposed treaty for the protection of the rights of broadcasting organizations, as well as ongoing discussions regarding copyright limitations and exceptions for libraries and archives, educational and research institutions, and persons with disabilities.

#### ***International Union for the Protection of New Varieties of Plants***

In FY 2019, the USPTO continued to provide leadership at the International Union for the Protection of New Varieties of Plants by helping facilitate the accession of new members and by providing educational programs.

**International Dialogue on Geographical Indications**

A geographical indication (GI) can be a place name or any sign or symbol that consumers associate with a particular good that only comes from a particular place. In FY 2019, the USPTO sought to advance U.S. interests as they relate to GI protection systems at the international level. It negotiated the beginnings of a work plan to revive discussion of GIs at WIPO and mitigate the potential harmful effects of recent revisions to the Lisbon System for the International Registration of Appellations of Origin.

The USPTO continues to explore options for a system at WIPO that would better protect the interests of all U.S. stakeholders in the area of GIs. In addition, USPTO has assisted USTR in pursuing trade agreements that would contain appropriate due process protections and defenses of users of GIs.

**Improved Efficiency and Cooperation in the Global Patent System**

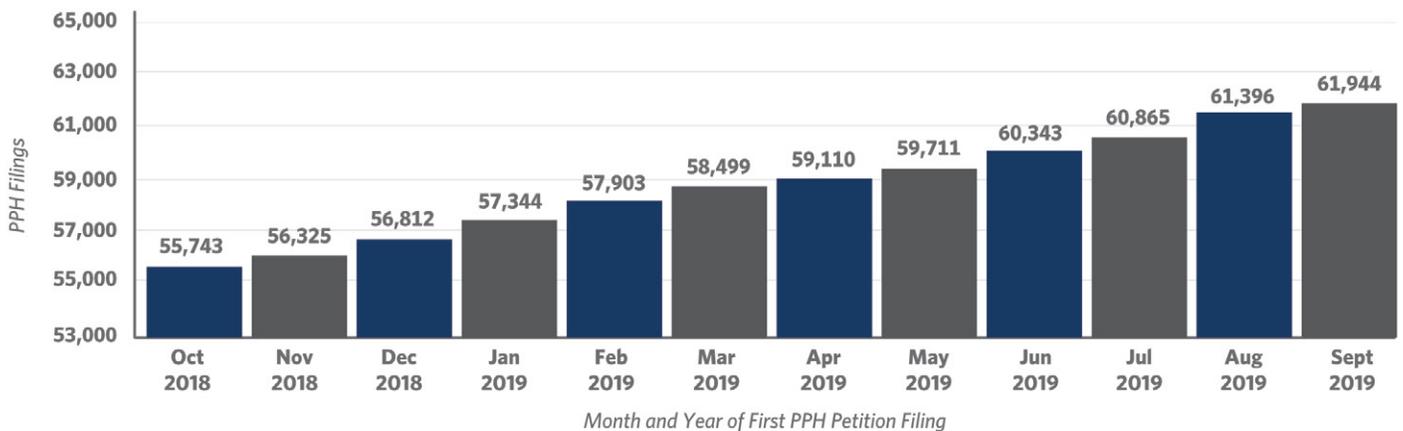
Patent work-sharing with other IP offices continued to be a key element of the USPTO’s international engagement

in FY 2019. The PPH allows an applicant who receives a positive ruling on a patent application from one participating office to request accelerated prosecution of corresponding applications in other participating offices. This potentially enables an applicant to obtain patents more quickly, and at less expense, in multiple jurisdictions and also allows the participating offices to leverage each other’s work.

The PPH framework continues to be embraced across the world. As of September 30, 2019, a cumulative total of 61,944 applications with petitions had been filed under the PPH, with 53,814 applications granted. Figure 7 shows the USPTO’s cumulative PPH filings for FY 2019.

Global PPH, and the closely related IP5 PPH, represent the culmination of the USPTO’s efforts with the PPH framework. It simplifies the existing network by replacing multiple bilateral PPH arrangements with a single, centralized framework, creating efficiencies for both IP offices and applicants.

Figure 7: **CUMULATIVE PATENT PROSECUTION HIGHWAY (PPH) FILINGS IN FY 2019**





The USPTO's Chief Policy Officer and Director for International Affairs, Shira Perlmutter, speaks at a meeting of the IP5 at USPTO headquarters on October 23, 2018. The IP5 is a group comprised of the world's five largest patent offices. (Photo: Jay Premack/USPTO)

### **Engagement with International Partners at the IP5**

The USPTO continued to engage with the IP5. In FY 2019, the IP5 agreed to coordinate preparations for global technological transformations in artificial intelligence and other new and emerging technologies and engage in efforts in new areas related to the harmonization of examination practices.

### ***Improved Efficiency and Cooperation in the Global Industrial Design System***

Throughout FY 2019, the USPTO continued its efforts to improve the global industrial design system, including through its leadership at WIPO and at the ID5.

At WIPO, the USPTO continued to lead the discussion and study of new technological designs, including designs for graphical user interfaces (GUIs), icons for electronic displays, and designs for typefaces and type fonts. The ID5 continued collaborative work on a range of projects, including grace period, partial designs, electronic priority document exchange, and designs in emerging technologies. These projects are designed to aid the United States and other rights holders in their efforts to obtain protection for their designs in multiple jurisdictions and to provide enhanced—and easily accessible—information about design protection.

### ***Improved Efficiency and Cooperation in the Global Trademark System***

The USPTO advanced several strategic cooperative projects through the TM5. One ongoing TM5 project led by the USPTO is the TM5 ID List, which entails the ongoing development of a harmonized pick-list of descriptions of goods and services. During FY 2019, work continued on expanding the number of entries in this list

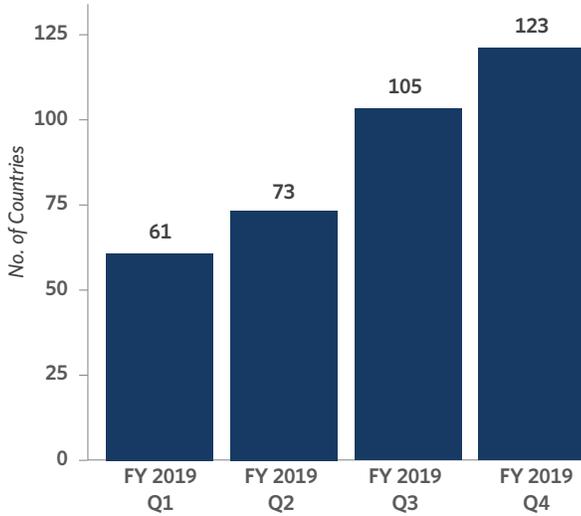
and their translations into multiple languages. In FY 2019, USPTO continued to help lead other TM5 projects including a project aimed at combatting fraudulent and misleading solicitations to trademark owners, a project to raise public awareness about counterfeit and infringing goods, and an effort to combat the problem of bad faith trademark filings, a practice through which bad actors seek to register trademarks that belong to others.

### **Engage Other Governments to Improve Their Intellectual Property Enforcement and Protection, Including by Providing Education and Capacity Building**

In FY 2019, the USPTO continued to develop and provide capacity-building programs to help improve IP systems in key countries and regions for the benefit of U.S. stakeholders. The programs addressed a full range of IP protection and enforcement matters, including enforcement of IP rights at national borders, internet piracy, health and safety threats from counterfeit goods, trade secrets protection and enforcement, copyright policy, and patent and trademark examination. Participants included officials with IP-related responsibilities, such as judges, prosecutors, health officials, customs officers, patent and trademark examiners, and IP office administrators.

The USPTO has also entered into a number of agreements with intergovernmental organizations. One of these was a memorandum of understanding signed with INTERPOL's Illicit Goods and Global Health Program in 2017. Under the arrangement, the USPTO and INTERPOL cooperate on training and capacity-building programs to promote effective IP enforcement internationally. Collaborations under the INTERPOL memorandum of understanding in FY 2019 included a July 2019 Central

Figure 8: **CUMULATIVE NUMBER OF COUNTRIES TRAINED BY GIPA IN FY 2019**



Asia regional program on trafficking in counterfeit goods. In a related development, in FY 2019, the USPTO finalized an interagency agreement under the State Department’s Middle East Partnership to conduct IP enforcement programs in Morocco, Algeria, Tunisia, Jordan, Qatar, Bahrain, and Kuwait.

In FY 2019, the USPTO trained over 9,500 participants, including nearly 3,000 foreign government officials representing more than 120 countries (see Figure 8). A complete list of all countries represented at GIPA trainings in FY 2019 is available online at the [USPTO Data Visualization Center](#).

Table 15 shows the total number of people, including foreign government officials and U.S. stakeholders, trained through GIPA on best practices to protect and enforce IP in FY 2019. This is the sixth year in which this measure has been directly aligned with the USPTO’s performance progress under Strategic Goal III.

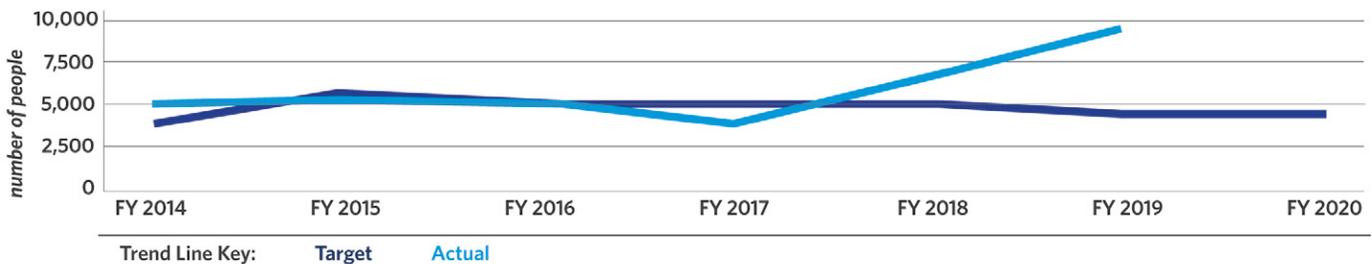
Table 15: **NUMBER OF PEOPLE, INCLUDING FOREIGN GOVERNMENT OFFICIALS AND U.S. STAKEHOLDERS, TRAINED ON BEST PRACTICES TO PROTECT AND ENFORCE INTELLECTUAL PROPERTY\***

Fiscal Year	Target	Actual
2014	4,300	4,960
2015	6,300	5,283
2016	5,000	4,975
2017	5,000	4,134
2018	5,000	7,242
2019	4,500	9,854
2020	4,500	

\*Measure updated in FY 2018 to include U.S. stakeholder education to reflect administration priorities.

**Target met.**

**Trend:** The trend line indicates that the performance trend is increasing with significant variability in predicting future results. Additional discussion for this measure can be found on page 79.





USPTO Director Andrei Iancu (right center) speaks with the USPTO's IP attachés during their annual series of industry and government consultations in the Washington, DC, area in December 2018. (Photo: Jay Premack/USPTO)

### **Work with Congress on Matters Pertaining to International Agreements and Their Implementation**

In October 2018, Congress passed the Marrakesh Treaty Implementation Act, implementing the Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Disabilities. The USPTO worked with Congress to refine the implemented legislation and also worked with the State Department and the White House in the preparation and deposit of the instrument of ratification of the treaty, which was signed by President Trump on January 28, 2019.

### **Work with the Administration to Improve Intellectual Property Enforcement and Protection in Countries of Interest, Including Through the Intellectual Property Attaché Program**

The USPTO worked throughout FY 2019 to improve IP protection and enforcement for U.S. stakeholders in countries of interest. The USPTO utilizes its experts to work with the IP attachés in their respective regions to advance U.S. stakeholder interests and to collect information to inform policy consideration in the United States.

### **Engagement with Chinese Officials**

The USPTO continued to engage with Chinese government officials responsible for IP rights enforcement, monitoring changes to Chinese laws and regulations that affect IP, and conducting educational programs for those officials.

The USPTO has three IP attachés posted to China. They work closely with U.S. law enforcement attachés and are in contact with Chinese government IP agencies to discuss enforcement challenges.

On several occasions during FY 2019, the USPTO's Director and other USPTO officials met with Chinese government officials to discuss technical cooperation and outstanding IP policy issues facing the United States and China.

### ***IP Attaché Program***

In FY 2019, the USPTO continued its ongoing effort to enhance the effectiveness of the IP attachés posted in prioritized areas. The USPTO selected five new IP attachés for deployment to Guangzhou, China; Shanghai, China; New Delhi, India; Mexico City, Mexico; and Kyiv, Ukraine. The USPTO will soon be selecting new IP attachés for deployment to Brussels, Belgium; Rio de Janeiro, Brazil; and Lima, Peru. The USPTO also has ensured that all the IP attachés continue to promote U.S. policies and U.S. stakeholder interests overseas.

During FY 2019, the USPTO worked to increase interactions between the IP attachés and U.S. stakeholders through meetings with different rights-holder groups, including the American Intellectual Property Law Association, the International Anti-Counterfeiting Coalition, and the International Trademark Association. The attachés also continued to lead the USPTO's successful implementation of action plans in prioritized countries, as shown in Table 16.

Table 16: **PERCENTAGE OF PRIORITIZED COUNTRIES FOR WHICH INTELLECTUAL PROPERTY COUNTRY TEAMS HAVE MADE PROGRESS ON AT LEAST 3 OF THE 4 PERFORMANCE CRITERIA\***:

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

Fiscal Year	Target	Actual
2014	75.0%	100.0%
2015	75.0%	100.0%
2016	75.0%	100.0%
2017	75.0%	100.0%
2018	66.0%	100.0%
2019	66.0%	66.0%
2020	66.0%	

\*Target updated in FY 2018 to reflect a decrease in the number of prioritized countries from four to three.

**Target met.**

**Trend:** The trend line indicates that the performance is maintaining standards for the target. Additional discussion for this measure can be found on page 80.



Trend: The trend line indicates that the performance is maintaining standards for the target.

Trend Line Key: Target Actual

### Advocate for the Value of Intellectual Property as a Critical Driver of Innovation and Creativity

In FY 2019, the USPTO worked to demonstrate the critical role IP plays in promoting innovation, creativity, and product quality.

In February 2019, the OCE collaborated with the International Journal of the Economics of Business to produce a special issue on the effects of IP on economic incentives and market outcomes. These papers examined how the major forms of IP used in the United States shape the nature of innovation and the pace of modern economic growth.

# MISSION SUPPORT GOAL

As a performance-based organization, the USPTO believes that accomplishing our organizational goals, objectives, and initiatives requires strong and diverse leadership through collaborative management. Delivering organizational excellence is a shared responsibility. Establishing a mission-oriented culture built on quality customer experiences, sound resource management, reliable workforce planning, and stabilized modernized IT systems and services is critical. Delivering organizational excellence requires a workforce that is connected to the mission and each other. It requires a culture that understands and embraces a shared commitment to the USPTO mission, sees collaboration with fellow employees as a path to success, and is dedicated to providing a superior customer experience.

# MISSION SUPPORT GOAL: DELIVER ORGANIZATIONAL EXCELLENCE

## OBJECTIVE 1: ENHANCE HUMAN CAPITAL MANAGEMENT AND FOSTER EMPLOYEE ENGAGEMENT

### Optimize the Performance Culture

One of the USPTO's highest priorities is to continue strengthening its performance culture by maintaining a results-oriented, high-performing nationwide workforce. The USPTO accomplishes this goal through the design of its performance management system. The USPTO requires that each performance plan is directly linked to organizational goals. In addition, supervisors must provide regular and consistent feedback on individual employee performance. The USPTO provides ongoing training each year to ensure that supervisors and managers can successfully apply all aspects of the performance management system.

The USPTO established a workforce council comprised of business unit liaisons across the agency. This collaborative effort helps to ensure consistency of conduct and performance-related matters. The USPTO recognizes that consistency and transparency of common issues and best practices will improve objectivity and integrity of the conduct and performance processes.

The USPTO continues to work to use labor-management relations as a tool to obtain employee input on projects that deliver stakeholder value. Building on our foundation of collaborative successes in recent years, the USPTO is working to make union engagement simultaneously efficient and effective and a useful tool for promoting employee engagement and representation in our ongoing initiatives.

### Leverage Best Practices to Attract, Recruit, and Retain an Engaged, Diverse, Mission-Focused, and Talented Workforce

In FY 2019, hiring included 536 mission-critical hires (e.g., patent examiners, administrative APJs, trademark examining attorneys, IT specialists, human resources specialists, contract specialists, and general attorneys). Veteran-hiring percentages were 7.3 percent for patent

examiners and 9.3 percent for non-patent examiner hires. In FY 2019, the USPTO continued to recruit highly-qualified, diverse candidates to achieve hiring goals, including enhancing recruitment efforts for veterans and persons with disabilities. The USPTO leverages proven 21st-century strategies that build awareness and engagement among key demographic groups, including (but not limited to) skilled professionals to fill mission-critical occupations, millennials, Gen Z, people with disabilities, veterans, African-Americans, Hispanics, and women. These efforts are anchored by visual storytelling on social media, throughout USPTO's primary digital property ([www.uspto.gov](http://www.uspto.gov)), and via video. These strategies not only highlight the USPTO's unique mission, but they also help the agency remain competitive in an economy with a healthy job market.

Ongoing outreach supports succession planning and increases the pipeline of talent to bolster a dynamic workforce, including hosting in-person and virtual hiring fairs; attending information sessions and conferences at colleges, universities, and minority-serving institutions; and taking part of industry events to help the agency engage with top talent across all disciplines and demographics.

### Social Media

Engagement metrics on social media and other digital properties including [www.uspto.gov/jobs](http://www.uspto.gov/jobs) show that USPTO strategies remain effective. Integrated and interactive digital recruitment strategies launched through social media channels (e.g., LinkedIn, Twitter, Facebook, Instagram, and YouTube) help the USPTO continue to connect and stay connected with potential candidates. As of the fourth quarter of FY 2019, the USPTO had over 37,000 followers on LinkedIn, which is a 30 percent increase over 2018. Thanks in large part to several successful Twitter events and campaigns designed to promote mission-critical occupations and veteran-hiring opportunities, we realized a double-digit increase in the number of our followers. The USPTO currently has over 50,000 followers, which continues to rise year over year.

FY 2019 marked a turning point for advancing social media activities in support of targeted recruitment efforts. In March, the USPTO hosted the agency's [first-ever Facebook Live segment about patent examining positions](#). Filmed on the first day of a two-day patent examiner recruitment open house at the USPTO Alexandria, Va., headquarters, views of the segment are at 1,900 and growing. The segment offers integrated career experiential information to give viewers a sense of a "day in the life" of a patent examiner and provides persuasive information to help "sell" the USPTO brand as a top employer of choice among engineers.

### ***Veteran Hiring Program***

In FY 2019, the USPTO's Veteran Hiring Program (VHP) participated in 20 recruitment events, including Recruit Military, Hiring Our Heroes, Military Officers Association of America, Military Officer Job Opportunities, Service Academy Career Conference, various events in conjunction with Fort Belvoir and Fort Myer, and Operation Warfighter/Wounded Warrior. In addition, the VHP partnered with the USPTO Military Association to host a recruitment event for veterans and military spouses at USPTO headquarters. The VHP team has focused on a continued partnership with various veteran organizations to establish fruitful relationships and to increase awareness of our non-competitive hiring program across military installations and federal government alike. The VHP continues to seek innovative outreach and educational opportunities for veterans.

As part of the USPTO's ongoing support of the VHP, the agency embarked on a first-ever television initiative to promote the USPTO as a top employer of choice to veterans. The USPTO was sought out to become a strategic partner to BrandStar, the only production company in the United States with a nationally syndicated program, "Military Makeover: Operation Career," which targets transitioning service members. This show is broadcasted on a major cable network, Lifetime Television. The USPTO was featured in [Episode "PID: 105204,"](#) which debuted on February 27 and repeated a week later on March 6.

### ***Pathways Programs Hiring***

In FY 2019, the USPTO actively recruited under the Pathways Programs to attract currently enrolled students, as well as recent graduates. The goal of hiring under these programs is to improve recruiting efforts, to offer clear

paths to internships for students from high school through post-graduate school, to provide careers for recent graduates, and to provide training and career development opportunities for diverse groups of individuals who are at the beginning of their federal service.

### ***Collaborative Relationships with USPTO's Affinity Groups***

The USPTO is proud to have an incredibly diverse workforce with many employees of various back-grounds and cultures. The USPTO has a network of 17 affinity groups, which are voluntary employee organizations based on a shared common background and/or special interest. Each group is led by a team of volunteers who host cultural, social, and career-development programs and events for their members and for the wider USPTO community, including regional offices. Affinity group leaders participate in a quarterly Council of Leaders meeting, in which information and resources are shared, and participants have an opportunity to network and exchange ideas over refreshments provided by a spotlight affinity group.

The USPTO's OEEOD has a Diversity Program Office that continues to work with the USPTO's employee affinity groups to co-sponsor programs that promote cultural understanding, such as the annual Community Day, the International Food Sample Festival, and the Festival of Lights. Initiatives such as the annual wall calendar, which features affinity groups and special emphasis months, remain in high demand by employees. Moreover, USPTO and its affinity groups sponsor special emphasis month events, including flagship events with speakers, dance performances, and more. The USPTO also works to support the events of affinity groups unique to the agency, such as the Asian Pacific American Network's annual Lunar New Year and Diwali celebrations, the American Muslim and Arabic Cultural Association and Bangladeshi American Intellectual Property Organization's joint Eid al-Fitr luncheon to celebrate the end of Ramadan, the Intellectual Property Society of Iranian American's Nowruz lunch, and the USPTO Military Association's annual "Walk of Thankful Recognition" to commemorate Memorial Day.

In FY 2019, the USPTO launched a podcast, the Diversity Download, on Community Day, May 2, 2019. Hosted by OEEOD Director Bismarck Myrick, the podcast is designed to dispel the idea that diversity and inclusion is simply about race or gender, provide busy USPTO

employees with highly valuable content that they can consume on-the-go, be inclusive of teleworking employees and provide a way for them to “participate” in diversity-related events, and create a community to celebrate USPTO employees’ successes.

In addition, OEEOD—in collaboration with USPTO employees who are also alumni of the University of Puerto Rico (UPR) and members of the USPTO chapter of the Society of Hispanic Professional Engineers—sponsors an annual recruitment and outreach event to Puerto Rico to inform the public of the services that the USPTO provides to inventors; entrepreneurs; science, technology, engineering, and mathematics (STEM) students and academics; and others in the IP sectors. Moreover, OEEOD employees and UPR alumni from both the Trademarks and Patents organizations recruit talent from UPR career fairs.

### ***Career Enhancement Opportunities***

The USPTO continues to provide training for employees who are in positions or occupational series that offer limited opportunities for advancement. Topics include job opportunities, professional development, resume writing and interviewing skills, and financial literacy, which includes retirement planning.

The continued funding for such programs as the After Work Education (AWE) Program reflects the value that the USPTO places on educational opportunities and career advancement for employees. A component of the career enhancement opportunities (CEO) umbrella, AWE is a voluntary program available to eligible employees to develop and enhance work skills related to the agency’s mission by taking classes at an accredited college or university. The courses under this program benefit both the employee and the USPTO by either improving an employee’s current performance, allowing for expansion or enhancement of an employee’s current job, or enabling an employee to develop skills and/or knowledge for other agency positions.

Another CEO component, the USPTO Upward Mobility Program, provides specific career-development opportunities for employees who are in positions or occupational series that offer limited opportunities for advancement. Under this program, eligible employees apply for available trainee positions in which an individual

training plan is developed to assist with and to track their growth in the position. Upon successful completion of an individual training plan, employees may be reassigned or non-competitively promoted to the corresponding target position’s full promotion potential.

The eight-month voluntary Administrative Professionals Excellence (APEX) Program includes a comprehensive curriculum for technical and administrative support staff employees at the GS-5 through GS-12 levels. The APEX Program is designed to provide meaningful learning opportunities to enhance professional career and personal growth focused on six competencies. Learning activities include a blend of live classroom discussions, core and elective self-paced computer-based training modules, and a mid-year review, and concludes with a capstone project. In FY 2019, 40 employees participated in the APEX Program, and 32 successfully graduated.

### ***Enterprise-Wide Mentoring Program***

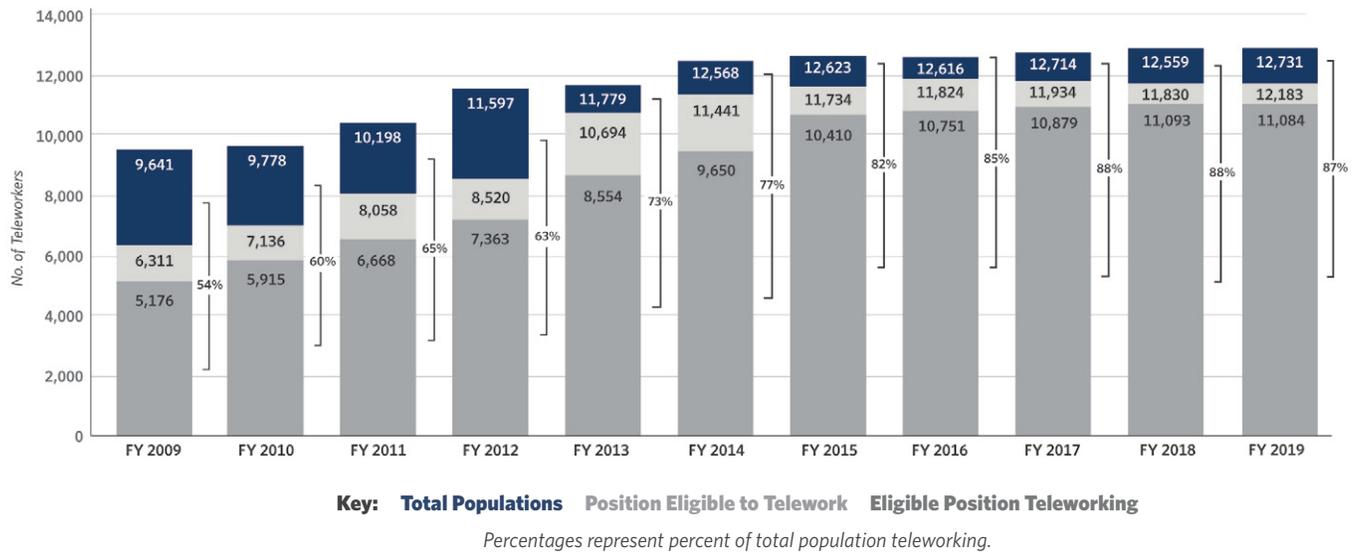
The Enterprise-Wide Mentoring Program is a nine-month formal mentoring partnership that provides resources for employees to work with others to achieve their career development goals. Comprehensive support includes a facilitated matching process, guidance for developing a mentorship action plan, and formal training for mentors and mentees. In FY 2019, there were 178 mentoring pairs and 48 situational mentors for a total of 404 participants in the program.

### ***Continue to Strengthen the USPTO Telework Environment***

We continue to demonstrate our strong commitment to telework, with over 11,000 employees from all business units and the regional offices now participating to some extent in the overall USPTO telework program. This objective highlights our commitment to continuous improvement in the telework program, making management opportunities attractive to our teleworkers, and developing skills for our managers that will enhance their effectiveness managing in a telework environment.

Since its inception 22 years ago with 18 trademark examining attorneys, telework has grown dramatically at the USPTO. Figure 9 shows the growth of the total population, positions eligible to telework, and eligible positions teleworking agency-wide. The graph represents the USPTO telework growth since FY 2009.

Figure 9. **TELEWORK GROWTH**



Between FY 2018 and FY 2019, the percentage of positions eligible to telework increased from 94.2 percent to 95.7 percent. See Figure 10 for the state-by-state breakout

of full-time telework participants in FY 2019. Figure 11 shows the percentage of eligible employee's teleworking by organization/business unit in FY 2019.

Figure 10: **FULL-TIME TELEWORKERS BY STATE, FY 2019**

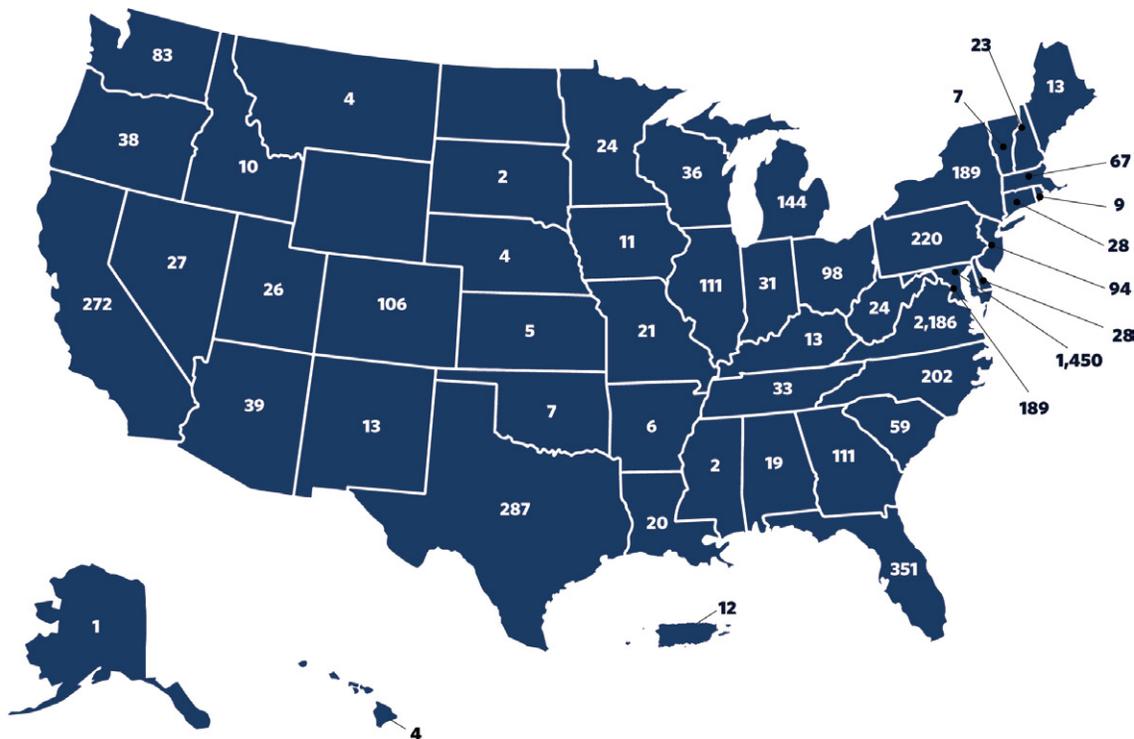
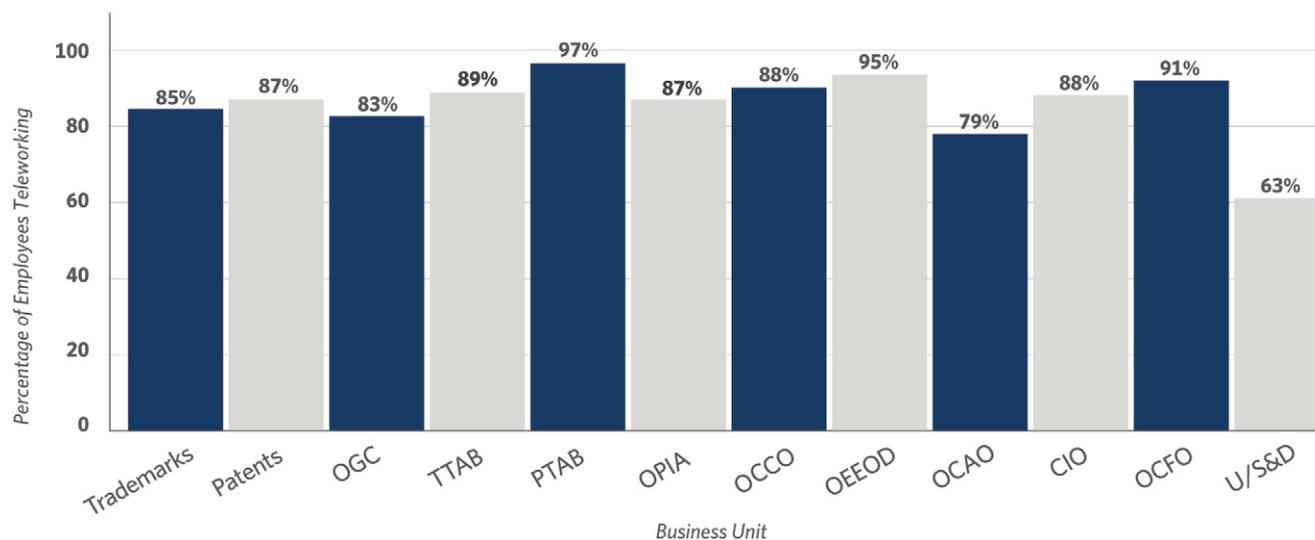
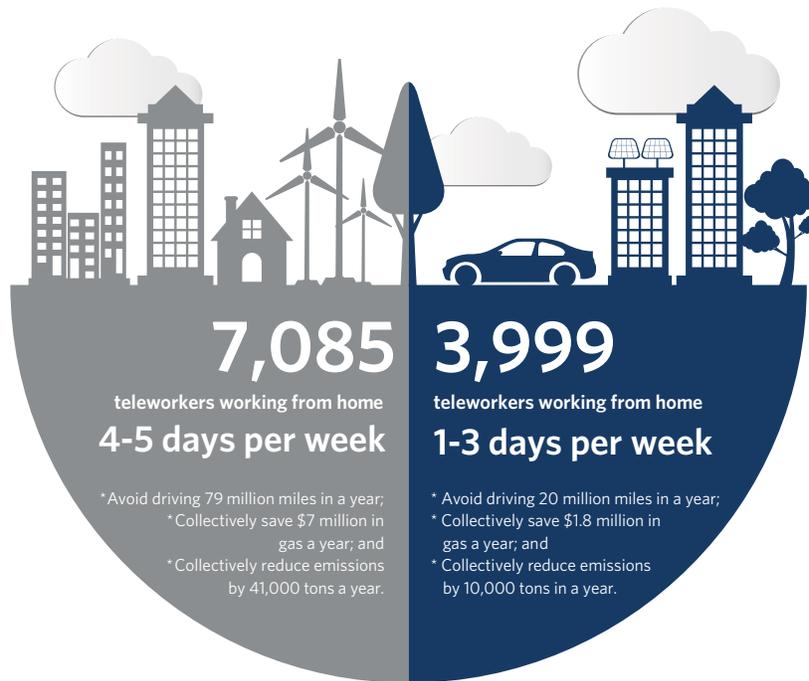


Figure 11: **PERCENTAGE OF EMPLOYEES TELEWORKING BY BUSINESS UNIT**

As part of the Telework Enhancement Act of 2010, the USPTO was granted legislative authority to conduct the federal government's initial Telework Travel Expenses Test Program. The USPTO Telework Enhancement Act Pilot Program (TEAPP) allows hoteling (or full-time teleworking) employees to elect, voluntarily and for their own convenience, to live greater than 50 miles from USPTO headquarters, thereby changing their official duty station. These employees waive their right to travel expenses for up to six annual mandatory trips back to the USPTO headquarters in Alexandria. In FY 2019, 2,929 employees were participating in the TEAPP, which is an increase of 5 percent from FY 2018. The National Defense Authorization Act, signed by President Trump on August 13, 2018, included a three-year extension to the USPTO's authority to run the TEAPP, which expired in December 2017. Under this extension, the TEAPP is now authorized until December 31, 2020.

A structured telework program provides cost-savings by reducing the need for additional office space, enhances recruitment and retention, fosters greater efficiency in production and management, and provides opportunities for expanded work flexibility and better work-life balance for participating employees. In addition, during federal inclement weather closures in the Washington, DC, metropolitan area, teleworking and hoteling employees remain productive. During the FY 2019 winter season, during days with weather-related office closures, on average, patent examiners maintained a 106 percent production rate, and trademark examining attorneys maintained an 86.2 percent production rate, when compared with a non-inclement weather day.

The USPTO's teleworkers also helped to minimize the USPTO's impact on the environment in the Washington, DC, metropolitan area: In FY 2019, they spared the environment more than 51,000 tons in estimated CO<sub>2</sub> emissions. Figure 12 highlights the environmental impact of telework in FY 2019.

Figure 12: **ENVIRONMENTAL IMPACT OF TELEWORK**

To ensure the continued success of the USPTO’s telework program, in FY 2019, the USPTO implemented a number of concrete steps to strengthen its support for managers and employees in areas of communication, collaboration, and training. Notably, the USPTO:

- Provides a telework overview during new supervisor orientation sessions;
- Offers a “Training for Telework Effectiveness for Managers” computer-based training module;
- Makes available online a USPTO managers telework handbook;
- Convenes patent examiners who telework remotely or are on-site at the regional offices as part of the patents training at headquarters, including breakout sessions on effective collaboration and telework; and
- Conducts, on a biennial basis, the Trademark Organization Reconnect and Collaboration Home training events, which include breakout sessions on effective collaboration and telework.



March 5, 2019—Federally Employed Women Bright Knights Chapter, Women's History Month event at the National Inventors Hall of Fame Museum at USPTO. (Photo: Jay Premack/USPTO)

## Enhance Leadership Capabilities to Better Develop, Sustain, Lead, and Foster Engagement and Advocacy in the Agency's Diverse Workforce

In FY 2019, the USPTO continued to develop leadership capabilities and capacities to ensure that internal candidates have the right competencies and proper motivation to succeed in leadership roles. The USPTO has several leadership development programs under the USPTO Leadership Academy.

### Leadership Development Program

The USPTO Leadership Development Program (LDP) is built on the foundation that leadership is everybody's business. The USPTO is committed to educating and growing leaders throughout all levels of the organization. Regardless of position or title, the program has developmental opportunities for everyone, rooted in the [USPTO Ideal Leader Profile](#). The LDP consists of several components, including the Supervisor Certificate Program and the Leadership Academy.

The LDP provides non-technical leadership training to individual leaders (i.e., non-supervisory employees), aspiring leaders (i.e., employees who may want to become a manager), and mid- and senior-level leaders (i.e., experienced managers, supervisors, and executives). In FY 2019, 618 employees completed leadership development training: 298 employees completed individual and aspiring leader training offered over 32 sessions, and 176 mid- and senior-level leaders completed training offered over five sessions, with 144 completing self-paced training.

### Supervisor Certificate Program

The Supervisor Certificate Program's interactive curriculum addresses leadership competencies (e.g., managing self, people, and projects) and is tailored to the unique needs of new USPTO supervisors and fulfills the Office of Personnel Management's requirement that all agencies deliver training to new supervisors during the first year of supervisory status. For the USPTO, this consists of 40 hours of training and includes one full day of human capital subjects. In FY 2019, 51 supervisors completed the Supervisor Certificate Program.

### Leadership Academy

The Leadership Academy is based on a leadership development model that was created specifically in the context of USPTO's culture and environment. The USPTO Ideal Leader

Profile serves as the foundation for the Academy's design and curriculum. In FY 2019, the Leadership Academy sent 58 participants to the Apollo Leadership Experience at the Johnson Space Center in Houston, Texas. Through storytelling and hands-on training, participants learned leadership lessons that will have a lasting impact their careers. This experience carefully matched the qualities of the Ideal Leader Profile and delivered an immersive leadership development experience for executive-level participants.



### Identify and Deploy an Engagement Strategy That Ensures All Employees Understand How Their Work Relates to the USPTO Mission

In FY 2019, the USPTO invited all of its employees to take the 2019 NextGen USPTO People Survey. Out of approximately 13,000 employees, 50 percent responded to the survey. The People Survey used Gallup's Q12® to serve as a baseline and will be followed up with several short pulse surveys throughout the remainder of the fiscal year.

### OBJECTIVE 2: OPTIMIZE SPEED, QUALITY, AND COST-EFFECTIVENESS OF INFORMATION TECHNOLOGY DELIVERY TO ACHIEVE BUSINESS VALUE

Objective 2 focuses on the USPTO's IT activities that are required to support and move the agency toward the next generation of tools and services for all mission-specific systems that are identified under the strategic goals. The USPTO will continue to provide cost-effective and transparent operations, processes, and information as it moves to accomplish its goals as stated in the USPTO's 2018-2022 Strategic Plan. These efforts include:

- **Refine the agency-wide IT prioritization process—** Given IT's role as a mission-critical enabler, the USPTO is in the process of refining its agency-

wide IT prioritization process to continually focus on those efforts that are (a) most closely aligned to enterprise priorities, (b) offer the highest business value, and (c) are resourced and managed efficiently. The refined process will introduce new governance bodies, with agency-wide participation, to delve deeper into the prioritized planning, budgeting, and execution of IT dollars—via regular monitoring of product teams and their outcomes each quarter—with the ability to re-adjust resources where needed. The USPTO's Financial Advisory Board, which is composed of several key business unit leaders, will integrate the prioritized IT budget request into the overall USPTO budget request. The goals of the process reforms are greater transparency, empowered teams, and executive engagement.

- **Maintain effective legacy systems during transition to their retirement—**The USPTO currently relies on multiple legacy systems that support nearly every aspect of operations. Our plans are to retire these legacy systems as quickly as practicable, which generally is compatible with the development and deployment of next generation systems. Until modernization is achieved, however, the USPTO will ensure legacy system stability by modernizing hardware and operating software, among other steps, to ensure that they remain operational and secure.
- **Establish agency-wide data governance—**The USPTO is a data-driven organization. We continually collect, analyze, and compare data for most business operations. The USPTO is currently investing in three major data governance pillars:
  - o *Open data/mobility* provides improved accessibility to USPTO data and developer resources, like web application programming interfaces, to support customers who use USPTO data.
  - o *The Big Data Reservoir (BDR)* contains multiple data sources that allow for the creation of models that leverage machine-learning and unique search products that gather insights and bring to bear open analytic platforms tailored to USPTO business units.

- o *The Assistive Recommendation Technology for Enhancing Machine Intelligence Systems* is comprised of infrastructure and tools that support big data analytics within USPTO.

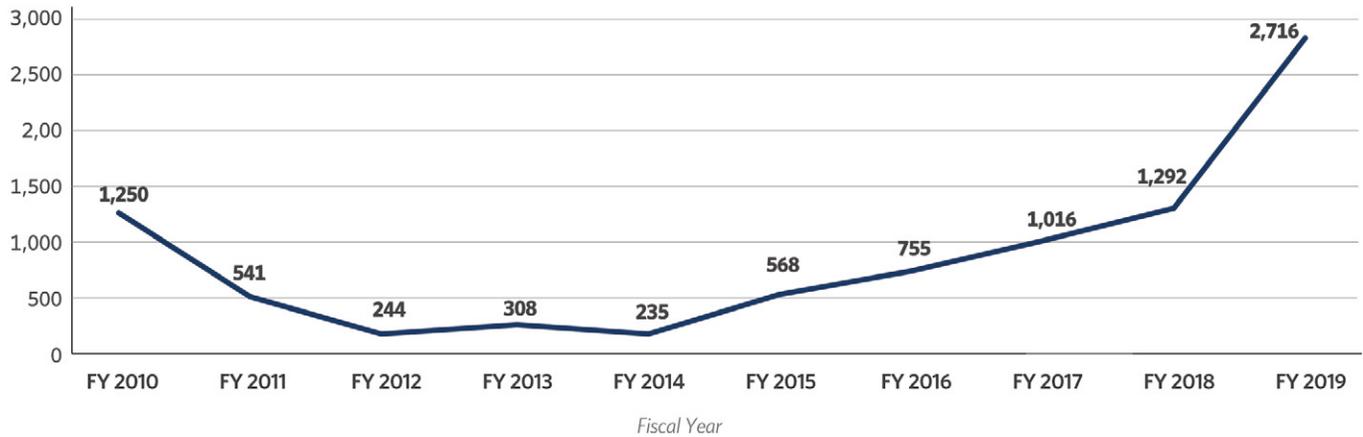
These investments will resolve authoritative data matters, formalize data governance, and raise the importance of data. They will allow customers to use USPTO data to make better business decisions and allow for clearer concise data that reduces the need to sift through bulk data.

- **Involve the business unit experts in the IT acquisition source-selection process**—The USPTO has evaluated the IT acquisitions process and is making improvements to include both the business unit experts and OCIO technical experts in developing requirements and the IT acquisition source selection process. We are committed to consistent engagement and partnership between business unit customers and IT service providers to maximize business value delivery.
- **Foster IT innovation from our highly skilled workforce**—The OCIO continues to generate value from the “Joint Business Unit Development” laboratory, a collaborative endeavor between business units and OCIO, to test emerging technology and to strengthen OCIO policies to expedite the development of capabilities based on these technologies. This initiative also enhances development of user requirements for ongoing system modernization efforts.
- **Strengthen the IT development and implementation lifecycle**—The OCIO will continue to refine and improve the way we develop IT, which includes strengthening the IT development and implementation life-cycle. Our focus now is to migrate more systems development to our Continuous Integration and Continuous Delivery pipeline, which automates configuration management and testing of new system capabilities. We are also strengthening IT security as we transition to more rapid delivery of capabilities by implementing more collaborative development-operations life-cycle management techniques.

It is critical that USPTO IT is secure to protect the integrity of applications submitted by USPTO customers and to ensure continuity of operations. Like other federal agencies, the USPTO regularly tests to identify cybersecurity risks and establishes Plans of Actions and Milestones (POA&Ms) to address cybersecurity vulnerabilities. Figure 13 and Table 17 show the total number of open POA&Ms for the USPTO’s operational systems at the end of FY 2019. Any known security weaknesses requiring remediation are tracked by using POA&M. The USPTO’s goal is to decrease the number of POA&Ms by remediating security weaknesses in the systems.

The USPTO also maintains careful control over its IT investments. In fulfilling responsibilities under 44 U.S.C. § 3504(h), the USPTO uses a capital planning and investment control process to select, prioritize, and control investments and uses a budget formulation process to determine funding levels for subsequent fiscal years. The process refinements previously discussed will have implications for the USPTO’s CPIC process. The planned shift to products, product teams, and new governance bodies will continue to meet CPIC requirements while enhancing transparency around life-cycle costs, progress reviews, planned value delivery, and technical efficiency and effectiveness. Projects are carefully managed throughout their life cycle, and progress reviews are conducted at key milestone dates to compare the project’s status with planned benefit, cost, and schedule, along with technical efficiency and effectiveness measures. All major IT system investments are reported in OMB Circular A-11 Exhibit 53, Exhibit 300A, and 300B, and the USPTO’s IT investment portfolio.

The USPTO has made progress toward improved operations and services, as well as toward improving its next-generation systems, which are discussed in the following sections.

Figure 13: **SUMMARY OF FY 2010 TO FY 2019 PLANS OF ACTIONS AND MILESTONES (POA&Ms)**Table 17: **FY 2010 TO FY 2019 PLANS OF ACTIONS AND MILESTONES DATA**

	Created	Cancelled	Completed	Total
FY 2010				1,250
FY 2011	508	755	462	541
FY 2012	455	189	563	244
FY 2013	357	81	212	308
FY 2014	316	51	338	235
FY 2015	635	13	289	568
FY 2016	1,013	39	787	755
FY 2017	1,029	58	710	1,016
FY 2018	1,149	54	819	1,292
FY 2019	2,354	86	844	2,716
Totals	7,816	1,326	5,024	7,675

## Patent End-to-End

The USPTO made significant progress on patent prosecution tools for patent examiners, patent applicants, and international partners. The USPTO's Docket and Application Viewer (DAV) is Patent End-to-End's (PE2E's) patent examiner new case management tool deployed into production in FY 2015. It replaced the full functionality of the legacy electronic desktop application navigator (eDAN), and USPTO took a phased rollout to the Patent Examiner Corps. This enabled the USPTO to retire the legacy eDAN system

In 2016, the USPTO continued to deploy enhancements to provide additional functionality for the patent examiners. In FY 2018, the USPTO deployed enhancements to provide initial relevant prior art services and infrastructure and conducted the initial pilot program in FY 2019. As of January 2019, patent examiners are no longer accessing the MADRAS legacy system and instead are using DAV functionality.

The Office Correspondence (OC) tool is the authoring and workflow tool, which integrates with DAV by leveraging notes, references, and copy-paste capabilities. The OC tool was successfully deployed to an initial pilot audience of patent examiners in December 2016. The USPTO developed significant functionality in FY 2017, at which time patent examiner staff were added to the pilot audience. In late May 2017, the USPTO began training patent examiners and completed this training in FY 2018. By February 2019, all patent examiners were using OC for the creation of new office actions rather than using the legacy Office Action Correspondence system.

The examiner search tool is a modern, scalable enterprise search tool for patent examiners. The release to an initial pilot audience was completed in December 2016. Development is taking longer than expected due to the complexity of the search algorithms, performance, and scalability. In FY 2017, the USPTO improved the performance and quality of the examiner search tool and continued training for a limited audience of patent examiners. In FY 2018, the USPTO deployed new features of the tool, such as allowing users to highlight text on images, a feature that is not currently available in legacy search systems. The USPTO conducted stress testing throughout FY 2018 and will continue to conduct further analysis and take corrective actions to scale for the entire Patent Corps. In FY 2019, the USPTO incorporated new foreign collections of patent documents and enhanced

the product's stability and performance in preparation for the production deployment of the examiner search tool to additional users in the Patents Corps slated for October 2019.

PE2E's content management system (CMS) combines multiple disparate patent document storage solutions into a single, highly available content hub. The initial CMS was deployed to patent examiners in FY 2016; however, it later experienced obstacles related to data storage. As a result, the USPTO evaluated new solutions based on lessons learned from the previous CMS deployment and completed performance and resilience testing of storage and storage service prototypes in FY 2017. A redesigned storage and storage services infrastructure was deployed in FY 2018, which addressed previous performance and resiliency issues and meets USPTO's disaster recovery requirements. In FY 2019, existing data was migrated from the legacy Image File Wrapper system (~250 terabytes of data) to PE2E's CMS. The redesigned CMS solution was deployed in production and is used by the entire Patent Corps to access data in DAV rather than in the legacy Image File Wrapper system.

In FY 2016, eCommerce Modernization focused on providing a cohesive login system by using the USPTO's Single Sign On platform and receiving smart text (XML) versions of key patent application documents. The use of the Single Sign On platform has successfully grown to approximately 23,000 applicants and over 277,000 sponsorships. The previously non-supported authentication system has been permanently turned off. The goal of smart text (XML) is to directly receive text-based applications that will dramatically increase automation throughout processing at the USPTO. In FY 2018, the USPTO deployed additional patent-application-filing capabilities for XML (DOCX) text. A beta-testing group was created to use the smart text (XML) submissions process. Via the testing group, critical feedback was provided, which has led to the continued evaluation and enhancement of the system. The USPTO will continue to add new functions and conduct training for new users who are testing the patent application submission and management system to file patent applications.

The CPC system maintains a patent classification scheme that is harmonized between the USPTO and the European Patent Office (EPO). The USPTO deployed into production the initial release of CPC in FY 2013 and

continues to make strides to automate collaboration between the USPTO and the EPO. Doing so dramatically reduces the time required to execute required revisions to the patent classification scheme. In FY19, the EPO and the USPTO will be able to update each other's databases with changes made at either office, in addition to performing foundational work to eventually add other international offices. Because of a change in priorities, the USPTO deferred the attainment of full functional parity from FY 2018 to FY 2020 and legacy system retirement to FY 2021.

### **Trademark Information Technology**

The USPTO made significant progress with trademark IT in FY19. From a legacy product perspective, we enhanced our primary intake system by stabilizing and upgrading its infrastructure and making system changes necessary to support U.S. Counsel and Mandatory Electronic Filing regulatory changes.

From a modernization perspective, we enhanced the TMNG-Examination product by transitioning to a commercial off-the-shelf editor and adding 66(a), divisional, and form paragraph capability. Early adopters began beta-testing the TMNG-Examination product and providing valuable feedback in FY 2019. As valuable feedback is received from the TMNG-Examination early adopters, the product owners prioritized the feedback to incorporate into later releases of the TMNG-Examination tool.

Despite the adoption of the TMNG-Examination tool to the beta-user community, the TMNG program continues to encounter significant challenges with establishing consistent business and IT visions for Trademark IT.

A "Path Forward" team comprised of representatives from OCIO, Trademarks, and the Office of the Under Secretary was initiated to resolve key issues that TMNG-Examination currently faces. Thus far, the team has identified critical success factors and helped select and deploy a commercial-off-the-shelf editor to replace the TMNG custom editor. A third party conducted a thorough analysis of TMNG, and the USPTO is working to review and implement their recommendations where needed.

### **Fee Processing Next Generation System**

In July 2019, the USPTO retired the legacy Revenue Accounting and Management system following the

successful implementation of and full transition to using the internal components of the FPNG investment. This milestone follows several years of steady progress, which has included replacement of both external and internal functionality, integration with other USPTO business systems, and deployment of new capabilities. It represents a significant achievement for the agency, closing out a nine-year, multi-phased investment, and retiring a major customer-facing system that had been in place since 1997.

### **Digital Services and Big Data**

The USPTO generates and distributes, both internally and externally, a vast amount of data each day. The USPTO has an enterprise data inventory that includes patent, trademark, and policy-related data that are used by independent inventors, start-ups to large corporations, law firms, strategic patent analytics companies, academia, government agencies, foreign IP offices (e.g., EPO, SIPO, KIPO, and JPO), and the public at large.

The goals of Digital Services and Big Data (DSBD) are two-fold: First, deliver and operate enterprise IT capabilities to improve office performance by using data science, machine learning, and artificial intelligence. Second, improve the discoverability, accessibility, and usability of the USPTO's valuable public patent and trademark information.

Notable work under the DSBD header includes the BDR, a unique analytic platform in production that contains data from multiple data sources, which allows data scientists to perform advanced analytics by using machine-learning and artificial intelligence. The DSBD team continues to add the USPTO's text-based data assets to the BDR, including derived textual information from patent applications, quality reviews, PTAB decisions, and subsequent office actions. With this additional textual information, data scientists can analyze the entire patent prosecution history—from initial filing all the way through post-grant—and provide actionable intelligence both internally and to the public.

In 2018, DSBD delivered the first release of the USPTO "big data" infrastructure, supporting USPTO advanced analytics. This continues to mark the first use of machine-learning technology on distributed data storage in production at the USPTO. It has been instrumental in

supporting USPTO data-driven strategic goals related to optimizing both patent and trademark quality through analytical studies, as well as newly developed advanced analytical services.

In late 2018, the DSBD data science team developed a machine-learning service that leverages an ensemble of these advanced analytical services, including figure searching, semantic searching, keyword/synonym extraction, and auto-classification of documents. This new cognitive assistant platform enables rapid deployment of advanced analytical tools to augment PE2E and other next generation tools with machine-learning and artificial intelligence. DSBD delivered the Trademark Quality Review IT platform and tools that are currently being used by all law office managers.

Other notable work has focused on improving the USPTO's application programming interfaces (APIs) to provide the public with better access to the USPTO's data through the cloud-based open data portal. The expansion of the USPTO's "API Catalog" included providing bulk search and download capabilities of patent documents,

allowing users to search Trademark images with a Trademark image search feature, adding PTAB decision notification, and securing the underlying developer platform and user-experience enhancements.

Last March marked the USPTO's first production deployment of a public-facing product that uses artificial intelligence for data extraction to unlock a legacy data set called enriched citations. By using artificial intelligence techniques, the USPTO was able to leapfrog its legacy systems to harmonize office action data to that of other international offices, from several years to a few months to delivery. By using these same techniques, the USPTO just released to the public some of our most sought-after data sets: office action data and PTAB data sets. By doing so, the USPTO provided the public with greater insight into the patent evaluation process, allowing users to quickly view information about prior art cited in specific patent application office actions. Last, a new deliverable of assignment search is able to stabilize and modernize this platform while at the same time reducing more than 8,000 POAMs to zero.



The USPTO hosts an event with Amazon, Virginia Tech, and the Alexandria Economic Development Partnership to learn about the impact that Amazon's Headquarters 2 and Virginia Tech's Innovation Campus are expected to have on the region. A panel discussion moderated by USPTO Deputy Director Laura Peter includes Stephanie Landrum, President & CEO, Alexandria Economic Development Partnership; Steve Hartell, Director, U.S. Public Policy, Amazon; and Brandy Salmon, Managing Director, Virginia Tech Innovation Campus and Associate Vice President for Innovation and Partnerships, Virginia Tech. (Photo: Jay Premack/USPTO)

### **OBJECTIVE 3: ENSURE FINANCIAL STABILITY TO FACILITATE EFFECTIVE USPTO OPERATIONS**

The USPTO operates like a private-sector business in that it provides IP products and services that are paid for by users of those products and services. In many instances, the payments are received in one fiscal year and fulfilled in a subsequent year. Therefore, the USPTO engages in a complex multi-year planning and budgeting model. Accordingly, the USPTO continues its work to maintain a funding model that leverages innovative financial management practices and helps to ensure secure funding streams that support mission operations.

The ability to adjust fees continues to contribute to the USPTO's operational stability. It helps to ensure that the fees customers pay for the agency's services are sufficient to support both core operations and achievement of our strategic goals. The AIA of 2011 authorized the USPTO, for a limited time, to set its fees via the regulatory process at rates that (in the aggregate) recover the cost of its operations. This authority expired for a brief period on September 16, 2018. Through the efforts of the agency and the Administration, and with bipartisan support from Congress, this authority was extended. On October 31, 2018, President Trump signed into law the SUCCESS Act, which included an eight-year extension of the USPTO's fee-setting authority.

The USPTO continues to exercise discretion and prudence in the way it wields its fee-setting authority. On July 31, 2019, the USPTO published a notice of proposed rulemaking to strategically change certain patent fees, along with an across-the-board adjustment to other patent fees. The notice of proposed rulemaking and supporting materials are available on the Fee Setting and Adjusting page of the USPTO's website. The agency will carefully consider all stakeholder comments received through this process as we determine the fee rates for the forthcoming final rule, which we currently expect to publish in summer 2020. Similarly, through the latest biennial review of trademark fees, it was determined that the existing trademark fee schedule is no longer sufficient, based on changing trends in how customers engage with the trademark system and increasing IT needs. In accordance with the process established by the AIA, on August 28, 2019, the USPTO submitted to the TPAC a proposal to rebalance trademark fees in line

with the current IP environment. The TPAC held a public hearing to gather feedback on the USPTO's proposal on September 23, 2019.

In combination with disciplined budget management, these fee-setting efforts ensure that the USPTO can continually maintain prudent operating reserves for both its patent and trademark operations. These reserves are crucial tools for managing the inherent uncertainty of the economic, fiscal, and legal environments in which the USPTO operates. This strategy enabled the USPTO to remain open and fully operational throughout the duration of the lapse in appropriation from December 23, 2018, through January 26, 2019—a time when many agencies were forced to close their doors. During this time, the USPTO strategically managed its spending (i.e., by incrementally funding necessary contracts and temporarily deferring less critical expenses) to maximize its operating reserves while ensuring minimal disruption to agency operations.

In addition to ensuring the sufficiency of available resources, the USPTO has been taking concrete steps to enhance the value received for money spent. FY 2019 is the first year that the USPTO has fully utilized its recently deployed acquisition management tool, eAcquisition. Through eAcquisition, the USPTO has been gaining better insights into its contracting process and requirements. Data from eAcquisition are enabling the USPTO to assess necessary lead times to plan for effective procurement strategies and negotiate favorable rates on contracts. It is also laying the groundwork for the USPTO to mature its acquisition function. For example, in the summer of 2019, the USPTO assessed opportunities for using category management to reduce cost and/or improve efficiencies in our software acquisition process. This initial assessment identified the potential for substantial returns on investment in this area, and the USPTO is currently working to implement category management practices in its major software acquisitions. As part of its efforts to stabilize and modernize its IT, the USPTO is also undertaking a broad review of its IT acquisitions to identify process efficiencies and opportunities for enhanced partnerships between USPTO's IT and contracting professionals.

## OBJECTIVE 4: ENHANCE THE USPTO'S INTERACTIONS WITH INTERNAL AND EXTERNAL STAKEHOLDERS AND THE PUBLIC AT LARGE

### Progress and Potential Report and SUCCESS Act Hearings

On February 11, 2019, the USPTO released a report entitled [Progress and Potential: A Profile of Women Inventors on U.S. Patents](#). The report analyzes the American women named as inventors on U.S. patents granted between 1976 and 2016. It shows that women comprise a small minority of patented inventors and highlights the untapped potential of women to spur innovation in the United States.

The USPTO released this report as part of its overall efforts to encourage underrepresented communities, including women, minority groups, veterans, and small business owners, to innovate and secure patents to protect their innovations. The report has raised awareness regarding barriers to and opportunities for patenting by female entrepreneurs and small business owners. The USPTO will continue to advance the national dialogue around this issue and engage with industry, academia, and other government agencies.

This report is in accord with the mandate of the SUCCESS Act. The SUCCESS Act requires the USPTO to compile publicly available information on the participation rates of women, minorities, and veterans seeking patents and engaged in entrepreneurship activities and to provide legislative recommendations regarding how to promote their participation and increase the numbers applying for and obtaining patents.

The USPTO consulted with the Small Business Administration as well as the U.S. Treasury Department and Department of Defense to compile richer information on women, minorities, and veterans among patented inventors for the SUCCESS Act study. The USPTO will also work with the Small Business Administration and the Administration to develop policy recommendations to be included in the final SUCCESS study issued to Congress.

### Law School Clinic Certification Program

In FY 2019, the USPTO continued to assist patent and trademark applicants by providing pro bono services through its [Law School Clinic Certification Program](#).

The Law School Clinic Certification Program allows law school students enrolled in participating clinics to acquire first-hand patent and trademark application preparation and prosecution experience. Students provide pro bono legal services to their clients, that is, individuals and small businesses throughout the country, and represent them in the prosecution of patent and trademark applications before the USPTO. Individual clinics determine the clients they serve based on factors such as geography and clinic mission, but include individuals and small businesses throughout the country. The students at these clinics work under the supervision of an approved faculty clinic supervisor and in accordance with guidelines established by the Office of Enrollment and Discipline.

The Law School Clinic Certification Program began as a pilot program in 2008, and at present, 52 law school clinics participate in the Law School Clinic Certification Program. On December 16, 2014, Pub. L. No. 113-227 established the Law School Clinic Certification Program for 10 years. On May 27, 2016, the USPTO published a final rule implementing Pub. L. No. 113-227 and establishing regulations and procedures for application to, and participation in, the Law School Clinic Certification Program, which became effective on June 27, 2016.

Between July 2018 and June 2019, participating law schools reported filing 173 patent applications and 642 trademark applications on behalf of their clients and projected the number of future application filings to be equal to or to surpass the number of filings in prior years. During this same period, participating law schools succeeded in obtaining 44 patents and 416 trademark registrations on behalf of their clients and also filed responses in over 234 patent matters and in over 565 trademark matters. In total, participating law school clinics undertook representation of approximately 2,332 clients during this period.

### Patent Pro Bono Program

In FY 2019, the USPTO also continued to support the Patent Pro Bono Program, a nationwide network of 22 independently operated not-for-profit regional programs that match volunteer patent practitioners with qualified financially under-resourced inventors and small businesses to provide pro bono patent application preparation, filing, and prosecution services. During the last three quarters of FY 2019, the program assisted under-resourced inventors and small businesses, filed 203 patent applications and fielded 1,555 inquiries. In

In addition, the program matched 397 under-resourced inventors and small businesses with volunteer patent practitioners. There are currently over 2,046 registered patent practitioners available to participate in the Patent Pro Bono Program across the regional programs.

In FY 2019, the Patent Pro Bono Program held a Patent Pro Bono Administrators Conference, bringing together administrators from the regional not-for-profit programs to learn about USPTO resources and to share best practices for program sustainability, recruitment of volunteer practitioners, outreach to inventors/entrepreneurs, and administration of patent pro-bono-matching services. The Patent Pro Bono Program also continued its practice of recognizing registered patent practitioners for their pro bono legal contributions to financially under-resourced inventors and small businesses, this year recognizing over 80 practitioners who donated at least 50 hours of service in calendar year 2018 to the not-for-profit regional programs. In addition, for the first time, the USPTO recognized 20 law firms for each firm's collective contribution of time provided to the Program. The USPTO Patent Pro Bono Program also conducted outreach to over 80 IP law associations.

### Patent and Trademark Resource Centers

The PTRCs are a nationwide network of public, state, and academic libraries that are designated by the USPTO to disseminate patent and trademark information and to support the diverse IP needs of the public. The PTRC library staff are information experts trained on how to use search tools to access patent and trademark information. The 84 PTRCs directly assist entrepreneurs and small business owners by (a) aiding them in identifying relevant USPTO resources, (b) aiding them in using USPTO's patent and trademark search tools and related resources, (c) referring them to relevant offices at USPTO for additional assistance, and (d) referring them to relevant community and area resources.

Each of the 84 PTRCs are located within a library that is supported by either a state government, a municipal government, or a university. The USPTO collaborates with these governments and university libraries by providing comprehensive training and other support to the staff, whereas the governments and universities collaborate by allocating resources, including staff, physical space for consultations with entrepreneurs, and access to collections, public meeting space, and other resources.

The USPTO tracks two metrics for the PTRCs: (1) number of individuals assisted and (2) number of attendees at classes. In FY 2019, the number of individuals assisted was 13,253 and the number of attendees at classes was 18,396.

### Inventors Assistance Center

The Inventors Assistance Center (IAC) provides patent information and services to the public, including entrepreneurs and small businesses. The IAC is staffed by former USPTO officials (e.g., patent examiners, supervisory patent examiners), who answer general questions concerning patent examining policy and procedure.

Specifically, the IAC answers questions concerning necessary format and formal requirements for a patent application, provides assistance with proper completion of patent application forms, provides general information concerning patent examining rules, procedures, and fees, and directs callers to appropriate USPTO personnel or resources, as necessary. The IAC is staffed by approximately 25 contractors and receives approximately 36,000 calls per year.

### Pro Se Assistance Program

The Pro Se Assistance Program assists inventors who wish to file patent applications without the assistance of a registered patent attorney or agent (also known as *pro se filing*). The USPTO recognizes that the cost of legal assistance is prohibitive for many applicants, particularly independent inventors and small businesses. In accordance, the USPTO maintains the Pro Se Assistance Program to help these inventors meet their goals of protecting their valuable IP. Dedicated personnel and on-line resources are available to provide assistance.

The Pro Se Assistance Program offers phone, e-mail, in-person (unscheduled and scheduled), and video conferencing (virtual assistance) to customers at the pre-filing stage. The office operates five days per week (Monday through Friday, 8:30 a.m. to 5:00 p.m.).

During FY 2019, Pro Se Assistance received 6,993 phone inquiries, 793 email inquiries, 312 in-person visits (scheduled and unscheduled), and 36 virtual assistance appointments with the use of libraries that partnered with PTRCs. The Pro Se Art Unit in the Technology

Center 3600 assists the Program by responding to questions pertaining to formal matters, such as formality of the specification and drafting claim language.

### **Global Intellectual Property Academy**

The USPTO, through GIPA, provides IP educational and training programming both to improve IP laws and their administration around the world, and to enhance IP awareness and technical capacity. The USPTO's IP educational programming for U.S. small business and stakeholders complements international capacity-building programming by raising awareness of the importance of IP in an innovation economy and by providing education about foreign IP systems. In FY 2019, GIPA conducted over 140 activities serving over 9,500 individuals. About 45 percent of all individuals served were domestic IP rights owners and users, and approximately 55 percent were government officials, such as patent, trademark, and copyright officials; prosecutors; police; customs officials; and IP policymakers.

GIPA's recent domestic IP outreach has focused on the importance of IP protection and enforcement to U.S. companies doing business abroad, as IP is territorial and IP systems and laws differ. Attendees included representatives of U.S. SMEs, IP practitioners, academics, and IP rights owners and users. One specific initiative, the China IP Road Show series, has focused on educating U.S. businesses of all sizes on how to better protect and enforce their IP in China. In FY 2019, GIPA and the OPIA China Team conducted eight China IP Road Shows.

In FY 2019, GIPA continued its nearly decade-long commitment to the production and maintenance of in-depth, on-demand content through distance-learning on the USPTO website and its YouTube playlist. These modules are available in five languages and cover six different areas of IP protection. New modules and micro-learning videos include an updated "Introduction to Patent Protection" video and a short video on the protection of trade secrets. This on-demand content collectively has drawn more than 99,000 unique views.

GIPA also supports the International Trade Administration as it organizes the interagency [STOPFakes.gov](https://www.stopfakes.gov) Road Shows and updates on-demand educational content on [STOPFakes.gov](https://www.stopfakes.gov). These IP educational events and resources target entrepreneurs and small businesses

in the United States who may be current or future exporters. GIPA also continues a quarterly webinar initiative to provide IP education to grantees of the U.S. Small Business Administration's Small Business Innovation Research and Small Business Technology Transfer programs.

### **Trademark Assistance Center**

The Trademark Assistance Center (TAC) is the main support center for all trademark customers, from first-time filers to legal professionals and experienced trademark applicants. The TAC is operational Monday through Friday, from 8:30 a.m. to 8:00 p.m. It provides services and resources to small business owners and entrepreneurs across the country. The TAC is staffed with 25 federal government employees: 20 trademark information specialists, four team leads, and one manager.

The TAC serves as the primary touchpoint for entrepreneurs and small businesses to obtain information and assistance regarding the trademark application, registration, and maintenance process. The TAC serves as an educational resource for those who desire brand protection.

During FY 2019, the TAC assisted over 150,000 customers, of which 70 percent, or approximately 105,000, were entrepreneurs and small business owners. TAC answered 115,946 telephone calls, responded to 35,294 emails, and assisted 325 customers who visited the USPTO headquarters in Alexandria, Va., for in-person assistance.

The TAC is measured by three key performance indicators:

- Answer 85 percent of telephone calls within 20 seconds of entering the TAC queue;
- Score a 92 percent call handle rate; and
- Achieve an 80 percent customer satisfaction survey score.

In addition to assisting customers through telephone, email, and in-person channels, TAC also facilitates "Lunch and Learn" webinars for attendees at the USPTO regional offices. In FY 2019, a total of 331 entrepreneurs and small business owners attended these webinars.

### IP Attaché Program

The USPTO's IP Attaché Program operates in foreign markets to help U.S. businesses, independent inventors, small businesses, multi-national organizations, and other U.S. stakeholders navigate issues related to IP protection, ownership, and enforcement, including responding to industry-specific concerns, such as preventing online piracy, licensing issues, and combatting counterfeit trade.



Staff, Deputy Assistant Secretary for Manufacturing, performing the non-exclusive functions and duties of the Assistant Secretary for Global Markets and Director General of the United States and Foreign Commercial Service U.S. Department of Commerce, International Trade Administration, at the Herbert C. Hoover Building in Washington, DC. (Photo: Jay Premack/USPTO)

The program works to improve IP systems internationally and consists of 13 IP attachés (with additional support from IP specialists and staff) posted to an equal number of U.S. embassies, consulates, and missions throughout the world. The IP attachés, who are diplomats, advocate to improve IP policies, laws, and regulations abroad for the benefit of U.S. businesses, entrepreneurs, and stakeholders.

In particular, the IP attachés meet with foreign government officials to explain U.S. perspectives on patent and trademark practices and advocate for improvements to foreign IP systems for the benefit of U.S. stakeholders. For example, the USPTO has three IP attachés posted to China—in Beijing, Guangzhou, and Shanghai. The IP attachés work closely with resident U.S. law

enforcement attachés and are in contact with numerous Chinese government IP agencies to discuss enforcement challenges.

The IP attachés also train foreign officials on effective IP enforcement; monitor economic, legal, and legislative developments in their regions that might affect the IP interests of U.S. companies; and conduct public awareness programs to educate the public on IP and its value. For example, in May 2019, the IP attaché in Brazil facilitated the attendance of a U.S. federal judge at a judicial training program organized by WIPO and Brazil's Federal Judicial School to educate judges and public attorneys in Brazil on emerging topics in IP.

The IP Attaché Program frequently collaborates with the Department of Commerce, State Department, and USTR to advocate for improvements to foreign IP systems and international agreements and works with Customs and Border Protection and the Federal Bureau of Investigation on IP enforcement matters, such as the seizure and prosecution of counterfeit products or pirated content. In conducting domestic regional outreach, the IP Attaché Program collaborates with the Department of Commerce's regional U.S. Export Assistance Centers.

In FY 2019, the IP Attaché Program assisted 5,037 U.S. stakeholders, conducted 2,204 meetings with foreign government officials, conducted 54 training programs for 2,050 participants, conducted 37 public awareness programs for 4,683 participants, submitted 425 weekly activity reports, and reported 60 identifiable success. (These figures overlap with metrics reported by GIPA on page 80.)

### Support Government-Wide Efforts to Promote Science, Technology, Engineering, and Mathematics Education Initiatives

STEM education is critical to our country's economic prosperity, because STEM students are the innovators and inventors of the future. Recognizing this, the government has many initiatives to attract and retain K-12 students in STEM-based education. STEM education is also critical to the USPTO's continued success, because STEM students will not only create the IP that will form the basis of the USPTO's future business, but will also become the USPTO's future workforce. The USPTO fully supports government-wide

STEM efforts through both our long-standing partnership with the non-profit National Inventors Hall of Fame (NIHF), founded in 1973, and our own Office of Education and Outreach (OEO).

In addition to the annual NIHF induction ceremony in Washington, DC, and the NIHF Museum, located in the USPTO headquarters in Alexandria, the USPTO and NIHF collaborate on Camp Invention, a summer enrichment program for children in Grades 1-6. Camp Invention not only promotes creativity and inventive thinking through hands-on STEM activities, but also educates children with age-appropriate introductions to the workings of USPTO and the value of patents, trademarks, copyrights, and the American IP protection system. The program is taught by local, certified teachers who receive professional development training. Camp Invention reaches more than 120,000 children in 1,500 schools nationwide each summer and exponentially more through teachers who report incorporating Camp Invention strategies in their own school-year classrooms.

Beyond K-12, the Collegiate Inventors Competition, another joint effort by the USPTO and NIHF, promotes collegiate competition among the country's finest universities and connects the inventive spirit and entrepreneurship; that is, encouraging students to see the value of their ideas to society and to continue to develop their inventions, patent their work, seek investors, start businesses, and contribute to new economies.

Entries to the competition represent disciplines as varied as medical devices, biotechnology, nanotechnology, renewable energy, robotics, and systems engineering. Finalists are determined through two tiers of judging: In the preliminary round, entries are reviewed by expert judges in the applicant's field of invention or research. The scores from the preliminary round help to determine the finalists who gather at the USPTO for an immersive judging/feedback experience with NIHF inductees and top officials from the USPTO.



Andrei Iancu, Under Secretary of Commerce for Intellectual Property and Director of the USPTO, and Al Langer, inventor of the implantable heart defibrillator (U.S. Patent No. 4,202,340) and 2002 inductee of the National Inventors Hall of Fame, visit the Camp Invention at Hyattsville Elementary School. (Photo: Jay Premack/USPTO)

The competition is open to faculty and students at over 1,000 colleges and universities and awards over \$100,000 in prizes annually to first-, second-, and third-prize winners in both the undergraduate and graduate categories. A large number of Collegiate Inventors Competition finalists have gone on to start their own businesses, license their technology through university technology transfer, and continue their research at the graduate and postdoctoral levels.

Complementing these efforts, OEO provides STEM-based educational and outreach programming for K-12 students, teachers, parents, and administrators with an emphasis on IP, innovation, and entrepreneurship. For example, the USPTO offered half-day and full-day professional development workshops to education professionals in over a dozen U.S. cities over the last fiscal year.

OEO also held its annual five-day professional development program, the National Summer Teacher Institute (NSTI). This program is designed to introduce concepts of IP protection, innovation, entrepreneurship, and STEM to K-12 educators. Teachers receive content and learn concepts that they are able to share when they return to their respective schools, school districts, and communities, and so act to amplify the USPTO's efforts. The material is aimed to help teachers unleash the innovative potential of their students by encouraging them to think and act creatively. To date, teachers from 49 states, the District of Columbia, Puerto Rico, and the Department of Defense Education Activity, South Pacific region, have participated in the program.

The work of the USPTO in the creation and development of the delivery of teacher professional development materials was recognized as an exemplar program of the U.S. federal government in the National Five-Year STEM plan. For this year's sixth annual NSTI, which was held in Charlotte, N.C., the USPTO received over 300 applications from teachers across America. From these applications, OEO selected 50 teachers representing 32 states and multiple STEM disciplines for this year's program. These NSTI programs included presenters from academia, industry, the IP bar, and the non-profit sector.

In addition to sponsoring its own programs, the USPTO also enters into strategic partnerships, collaborations, and cooperative agreements with other federal agencies, non-profit organizations, and private sector organizations

to reach diverse groups of students and educators. For example, the USPTO has executed programs with the National Science Foundation, NBCLearn, Foundation for Inspiration and Recognition of Science and Technology (FIRST®), YMCA, the Girl Scouts, Library of Congress, National Science Teachers' Association, Conrad Foundation, University of Iowa Jacobson School for Entrepreneurship, Congressional App Challenge, Black Girls Code, and various USPTO affinity groups (such as the National Society of Black Engineers, Women in Science and Engineering, the Society for Hispanic Engineers, and the American Muslim and Arabic Cultural Association). In 2019, the USPTO collaborated on over 100 student-focused IP, invention, and STEM-focused program experiences for K-12 students.

One notable collaboration has been with the National Council for History Education and the Library of Congress to present a colloquium on technology's impact on American history using primary sources. This is the third year of this collaboration. Another notable, ongoing collaboration is the USPTO's partnership with FIRST® on its annual Global Innovation Award. This program involves an invention competition that was designed to encourage First Lego League participants to take their invention ideas to the next level. The USPTO works in collaboration with FIRST® to increase student knowledge and 21st century skills in problem solving and team building. The USPTO has collaborated with FIRST® on this program from its inception eight years ago. During that time period, a number of First Lego League teams have gone on to apply for, and in some instances obtain, U.S. patents on their invention projects.

### **Creating Strategic Partnership and Collaboration Across the Regions**

The USPTO regional offices support, facilitate, coordinate and lead high-level engagements with community IP and stakeholder leaders at the local, state, and federal levels on the ground across the country. They are responsible for assisting the USPTO in communicating and carrying out its mission, strategic plan, and goals by providing resources, information, programs, and services that benefit and encourage growth of our innovation-based economy.

Because IP is ever-evolving, the USPTO is committed to creating strategic partnerships focused on the continuing education of professionals through our regional offices to assist these professionals and other stakeholders in

remaining current on emerging IP issues that affect not only their businesses, but also the economy as a whole. This includes communicating and advancing IP policies; delivering IP education across all levels of sophistication, from first-time inventors to skilled patent practitioners; and getting K-12 students excited about a career in STEM. Through these efforts, the regional offices help broaden the innovation ecosphere—geographically, demographically, and economically—by providing more individuals with the knowledge and tools to innovate and to protect their innovations.

In FY 2019, the USPTO expanded its outreach to the innovation community by establishing the Eastern Regional Outreach Director position to enhance the delivery of high-quality information, programs, and services across the east coast of the United States.

The regional office team communicates policy through active engagement with stakeholders across the country. They function as liaisons for policy matters by participating in events such as PTAB Bar Association events, National Association of Patent Practitioner meetings, American Intellectual Property Law Association meetings, and state bar association meetings. In addition, all of the regional offices host policy-related events throughout the year, for example China IP Road Shows, anti-counterfeiting seminars, STOPFakes programs, World IP Day, and USPTO Design Day, which bring together a broad range of stakeholders—patent prosecutors, litigators, inventors, academics, and patent examiners—for public discussion on aspects of IP law. These events highlight the regional office teams' commitment to strengthening the public's understanding of IP, including increasing the public's knowledge of how



From left: John Cabeca, Director of the Silicon Valley Office; Molly Kocialski, Director of the Rocky Mountain Regional Office; Laura Peter, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO; Andrei Iancu, Under Secretary of Commerce for Intellectual Property and Director of the USPTO; Hope Shimabuku, Director of the Texas Regional Office; and Damian Porcari, Director of the Elijah J. McCoy Midwest Regional Office. (Photo: Jay Premack/USPTO)

IP, and the products and services that the USPTO offers, support our innovation-based economy.

The regional office team also facilitated IP discussions to serve industry-specific and other government stakeholders, like the three-day Workshop on Intellectual Property and Consumer Protection, hosted by the Texas Regional Office in collaboration with the National Association of Attorneys General for state attorneys general across the United States. The Silicon Valley USPTO collaborated with the Food and Drug Administration to host the inaugural Biotech and Medtech Strategies for Startups program in South San Francisco, Calif. The Midwest Regional USPTO hosted an industry roundtable, which included automobile manufacturers, car-share companies, and suppliers, to identify IP issues in autonomous vehicle technologies. The Denver Office hosted a roundtable of academic, small and large businesses, and government stakeholders in Fargo, N.D. These engagements provide IP stakeholders with a forum to discuss and share their perspectives on the IP ecosystem.

In FY 2019, the regional offices emphasized listening to patent stakeholders and customers directly through a series of one-on-one meetings across the country between the regional directors and significant users of the U.S. patent system. Since April 1, the regional directors and Eastern Regional Outreach Director conducted 366 one-on-one meetings with patent filers and developed a better understanding of their experiences with the IP landscape and gained insight into how the USPTO can provide an outstanding customer experience and a more reliable and predictable legal framework to incentivize and protect innovation.

The regional offices help to support and amplify key USPTO priorities throughout the year, like the recent SUCCESS Act hearings held in partnership with the Small Business Administration at USPTO headquarters and in the Silicon Valley and Detroit regional offices.

### **Increased Access to Resources**

Outreach activities that deliver IP information and build advocacy for the value of IP are a critical component of the USPTO strategic plan. The regional offices support

activities and efforts focused on delivering IP information and building this advocacy by strengthening the public's understanding of IP through increased access to USPTO resources. For example, the regional offices provide a setting for scientists, engineers, and other technology experts to educate examiners about emerging topics in their fields of study. Through the Patent Examiner Technical Training Program, the regional offices hosted various organizations and companies that shared their research with examiners in the regional offices and across the country. As part of the SEE Program, some senior examiners had the opportunity to take part in visits to these companies' labs and industrial plants, where innovation happens every day. Many of these trips were planned with the participation and coordination of the regional offices to take advantage of the networks built through their extensive engagement across their regions. In total, the regional offices supported 17 SEE trips in FY 2019.

In conjunction with the Office of Patent Training, the regional offices also trained 156 patent practitioners as part of STEPP, a program that teaches new practitioners the basics of patent examination.

The PTAB in the regional offices adds a measure of transparency and accessibility to PTAB proceedings. In FY 2019, PTAB APJs participated in 258 ex parte appeal or AIA trial hearings held in regional offices. In addition, the public is invited to view non-confidential PTAB proceedings in a regional office, regardless of where the live hearing takes place.

Each regional office is equipped with several universal public workstations, which enable members of the public to work with tools that are nearly identical to those used by patent examiners and trademark examining attorneys. This can save potential applicants time and money by allowing them to perform a brief initial search for their invention or mark. Professional practitioners and searchers can also use the workstations. The regional offices also provide hands-on workshops for those who may not be familiar with the USPTO search systems. In FY 2019, the regional offices created over 351 new accounts and had 490 visits to the universal public workstation rooms.

# FINANCIAL SECTION



(Left to right): Eric McWilliams, Jeff Isaacs, Lindsay Visco, Walter Schlueter, Shana Willard, and John Ward

## MESSAGE FROM THE ACTING CHIEF FINANCIAL OFFICER

Each new year brings both celebrations and challenges to the OCFO. Year after year, our strong financial management practices allow the OCFO to play a pivotal role in supporting the USPTO's mission success. FY 2019 was no different. It was an eventful year for the USPTO, and it afforded the OCFO numerous opportunities to demonstrate the value that our team can add by strategically managing the agency's finances.

Financial sustainability remains a priority for the USPTO; this includes ensuring secure funding streams. We are committed to setting fees at responsible rates that will generate sufficient revenue to recover USPTO's operating costs without placing an undue burden on our customers. The USPTO regularly assesses changes in our operating environment, revenue streams, and budgetary needs, and works closely with our stakeholders to identify appropriate fee adjustments. In FY 2019, the USPTO published a notice of proposed rulemaking to adjust patent fees and released an initial proposal to adjust trademark fees. We will carefully consider the public feedback generated by both of these proposals as we finalize fee adjustments in the coming year. This inclusive approach to fee-setting demonstrates the agency's dedication to being responsible stewards of public resources. Congress, in turn, recognizes that the USPTO, in collaboration with the larger IP community, is uniquely positioned to determine the most appropriate fee rates. Although the USPTO's fee-setting authority briefly expired in September 2018, it was reinstated for an additional eight years through the Study of Underrepresented Classes Chasing Engineering and Science Success (SUCCESS) Act in October 2018.

As the USPTO's financial stewards, optimizing the management of the USPTO's resources is also a primary goal for the OCFO organization. By maintaining and strategically using our operating reserves, the USPTO has been able to mitigate operational risks. Our efforts proved essential in FY 2019. On December 22, appropriations for much of the federal government—including the USPTO—lapsed. The USPTO was able to maintain uninterrupted service throughout what would

become the longest lapse in appropriations (35 days) in U.S. history. Recognizing the uncertain fiscal climate, the OCFO worked proactively with business units to implement a conservative spending plan from the start of the fiscal year. By deferring spending on non-urgent needs and incrementally funding large contracts throughout the first quarter, USPTO was able to grow the size of its operating reserves during the initial continuing resolution periods, rather than draw them down. This positioned the agency well to weather the lapse. As the lapse wore on, the USPTO carefully managed its available funds. By continuing to incrementally fund mission-critical contracts, deferring non-critical spending, carefully examining prior year contracts for prudent deobligations, and exploring all legal options for conserving resources, the USPTO was able to remain open and operational.

Optimizing how we manage our resources is not only about cash flow management, but it is also about ensuring that the USPTO receives the best value for the money we spend. Investing in IT remains a priority at the USPTO, as it is inextricably linked to the success of the agency mission and the desire to provide a reliable, predictable IP system for both our internal workforce and external stakeholders. However, we owe it to our customers and to the country to make sure that the resources we put into our IT are spent wisely. During FY 2019, the USPTO's focus crystalized around value in our IT investments. A key component of the USPTO's new IT strategy (discussed at length in the Performance Information section of this report) is right-sizing and appropriately prioritizing the agency's IT spending. The OCFO worked closely with the OCIO to ensure that (a) the USPTO is only budgeting for a level of investments that it has the capacity to execute effectively and (b) our desire for modern IT does not result in the neglect and destabilization of existing mission-critical business systems. OCFO and OCIO also identified needed IT development and procurement process reforms that aim



*Sean M. Mildrew*

to enhance accountability and enable more efficient processes to deliver IT at the best value to support the USPTO's mission. In addition to these efforts, we continue to work with the OCIO to remediate identified deficiencies earlier, allowing for a smoother process in working with the financial statement auditors.

In addition to supporting overall USPTO IT reforms, OCFO worked to ensure it was delivering value through the agency's financial management IT systems managed by the OCFO. The final release of our FPNG system was rolled out in July 2019 to USPTO staff. The legacy fee payment system, Revenue Accounting and Management, will be decommissioned in early FY 2020. The implementation of FPNG was a major accomplishment for the OCFO this year. The Office of Financial Management Systems has set a standard for the USPTO's future development methodology through its successful use of the DevOps model, which will benefit IT stabilization and modernization efforts across the agency.

Elsewhere, the OCFO made considerable progress implementing new IT tools for the USPTO's budgeting and acquisition management. In FY 2019, the OCFO utilized an agile IT delivery approach to continue rolling out new functionality for the USPTO's Enterprise Budget Tool (EBT). The Office of Planning and Budget was able to retire an informal, unsupported tool that it had previously used to manage large quantities of data throughout the budget formulation process and transitioned to using newly deployed EBT functionality. Central USPTO budget formulation and compensation projections are currently automated in the EBT; in the future, the OCFO plans to deploy additional functionality to enable more effective agency budget formulation and improved budget management capabilities for USPTO's business units.

The OCFO also continues to work closely with our internal customers to identify areas for improvement within the acquisition process. FY 2019 was the first year in which the USPTO has fully utilized its new eAcquisitions system, a procurement management software solution that provides end-to-end procurement lifecycle support and facilitates collaboration between program office and procurement personnel. The new system's reporting capabilities are proving instrumental in allowing the office to derive actionable insights needed

to improve the procurement process. Further, the new system allowed OCFO to capture mission critical data on acquisitions packages and plans to facilitate effective financial planning during the appropriations lapse. As the office continues to shepherd in needed process changes to manage the growth in USPTO's acquisitions, to ensure compliance with laws, and to secure best value goods and services, the OCFO has also embarked on a new customer experience initiative in the Office of Procurement to ensure that our stakeholders' needs are being met throughout the process.

As we have taken on new challenges, we have maintained our outstanding reporting record:

- This fiscal year marks our 27th year of receiving an unmodified opinion on the USPTO's financial statements, and the auditors reported no material weaknesses in the design and operation of the USPTO's system of internal control over financial reporting.
- As part of the annual audit, it was determined that our financial system complies with federal financial systems requirements.
- The AGA awarded the USPTO the Certificate of Excellence in Accountability Reporting for the 17th consecutive year for our FY 2018 PAR, including "best in class" honors for the "most complete Agency Head Message."
- The USPTO also received the Certificate of Excellence in Citizen-Centric Reporting for our 8th Citizen-Centric Report, awarded by AGA for 2018, again clearly demonstrating the USPTO's excellence in integrating performance and accountability reporting.

The OCFO continues to champion enterprise leadership across the USPTO, reaching out to bring together multiple offices in pursuit of our common interest—the USPTO mission. We remain committed to leveraging the OCFO's resources and expertise to provide excellent service and to foster strong relationships with our customers—both within and outside the USPTO—that enable us to resolve future challenges effectively and efficiently.

This year, the OCFO experienced many transitions in leadership within our offices; however, thanks to our effective succession planning and the work of our talented and committed employees, the transitions have occurred seamlessly. I am proud to be part of a team of colleagues that display great dedication toward a high standard of financial management and who work hard to develop strategies that strengthen our cross-functional partnerships throughout the agency. Going forward, this strength will continue to enable the successful execution of OCFO objectives and will allow us to facilitate mission success by providing exceptional financial management information, services, and advice to the USPTO.

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Sean M. Mildrew

*Acting Chief Financial Officer*

November 8, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE  
BALANCE SHEETS

As of September 30, 2019 and 2018

(Dollars in Thousands)

**ASSETS**

	<b>2019</b>	<b>2018</b>
Intragovernmental:		
Fund Balance with Treasury (Note 2)	\$ 2,448,264	\$ 2,372,752
Accounts Receivable (Note 3)	72	13
Other Assets—Advances and Prepayments (Note 6)	3,924	2,193
Total Intragovernmental	2,452,260	2,374,958
Undeposited Collections (Note 4)	10,699	8,392
Accounts Receivable, Net (Note 3)	378	389
Property, Plant, and Equipment, Net (Note 5)	459,341	527,081
Other Assets—Advances and Prepayments (Note 6)	20,002	15,240
Total Assets	<u>\$ 2,942,680</u>	<u>\$ 2,926,060</u>

**LIABILITIES**

Intragovernmental:		
Accounts Payable	\$ 11,737	\$ 11,301
Accrued Payroll and Benefits	18,691	16,487
Accrued Workers' and Unemployment Compensation	2,005	2,063
Customer Deposit Accounts (Note 7)	6,824	7,024
Total Intragovernmental	39,257	36,875
Accounts Payable	94,928	101,361
Accrued Payroll and Benefits	137,723	128,481
Accrued Leave	125,118	117,620
Customer Deposit Accounts (Note 7)	123,989	124,325
Deferred Revenue (Note 9)	984,971	970,889
Actuarial FECA Liability (Note 10)	12,203	12,632
Contingent Liability (Note 12)	300	300
Total Liabilities (Note 8)	<u>\$ 1,518,489</u>	<u>\$ 1,492,483</u>

**NET POSITION**

Cumulative Results of Operations— Funds from Dedicated Collections (Note 14)	\$ 1,424,191	\$ 1,433,577
Total Net Position	<u>\$ 1,424,191</u>	<u>\$ 1,433,577</u>
Total Liabilities and Net Position	<u>\$ 2,942,680</u>	<u>\$ 2,926,060</u>

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

UNITED STATES PATENT AND TRADEMARK OFFICE  
**STATEMENTS OF NET COST**

For the years ended September 30, 2019 and 2018

(Dollars in Thousands)

	<b>2019</b>	<b>2018</b>
<b>Strategic Goal 1: Optimize Patent</b>		
<b>Quality and Timeliness</b>		
Total Program Cost	\$ 3,069,075	\$ 2,962,234
Total Program Earned Revenue	(3,042,447)	(2,994,383)
Net Program Cost/(Income)	26,628	(32,149)
<b>Strategic Goal 2: Optimize Trademark</b>		
<b>Quality and Timeliness</b>		
Total Program Cost	347,213	307,255
Total Program Earned Revenue	(346,224)	(315,005)
Net Program Cost/(Income)	989	(7,750)
<b>Strategic Goal 3: Provide Domestic and Global</b>		
<b>Leadership to Improve Intellectual Property Policy, Enforcement, and Protection Worldwide</b>		
Total Program Cost	61,880	51,986
Net Cost of Operations (Note 14)	\$ 89,497	\$ 12,087
<b>TOTAL ENTITY</b>		
Total Program Cost (Notes 15 and 16)	\$ 3,478,168	\$ 3,321,475
Total Earned Revenue	(3,388,671)	(3,309,388)
Net Cost of Operations (Note 14)	\$ 89,497	\$ 12,087

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

UNITED STATES PATENT AND TRADEMARK OFFICE  
**STATEMENTS OF CHANGES IN NET POSITION**

For the years ended September 30, 2019 and 2018

*(Dollars in Thousands)*

	<b>2019</b>	<b>2018</b>
	<b>Funds from Dedicated Collections</b>	<b>Funds from Dedicated Collections</b>
<b>Cumulative Results of Operations</b>		
Beginning Balances	\$ 1,433,577	\$ 1,377,552
Budgetary Financing Sources:		
Transfers Out Without Reimbursement	(1,500)	(1,000)
Other Financing Sources:		
Imputed Financing	81,611	69,112
Total Financing Sources	80,111	68,112
Net Cost of Operations	(89,497)	(12,087)
Net Change	(9,386)	56,025
Cumulative Results of Operations	\$ 1,424,191	\$ 1,433,577
Net Position, End of Year	\$ 1,424,191	\$ 1,433,577

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

UNITED STATES PATENT AND TRADEMARK OFFICE  
**STATEMENTS OF BUDGETARY RESOURCES**

For the years ended September 30, 2019 and 2018

(Dollars in Thousands)

	<u>2019</u>	<u>2018</u>
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance, Brought Forward	\$ 446,835	\$ 373,575
Recoveries of Prior Year Obligations	30,684	36,079
Unobligated Balance from Prior Year Budget		
Authority, Net (discretionary)	<u>477,519</u>	<u>409,654</u>
Spending Authority from Offsetting Collections (discretionary)	<u>3,402,897</u>	<u>3,341,661</u>
Total Budgetary Resources	<u>\$ 3,880,416</u>	<u>\$ 3,751,315</u>
<b>STATUS OF BUDGETARY RESOURCES</b>		
New Obligations	\$ 3,341,784	\$ 3,304,480
Unobligated Balance, End of Year:		
Apportioned	<u>538,632</u>	<u>446,835</u>
Total Status of Budgetary Resources	<u>\$ 3,880,416</u>	<u>\$ 3,751,315</u>
<b>OUTLAYS, NET</b>		
Net Collections (discretionary)	<u>\$ (79,169)</u>	<u>\$ (117,951)</u>

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

## UNITED STATES PATENT AND TRADEMARK OFFICE

# NOTES TO FINANCIAL STATEMENTS

AS OF AND FOR THE YEARS ENDED SEPTEMBER 30, 2019 AND 2018

### NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

#### Basis of Presentation

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

These financial statements were prepared in accordance with GAAP and the form and content for entity financial statements specified by OMB in Circular No. A-136, *Financial Reporting Requirements*, as amended, as well as the accounting policies of the USPTO. Therefore, they may differ from other financial reports submitted pursuant to OMB directives for the purpose of monitoring and controlling the use of the USPTO's budgetary resources. GAAP for federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board, which is the official body for setting the accounting standards of the federal government.

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

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

The USPTO is not subject to federal, state, or local income taxes. Accordingly, no provision for income taxes is recorded. Allocation transfers are legal delegations by

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

#### Classified Activities

Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

#### Basis of Accounting

These financial statements reflect both accrual and budgetary accounting transactions. Under the accrual method of accounting, revenues are recognized when earned and expenses are recognized when incurred, without regard to the receipt or payment of cash. Budgetary accounting is designed to recognize the obligation of funds according to legal requirements, which in many cases is made prior to the occurrence of an accrual-based transaction. Budgetary accounting is essential for compliance with legal constraints and controls over the use of federal funds.

#### Funds from Dedicated Collections

Funds from dedicated collections are financed by specifically identified revenues, which remain available over time. These specifically identified revenues are required by statute to be used for designated activities, benefits, or purposes and must be accounted for separately from the government's general revenues. At the USPTO, funds from dedicated collections include the salaries and expenses fund (013X1006), fee reserve fund (013X1008), and the special fund receipts (0135127). Additional details are provided in Note 14.

#### Fiduciary Activities

Fiduciary activities are not recognized on the financial statements, but reported on schedules in the notes to the financial statements. Fiduciary balances are not assets of the federal government. Fiduciary activities are the collection or receipt and the management, protection, accounting, and disposition by the federal government of cash or other assets in which non-federal individuals or

**NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** *(continued)*

entities have an ownership interest that the federal government must uphold. At the USPTO, fiduciary activities are recorded in the Patent Cooperation Treaty fund (013X6538) and the Madrid Protocol fund (013X6554). Additional details are provided in Note 19.

**Use of Estimates**

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

**Revenue and Other Financing Sources**

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

The USPTO also receives financial gifts and gifts-in-kind. All such transactions are included in the consolidated Gifts and Bequests Fund financial statements of the U.S. Department of Commerce. These gifts are not reflected in the USPTO's financial statements. Most gifts-in-kind are used for official travel to further attain the USPTO mission and objectives.

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

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

**Entity/Non-Entity**

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

**Fund Balance with Treasury**

The USPTO deposits fees collected in commercial bank accounts maintained by the Treasury's Bureau of the Fiscal Service. All moneys maintained in these accounts are transferred to the Federal Reserve Bank on the next business day following the day of deposit. In addition, many customer deposits are wired directly to the Federal Reserve Bank. All banking activity is conducted in accordance with the directives issued by the Bureau of the Fiscal Service. Treasury processes all disbursements. Additional details are provided in Note 2.

**Accounts Receivable**

Accounts receivable balances are established for amounts owed to the USPTO from its employees and governmental entities that do business with the USPTO.

**NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** *(continued)*

This balance in accounts receivable remains as a very small portion of the USPTO's assets, as the USPTO requires payment prior to the provision of goods or services during the course of its goals. Additional details are provided in Note 3.

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

**Advances and Prepayments**

The USPTO prepays amounts in anticipation of receiving future benefits. Although a payment has been made, an expense is not recorded until goods have been received or services have been performed. The USPTO has

prepayments and advances with non-governmental, as well as governmental vendors. Additional details are provided in Note 6.

**Undeposited Collections**

The USPTO's undeposited collections balance primarily consists of checks, electronic funds transfer, and credit card payments for deposits that are in transit and have not been credited to the USPTO's Fund Balance with Treasury. The undeposited collections balance also consists of checks for fees that were not processed at the *Balance Sheet* date due to the lag time between receipt and initial review. All such undeposited check amounts are considered to be cash equivalents. Effective November 1, 2017, the USPTO no longer accepts cash as payment for products and services for which fees are required. Additional details are provided in Note 4.

**Property, Plant, and Equipment, Net**

The USPTO's capitalization policies are summarized as follows:

<b>Classes of Property, Plant, and Equipment</b>	<b>Capitalization Threshold for Individual Purchases</b>	<b>Capitalization Threshold for Bulk Purchases</b>
IT Equipment	\$50 thousand or greater	\$250 thousand or greater
Software	\$50 thousand or greater	\$250 thousand or greater
Software in Development	\$50 thousand or greater	\$250 thousand or greater
Furniture	\$50 thousand or greater	\$ 50 thousand or greater
Equipment	\$50 thousand or greater	\$250 thousand or greater
Leasehold Improvements	\$50 thousand or greater	Not applicable

**NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** *(continued)*

Costs capitalized are recorded at actual historical cost. Depreciation is expensed on a straight-line basis over the estimated useful life of the asset with the exception of leasehold improvements, which are depreciated over the remaining life of the lease or over the useful life of the improvement, whichever is shorter. As needed, useful lives of assets are updated to reflect current estimates; the estimated useful life is used on a prospective basis. Additional details are provided in Note 5.

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

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

**Workers' Compensation**

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

*Accrued Liability:* The DOL bills the USPTO annually as its claims are paid, but payment on these bills is deferred approximately two years to allow for funding through the budget process.

*Actuarial Liability:* The DOL estimates the future workers compensation liability by applying actuarial procedures developed to estimate the liability for FECA benefits. The actuarial liability estimates for FECA benefits include the expected liability for death, disability, medical, and miscellaneous costs for approved compensation cases, plus a component for incurred but not reported claims. The actuarial liability is updated annually.

**Unemployment Compensation**

USPTO employees who lose their jobs through no fault of their own may receive unemployment compensation

benefits under the unemployment insurance program administered by the DOL. The DOL bills each agency quarterly as its claims are paid.

**Annual, Sick, and Other Leave**

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

**Employee Retirement Systems and Post-Employment Benefits**

USPTO employees participate in either the CSRS or the Federal Employees Retirement System (FERS). The FERS was established by the enactment of Pub. L. No. 99-335. Pursuant to this law, the FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees who had five years of federal civilian service prior to 1984 and who are rehired after a break in service of more than one year may elect to join the FERS and Social Security system or be placed in the CSRS offset retirement system. The USPTO's financial statements do not report CSRS or FERS assets, accumulated plan benefits, or liabilities applicable to its employees. The reporting of such amounts is the responsibility of the OPM, who administers the plans. While the USPTO reported no liability for future payments to employees under these programs, the federal government is liable for future payments to employees through the OPM who administers these programs. The USPTO financial statements recognize a funded expense for the USPTO's share of the costs to the federal government of providing pension, post-retirement health, and post-retirement life insurance benefits to all eligible USPTO employees. In addition to the funded expense, the USPTO financial statements also recognize an imputed cost for the OPM's share of the costs to the federal government of providing pension and post-retirement health benefits to all eligible USPTO employees. The USPTO's appropriation requires full funding of the present costs, as determined by the OPM, of post-retirement benefits for the Federal Employees

**NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** *(continued)*

Health Benefit Program (FEHB), the Federal Employees Group Life Insurance Program (FEGLI), and pensions under the CSRS. While ultimate administration of any post-retirement benefits or retirement system payments will continue to be administered by the OPM, the USPTO is responsible for the payment of the present value associated with these costs calculated using the OPM factors. Any difference between the OPM factors for funding purposes and the OPM factors for reporting purposes is recognized as an imputed cost. Additional details are provided in Note 13.

For the years ended September 30, 2019 and 2018, the USPTO made current year contributions through agency payroll contributions and quarterly supplemental payments to OPM equivalent to approximately 21.8 and 22.1 percent, respectively, of the employee's basic pay for those employees covered by CSRS, based on OPM cost factors. For the years ended September 30, 2019 and 2018, the USPTO made current year contributions through agency payroll contributions equivalent to approximately 13.4 percent of the employee's basic pay for those employees covered by FERS, based on OPM cost factors. As contribution funding increases, imputed costs will correspondingly decrease.

All employees are eligible to contribute to a Thrift Savings Plan. For those employees participating in the FERS, a Thrift Savings Plan is automatically established, and the USPTO makes a mandatory contribution to this plan equal to one percent of the employees' compensation. In addition, the USPTO makes matching contributions ranging from one to four percent of the employees' compensation for FERS-eligible employees who contribute to their Thrift Savings Plans. No matching contributions are made to the Thrift Savings Plans for employees participating in the CSRS. Employees

participating in the FERS are also covered under the Federal Insurance Contributions Act (FICA), for which the USPTO contributes a matching amount to the Social Security Administration.

**Deferred Revenue**

Deferred revenue represents fees that have been received by the USPTO for requested services that have not been substantially completed. Two types of deferred revenue are recorded. The first type results from checks received, accompanied by requests for services, which were not yet deposited due to the lag time between receipt and initial review. The second type of deferred revenue relates primarily to fees for applications that have been partially processed. The deferred revenue balance is estimated by analyzing the process for completing each service that the USPTO provides. The percent incomplete based on the inventory of pending work and completion status is applied to fee collections to estimate the amount for deferred revenue. Deferred revenue at the USPTO is largely impacted by the change in patent and trademark filings, changes in the first action pendency rates, and changes in fee rates. Increases in patent and trademark filings, first action pendency rates, and fee rates result in increases in deferred revenue. The components of the liability are provided in Note 9.

**Net Position**

Net Position is the residual difference between assets and liabilities, and is composed of Cumulative Results of Operations.

Cumulative Results of Operations is the net result of the USPTO's operations since inception.

**Environmental Cleanup**

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

**NOTE 2. FUND BALANCE WITH TREASURY**

As of September 30, 2019 and 2018, Fund Balance with Treasury consisted of the following:

<i>(Dollars in Thousands)</i>	<u>2019</u>	<u>2018</u>
Status of Fund Balance with Treasury:		
Obligated Balance Not Yet Disbursed	\$ 610,650	\$ 624,778
Unobligated Balance Available	538,632	446,835
Temporarily Not Available Pursuant to Public Law	937,818	937,818
Non-Budgetary Fund Balance with Treasury	<u>361,164</u>	<u>363,321</u>
Total Fund Balance with Treasury	<u>\$ 2,448,264</u>	<u>\$ 2,372,752</u>

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

To help smooth the impact of economic downturns on operations and to help mitigate funding uncertainty, the USPTO has reserved a portion of the amount Congress makes available annually through appropriations to the USPTO Salaries and Expense general fund as a designated operating reserve that will be carried over for use in future years. As of September 30, 2019, the total Patent reserve was \$383,283 thousand, and the total Trademark reserve was \$126,609 thousand. As of September 30, 2018, the total Patent reserve was \$311,539 thousand, and the total Trademark reserve was \$135,296 thousand.

As of September 30, 2019, the USPTO collected more fees than appropriated for the fiscal year. As a result, \$28,740 thousand was deposited into the Patent and Trademark Fee Reserve Fund. As of September 30, 2018, the USPTO collected less fees than appropriated for the fiscal year. As a result, there were no funds deposited into the Patent and Trademark Fee Reserve Fund (general fund). Additional details are provided in Note 14.

As of September 30, 2019 and 2018, the Non-Budgetary Fund Balance with Treasury includes surcharge receipts held in a special fund of \$233,529 thousand for each year presented and non-entity customer deposit accounts held in deposit funds of \$127,635 thousand and \$129,792 thousand, respectively.

**NOTE 3. ACCOUNTS RECEIVABLE, NET**

As of September 30, 2019, USPTO entity accounts receivable consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Accounts Receivable, Gross</b>	<b>Allowance for Uncollectible Accounts</b>	<b>Accounts Receivable, Net</b>
Intragovernmental	\$ 72	\$ -	\$ 72
With the Public	\$ 588	\$ (210)	\$ 378

As of September 30, 2018, USPTO entity accounts receivable consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Accounts Receivable, Gross</b>	<b>Allowance for Uncollectible Accounts</b>	<b>Accounts Receivable, Net</b>
Intragovernmental	\$ 13	\$ -	\$ 13
With the Public	\$ 559	\$ (170)	\$ 389

**NOTE 4. UNDEPOSITED COLLECTIONS**

As of September 30, 2019 and 2018, undeposited collections consisted of the following:

<i>(Dollars in Thousands)</i>	<b>2019</b>	<b>2018</b>
Deposits in Transit	\$ 10,622	\$ 8,355
Undeposited Collections	77	37
Total	\$ 10,699	\$ 8,392

As of September 30, 2019 and 2018, undeposited collections included customer deposit accounts held with the public amounting to \$3,178 thousand and \$1,557 thousand, respectively.

**NOTE 5. PROPERTY, PLANT, AND EQUIPMENT, NET**

As of September 30, 2019, property, plant, and equipment, net, consisted of the following:

*(Dollars in Thousands)*

<b>Classes of Property, Plant, and Equipment</b>	<b>Useful Life (Years)</b>	<b>Acquisition Value</b>	<b>Accumulated Depreciation/Amortization</b>	<b>Net Book Value</b>
IT Equipment	3-5	\$ 301,047	\$ 223,750	\$ 77,297
Software	3-5	1,036,015	795,498	240,517
Software in Development	-	62,655	-	62,655
Furniture	5-7	38,455	12,782	25,673
Equipment	3-8	7,360	5,602	1,758
Leasehold Improvements	5-20	142,906	91,465	51,441
Total Property, Plant, and Equipment		<u>\$ 1,588,438</u>	<u>\$ 1,129,097</u>	<u>\$ 459,341</u>

As of September 30, 2018, property, plant, and equipment, net, consisted of the following:

*(Dollars in Thousands)*

<b>Classes of Property, Plant, and Equipment</b>	<b>Useful Life (Years)</b>	<b>Acquisition Value</b>	<b>Accumulated Depreciation/Amortization</b>	<b>Net Book Value</b>
IT Equipment	3-5	\$ 340,497	\$ 253,204	\$ 87,293
Software	3-5	883,961	657,749	226,212
Software in Development	-	132,768	-	132,768
Furniture	5-7	25,995	8,207	17,788
Equipment	3-8	7,839	5,320	2,519
Leasehold Improvements	5-20	142,960	82,459	60,501
Total Property, Plant, and Equipment		<u>\$ 1,534,020</u>	<u>\$ 1,006,939</u>	<u>\$ 527,081</u>

The USPTO does not have any restrictions on the use or convertibility of the property, plant, and equipment balances.

**NOTE 6. OTHER ASSETS—ADVANCES AND PREPAYMENTS**

As of September 30, 2019 and 2018, other assets consisted of the following:

<i>(Dollars in Thousands)</i>	<u>2019</u>	<u>2018</u>
Intragovernmental		
Advances and Prepayments	\$ 3,924	\$ 2,193
With the Public		
Advances and Prepayments	\$ 20,002	\$ 15,240
Total	<u>\$ 23,926</u>	<u>\$ 17,433</u>

The largest governmental prepayments include the USPTO deposit accounts held with the U.S. Government Publishing Office to facilitate recurring transactions, the U.S. Postal Service for postage, the Department of Transportation for transit subsidy services, Library of Congress for library services, and the Department of Commerce for centralized services.

The largest prepayments with the public as of September 30, 2019 and 2018 were predominately \$17,760 thousand and \$13,319 thousand, respectively, for various hardware and software maintenance agreements and \$2,238 thousand and \$1,914 thousand, respectively, for various library and online database subscriptions.

**NOTE 7. ENTITY AND NON-ENTITY ASSETS**

Non-entity assets are amounts held on deposit for the convenience of the USPTO's customers.

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

As of September 30, 2019 and 2018, entity and non-entity assets consisted of the following:

<i>(Dollars in Thousands)</i>	<u>2019</u>	<u>2018</u>
Fund Balance with Treasury:		
Intragovernmental Customer Deposit Accounts	\$ 6,824	\$ 7,024
Customer Deposit Accounts with the Public	120,811	122,768
Total Fund Balance with Treasury	127,635	129,792
Undeposited Collections:		
Customer Deposit Accounts with the Public	3,178	1,557
Total Non-Entity Assets	130,813	131,349
Total Entity Assets	2,811,867	2,794,711
Total Assets	<u>\$ 2,942,680</u>	<u>\$ 2,926,060</u>

**NOTE 8. LIABILITIES COVERED AND NOT COVERED BY BUDGETARY RESOURCES**

The USPTO records liabilities for amounts that are likely to be paid as the direct result of events that have already occurred. The USPTO's liabilities covered by budgetary resources are funded by realized budgetary resources. Realized budgetary resources include obligated balances funding existing liabilities and unobligated balances (operating reserve) as of September 30, 2019.

Although future appropriations to fund liabilities not covered by budgetary resources are probable and anticipated, Congressional action is needed before budgetary resources can be provided.

As of September 30, 2019 and 2018, liabilities covered and not covered by budgetary resources were as follows:

<i>(Dollars in Thousands)</i>	<u>2019</u>	<u>2018</u>
Liabilities Covered by Resources		
Intragovernmental:		
Accounts Payable	\$ 11,737	\$ 11,301
Accrued Payroll and Benefits	18,691	16,487
Accrued Unemployment Compensation	68	82
Total Intragovernmental	<u>30,496</u>	<u>27,870</u>
Accounts Payable	94,928	101,361
Accrued Payroll and Benefits	72,113	63,548
Deferred Revenue	509,248	446,657
Total Liabilities Covered by Resources	<u>\$ 706,785</u>	<u>\$ 639,436</u>
Liabilities Not Covered by Resources		
Intragovernmental:		
Accrued Workers' Compensation	\$ 1,937	\$ 1,981
Total Intragovernmental	<u>1,937</u>	<u>1,981</u>
Accrued Payroll and Benefits	65,610	64,933
Accrued Leave	125,118	117,620
Deferred Revenue	475,723	524,232
Actuarial FECA Liability	12,203	12,632
Contingent Liability	300	300
Total Liabilities Not Covered by Resources	<u>\$ 680,891</u>	<u>\$ 721,698</u>
Liabilities Not Requiring Resources		
Intragovernmental:		
Customer Deposit Accounts	\$ 6,824	\$ 7,024
Total Intragovernmental	<u>6,824</u>	<u>7,024</u>
Customer Deposit Accounts	123,989	124,325
Total Liabilities Not Requiring Resources	<u>\$ 130,813</u>	<u>\$ 131,349</u>
Total Liabilities	<u>\$ 1,518,489</u>	<u>\$ 1,492,483</u>

**NOTE 9. DEFERRED REVENUE**

As of September 30, 2019, deferred revenue consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Patent</b>	<b>Trademark</b>	<b>Total</b>
Unearned Fees	\$ 898,447	\$ 86,447	\$ 984,894
Undeposited Checks	69	8	77
Total Deferred Revenue	<u>\$ 898,516</u>	<u>\$ 86,455</u>	<u>\$ 984,971</u>

As of September 30, 2018, deferred revenue consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Patent</b>	<b>Trademark</b>	<b>Total</b>
Unearned Fees	\$ 881,784	\$ 89,068	\$ 970,852
Undeposited Checks	34	3	37
Total Deferred Revenue	<u>\$ 881,818</u>	<u>\$ 89,071</u>	<u>\$ 970,889</u>

**NOTE 10. ACTUARIAL FECA LIABILITY**

The FECA actuarial liability is calculated annually, as of September 30th by the DOL. For FY 2019 and 2018, projected annual payments were discounted to the present value based on averaging the Treasury's Yield Curve for Treasury Nominal Coupon issues for the current and prior four years to reflect the average duration in years for income and medical payments, respectively. Interest rate assumptions utilized for discounting were as follows:

<b>2019</b>	<b>2018</b>
<b>For wage benefits:</b> 2.61% in year 1, and thereafter	<b>For wage benefits:</b> 2.72% in year 1, and thereafter
<b>For medical benefits:</b> 2.35% in year 1, and thereafter	<b>For medical benefits:</b> 2.38% in year 1, and thereafter

Based on information provided by the DOL, the U.S. Department of Commerce estimated the USPTO's liability as of September 30, 2019 and 2018, was \$12,203 thousand and \$12,632 thousand, respectively.

**NOTE 11. LEASES**

*Operating Leases:* The General Services Administration (GSA) negotiates long-term office space leases and levies rent charges, paid by the USPTO, approximate to commercial rental rates. These operating lease agreements for the USPTO's office buildings are cancelable with appropriate notification and expire at various dates between FY 2020 and FY 2035. While most of USPTO's facilities are rented from GSA, the

operating lease in San Jose, Calif., is a non-GSA lease. During the years ended September 30, 2019 and 2018, the USPTO paid \$92,351 thousand and \$93,978 thousand, respectively, to the GSA for rent. In addition, during the years ended September 30, 2019 and 2018, the USPTO paid \$1,024 thousand and \$995 thousand, respectively, to the City of San Jose for rent.

Under existing commitments, the future minimum lease payments as of September 30, 2019, are as follows:

*(Dollars in Thousands)*

Fiscal Year	GSA Real Property	Non-Federal Real Property	Total Real Property
2020	\$ 61,560	\$ 1,056	\$ 62,616
2021	61,217	-	61,217
2022	61,142	-	61,142
2023	60,955	-	60,955
2024	55,072	-	55,072
Thereafter	40,427	-	40,427
Total Future Minimum Lease Payments	\$ 340,373	\$ 1,056	\$ 341,429

The commitments shown above relate primarily to the operating lease for the USPTO headquarters and regional offices.

Lease Location	Lease Initiation	Lease Expiration
San Jose, California	FY 2015	FY 2020
Detroit, Michigan	FY 2012	FY 2022
Alexandria, Virginia	FY 2004	FY 2024
Denver, Colorado	FY 2014	FY 2024
Dallas, Texas	FY 2016	FY 2031
Shirlington, Virginia	FY 2009	FY 2035

**NOTE 12. COMMITMENTS AND CONTINGENCIES**

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

As of September 30, 2019, management expects it is reasonably possible that approximately \$600 thousand may be owed for awards or damages involving labor relations claims. As of September 30, 2018, management expects it is reasonably possible that approximately \$1,200 thousand may be owed for awards or damages involving labor relations claims.

As of September 30, 2019 and 2018, the USPTO was subject to a suit where an adverse outcome was probable and the claim was \$300 thousand for both years.

For the years ended September 30, 2019 and 2018, there were no payments made on behalf of the USPTO from the Judgment Fund. However, the USPTO was required to make one payment totaling \$3 thousand to the Judgment Fund for the year ended September 30, 2018.

As of September 30, 2019 and 2018, the USPTO did not have any major long-term commitments.

**NOTE 13. POST-EMPLOYMENT BENEFITS**

For the years ended September 30, 2019 and 2018, the post-employment benefit expenses were as follows:

<i>(Dollars in Thousands)</i>	<b>2019</b>			<b>2018</b>		
	<b>Funded</b>	<b>Imputed</b>	<b>Total</b>	<b>Funded</b>	<b>Imputed</b>	<b>Total</b>
<b>CSRS</b>	\$ 5,889	\$ 2,341	\$ 8,230	\$ 6,877	\$ 2,402	\$ 9,279
<b>FERS</b>	204,214	34,319	238,533	196,902	23,000	219,902
<b>FEHB</b>	66,853	13,814	80,667	63,258	15,976	79,234
<b>FEGLI</b>	260	-	260	252	-	252
<b>FICA</b>	111,273	-	111,273	109,272	-	109,272
<b>Total Cost</b>	<u>\$ 388,489</u>	<u>\$ 50,474</u>	<u>\$ 438,963</u>	<u>\$ 376,561</u>	<u>\$ 41,378</u>	<u>\$ 417,939</u>

**NOTE 14. FUNDS FROM DEDICATED COLLECTIONS**

Funds from dedicated collections are financed by specifically identified revenues, which remain available over time. These specifically identified revenues are required by statute to be used for designated activities, benefits, or purposes, and must be accounted for separately from the government's general revenues. At the USPTO, funds from dedicated collections include the salaries and expenses fund, the fee reserve fund, and the special fund receipts. As of September 30, 2019, \$28,740 thousand was deposited in the fee reserve fund. There were no funds deposited in the fee reserve fund as of

September 30, 2018. Non-entity funds, as disclosed in Note 7, are not funds from dedicated collections and are therefore excluded from the below amounts.

As of September 30, 2019, the salaries and expenses fund includes the Patent operating reserve of \$383,283 thousand and the Trademark operating reserve of \$126,609 thousand. As of September 30, 2018, the salaries and expenses fund includes the Patent operating reserve of \$311,539 thousand and the Trademark operating reserve of \$135,296 thousand.

<i>(Dollars in Thousands)</i>	<b>Salaries and Expenses Fund</b>	<b>Fee Reserve Fund</b>	<b>Surcharge Fund</b>	<b>Total Funds from Dedicated Collections</b>
<b>Balance Sheet as of September 30, 2019</b>				
Fund Balance with Treasury	\$ 2,058,360	\$ 28,740	\$ 233,529	\$ 2,320,629
Undeposited Collections	7,521	-	-	7,521
Accounts Receivable, Net	450	-	-	450
Other Assets	483,267	-	-	483,267
Total Assets	<u>\$ 2,549,598</u>	<u>\$ 28,740</u>	<u>\$ 233,529</u>	<u>\$ 2,811,867</u>
Total Liabilities	\$ 1,387,676	\$ -	\$ -	\$ 1,387,676
Cumulative Results of Operations	1,161,922	28,740	233,529	1,424,191
Total Liabilities and Net Position	<u>\$ 2,549,598</u>	<u>\$ 28,740</u>	<u>\$ 233,529</u>	<u>\$ 2,811,867</u>
<b>Statement of Net Cost for the Year Ended September 30, 2019</b>				
Total Program Cost	\$ 3,478,168	\$ -	\$ -	\$ 3,478,168
Less Program Earned Revenue	(3,388,671)	-	-	(3,388,671)
Net Cost of Operations	<u>\$ 89,497</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 89,497</u>
<b>Statement of Changes in Net Position for the Year Ended September 30, 2019</b>				
Net Position, Beginning of Year	\$ 1,200,048	\$ -	\$ 233,529	\$ 1,433,577
Budgetary Financing Sources:				
Transfers (Out)/In Without Reimbursement	(30,240)	28,740	-	(1,500)
Other Financing Sources:				
Imputed Financing	81,611	-	-	81,611
Net Cost of Operations	(89,497)	-	-	(89,497)
Change in Net Position	(38,126)	28,740	-	(9,386)
Net Position, End of Year	<u>\$ 1,161,922</u>	<u>\$ 28,740</u>	<u>\$ 233,529</u>	<u>\$ 1,424,191</u>

**NOTE 14. FUNDS FROM DEDICATED COLLECTIONS** *(continued)*

<i>(Dollars in Thousands)</i>	<b>Salaries and Expenses Fund</b>	<b>Fee Reserve Fund</b>	<b>Surcharge Fund</b>	<b>Total Funds from Dedicated Collections</b>
<b>Balance Sheet as of September 30, 2018</b>				
Fund Balance with Treasury	\$ 2,009,431	\$ -	\$ 233,529	\$ 2,242,960
Undeposited Collections	6,835	-	-	6,835
Accounts Receivable, Net	402	-	-	402
Other Assets	544,514	-	-	544,514
Total Assets	<u>\$ 2,561,182</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,794,711</u>
Total Liabilities	<u>\$ 1,361,134</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,361,134</u>
Cumulative Results of Operations	<u>1,200,048</u>	<u>-</u>	<u>233,529</u>	<u>1,433,577</u>
Total Liabilities and Net Position	<u>\$ 2,561,182</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 2,794,711</u>
<b>Statement of Net Cost for the Year Ended September 30, 2018</b>				
Total Program Cost	\$ 3,321,475	\$ -	\$ -	\$ 3,321,475
Less Program Earned Revenue	<u>(3,309,388)</u>	<u>-</u>	<u>-</u>	<u>(3,309,388)</u>
Net Cost of Operations	<u>\$ 12,087</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 12,087</u>
<b>Statement of Changes in Net Position for the Year Ended September 30, 2018</b>				
Net Position, Beginning of Year	\$ 1,144,023	\$ -	\$ 233,529	\$ 1,377,552
Budgetary Financing Sources:				
Transfers Out Without Reimbursement	(1,000)	-	-	(1,000)
Other Financing Sources:				
Imputed Financing	69,112	-	-	69,112
Net Cost of Operations	<u>(12,087)</u>	<u>-</u>	<u>-</u>	<u>(12,087)</u>
Change in Net Position	<u>56,025</u>	<u>-</u>	<u>-</u>	<u>56,025</u>
Net Position, End of Year	<u>\$ 1,200,048</u>	<u>\$ -</u>	<u>\$ 233,529</u>	<u>\$ 1,433,577</u>

**NOTE 14. FUNDS FROM DEDICATED COLLECTIONS** *(continued)*

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

The **Patent and Trademark Fee Reserve Fund** was created through the AIA legislation enacted on

September 16, 2011 (Pub. L. No. 112-29) modifying 35 U.S.C § 42(c). This established a statutory provision allowing the USPTO to collect and deposit in this fund fees collected in excess of the appropriated levels for each fiscal year. Annual appropriations provide further the authorization for the USPTO to spend those fees and are available without fiscal limitation until expended.

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

**NOTE 15. PROGRAM COSTS**

Program costs consist of both costs related directly to the individual business lines and overall support costs allocated to the business lines. All costs are assigned to specific programs. Total program or operating costs for the years ended September 30, 2019 and 2018, by cost category were as follows:

<i>(Dollars in Thousands)</i>	<b>2019</b>		
	<b>Direct</b>	<b>Allocated</b>	<b>Total</b>
Personnel Services and Benefits	\$ 2,150,644	\$ 173,526	\$ 2,324,170
Travel and Transportation	3,049	760	3,809
Rent, Communications, and Utilities	88,431	38,498	126,929
Printing and Reproduction	150,245	217	150,462
Contractual Services	238,153	282,964	521,117
Training	2,850	2,914	5,764
Maintenance and Repairs	3,709	43,721	47,430
Supplies and Materials	42,002	1,288	43,290
Equipment not Capitalized	5,373	19,548	24,921
Insurance Claims and Indemnities	84	92	176
Depreciation, Amortization, and Loss on Asset Dispositions	160,271	69,829	230,100
<b>Total Program Costs</b>	<b>\$ 2,844,811</b>	<b>\$ 633,357</b>	<b>\$ 3,478,168</b>

<i>(Dollars in Thousands)</i>	<b>2018</b>		
	<b>Direct</b>	<b>Allocated</b>	<b>Total</b>
Personnel Services and Benefits	\$ 2,063,855	\$ 170,551	\$ 2,234,406
Travel and Transportation	2,931	863	3,794
Rent, Communications, and Utilities	89,788	43,618	133,406
Printing and Reproduction	143,563	413	143,976
Contractual Services	198,351	270,374	468,725
Training	2,660	2,698	5,358
Maintenance and Repairs	3,625	41,380	45,005
Supplies and Materials	41,029	1,067	42,096
Equipment not Capitalized	6,438	19,280	25,718
Insurance Claims and Indemnities	6	41	47
Depreciation, Amortization, and Loss on Asset Dispositions	150,366	68,578	218,944
<b>Total Program Costs</b>	<b>\$ 2,702,612</b>	<b>\$ 618,863</b>	<b>\$ 3,321,475</b>

**NOTE 16. PROGRAM COSTS BY CATEGORY AND RESPONSIBILITY SEGMENT**

The program costs for the years ended September 30, 2019 and 2018, by cost category and business line were as follows:

	<b>2019</b>			
	<b>Patent</b>	<b>Trademark</b>	<b>Intellectual Property Protection</b>	<b>Total</b>
<i>(Dollars in Thousands)</i>				
<b>Direct Costs</b>				
Personnel Services and Benefits	\$ 1,929,418	\$ 193,256	\$ 27,970	\$ 2,150,644
Travel and Transportation	1,609	196	1,244	3,049
Rent, Communications, and Utilities	76,613	8,515	3,303	88,431
Printing and Reproduction	150,209	30	6	150,245
Contractual Services	204,579	19,991	13,583	238,153
Training	2,633	164	53	2,850
Maintenance and Repairs	2,811	825	73	3,709
Supplies and Materials	40,470	1,086	446	42,002
Equipment not Capitalized	4,495	725	153	5,373
Insurance Claims and Indemnities	84	-	-	84
Depreciation, Amortization, and Loss on Asset Dispositions	132,483	26,970	818	160,271
<b>Subtotal Direct Costs</b>	<b>\$ 2,545,404</b>	<b>\$ 251,758</b>	<b>\$ 47,649</b>	<b>\$ 2,844,811</b>
<b>Allocated Costs</b>				
Automation	\$ 275,292	\$ 46,972	\$ 5,079	\$ 327,343
Resource Management	248,379	48,483	9,152	306,014
<b>Subtotal Allocated Costs</b>	<b>\$ 523,671</b>	<b>\$ 95,455</b>	<b>\$ 14,231</b>	<b>\$ 633,357</b>
<b>Total Program Costs</b>	<b>\$ 3,069,075</b>	<b>\$ 347,213</b>	<b>\$ 61,880</b>	<b>\$ 3,478,168</b>

**NOTE 16. PROGRAM COSTS BY CATEGORY AND RESPONSIBILITY SEGMENT** *(continued)***2018**

<i>(Dollars in Thousands)</i>	<b>Patent</b>	<b>Trademark</b>	<b>Intellectual Property Protection</b>	<b>Total</b>
<b>Direct Costs</b>				
Personnel Services and Benefits	\$ 1,866,221	\$ 172,641	\$ 24,993	\$ 2,063,855
Travel and Transportation	1,661	173	1,097	2,931
Rent, Communications, and Utilities	78,639	8,200	2,949	89,788
Printing and Reproduction	143,484	61	18	143,563
Contractual Services	169,730	15,608	13,013	198,351
Training	2,413	205	42	2,660
Maintenance and Repairs	2,816	569	240	3,625
Supplies and Materials	38,976	1,599	454	41,029
Equipment not Capitalized	5,676	629	133	6,438
Insurance Claims and Indemnities	6	-	-	6
Depreciation, Amortization, and Loss on Asset Dispositions	121,901	28,032	433	150,366
<b>Subtotal Direct Costs</b>	<b>\$ 2,431,523</b>	<b>\$ 227,717</b>	<b>\$ 43,372</b>	<b>\$ 2,702,612</b>
<b>Allocated Costs</b>				
Automation	\$ 269,167	\$ 35,149	\$ 2,793	\$ 307,109
Resource Management	261,544	44,389	5,821	311,754
<b>Subtotal Allocated Costs</b>	<b>\$ 530,711</b>	<b>\$ 79,538</b>	<b>\$ 8,614</b>	<b>\$ 618,863</b>
<b>Total Program Costs</b>	<b>\$ 2,962,234</b>	<b>\$ 307,255</b>	<b>\$ 51,986</b>	<b>\$ 3,321,475</b>

## NOTE 17. BUDGETARY RESOURCES

Total budgetary resources are primarily comprised of Congressional authority to spend current year fee collections. The USPTO receives an apportionment of Category A funds from OMB, which apportions budgetary resources by fiscal quarter. The USPTO does not receive any Category B funds, or those exempt from apportionment.

For FY 2019, the USPTO was appropriated up to \$3,370,000 thousand for fees collected during the fiscal year. For the year ended September 30, 2019, the USPTO collected \$24,581 thousand more than the amount apportioned through September 30, 2019 (over-collections of fees of \$28,740 thousand and net under-collections of other budgetary resources of \$4,159 thousand); excess fee collections of \$28,740 thousand were deposited into the Patent and Trademark Fee Reserve Fund and remain available until expended.

For FY 2018, the USPTO was appropriated up to \$3,500,000 thousand for fees collected during the fiscal year. For the year ended September 30, 2018, the USPTO collected \$164,760 thousand less than the amount apportioned through September 30, 2018 (under-collections of fees of \$161,555 thousand and under-collections of other budgetary resources of \$3,205 thousand).

Total budgetary resources also include carryover of prior year budgetary resources (operating reserve). Carryover is derived from year-end budgetary resources that have not been obligated. Usage of the fees in the following fiscal year is for compensation and operational requirements on a first-in, first-out basis. For FY 2019, the carryover amount that was brought into the fiscal year from FY 2018 was \$446,835 thousand. For FY 2018, the carryover amount that was brought into the fiscal year from FY 2017 was \$373,575 thousand.

As of September 30, 2019 and 2018, reimbursable obligations incurred were \$3,341,784 thousand and \$3,304,480 thousand, respectively.

### Funding Limitations

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

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

Since FY 1992, the USPTO has not always been appropriated all of the fees that have been collected. The total temporarily unavailable fee collections pursuant to Public Law as of September 30, 2019 are \$1,171,347 thousand. Of this amount, certain USPTO collections of \$233,529 thousand were withheld in accordance with the OBRA of 1990, and deposited in a special fund receipt account at Treasury.

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

**NOTE 17. BUDGETARY RESOURCES** *(continued)***Undelivered Orders**

In addition to the future lease commitments discussed in Note 11, the USPTO is obligated for the purchase of goods and services that have been ordered, but not yet received.

As of September 30, 2019, reimbursable undelivered orders consisted of the following:

<i>(Dollars in Thousands)</i>	<b>2019</b>		
	<b>Unpaid</b>	<b>Paid</b>	<b>Total</b>
Intragovernmental	\$ 29,578	\$ 3,924	\$ 33,502
With the Public	384,328	20,002	404,330
Total Undelivered Orders	<u>\$ 413,906</u>	<u>\$ 23,926</u>	<u>\$ 437,832</u>

As of September 30, 2018, reimbursable undelivered orders consisted of the following:

<i>(Dollars in Thousands)</i>	<b>2018</b>		
	<b>Unpaid</b>	<b>Paid</b>	<b>Total</b>
Intragovernmental	\$ 31,805	\$ 2,193	\$ 33,998
With the Public	400,421	15,240	415,661
Total Undelivered Orders	<u>\$ 432,226</u>	<u>\$ 17,433</u>	<u>\$ 449,659</u>

**NOTE 18. INCIDENTAL CUSTODIAL COLLECTIONS**

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

*(Dollars in Thousands)*

	<u>2019</u>	<u>2018</u>
<b>Revenue Activity:</b>		
Sources of Collections:		
Miscellaneous	\$ 331	\$ 791
Total Collections	331	791
Accrual Adjustments	-	-
Total Custodial Revenue	<u>331</u>	<u>791</u>
<b>Disposition of Collections:</b>		
Transferred to Others:		
Treasury	(331)	(791)
(Increase)/Decrease in Amounts Yet to be Transferred	<u>-</u>	<u>-</u>
Net Custodial Activity	<u>\$ -</u>	<u>\$ -</u>

**NOTE 19. FIDUCIARY ACTIVITIES**

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

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

	<b>2019</b>		
	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<i>(Dollars in Thousands)</i>			
<b>Schedule of Fiduciary Activity for the Year Ended September 30, 2019</b>			
Fiduciary Net Assets, Beginning of Year	\$ 13,862	\$ 704	\$ 14,566
Contributions	151,648	29,914	181,562
Disbursements to and on Behalf of Beneficiaries	(152,598)	(28,433)	(181,031)
(Decrease)/Increase in Fiduciary Net Assets	(950)	1,481	531
Fiduciary Net Assets, End of Year	<u>\$ 12,912</u>	<u>\$ 2,185</u>	<u>\$ 15,097</u>

	<b>2019</b>		
	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<i>(Dollars in Thousands)</i>			
<b>Fiduciary Net Assets as of September 30, 2019</b>			
Cash and Cash Equivalents	\$ 12,912	\$ 2,185	\$ 15,097
Total Fiduciary Net Assets	<u>\$ 12,912</u>	<u>\$ 2,185</u>	<u>\$ 15,097</u>

**NOTE 19. FIDUCIARY ACTIVITIES** *(continued)*

<i>(Dollars in Thousands)</i>	<b>2018</b>		
	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<b>Schedule of Fiduciary Activity for the Year Ended September 30, 2018</b>			
Fiduciary Net Assets, Beginning of Year	\$ 13,831	\$ 542	\$ 14,373
Contributions	154,525	27,043	181,568
Disbursements To and on Behalf of Beneficiaries	(154,494)	(26,881)	(181,375)
Increase in Fiduciary Net Assets	31	162	193
Fiduciary Net Assets, End of Year	\$ 13,862	\$ 704	\$ 14,566

<i>(Dollars in Thousands)</i>	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<b>Fiduciary Net Assets as of September 30, 2018</b>			
Cash and Cash Equivalents	\$ 13,862	\$ 704	\$ 14,566
Total Fiduciary Net Assets	\$ 13,862	\$ 704	\$ 14,566

**NOTE 20. BUDGET AND ACCRUAL RECONCILIATION**

Most entity transactions are recorded in both budgetary and proprietary accounts. However, because different accounting guidelines are used for budgetary and proprietary accounting, some transactions may appear in only one set of accounts. The reconciliation of net outlays, presented on a budgetary basis, and the net cost, presented on an accrual basis, provides an explanation of the relationship between budgetary and financial accounting information. This reconciliation serves not only to identify costs paid for in the past and those that will be paid in the future, but also to assure

integrity between budgetary and financial accounting. The analysis below illustrates this reconciliation by listing the key differences between net cost and net outlays. Items that do not have a budgetary impact as of the Balance Sheet date, such as the undeposited checks for fees that were not processed, are not included in this reconciliation. As noted in Statement of Federal Financial Accounting Standards 53, *Budget and Accrual Reconciliation*, in the initial year of implementation, the disclosure requirements applicable to prior reporting periods are not required for comparative presentations.

For the year ended September 30, 2019, the budget and accrual reconciliation is as follows:

	<b>2019</b>		
	<b>Intra- governmental</b>	<b>With the Public</b>	<b>Total</b>
<i>(Dollars in Thousands)</i>			
<b>NET COST/(INCOME) FROM OPERATIONS</b>	\$ 718,752	\$ (629,255)	\$ 89,497
<b>COMPONENTS OF NET COST THAT ARE NOT PART OF NET OUTLAYS:</b>			
Property, Plant, and Equipment Depreciation	-	(227,456)	(227,456)
Property, Plant, and Equipment Disposal and Revaluation	-	(2,644)	(2,644)
Increase/(Decrease) in Assets:			
Accounts Receivable	59	(11)	48
Other Assets (Advances and Prepayments)	1,731	4,762	6,493
Undeposited Collections	-	645	645
(Increase)/Decrease in Liabilities:			
Accounts Payable	(436)	(2,072)	(2,508)
Salaries and Benefits	(2,204)	(9,242)	(11,446)
Other Liabilities (Unfunded Leave and FECA)	58	(7,069)	(7,011)
Deferred Revenue	-	(14,042)	(14,042)
Other Financing Sources:			
Federal Employee Retirement Benefit Costs paid by OPM and Imputed to the Agency	(50,474)	-	(50,474)
Other Imputed Financing	(31,137)	-	(31,137)
Total Components of Net Cost That Are Not Part of Net Outlays	(82,403)	(257,129)	(339,532)
<b>COMPONENTS OF NET OUTLAYS THAT ARE NOT PART OF NET COST:</b>			
Acquisition of Capital Assets	853	170,013	170,866
Total Components of Net Outlays That Are Not Part of Net Cost	853	170,013	170,866
<b>NET OUTLAYS</b>	\$ 637,202	\$ (716,371)	\$ (79,169)

# REQUIRED SUPPLEMENTARY INFORMATION

## UNITED STATES PATENT AND TRADEMARK OFFICE

### COMBINING SCHEDULE OF BUDGETARY RESOURCES BY MAJOR BUDGET ACCOUNT

The following table illustrates the USPTO's FY 2019 budgetary resources by major budget account.

<i>(Dollars in Thousands)</i>	<b>Salaries and Expenses</b>	<b>Patent and Trademark Fee Reserve Fund</b>	<b>Combining Total</b>
<b>BUDGETARY RESOURCES</b>			
Unobligated Balance, Brought Forward	\$ 446,835	\$ -	\$ 446,835
Recoveries of Prior Year Obligations	30,684	-	30,684
Unobligated Balance from Prior Year Budget			
Authority, Net (discretionary)	477,519	-	477,519
Spending Authority from Offsetting Collections (discretionary)	3,374,157	28,740	3,402,897
Total Budgetary Resources	<u>\$ 3,851,676</u>	<u>\$ 28,740</u>	<u>\$ 3,880,416</u>
<b>STATUS OF BUDGETARY RESOURCES</b>			
New Obligations	\$ 3,341,784	\$ -	\$ 3,341,784
Unobligated Balance, End of Year:			
Apportioned	509,892	28,740	538,632
Total Status of Budgetary Resources	<u>\$ 3,851,676</u>	<u>\$ 28,740</u>	<u>\$ 3,880,416</u>
<b>OUTLAYS, NET</b>			
Net Collections (discretionary)	<u>\$ (79,169)</u>	<u>\$ -</u>	<u>\$ (79,169)</u>

## DEFERRED MAINTENANCE AND REPAIRS

Deferred maintenance and repairs (DM&R) are maintenance and repairs that were not performed when they should have been, that were scheduled and not performed, or that were delayed for a future period. Maintenance and repairs are activities directed towards keeping Property, Plant, and Equipment (PP&E) in acceptable operating condition. These activities include preventive maintenance, normal repairs, replacement of parts and structural components, and other activities needed to preserve the asset so that it can deliver acceptable performance and achieve its expected life. Maintenance and repairs exclude activities aimed at expanding the capacity of an asset or otherwise upgrading it to serve needs different from, or significantly greater, than those originally intended.

PP&E at the USPTO consist of furniture and fixtures, IT equipment, office and telecommunication equipment, leasehold improvements, and software. It is entity policy to ensure that all PP&E, regardless of recorded value, is maintained, preserved, and managed in a safe and effective manner. The USPTO conducts periodic user feedback meetings to evaluate the effectiveness of training, operations, maintenance, facilities, continuity of operations, and supporting documentation of automated systems. The USPTO prioritizes maintenance and repair projects to sustain its PP&E in good operating condition, including maintaining warranties. Funds are used to replace equipment on a regular cycle in order to keep operations and maintenance costs stable and low. Accordingly, DM&R do not arise for PP&E at the USPTO and no periodic assessment is performed.



UNITED STATES  
PATENT AND TRADEMARK OFFICE

# INDEPENDENT AUDITORS' REPORT



With Commissioner for Patents Mary Boney Denison looking on, USPTO Chief Information Officer Jamie Holcombe speaks to staff at an employee town hall meeting. (Photo: Jay Premack/USPTO)



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

November 19, 2019

**MEMORANDUM FOR:** Andrei Iancu  
Under Secretary of Commerce for Intellectual Property and  
Director of the U.S. Patent and Trademark Office

*Carol N. Rice*

**FROM:** Carol N. Rice  
Assistant Inspector General for Audit and Evaluation

**SUBJECT:** *U.S. Patent and Trademark Office FY 2019 Financial Statements,*  
Final Report No. OIG-20-009-A

I am pleased to provide you with the attached audit report, which presents an unmodified opinion on the U.S. Patent and Trademark Office's (USPTO's) fiscal year 2019 financial statements. KPMG LLP (KPMG), an independent public accounting firm, performed the audit in accordance with U.S. generally accepted auditing standards, standards applicable to financial audits contained in *Government Auditing Standards*, and Office of Management and Budget Bulletin No. 19-03, *Audit Requirements for Federal Financial Statements*.

In its audit of USPTO, KPMG

- determined that the financial statements were fairly presented, in all material respects, and in conformity with U.S. generally accepted accounting principles;
- identified a significant deficiency in internal control over financial reporting related to information technology general controls in the areas of access controls, configuration management, and contingency planning; and
- identified no instances of reportable noncompliance with applicable laws, regulations, contracts, and grant agreements.

KPMG is solely responsible for the attached audit report and the conclusions expressed in it. We do not express any opinion on USPTO's financial statements, any conclusions about the effectiveness of internal control over financial reporting, or any conclusions on compliance with applicable laws, regulations, contracts and grant agreements.

This report will appear on our website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

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

Attachment



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

## Independent Auditors' Report

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

### Report on the Financial Statements

We have audited the accompanying financial statements of the United States Patent and Trademark Office (USPTO), which comprise the balance sheets as of September 30, 2019 and 2018, and the related statements of net cost, changes in net position, and combined statements of budgetary resources for the years then ended, and the related notes to the financial statements.

#### *Management's Responsibility for the Financial Statements*

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

#### *Auditors' Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America, in accordance with the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and in accordance with Office of Management and Budget (OMB) Bulletin No. 19-03, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 19-03 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

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

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

#### *Opinion*

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the USPTO as of September 30, 2019 and 2018, and its net costs, changes in net position, and budgetary resources for the years then ended in accordance with U.S. generally accepted accounting principles.

KPMG LLP is a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity.



United States Patent and Trademark Office  
 Independent Auditors' Report  
 November 8, 2019

#### *Other Matters*

##### Interactive Data

Management has elected to reference to information on websites or other forms of interactive data outside the Performance and Accountability Report to provide additional information for the users of its financial statements. Such information is not a required part of the basic financial statements or supplementary information required by the Federal Accounting Standards Advisory Board. The information on these websites or the other interactive data has not been subjected to any of our auditing procedures, and accordingly we do not express an opinion or provide any assurance on it.

##### Required Supplementary Information

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

##### Other Information

Our audits were conducted for the purpose of forming an opinion on the basic financial statements as a whole. The Message, Introduction, Performance Information, Message from the Acting Chief Financial Officer, Other Information, Glossary of Acronyms and Abbreviations, and Index of URLs, as listed in the Table of Contents, are presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has not been subjected to the auditing procedures applied in the audits of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

#### **Other Reporting Required by Government Auditing Standards**

##### *Internal Control over Financial Reporting*

In planning and performing our audit of the financial statements as of and for the year ended September 30, 2019, we considered the USPTO's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the USPTO's internal control. Accordingly, we do not express an opinion on the effectiveness of the USPTO's internal control. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*.

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



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deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that have not been identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. We did identify certain deficiencies in internal control, described in Exhibit 1, that we consider to be a significant deficiency.

#### *Compliance and Other Matters*

As part of obtaining reasonable assurance about whether the USPTO's financial statements as of and for the year ended September 30, 2019 are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 19-03.

#### *USPTO's Response to Findings*

The USPTO's response to the finding identified in our audit is described in Exhibit 1. The USPTO's response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on the response.

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

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

**KPMG LLP**

Washington, District of Columbia  
November 8, 2019

## Exhibit I – Significant Deficiency

### Information Technology General Controls

Although management made progress addressing deficiencies in information technology (IT) general controls associated with the USPTO's financial management systems and supporting infrastructure, conditions continue to exist, including those specific to the legacy revenue system that was replaced in July 2019. We observed the following deficiencies during FY 2019:

- Access controls. The objectives of limiting access are to ensure that users have only the access needed to perform their duties; that access to sensitive resources, such as security software programs, is limited to few individuals; access is appropriately reviewed and monitored, and that employees are restricted from performing incompatible functions or duties beyond their responsibility. We identified weaknesses in application and database access administration controls.
- Configuration management. The objectives of configuration management are to ensure that hardware, software and firmware programs, and program modifications are properly authorized, tested, and approved; that access to and distribution of programs is carefully controlled; and that integrity of the application controls is maintained. We identified weaknesses with unsupported legacy systems, configuration management baseline controls, and configuration management documentation.
- Contingency planning. The objective of security management is to support data reliability. We identified weaknesses with legacy revenue systems not operational at the alternate processing site.

The deficiencies were the result of certain issues in the operating effectiveness of controls that we communicated to management. Collectively, the aforementioned IT control deficiencies pose a risk to the integrity and availability of USPTO financial data and systems that we determined to be a significant deficiency. Management has certain compensating controls to mitigate, but not eliminate, the effect of the observed deficiencies. We have considered such compensating controls as part of our audit.

The relevant criteria is DOC and USPTO policies and various Federal standards and guidance such as (1) The U.S. Government Accountability Office's (GAO's) *Standards for Internal Control in the Federal Government*, dated September 2014, and (2) NIST SP 800-53 Rev. 4, *Security and Privacy Controls for Federal Information Systems and Organizations*.

#### *Recommendations*

Because of the sensitive nature of IT controls, certain information has been omitted from this report. We provided USPTO's management with a separate limited use report that includes specific information about the control deficiencies, our understanding of the specific causes of the control deficiencies, and our recommendations.

#### **Management's Response**

In general, we agreed with the auditors' findings, conclusions, and recommendations related to improving the USPTO's IT general controls supporting the financial management systems and supporting infrastructure controls. The USPTO is in the process of developing corrective action plans to address the recommendations presented in the separate limited use report.

# OTHER INFORMATION

*Unaudited. Please see the accompanying auditors' report.*

A landing craft, vehicle, personnel, commonly known as a Higgins boat, is shown on display outside the USPTO in Alexandria, Va. The landing craft, similar to the type used on D-Day, is on exhibit to commemorate the induction of its inventor, Andrew Higgins, into the National Inventors Hall of Fame. (Photo: Jay Premack/USPTO)



# SUMMARY OF FINANCIAL STATEMENT AUDIT AND MANAGEMENT ASSURANCES

**TABLE 1. SUMMARY OF FINANCIAL STATEMENT AUDIT**

<b>Audit Opinion</b>	<b>Unmodified</b>				
Restatement	No				
<b>Material Weaknesses</b>	<b>Beginning Balance</b>	<b>New</b>	<b>Resolved</b>	<b>Consolidated</b>	<b>Ending Balance</b>
NONE	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0

**TABLE 2. SUMMARY OF MANAGEMENT ASSURANCES**

<b>Effectiveness of Internal Control Over Financial Reporting (FMFIA § 2)</b>						
Statement of Assurance	Unmodified					
<b>Material Weaknesses</b>	<b>Beginning Balance</b>	<b>New</b>	<b>Resolved</b>	<b>Consolidated</b>	<b>Reassessed</b>	<b>Ending Balance</b>
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
<b>Effectiveness of Internal Control Over Operations (FMFIA § 2)</b>						
Statement of Assurance	Unmodified					
<b>Material Weaknesses</b>	<b>Beginning Balance</b>	<b>New</b>	<b>Resolved</b>	<b>Consolidated</b>	<b>Reassessed</b>	<b>Ending Balance</b>
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
<b>Conformance with Financial Management System Requirements (FMFIA § 4)</b>						
Statement of Assurance	Systems Conform to Financial Management System Requirements					
<b>Non-Conformances</b>	<b>Beginning Balance</b>	<b>New</b>	<b>Resolved</b>	<b>Consolidated</b>	<b>Reassessed</b>	<b>Ending Balance</b>
NONE	0	0	0	0	0	0
Total Non-Conformances	0	0	0	0	0	0
<b>Compliance with Federal Financial Management Improvement Act (FFMIA)</b>						
	<b>Agency</b>			<b>Auditor</b>		
1. System Requirements	No lack of compliance noted			No lack of compliance noted		
2. Accounting Standards	No lack of compliance noted			No lack of compliance noted		
3. USSGL at Transaction Level	No lack of compliance noted			No lack of compliance noted		

# INSPECTOR GENERAL'S TOP MANAGEMENT CHALLENGES FACING THE USPTO

The USPTO is responsible for resolving the fourth Departmental management challenge—Managing an Increasing Demand for Intellectual Property. The USPTO is also responsible for continuing to improve its own cybersecurity posture and for preparing its own acquisition workforce to administer and monitor USPTO resources in support of resolving the fifth and eighth Department-wide management challenges.



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

October 16, 2019

## INFORMATION MEMORANDUM FOR SECRETARY ROSS

**FROM:**

Peggy E. Gustafson  
Inspector General

**SUBJECT:**

*Top Management and Performance Challenges Facing the Department of Commerce in Fiscal Year 2020*  
Final Report No. OIG-20-001

The Office of Inspector General is required by statute<sup>1</sup> to report annually the most serious management and performance challenges facing the Department of Commerce. Attached is our final report on the Department's top management and performance challenges for fiscal year 2020.

For each challenge identified within this memorandum, please find brief descriptions of the issues discussed in greater detail in the report:

### **Challenge 1: Conducting an Accurate 2020 Census Enumeration While Realizing Expected Efficiency and Estimated Cost-Effectiveness**

- Successfully implementing and integrating all operations and information technology (IT) systems, as well as completing performance and scalability testing in time for the 2020 Census
- Ensuring data quality
- Motivating hard-to-count populations to respond to the decennial census
- Effectively monitoring contracts to validate performance, control cost, and achieve 2020 Census goals

<sup>1</sup> 31 U.S.C. § 3516(d).

**Challenge 2: Ensuring the Success of Current and Future Satellite Programs**

- Responding to acquisition and development challenges of next-in-series satellites
- Quantifying cost efficiencies of the proposed Polar Weather Satellites program
- Mitigating frequency interference risks to environmental satellite missions
- Making progress toward an optimal next-generation satellite system architecture
- Determining the Department's role in space traffic management

**Challenge 3: Deploying a Nationwide Public Safety Broadband Network (NPSBN)**

- Obtaining and maintaining public safety participation
- Ensuring the successful performance of the contract awarded to AT&T
- Effectively and efficiently reinvesting capital to upgrade and modernize the NPSBN

**Challenge 4: Managing an Increasing Demand for Intellectual Property Rights**

- Ensuring a thorough, timely, and fair patent examination and review process
- Strengthening the integrity of the trademark register
- Improving the management of IT systems and operations

**Challenge 5: Continuing to Improve the Department's Cybersecurity Posture**

- Securing cloud IT infrastructure to ensure a successful decennial census
- Implementing compensating security controls to protect the Department's legacy systems
- Improving incident handling capability at the Enterprise Security Operations Center
- Working closely with bureaus to implement the Department's continuous monitoring capability

### **Challenge 6: Refining Processes and Enhancing Capacity for Trade Enforcement Efforts**

- Refining existing processes for adjudicating Section 232 exclusion requests to ensure requests for existing and future products are processed objectively and timely
- Ensuring processes and staff capacity to address new covered transactions subject to foreign investment reviews

### **Challenge 7: Effectively Managing the Significant Increase in Disaster Relief Funding to EDA**

- Balancing the threat of agency elimination with the execution of increased disaster relief fund responsibilities
- Acquiring and maintaining sufficient staff with appropriate proficiency

### **Challenge 8: Preparing the Acquisition Workforce to Administer and Monitor Departmental Resources**

- Developing and maintaining a competent acquisition workforce to support the Department's mission
- Improving effectiveness in the planning and governing of the National Oceanic and Atmospheric Administration's ship fleet recapitalization acquisitions
- Improving contract administration to ensure proper contract closure
- Improving control of contract and grant file management
- Training contracting officer's representatives and other contract administrators in accordance with regulatory requirements and contract terms

We remain committed to keeping the Department's decision-makers informed of problems identified through our audits and investigations so that timely corrective actions can be taken. The final version of the report will be included in the Department's *Annual Financial Report*, as required by law.<sup>2</sup>

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<sup>2</sup> *Ibid.*

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

## OTHER ADMINISTRATIVE UPDATES

### OPTIMIZE WORKSPACE TO MEET WORKFORCE NEEDS

#### USPTO Facility and Lease Enhancements

The Alexandria Campus Atrium Vestibules project was completed in February 2019. The new entrances to the Madison Building allow for better air temperature control in the atrium, reducing the overall campus energy consumption. The Madison auditorium officially was rededicated as the *Clara Barton Auditorium*. The rededication was part of the USPTO Women's Innovation and Entrepreneurship Initiative.

The USPTO is 90 percent of the way through a multi-year renovation project to enhance the heating, cooling, fire suppression, and electrical systems that serve and protect the data center. The improvements have included a new independent chiller system and backup generator; redesign and reconfiguration of the data centers server configuration; conversion to a pre-action, dry fire suppression system; and general improvements to all the necessary infrastructure, which serve as independent systems separate from the current base building systems.

In an effort to create an ergonomic work environment, the USPTO launched the Campus Furniture Initiative in early 2018. This program offers personnel at the Alexandria campus and the Detroit regional office a height-adjustable table, storage pedestals, and light-emitting diode (LED) task lamps. These workspace options afford employees the ability to enhance their ergonomic capabilities, which can lead to greater productivity, increased stamina, and improved wellness. This project is 95 percent complete. By the end of FY 2019, 6,121 height-adjustable tables and 625 workstations will be installed.

To create spaces that allow for innovative thinking and collaboration, the USPTO redesigned the lower atrium within the Madison Building with a more modern layout. The design features the replacement of the café-style seating in the lower atrium concourse. The improved space allows for greater interaction and collaboration among staff, and overall functionality of the space has increased significantly. In addition, the USPTO recently

added four collaboration labs in the Knox, Randolph, Remsen, and Jefferson Buildings. The success of these labs has prompted the USPTO to plan for the creation of eight more collaboration labs across campus.

The GSA awarded the Randolph Square lease to the incumbent. The new lease will decrease our annual rent from approximately \$6.81 million to \$5.84 million in FY 2021, for an annual savings of \$970,000 thousand. The new lease consists of approximately 160,029 usable and 190,546 rentable square feet of office space and represents a zero-net increase to the USPTO's real property footprint.

#### Energy and Environmental Impact

The USPTO plans to meet the statutory requirement under the Energy Policy Act of 2005 in FY 2019 to purchase at least 7.5 percent of total electricity consumption from renewable sources by purchasing renewable energy certificates, representing renewable energy generated on the grid in support of the clean energy goal.

In an effort to further improve the facility's energy efficiency, the USPTO awarded six contracts for the installation of LED lighting in building main corridors, exterior office sconce lighting fixtures, and restrooms. The installation was completed in May 2019, and the LED upgrades are expected to save approximately 1,353,900 kWh (kilowatt hours) and \$90,000 annually.

In 2019, the USPTO also implemented an internal demand response program to curtail energy use on hot days. The program was set up in coordination with the building lessor to reduce electrical usage during the scheduled program period. Altogether, these initiatives will save energy, reduce costs, and help to reduce greenhouse gas emissions Scope 1 (purchased electricity) and Scope 2 (direct combustion). Greenhouse gases Scope 3 emissions from business air and business ground travel, employee commuting, and non-hazardous solid waste were not quantified in FY 2018. Employee commuting is by far the largest source of Scope 3 emissions, however, and USPTO's telework employees contribute significantly to reducing emissions, saving fuel, and reducing local road congestion. In FY 2019,

10,814 or 86 percent of eligible employees were teleworking between 1 and 5 days per week.

The USPTO has achieved at least 50 percent waste-diversion for non-hazardous solid waste for the past nine years since FY 2010. In addition to recycling bottles, cans, plastic containers, paper, and toner cartridges, the agency also recycles or donates used furniture and electronics for reuse by other agencies or schools. The USPTO also collects unwanted office supplies for redistribution to other USPTO business units through its office supply exchange store, effectively reducing waste and saving unnecessary expense to the agency. The USPTO's non-recyclable non-hazardous solid waste is transferred to the Eisenhower Avenue energy-from-waste facility, where it is converted to renewable energy. The USPTO earned the Department of Commerce Environmental Stewardship Program Award in FY 2019 for waste diversion achievements in FY 2018.

The Office of Administrative Services (OAS) hosted the 11th Annual USPTO Green Fair with 45 exhibitors (e.g., federal, state, city and county governments, non-profit, and community groups) to celebrate Earth Day and to increase employee awareness about the environment. The USPTO also was a sponsor at the Bike to Work Day Carlyle Community "pit stop" in May 2019.

### **Optimize Resources**

The USPTO's Asset Management Inventory Team is responsible for tracking over 120,000 assets, including laptops, desktop and audio/visual equipment, photocopiers, switches, iPads, printers, routers, servers, and televisions. Due to several technical enhancements and process changes, the personal computer workload has been reduced by over 75 percent, resulting in approximately \$1.1 million in annual savings. Examples of these improvements to the quarterly process of verifying each trackable asset include (a) increasing the radio frequency identification electronic identification rate to over 85 percent (in most cases reducing the time required for property custodians to locate assets), (b) establishing pilot programs in the Carlyle and Elizabeth townhouses to reduce the number of property custodians for the USPTO from 50 part-time property custodians to eight, and (c) decreasing the number of inventories required per year from four to two.

OAS installed radio frequency identification technology at the Newington Warehouse, which will automate warehouse management of toner, paper and other agency-wide supplies. OAS also completed process improvement initiatives for the USPTO's property disposal process and deployed remedy automation of the surplus process, which resulted in improvements in accuracy and workload. The records management function was transferred from the OCIO to the OAS in FY 2019, and an assessment is being conducted by a third-party vendor.

### **Safety and Health**

The Office of Security has initiated several projects that will further improve the USPTO's responses to potential security threats. This includes technological enhancements, such as upgrading the emergency radio communication system with modern equipment, which will extend coverage to all the regional offices, and upgrades to the USPTO's security access control system.

Planning and design work continues for the addition of anti-ram barriers at the main pedestrian entrances and the retrofitting of security desks with ballistic resistant panels. In addition, the Office of Security continues to support initiatives by the National Background Investigations Bureau (NBIB) regarding the re-investigation of employees by releasing 1,325 re-investigation actions during the current fiscal year. In coordination with the NBIB, the Office of Security successfully established a video link to allow NBIB investigators to conduct required interviews with USPTO remote employees, with little-to-no cost to the agency. This allowed NBIB to complete its work in an efficient manner while not detracting from remote employee productivity. The Office of Security also achieved a 96.11 percent acceptance rate on all of its background investigation packages, exceeding Office of Personnel Management's goal of 95 percent. The USPTO's physical access control system software was upgraded to a newer version to replace an obsolete version that had reached "end of life"; technical support for this version will end by December 2019. The integration, configuration, and deployment of the new physical access control system software was successfully completed for USPTO headquarters and regional offices with no effect on USPTO personnel.

The USPTO Safety Division continued to improve the safe and healthful working environment for its workforce. The Safety Division refreshed and redeployed all automated external defibrillators (AEDs). This involved removing outdated AEDs and replacing them with a newer and more user-friendly model. The Safety Division also added AEDs on each floor of every building where USPTO personnel are permanently assigned, increasing the number of AEDs by 265 percent.

The USPTO Safety Division worked with the Wellness Council to incorporate safety into its charter to increase safety awareness, involvement, and accountability. The new Wellness and Safety Council continued the implementation of a comprehensive Injury and Illness Prevention Program throughout the agency, which includes safety and occupational health training, job and agency orientation safety training, mishap reporting/

prevention, inspection and hazard abatement, and evaluation and analysis. The Safety Division assessed work spaces for potential hazards and coordinated monthly blood donations through INOVA Blood Services. The USPTO celebrated a six-year partnership with INOVA, collected over 10,000 units of blood over this period, and was recognized by INOVA and the City of Alexandria.

The Micro Market in the Jefferson Building replaced 18 vending machines, streamlining vending operations with a wider array of food selections and self-checkout (operated by the Blind Industries under the Randolph-Sheppard Act). The installation has produced an estimated 39,400 kWh/year energy reduction and savings of approximately \$2,755/year.

## PAYMENT INTEGRITY

The IPIA of 2002, as amended by the Improper Payments Elimination and Recovery Act of 2010 and Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012, requires agencies to periodically review all programs and activities and identify those that may be susceptible to significant improper payments, take multiple actions when programs and activities are identified as susceptible to significant improper payments, and annually report information on their improper payments monitoring and minimization efforts. OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control, Appendix C, Requirements for Effective Measurement and Remediation of Improper Payments*, provides guidance to agencies to comply with IPIA, as amended, and for agency improper payments efforts. The USPTO has not identified any programs or activities susceptible to significant improper payments or any significant problems with improper payments.

The USPTO recognizes the importance of maintaining adequate internal controls to ensure the accuracy and integrity of payments made by the agency, and the USPTO maintains a strong commitment to continuous improvement in the overall disbursement management process. For FY 2019 and beyond, the USPTO will continue its efforts to ensure the integrity of its disbursements.

### RISK ASSESSMENT

A review of all programs and activities that the USPTO administers is performed annually to assist in identifying, reporting, and/or preventing erroneous or improper payments. This review was completed in FY 2019.

The USPTO annually conducts an assessment of the effectiveness of internal control over financial reporting, in compliance with OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*. Furthermore, every three years, the assessment includes a review of internal controls over disbursement processes. The most recent review performed in FY 2018 indicated that current internal controls over disbursement processes were sound.

The USPTO completes an annual improper payments risk assessment covering all of its programs/activities as required by OMB Circular A-123, Appendix C. These improper payments risk assessments of the entity's programs/activities also include assessments of the control and procurement environment. The improper payments program/activity risk assessment has revealed no risk-susceptible programs.

The results of the USPTO assessments revealed no risk-susceptible programs and demonstrated that, overall, the USPTO has strong internal controls over disbursement processes, the amount of improper payments by the USPTO is immaterial, and the risk of improper payments is low.

### STATISTICAL SAMPLING

As the USPTO does not have any programs or activities that are susceptible to significant improper payments, a statistical sampling process has not been conducted to estimate the improper payment rate for USPTO programs and activities.

### IMPROPER PAYMENTS REPORTING, ROOT CAUSES, AND CORRECTIVE ACTIONS

During FY 2019, the improper payments for all USPTO programs and activities amounted to \$1.685 million, or 0.047 percent of total outlays. As the USPTO does not have any programs or activities that are susceptible to significant improper payments, an improper payment reduction outlook, root cause analyses, and corrective actions are not presented for USPTO programs and activities.

### ACCOUNTABILITY

The USPTO has not identified any significant problems with improper payments. During FY 2019, the improper payments for all USPTO programs and activities did not exceed the statutory thresholds for increased reporting. The USPTO recognizes the importance of maintaining adequate internal controls to ensure proper payments, and its commitment to continuous improvement in disbursement management processes remains very strong. The USPTO's CFO has responsibility for establishing policies and procedures for assessing USPTO and program risks of improper payments, taking

actions to reduce improper payments, and reporting the results of the actions to management for oversight and other actions as deemed appropriate. The CFO has designated the Deputy CFO to oversee initiatives related to reducing improper payments within the USPTO.

## RECAPTURES OF IMPROPER PAYMENTS

### Payment Recapture Audits

The USPTO does not currently conduct recapture audits, as prior recapture audit activity did not yield any meaningful results. As recapture audits were deemed not cost-effective for the USPTO, payment recapture rates, disposition of recaptured funds, and aging of outstanding overpayments are not presented for USPTO programs and activities.

### Overpayments Recaptured Outside of Payment Recapture Audits

The following table summarizes the USPTO's overpayments identified and overpayments verified as recaptured through sources other than payment recapture audits that are reportable in the current fiscal year and that was reported in prior fiscal years. Prior fiscal years' amounts represent amounts reported for FY 2011 through FY 2018, as FY 2011 was the first fiscal year for this reporting requirement. Amounts recaptured for current year reporting includes payment recaptures during FY 2019 of both improper payments reported in FY 2019 and improper payments previously reported in prior fiscal years.

The USPTO continues to enhance its processes by identifying and implementing additional procedures to prevent and detect improper payments. In FY 2019, the USPTO continued its reporting procedures to senior management and to the Department of Commerce on improper payments and payment recaptures data, identifying the nature and magnitude of any improper payments, along with any necessary control enhancements to prevent further occurrences of the types of improper payments identified. The USPTO's analysis of the data reported reflects that improper payments were below one-fifth of one percent in FY 2019 and FY 2018. The USPTO has additionally reviewed all financial statement audit comments and results of other payment reviews for indications of breaches of disbursement controls. None of these audit comments or reviews have uncovered any significant problems with improper payments or the internal controls applied to disbursements.

The USPTO has improper payments monitoring and minimization efforts in place, including the identification of improper payments through post-payment reviews and contract closeout reviews. The USPTO seeks to identify overpayments and erroneous payments by reviewing (1) credit memos and refund checks issued by vendors or customers and (2) undelivered electronic payments returned by financial institutions. The USPTO also inquires monthly with business units if they, through the contract oversight process, identified any improper

**Overpayments Recaptured Outside of Recapture Audits** (*Dollars in Millions*)

Source of Overpayments	Current Year (CY)		Prior Years (PY)		Cumulative (CY + PY)	
	Amounts Identified for Payment Recapture	Amounts Recaptured	Amounts Identified for Payment Recapture	Amounts Recaptured	Cumulative Amounts Identified for Recapture	Cumulative Amounts Recaptured
Post-Payment Reviews	\$ .96	\$ .06	\$ 1.92	\$ 1.80	\$ 2.88	\$ 1.86
Audits and Other Reviews	.14	.11	.06	.03	.20	.13
Reported by Vendors	.16	.16	5.00	4.99	5.16	5.15
<b>Total</b>	<b>\$ 1.26</b>	<b>\$ .33</b>	<b>\$ 6.98</b>	<b>\$ 6.82</b>	<b>\$ 8.24</b>	<b>\$ 7.15</b>

payments that occurred. In addition, the USPTO has implemented process improvements to minimize erroneous payments resulting from vendor payment assignments, which has historically been the source of the larger improper payments. A master file is now being kept for all assignments, which is available to all payment technicians and approvers. Technicians and approvers are also reminded periodically to monitor assignments.

### **AGENCY REDUCTION OF IMPROPER PAYMENTS WITH THE DO NOT PAY INITIATIVE**

During FY 2013, the USPTO implemented a periodic vendor record eligibility validation process using Do Not Pay Initiative databases to prevent improper payments. This process is ongoing with no significant impact. In addition, the USPTO has incorporated the following IPERIA listed Do Not Pay databases into existing business processes and programs:

1. The Death Master File of the Social Security Administration, and
2. GSA's Excluded Parties List System/System for Award Management.

The USPTO has implemented a monthly batch process post-payment screening of an applicable subset of payments to identify any improper payments and to take any appropriate recovery or corrective and preventative actions. The USPTO has also implemented continuous monitoring of an applicable subset of active vendor records to ensure that vendors are not subject to payment and procurement restrictions. Results are used to better maintain vendor records or to reduce or prevent improper payments and awards. During FY 2019, the validation processes using the Do Not Pay Initiative databases have not resulted in the identification or reduction of any improper payments or awards.

#### **Results of the Do Not Pay Initiative in Preventing Improper Payments *(Dollars in Millions)***

	<b>Number (#) of Payments Reviewed for Possible Improper Payments</b>	<b>Dollars (\$) of Payments Reviewed for Possible Improper Payments</b>	<b>Number (#) of Payments Stopped</b>	<b>Dollars (\$) of Payments Stopped</b>	<b>Number (#) of Potential Improper Payments Reviewed and Determined Accurate</b>	<b>Dollars (\$) of Potential Improper Payments Reviewed and Determined Accurate</b>
Reviews with the IPERIA-Specified Databases	21,532	\$936	0	\$0	0	\$0
Reviews with Databases Not Listed in IPERIA	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable

## FRAUD REDUCTION REPORT

The Fraud Reduction and Data Analytics Act of 2015 (Pub. L. No. 114-186) was enacted to improve federal agency financial and administrative controls and procedures to assess and mitigate fraud risks, and to improve federal agencies' development and use of data analytics for the purpose of identifying, preventing, and responding to fraud, including improper payments.

The USPTO considers the risk of fraudulent financial reporting and misappropriation of assets via internal controls and subsequent reviews. Procedures are in place to monitor internal controls on a consistent basis, including approvals, authorizations, verifications, reconciliations, performance reviews, security activities, and the production of records and documentation. Account access and restricted access to financial management systems and account access rights help to reduce the opportunity for fraudulent financial activities. In addition, segregation of duties ensure that roles are separated appropriately to prevent the likelihood waste, abuse, fraudulent financial reporting and misappropriation of assets.

Control activities occur at all levels of the organization and are reviewed annually to assess the risk of errors or irregularities due to fraud. The reviews performed for OMB Circular A-123 Appendix A tests internal controls over financial reporting related to the reliability of financial statements, including a risk assessment performed at the beginning of the review and the use of a risk-based approach to test financial controls. Throughout the year, variance analyses are performed to identify trends and possible discrepancies that could indicate fraud or waste in order to investigate and correct the identified controls before the potential errors are included in the financial statements.

Within the federal government, payroll, large contracts, and purchase and travel cards have been identified as having an increased risk and vulnerability of fraud. Whistleblower and fraud, waste, and abuse complaints are received and reviewed by the OIG.

The USPTO does not tolerate time and attendance abuse or other types of misconduct and will continue to take appropriate steps to avoid and address any such

misconduct. Valuable suggestions received from inside and outside the USPTO have been used to develop new policies and strengthen existing policies to increase time and attendance accountability. The USPTO has recently invested significant time and effort to improve the already extensive workforce measures aimed at preventing time and attendance abuse and to continue the USPTO's focus on accountability. The USPTO has a policy on time and attendance tools, communication, and collaboration. It gives employees clear guidance on time and attendance policies and automated tools that provide transparency to both managers and employees. All USPTO employees receive training on time and attendance requirements, as well as work schedules and leave policies, and will continue to receive similar training on an on-going basis.

The USPTO has the authority to use any contract type that it deems to be in the best interest of meeting the agency's mission. Although the USPTO is not statutorily required to provide a written justification when using high-risk contract types, as a matter of good business practice, the USPTO Office of Procurement has established the requirement for contracting officers to provide a rationale in the Acquisition File Documentation when a high-risk contract type has been selected. As part of the rationale, contracting officers must establish why it is in the best interest of the USPTO to use the high-risk contract type, the planned risk mitigation for using a high-risk contract vehicle, and what steps are being taken to avoid use of high-risk contract types in the future. The risk mitigation included for in the contract includes various mechanisms for frequent contract surveillance.

The USPTO Office of Procurement continuously monitors and updates internal control measures and processes to manage the USPTO's Purchase Card Program, as does the Office of Finance for the USPTO Travel Card Program. This includes certifying that the appropriate policies and controls are in place and corrective actions have been taken to mitigate the risk of fraud and inappropriate charge card practices. In addition, the Office of Finance collaborated with the Office of Human Resources Employee Relations Division to establish new monthly procedures to monitor, report, and manage travel card delinquencies and potential card misuse.

## REDUCE THE FOOTPRINT

The USPTO has worked diligently to reduce the real property footprint. Employee counts have increased 3 percent since the FY 2015 baseline with over 13,000 employees. The USPTO is expecting more growth through 2024. The USPTO is in the process of restacking and reconfiguring spaces within the existing square footage to accommodate employees and expand collaborative spaces. The USPTO worked with the National Archives and Records Administration to relocate or eliminate millions of files stored at the Springfield, Va., warehouse facility. The consolidation and relocation efforts were completed in September 2018 with the

USPTO releasing 270,695 rentable square feet of office and warehouse space effective FY 2019. Adding this to the 64,560 square feet released in FY 2016, to date the USPTO has reduced its footprint from FY 2016 by a total of 335,255 rentable square feet, a 12-percent space reduction. The USPTO and GSA are in the final stages of developing the Program of Requirements for submission to GSA central office and OMB. The lease renewal is scheduled for completion in 2024, and strong considerations are being taken to best utilize the existing real property footprint and reducing space if operations and space utilization allows.

**Reduce the Footprint Policy Baseline Comparison**

	<b>FY 2015 Baseline</b>	<b>FY 2018 (Change from FY 2015 Baseline)</b>	<b>FY 2019 (Change from FY 2015 Baseline)</b>
(Square footage (SF) in millions)	3.1	3.1 (0.0 growth from FY 2015)	2.9 (0.2 rentable SF decrease from FY 2015)

**Reporting of Operations and Maintenance Costs—Direct Lease Buildings**

	<b>FY 2015 Reported Cost</b>	<b>FY 2018 (Change from FY 2015 Baseline)</b>	<b>FY 2019 (Change from FY 2015 Baseline)</b>
Operation and Maintenance Costs (dollars in millions)	\$1.9	\$1.9 (\$0.0 million increase from FY 2015)	\$2.0 (\$0.1 million increase from FY 2015)

## CIVIL MONETARY PENALTY ADJUSTMENT FOR INFLATION

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, requires agencies to make regular and consistent inflationary

adjustments of civil monetary penalties to maintain their deterrent effect. There were no civil monetary penalties assessed by the USPTO during FY 2019.

## BIENNIAL REVIEW OF USER FEES

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

Consistent with the provisions of the CFO Act, the USPTO will continue to assess fees on at least a biennial basis. On July 31, 2019, the USPTO published a notice of proposed rulemaking to adjust most patent-related fees. This rulemaking effort stems from the FY 2017 comprehensive fee review, which incorporated a thorough evaluation of the existing fee schedule, as well as significant research and analysis on potential

revisions to the schedule. The USPTO developed an initial patent fee proposal intended to promote efficiency of operations, better align fees with cost, and ensure adequate revenue to deliver on our goals. The proposal was shared with the PPAC, and on September 6, 2018, a public hearing was conducted to present the proposal and to gather public comments. The USPTO reviewed and considered comments from the IP stakeholder community and incorporated feedback into the notice of proposed rulemaking to ensure that the agency moves forward with a proposal that best serves the U.S. IP system.

At the same time in FY 2019, the USPTO conducted its subsequent biennial fee review. As of the end of FY 2019, this review has resulted in a proposal to adjust trademark fees. Through this latest biennial review of trademark fees, it was determined that the existing trademark fee schedule is no longer sufficient, given changing trends in how customers engage with the trademark system. In accordance with the process established by the AIA, on August 28, 2019, the USPTO submitted to the TPAC a proposal to rebalance trademark fees in line with the current IP environment. The TPAC held a public hearing to gather feedback on the USPTO's proposal on September 23, 2019.

## THE NATURE OF THE TRAINING PROVIDED TO USPTO EXAMINERS AND ATTORNEYS

Achieving organizational excellence demands a high-performing workforce that delivers high-quality work products and provides excellent customer service. Training is critical for consistently providing high-quality products and services. Patent examiners and trademark examining attorneys received extensive legal, technical, and IT systems training during FY 2019. The USPTO has a comprehensive training program for new patent examiners and trademark examining attorneys, with a well-established curriculum that includes initial legal training, systems training, and training in examination practice and procedure.

Systems training is provided to all examiners as new IT systems are deployed and existing systems are

enhanced. New technology-specific legal and technical training was conducted throughout the examining operations. This specific training either focused on practices particular to a technology or was developed to address training needs that were identified through patent and trademark examination reviews, focus group feedback, or staff requests. The USPTO training staff works with the Patent and Trademark organizations to address specific training concerns and to serve as consultants to design specific internal programs to fit the education needs of each business unit. Training is reviewed and evaluated on an ongoing basis to ensure that it is up-to-date and that coursework reflects developments and changes that have taken place in the industry.

## PATENT EXAMINER TRAINING

<p><b>U.S. Patent Training Academy</b></p> <p>- Mandatory for first year patent examiners</p>	<ul style="list-style-type: none"> <li>▪ <b>Two-Phase, 12-Month Entry-Level Examiner Training Curriculum</b> New examiners receive an in-depth review of U.S. statutes and rules pertaining to patent examination. Classroom studies include exercises and coursework focused on practices and procedures as they apply to the examination of patent applications, automation tools, soft skills, and technical training. This is a two-phase, 12-month program with an initial four-month residence in the Patent Training Academy. Examiners then move to their technology centers, and just-in-time training takes place within the first year, followed by a proficiency exam.</li> </ul> <p>Practice and procedure training includes Claim Interpretation, the statutes (35 U.S.C. §§ 101, 112, 102, and 103), CPC, Search Strategy, Restriction, Double Patenting, Automation Tools for searching and other examination-related activities, and Allowance and Issue.</p> <p>Technical training includes introduction to examining applications in specific areas of technology, the current state of specific technologies, ongoing technology topics, etc. Automation training includes classes in more than a dozen specialized applications used in patent examination, multiple search systems, databases, and commonly used office applications.</p> <p>Life skills training includes time management, ethics training, stress management, balancing quality and production, professionalism, benefits and financial planning basics, balancing work and personal life, diversity training, and negotiating conflict.</p>
<p><b>Programs for All Patent Examiners</b></p>	<p><b>Legal Practice and Procedure Training Program</b></p> <ul style="list-style-type: none"> <li>▪ <b>Patent Examiner Refresher Training Program</b> This optional program is for examiners with at least one year of patent examining experience. The courses are designed to keep abreast a patent examiner's knowledge and skills as they relate to procedural, legal, and automation topics, including AIA-First Inventor to File, Claim Interpretation, 35 U.S.C. § 102; 35 U.S.C. §§ 103, 35 U.S.C. 112(a); Double Patenting, search strategy, search tools, and desktop automation tools/data repositories that are used in the examination process.</li> <li>▪ <b>Master Class Program</b> This optional program is for examiners with at least one year of patent examining experience who want to delve deeper into specific topics covered in the Patent Examiner Refresher Training program. Courses include 1.130 AIA Declarations of Attribution or Prior Public Disclosure, CPC, and Examination of Ranges.</li> <li>▪ <b>Patent Corps Examination Training</b> Patent Corps Examination Training is designed to bring consistency to the application of patent examination policy, practice, and procedures across technologies.</li> <li>▪ <b>Patent Quality Chats for Patent Examiners (QChats)</b> This optional training series provides information on procedural, legal, and automation topics relating to patent examination. The QChats include a brief presentation followed by a question-and-answer session. Each presentation targets a component(s) of a larger procedural, legal, or automation concept.</li> </ul>

**PATENT EXAMINER TRAINING** (continued)

<p><b>Programs for All Patent Examiners</b> (continued)</p>	<ul style="list-style-type: none"> <li data-bbox="467 310 1520 443"> <p>▪ <b>In-House Patent Law and Evidence Course</b> Training for patent examiners on authoritative court decisions on statutory issues under 35 U.S.C. §§ 101, 102, 103, and 112 and the handling of evidence during the examination of applications.</p> </li> <li data-bbox="467 485 1520 821"> <p>▪ <b>Patent Examiner Technical Training Program</b> The Patent Examiner Technical Training Program is one of seven executive actions and is aimed at encouraging innovation and strengthening the quality and accessibility of the patent system. Scientists, engineers, professors, industrial designers, and other technology experts volunteer to share their expertise with patent examiners within a learning environment. Presenters discuss advances in state of the art, emerging trends, and recent innovations in their respective fields. Courses previously offered by participants from companies and institutions, such as Oracle, Kansas University, and Microsoft, have covered topics such as cloud computing, 3D printing, and artificial intelligence. Technology experts from outside the USPTO, who have value-added expertise, teach these courses.</p> </li> <li data-bbox="467 863 1520 1094"> <p>▪ <b>Site Experience Education Program</b> Experience technology at its source. This unique program provides opportunities for groups of examiners to visit sites of innovation within the continental United States to get updates on current and emerging technologies and to view technology first-hand. Past site visits have included Bloom Energy, Goodyear, Intuit, Mattel, NOAA, Tesla, University of Arizona, and Zillow. Visits are bundled so that examiners can compare and contrast experiences at multiple sites.</p> </li> <li data-bbox="467 1136 1520 1440"> <p>▪ <b>Non-Duty Hours Legal Studies Program</b> This program is voluntary and aims to provide additional legal training to increase the depth of legal knowledge within the Patent Corps and other Patent areas. This program allows the USPTO to reimburse eligible Patent Office Professional Association bargaining unit employees (regardless of business unit), patent managers, and other patent non-bargaining unit-covered employees for tuition at accredited law schools, so long as the courses taken are mission-related and are needed to earn a Juris Doctorate degree. The agency obligates an amount of funding each fiscal year for the program. If the funding requested by employees exceeds the amount budgeted, reimbursement will be prorated.</p> </li> <li data-bbox="467 1482 1520 1724"> <p>▪ <b>Non-Duty Hours Technical Training Program</b> This program is voluntary and aims to develop and maintain a highly skilled workforce by enhancing the employees' technical knowledge, skills, and abilities. This program allows the USPTO to reimburse eligible Patent Office Professional Association bargaining unit employees (regardless of business unit), patent managers, and other patent non-bargaining unit-covered employees for technical courses taken at accredited colleges and universities. Funding for each participant is \$10,000 per fiscal year for tuition expenses.</p> </li> </ul>
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## TRADEMARK EXAMINING ATTORNEY TRAINING

Trademarks trains newly hired examining attorneys in a classroom setting during their first six to eight weeks at the USPTO. The classroom trainers are from the USPTO's Office of Trademark Quality Review and Training. At the end of classroom training, each examining attorney is integrated into their assigned law office. They are mentored by the senior attorney of that law office, who also has other management responsibilities, and they are paired with an experienced examining attorney. Each existing law office typically receives one to three new attorneys at a time. Law offices consist of about 25 attorneys at various grade levels (GS 11-14), with the majority of the GS-13 and GS-14 attorneys working full-time at home and all of the GS-11s and GS-12s working the majority of time at headquarters. In the past fiscal year, 82 examining attorneys were hired in three groups. The first and second groups were assigned to a new law office made up of all new hires, and the third group was assigned to several existing law offices.

In FY 2019, the Trademark organization used data from analyzed quality review of Trademark work product to prepare content for online e-learning training materials for trademark examining attorneys. Live and webcast training sessions and modules were developed and released, which covered the following topics:

- Digitally Altered and Mock-Up Specimens
- INTA—Cheese Industry: Overview and Issues Related to Trademark Examination
- Amazon Retail Platform
- Training Unit New Examining Attorney Training
- Nice 11th Edition Training, 2019 Version
- Precedential TTAB Case Summaries
- The 13th DuPont Factor
- TMEP Update Overview
- Form Paragraph Update Overview
- U.S. Counsel and Specimen Refresher
- Federal Circuit Cases
- X-Search Training
- New Trademark Rules: Mandatory Electronic Filing and Specimens of Use, U.S. Counsel Requirement
- Practice and Procedure Errors
- Common OG Queries Issued by ID/Class and How to Avoid Them
- Madrid First Action Requirements: How to Avoid Madrid Processing Unit Bounces
- Unauthorized Practice of Law
- Communications, Use of Title, and Appropriate Use of Agency Communications Tools
- Recent Developments in TTAB Case Law
- Evidence-Gathering Question and Answer with the Law Librarians

### Four Examination Guides Released:

- Class Headings and Explanatory Notes of International Classes Under Nice Classification, 11th Edition, 2019
- Examination of Specimens of Use in Commerce: Digitally Created or Altered and Mockup Specimens
- Section 2(a)'s Scandalousness Provision after *Iancu v. Brunetti*
- Examination Guidance on Marks for Cannabis and Cannabis-Related Products and Services

### One Examination Note Released:

- Specimens for Use in Commerce

### One Issue of Reminders Examination Information Released:

- May 2019: Informational Refusals
- August 2019: 2019 Trademark Organization Reconnection and Collaboration Homecoming On-Campus Training for All Trademarks Personnel

## FY 2019 USPTO

## WORKLOAD TABLES

This section is required by Title 35, Section 13, of the United States Code (U.S.C.).

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TABLE 1: **SUMMARY OF PATENT EXAMINING ACTIVITIES (FY 2015-FY 2019)** (Preliminary for FY 2019)<sup>1</sup>

Patent Examining Activity	2015	2016	2017	2018	2019
<b>Applications Filed, Total<sup>1,2</sup></b>	<b>618,062</b>	<b>650,411</b>	<b>650,350</b>	<b>647,572</b>	<b>665,231</b>
Utility <sup>3</sup>	578,121	607,753	604,298	599,174	616,852
Reissue	1,087	1,072	1,049	989	1,069
Plant	1,119	1,180	1,071	1,049	1,168
Design	37,735	40,406	43,932	46,360	46,142
<b>Provisional Applications Filed<sup>2,4</sup></b>	<b>170,676</b>	<b>167,390</b>	<b>166,885</b>	<b>168,427</b>	<b>169,446</b>
<b>First Actions</b>					
Design	33,549	36,550	40,415	41,587	40,098
Utility, Plant, and Reissue	632,337	609,612	611,280	597,509	582,917
Patent Cooperation Treaty (PCT)/Chapter	22,193	20,485	20,353	20,932	21,559
<b>Patent Application Disposals, Total</b>	<b>641,665</b>	<b>681,363</b>	<b>676,002</b>	<b>680,467</b>	<b>682,134</b>
<b>Allowed Patent Applications, Total</b>	<b>353,700</b>	<b>363,022</b>	<b>373,093</b>	<b>368,877</b>	<b>406,678</b>
Design	28,663	30,741	32,705	34,078	35,450
Utility, Plant, and Reissue	325,037	332,281	340,388	334,799	371,228
<b>Abandoned, Total</b>	<b>287,965</b>	<b>318,341</b>	<b>302,452</b>	<b>282,374</b>	<b>275,470</b>
Design	3,725	4,715	5,894	6,197	6,529
Utility, Plant, and Reissue	284,240	313,626	296,558	276,177	268,941
<b>Statutory Invention Registration Disposals, Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>PCT/Chapter II Examinations Completed</b>	<b>1,655</b>	<b>1,234</b>	<b>1,064</b>	<b>929</b>	<b>1,017</b>
<b>Applications Published<sup>5</sup></b>	<b>362,536</b>	<b>397,190</b>	<b>373,153</b>	<b>373,693</b>	<b>394,825</b>
<b>Patents Issued<sup>2,6</sup></b>	<b>322,448</b>	<b>334,107</b>	<b>347,243</b>	<b>339,512</b>	<b>370,434</b>
Utility	295,459	304,568	315,366	306,912	336,855
Reissue	531	459	360	500	554
Plant	1,020	1,250	1,247	1,251	1,193
Design	25,438	27,830	30,270	30,849	31,832
Pendency time of average patent application <sup>7</sup>	26.6	25.3	24.2	23.8	23.8
Reexamination certificates issued	764	499	513	1,314	626
PCT international applications received by USPTO as receiving office	56,480	56,339	56,840	55,849	55,692
National requirements received by USPTO as designated/elected office	85,387	85,988	90,577	94,359	98,184
Patents renewed under Pub. L. No. 102-204 <sup>8</sup>	401,647	430,935	424,574	490,132	477,927
Patents expired under Pub. L. No. 102-204 <sup>8</sup>	98,283	108,627	99,047	118,709	129,464

- Represents zero.

<sup>1</sup> FY 2019 filing data are preliminary and will be finalized in the FY 2020 PAR.

<sup>2</sup> FY 2018 application data have been updated with final end-of-year numbers.

<sup>3</sup> Utility patents include chemical, electrical, and mechanical applications.

<sup>4</sup> Provisional applications provided for in Pub. L. No. 103-465.

<sup>5</sup> Eighteen-month publication of patent applications provided for the AIA, Pub. L. No. 106-113.

<sup>6</sup> Excludes withdrawn numbers. Past years' data may have been revised from prior-year reports.

<sup>7</sup> Average time (in months) between filing and issuance or abandonment of utility, plant, and reissue applications. This average does not include design patents.

<sup>8</sup> The provisions of Pub. L. No. 102-204 regarding the renewal of patents superseded Pub. L. No. 96-517 and Pub. L. No. 97-247.

TABLE 2: **PATENT APPLICATIONS FILED BY TYPE (FY 1999-FY 2019)** (Preliminary for FY 2019)<sup>1</sup>

Year	Utility	Design	Plant	Reissue	Total
1999	259,618	17,227	759	664	278,268
2000	291,653	18,563	786	805	311,807
2001	324,211	18,636	914	956	344,717
2002	331,580	19,706	1,134	974	353,394
2003	331,729	21,966	785	938	355,418
2004	353,319	23,457	1,212	996	378,984
2005	381,797	25,304	1,288	1,143	409,532
2006	417,453	25,853	1,204	1,103	445,613
2007	439,578	26,693	1,002	1,057	468,330
2008	466,258	28,217	1,331	1,080	496,886
2009	458,901	25,575	988	1,035	486,499
2010	479,332	28,577	1,013	1,138	510,060
2011	504,663	30,247	1,103	1,158	537,171
2012	530,915	32,258	1,181	1,212	565,566
2013	564,007	35,065	1,318	1,074	601,464
2014	579,873	36,254	1,123	1,207	618,457
2015	578,121	37,735	1,119	1,087	618,062
2016	607,753	40,406	1,180	1,072	650,411
2017	604,298	43,932	1,071	1,049	650,350
2018	599,174	46,360	1,049	989	647,572
<b>2019</b>	<b>616,852</b>	<b>46,142</b>	<b>1,168</b>	<b>1,069</b>	<b>665,231</b>

<sup>1</sup> FY 2019 data are preliminary and will be finalized in the FY 2020 PAR.

TABLE 3: PATENT APPLICATIONS PENDING PRIOR TO ALLOWANCE<sup>1</sup> (FY 1999-FY 2019)

Year	Awaiting Action by Examiner	Total Applications Pending <sup>2</sup>
1999	243,207	414,837
2000	308,056	485,129
2001	355,779	542,007
2002	433,691	636,530
2003	471,382	674,691
2004	528,685	756,604
2005	611,114	885,002
2006	701,147	1,003,884
2007	760,924	1,112,517
2008	771,529	1,208,076
2009	735,961	1,207,794
2010	726,331	1,163,751
2011	690,967	1,168,928
2012	633,812	1,157,147
2013	616,409	1,148,823
2014	642,949	1,127,701
2015	592,417	1,099,468
2016	579,074	1,070,163
2017	569,088	1,082,661
2018	542,446	1,071,395
<b>2019</b>	<b>570,609</b>	<b>1,060,138</b>

<sup>1</sup> Includes patent applications pending at end of period indicated, and includes utility, reissue, plant, and design applications. Does not include allowed applications.

<sup>2</sup> Applications under examination, including those in preexamination processing.

TABLE 4: PATENT PENDENCY STATISTICS (FY 2019)

Utility, Plant, Reissue Pendency Statistics by Technology Center (in months)	Average First Action Pendency	Total Average Pendency
<b>Total Utility, Plant, and Reissue Pendency</b>	<b>14.7</b>	<b>23.8</b>
Tech Center 1600—Biotechnology and Organic Chemistry	11.8	22.8
Tech Center 1700—Chemical and Materials Engineering	16.4	27.7
Tech Center 2100—Computer Architecture, Software, and Information Security	17.5	28.3
Tech Center 2400—Networks, Multiplexing, Cable, and Security	13.3	25.2
Tech Center 2600—Communications	10.4	20.0
Tech Center 2800—Semiconductor, Electrical, Optical Systems, and Components	12.5	22.1
Tech Center 3600—Transportation, Construction, Agriculture, and Electronic Commerce	16.5	26.8
Tech Center 3700—Mechanical Engineering, Manufacturing, and Products	19.1	28.8

TABLE 5: SUMMARY OF TOTAL PENDING PATENT APPLICATIONS (FY 2019)

Stage of Processing	Utility, Plant, and Reissue Applications	Design Applications	Total Patent Applications
<b>Pending Patent Applications, Total</b>	<b>1,060,138</b>	<b>72,552</b>	<b>1,132,690</b>
<b>In Preexamination Processing, Total</b>	<b>101,773</b>	<b>1,791</b>	<b>103,564</b>
<b>Under Examination, Total</b>	<b>842,082</b>	<b>59,999</b>	<b>902,081</b>
Undocketed	50,297	4,276	54,573
Awaiting First Action by Examiner	398,711	43,880	442,591
<b>Subtotal of pending applications</b>	<b>550,781</b>	<b>49,947</b>	<b>600,728</b>
Request for Continued Examination Awaiting First Action	19,828	-	<b>19,828</b>
Rejected, Awaiting Response by Applicant	275,964	9,553	<b>285,517</b>
Amended, Awaiting Action by Examiner	76,788	2,079	<b>78,867</b>
In Interference	48	-	<b>48</b>
On Appeal, and Other <sup>1</sup>	20,446	211	<b>20,657</b>
<b>In Preexamination Processing, Total</b>	<b>116,283</b>	<b>10,762</b>	<b>127,045</b>
Awaiting Issue Fee	85,984	7,346	93,330
Awaiting Printing <sup>2</sup>	26,782	3,410	30,192
D-10s (Secret cases in condition for allowance) <sup>3</sup>	3,517	6	3,523

- Represents zero.

<sup>1</sup> Includes cases on appeal and undergoing petitions.

<sup>2</sup> Includes withdrawn cases.

<sup>3</sup> Applications classified under 35 U.S.C. 181 which are otherwise in condition for allowance.

TABLE 6: PATENTS ISSUED (FY 1999-FY 2019)<sup>1</sup>

Year	Utility <sup>2</sup>	Design	Plant	Reissue	Total
1999	142,852	15,480	436	393	159,161
2000	164,486	16,718	453	561	182,218
2001	169,571	17,179	563	504	187,817
2002	160,839	15,096	912	465	177,312
2003	171,493	16,525	1,178	394	189,590
2004	169,295	16,533	998	343	187,169
2005	151,077	13,395	816	195	165,483
2006	162,509	19,072	1,106	500	183,187
2007	160,306	22,543	979	548	184,376
2008	154,699	26,016	1,179	662	182,556
2009	165,213	23,415	1,096	398	190,122
2010	207,915	23,373	978	861	233,127
2011	221,350	21,295	816	969	244,430
2012	246,464	21,953	920	921	270,258
2013	265,979	22,453	842	809	290,083
2014	303,930	24,008	1,013	661	329,612
2015	295,460	25,438	1,020	531	322,449
2016	304,568	27,830	1,250	459	334,107
2017	315,366	30,270	1,247	360	347,243
2018	306,912	30,849	1,251	500	339,512
<b>2019</b>	<b>336,855</b>	<b>31,832</b>	<b>1,193</b>	<b>554</b>	<b>370,434</b>

<sup>1</sup> Past years' data may have been revised from prior-year reports.

<sup>2</sup> Includes chemical, electrical, and mechanical applications.

TABLE 7: PATENT APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES<sup>1</sup> (FY 2015-FY 2019)

State/Territory	2015	2016	2017	2018	2019 <sup>2</sup>
<b>Total</b>	<b>304,651</b>	<b>318,701</b>	<b>316,718</b>	<b>310,416</b>	<b>N/A</b>
Alabama	1,042	1,026	1,061	1,052	N/A
Alaska	118	115	100	117	N/A
Arizona	5,047	5,134	5,330	5,483	N/A
Arkansas	596	750	959	1,162	N/A
California	83,861	90,050	87,203	85,071	N/A
Colorado	6,266	5,840	6,079	6,138	N/A
Connecticut	5,557	5,270	5,343	5,595	N/A
Delaware	727	836	686	622	N/A
District of Columbia	459	482	482	582	N/A
Florida	9,962	9,618	9,834	9,756	N/A
Georgia	5,870	5,879	6,066	5,725	N/A
Hawaii	328	265	312	262	N/A
Idaho	1,337	1,217	1,432	1,588	N/A
Illinois	11,218	12,136	10,748	10,244	N/A
Indiana	4,230	4,158	4,262	4,252	N/A
Iowa	1,870	1,722	1,923	2,033	N/A
Kansas	1,577	1,554	1,575	1,428	N/A
Kentucky	1,455	1,388	1,359	1,416	N/A
Louisiana	915	895	941	960	N/A
Maine	434	422	347	395	N/A
Maryland	4,218	4,278	4,325	4,303	N/A
Massachusetts	15,172	15,249	16,234	16,348	N/A
Michigan	10,481	11,363	11,970	11,237	N/A
Minnesota	8,382	8,686	8,417	8,142	N/A
Mississippi	366	337	378	363	N/A
Missouri	2,625	3,046	2,844	2,868	N/A
Montana	342	361	349	319	N/A
Nebraska	705	655	701	755	N/A

State/Territory	2015	2016	2017	2018	2019 <sup>2</sup>
Nevada	1,669	1,818	1,699	1,790	N/A
New Hampshire	1,843	1,766	1,834	1,795	N/A
New Jersey	9,783	10,340	9,983	9,270	N/A
New Mexico	982	951	1,026	932	N/A
New York	17,984	19,559	18,602	18,649	N/A
North Carolina	7,472	8,099	7,224	7,368	N/A
North Dakota	213	217	233	229	N/A
Ohio	8,696	9,182	9,638	9,237	N/A
Oklahoma	1,210	1,121	1,178	1,197	N/A
Oregon	5,692	6,453	6,395	6,486	N/A
Pennsylvania	8,732	8,633	8,934	8,693	N/A
Rhode Island	834	686	846	758	N/A
South Carolina	2,026	2,098	2,328	2,010	N/A
South Dakota	293	313	303	316	N/A
Tennessee	2,291	2,433	2,459	2,418	N/A
Texas	20,198	21,671	21,844	21,825	N/A
Utah	3,333	3,379	3,822	3,477	N/A
Vermont	645	678	596	574	N/A
Virginia	4,518	4,446	4,646	4,809	N/A
Washington	15,870	17,044	16,432	15,017	N/A
West Virginia	286	238	235	333	N/A
Wisconsin	4,562	4,498	4,831	4,645	N/A
Wyoming	238	212	232	243	N/A
Puerto Rico	100	100	83	99	N/A
U.S. Virgin Islands	14	12	15	14	N/A
U.S. Pacific Islands <sup>3</sup>	2	18	36	13	N/A
United States <sup>4</sup>	5	4	4	3	N/A

<sup>1</sup> Data include utility, plant, design, and reissue applications.

<sup>2</sup> FY 2019 preliminary data should be available January 2020 at [www.uspto.gov](http://www.uspto.gov) and finalized in the FY 2020 PAR.

<sup>3</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>4</sup> State/territory information not available.

TABLE 8: PATENTS ISSUED TO RESIDENTS OF THE UNITED STATES<sup>1</sup> (FY 2018-FY 2019)<sup>2</sup>

State/Territory	2018	2019
<b>Total</b>	<b>161,965</b>	<b>177,053</b>
Alabama	503	598
Alaska	45	69
Arizona	2,844	3,038
Arkansas	398	514
California	43,895	48,424
Colorado	3,264	3,577
Connecticut	2,941	3,317
Delaware	287	289
District of Columbia	219	300
Florida	4,994	5,219
Georgia	3,130	3,076
Hawaii	139	153
Idaho	744	1,053
Illinois	5,742	6,114
Indiana	2,341	2,466
Iowa	1,123	1,076
Kansas	881	908
Kentucky	739	783
Louisiana	490	493
Maine	243	240
Maryland	2,082	2,291
Massachusetts	7,639	8,519
Michigan	7,169	7,985
Minnesota	4,574	4,684
Mississippi	203	230
Missouri	1,343	1,617
Montana	180	212

State/Territory	2018	2019
Nebraska	306	374
Nevada	779	877
New Hampshire	1,053	1,109
New Jersey	4,672	5,074
New Mexico	527	555
New York	9,889	10,487
North Carolina	3,772	4,058
North Dakota	124	146
Ohio	4,625	5,041
Oklahoma	628	668
Oregon	3,663	3,846
Pennsylvania	4,421	4,622
Rhode Island	413	455
South Carolina	1,164	1,242
South Dakota	135	182
Tennessee	1,314	1,330
Texas	11,210	12,721
Utah	1,791	1,953
Vermont	417	381
Virginia	2,471	2,803
Washington	7,434	8,600
West Virginia	137	153
Wisconsin	2,682	2,920
Wyoming	125	116
Puerto Rico	41	64
U.S. Virgin Islands	2	6
U.S. Pacific Islands <sup>3</sup>	18	24
United States <sup>4</sup>	-	1

- Represents zero.

<sup>1</sup> Data include utility, design, plant, and reissue patents.

<sup>2</sup> FY 2018 data may have been updated since the FY 2018 PAR.

<sup>3</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>4</sup> No State indicated in database.

TABLE 9: UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES<sup>1</sup> (FY 2015-FY 2019)

Residence	2015	2016	2017	2018	2019 <sup>2</sup>
<b>Total</b>	<b>313,411</b>	<b>331,710</b>	<b>332,522</b>	<b>335,118</b>	<b>N/A</b>
Afghanistan	-	1	-	-	N/A
Albania	1	2	-	3	N/A
Algeria	2	1	2	-	N/A
Andorra	1	4	4	1	N/A
Angola	1	2	1	1	N/A
Anguilla	1	1	1	-	N/A
Antigua and Barbuda	-	1	1	-	N/A
Argentina	154	177	200	200	N/A
Armenia	17	25	52	31	N/A
Aruba	-	-	2	3	N/A
Australia	3,909	4,013	4,254	4,198	N/A
Austria	2,502	2,771	2,707	2,719	N/A
Azerbaijan	-	5	3	2	N/A
Bahamas	10	14	9	12	N/A
Bahrain	4	9	6	9	N/A
Bangladesh	13	18	15	10	N/A
Barbados	7	9	7	4	N/A
Belarus	16	20	23	19	N/A
Belgium	2,456	2,614	2,750	2,782	N/A
Belize	1	1	2	2	N/A
Benin	-	-	-	-	N/A
Bermuda	9	16	7	4	N/A
Bolivia	3	3	4	1	N/A
Bonaire, Sint Eustatius, and Saba	-	-	-	-	N/A
Bosnia and Herzegovina	3	3	3	3	N/A
Botswana	-	-	-	-	N/A
Brazil	893	968	966	1,031	N/A
British Virgin Islands	4	22	15	8	N/A
Brunei Darussalam	-	3	7	4	N/A
Bulgaria	87	63	109	94	N/A
Burkina Faso	-	-	-	-	N/A
Burundi	-	-	-	2	N/A
Cambodia	-	2	-	1	N/A
Cameroon	1	1	3	3	N/A
Canada	13,877	14,328	14,167	14,086	N/A
Cayman Islands	26	59	25	13	N/A
Chad	-	1	-	-	N/A
Chile	125	130	129	171	N/A
China (Hong Kong)	1,453	1,325	2,001	1,723	N/A
China (Macau)	40	42	51	33	N/A
China (People's Republic of)	22,374	27,935	32,127	37,788	N/A
Colombia	109	88	84	114	N/A
Congo (Dem. Republic of) <sup>4</sup>	-	-	-	1	N/A
Costa Rica	39	36	39	80	N/A
Cote d'Ivoire	2	-	-	1	N/A
Croatia	32	36	34	42	N/A
Cuba	17	18	16	10	N/A

Residence	2015	2016	2017	2018	2019 <sup>2</sup>
Curaçao	-	1	-	-	N/A
Cyprus	22	45	26	25	N/A
Czech Republic	480	402	608	623	N/A
Denmark	2,383	2,505	2,419	2,455	N/A
Dominican Republic	4	6	9	8	N/A
Ecuador	9	4	8	7	N/A
Egypt	70	85	101	65	N/A
El Salvador	4	1	2	2	N/A
Eritrea	-	3	1	1	N/A
Estonia	61	78	81	80	N/A
Ethiopia	-	-	-	-	N/A
Faroe Islands	2	-	1	-	N/A
Fiji	-	-	-	-	N/A
Finland	3,325	3,358	3,081	2,851	N/A
French Polynesia	1	-	1	-	N/A
France	12,715	13,489	13,552	13,275	N/A
Gabon	1	2	1	1	N/A
Gambia <sup>4</sup>	-	-	-	1	N/A
Georgia	2	8	6	4	N/A
Germany	31,132	33,254	32,771	32,734	N/A
Ghana	2	1	2	1	N/A
Gibraltar	15	3	8	3	N/A
Greece	234	223	248	246	N/A
Greenland	-	-	-	-	N/A
Grenada <sup>4</sup>	-	-	-	1	N/A
Guadeloupe	-	1	-	-	N/A
Guatemala	5	-	9	13	N/A
Guernsey	4	4	-	2	N/A
Guinea	-	1	-	-	N/A
Guyana	1	-	-	-	N/A
Haiti	-	-	-	-	N/A
Honduras	2	-	-	-	N/A
Hungary	302	304	296	237	N/A
Iceland	103	88	93	99	N/A
India	7,835	7,676	9,115	9,809	N/A
Indonesia	49	35	38	27	N/A
Iran	64	78	157	172	N/A
Iraq	2	1	-	4	N/A
Ireland	1,245	1,408	1,487	1,612	N/A
Isle of Man	12	5	13	9	N/A
Israel	7,876	8,251	8,664	8,312	N/A
Italy	5,353	5,871	6,165	6,046	N/A
Jamaica	15	13	14	12	N/A
Japan	89,028	91,383	89,364	87,872	N/A
Jersey	11	9	33	26	N/A
Jordan	29	27	43	22	N/A
Kazakhstan	13	7	11	16	N/A
Kenya	16	31	33	41	N/A
Korea (Dem. Republic of)	-	-	-	-	N/A
Korea (Republic of)	39,941	41,823	38,026	36,645	N/A

TABLE 9: UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES<sup>1</sup> (FY 2015-FY 2019) (continued)

Residence	2015	2016	2017	2018	2019 <sup>2</sup>
Kuwait	71	105	46	59	N/A
Kyrgyzstan	-	-	-	2	N/A
Latvia	19	19	15	29	N/A
Lebanon	22	25	28	37	N/A
Lesotho	-	-	-	-	N/A
Liberia	-	1	-	1	N/A
Libya	1	-	-	-	N/A
Liechtenstein	46	75	54	42	N/A
Lithuania	43	40	32	48	N/A
Luxembourg	116	137	135	127	N/A
Madagascar	2	-	1	-	N/A
Macedonia	-	4	3	2	N/A
Malawi	-	-	-	1	N/A
Malaysia	514	462	521	561	N/A
Mali	1	1	-	1	N/A
Malta	20	30	17	41	N/A
Martinique	-	-	-	-	N/A
Mauritius	1	2	1	7	N/A
Mexico	613	686	727	681	N/A
Moldova	4	6	2	3	N/A
Monaco	27	39	50	37	N/A
Mongolia	1	3	3	-	N/A
Montenegro	-	1	1	1	N/A
Morocco	8	10	4	8	N/A
Myanmar <sup>4</sup>	-	-	-	2	N/A
Namibia	4	3	-	3	N/A
Nepal (Federal Democratic Republic of)	1	-	-	2	N/A
Netherlands	5,443	6,676	5,921	5,761	N/A
New Caledonia	-	1	-	3	N/A
New Zealand	771	759	843	849	N/A
Nicaragua	1	2	1	1	N/A
Niger	-	2	-	-	N/A
Nigeria	4	8	5	7	N/A
Norway	1,202	1,202	1,256	1,259	N/A
Oman	8	6	8	4	N/A
Pakistan	47	53	49	31	N/A
Panama	15	21	13	13	N/A
Paraguay	1	4	-	15	N/A
Peru	16	19	21	26	N/A
Philippines	116	119	165	176	N/A
Poland	535	570	608	742	N/A
Portugal	184	249	316	298	N/A
Qatar	57	52	42	59	N/A
Romania	166	139	143	193	N/A
Russian Federation	1,064	1,102	1,208	1,101	N/A

Residence	2015	2016	2017	2018	2019 <sup>2</sup>
Saint Kitts and Nevis	-	-	-	1	N/A
Saint Lucia	1	-	-	1	N/A
Saint Vincent and the Grenadines	-	-	1	-	N/A
Samoa	1	3	5	4	N/A
San Marino	3	1	3	3	N/A
Saudi Arabia	747	1,029	1,093	1,384	N/A
Senegal	-	1	1	1	N/A
Serbia	44	40	51	45	N/A
Seychelles	4	10	7	3	N/A
Singapore	1,879	1,972	2,059	2,055	N/A
Sint Maarten	-	-	-	-	N/A
Slovakia	54	64	88	82	N/A
Slovenia	104	104	121	133	N/A
South Africa	385	382	409	369	N/A
Spain	1,840	1,902	2,138	2,090	N/A
Sri Lanka	16	17	26	22	N/A
State of Palestine	2	1	-	-	N/A
Sudan	1	1	-	1	N/A
Swaziland	-	-	-	-	N/A
Sweden	5,510	5,699	5,404	5,355	N/A
Switzerland	5,315	5,862	5,938	5,968	N/A
Syrian Arab Republic	3	3	1	N/A	N/A
Taiwan	20,561	20,875	19,911	20,258	N/A
Tajikistan	-	-	-	-	N/A
Tanzania	1	-	-	-	N/A
Thailand	193	148	187	196	N/A
Trinidad and Tobago	6	14	9	4	N/A
Tunisia	13	13	9	7	N/A
Turkey	315	396	500	497	N/A
Turkmenistan	-	1	-	-	N/A
Turks and Caicos Islands	1	2	-	4	N/A
Uganda	-	-	1	-	N/A
Ukraine	150	157	145	170	N/A
United Arab Emirates	172	215	170	209	N/A
United Kingdom	14,290	14,824	15,597	15,338	N/A
Uruguay	20	18	19	21	N/A
Uzbekistan	3	3	1	2	N/A
Vanuatu	-	1	-	2	N/A
Venezuela	33	31	20	13	N/A
Vietnam	42	36	53	74	N/A
Yemen	1	1	1	2	N/A
Zambia	-	-	1	-	N/A
Zimbabwe	-	-	1	3	N/A
Other <sup>3</sup>	-	-	-	-	N/A

- Represents zero.

<sup>1</sup> Data include utility, design, plant, and reissue applications. Country listings include possessions and territories of that country unless listed separately in the table. Data are subject to minor revisions.

<sup>2</sup> FY 2019 preliminary data should be available in January 2020 at [www.uspto.gov](http://www.uspto.gov), and finalized in the FY 2020 PAR.

<sup>3</sup> Country of origin information not available.

<sup>4</sup> Country not previously listed.

TABLE 10: PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES <sup>1,2</sup> (FY 2015-FY 2019)<sup>3</sup>

Residence	2015	2016	2017	2018	2019
<b>Total</b>	<b>168,050</b>	<b>173,650</b>	<b>180,275</b>	<b>177,548</b>	<b>193,381</b>
Afghanistan	-	-	-	-	-
Albania	-	-	1	-	1
Algeria	1	-	-	2	1
Andorra	8	3	2	3	-
Angola	1	1	-	-	-
Anguilla	-	-	1	-	-
Antigua and Barbuda	-	1	-	-	-
Argentina	74	89	93	83	115
Armenia	8	5	15	8	21
Aruba	-	-	-	-	3
Australia	1,937	1,888	1,964	1,966	2,136
Austria	1,248	1,416	1,613	1,528	1,618
Azerbaijan	1	1	2	1	1
Bahamas	15	6	5	4	9
Bahrain	1	3	2	4	7
Bangladesh	2	1	7	9	10
Barbados	5	2	3	4	-
Belarus	16	30	16	9	14
Belgium	1,234	1,315	1,359	1,408	1,447
Belize	-	-	-	-	-
Bermuda	3	-	2	1	4
Bolivia	-	2	2	1	1
Bosnia and Herzegovina	-	2	2	3	1
Brazil	372	399	396	442	432
British Virgin Islands	3	1	5	6	4
Brunei Darussalam	1	4	1	2	-
Bulgaria	37	52	42	42	49
Burkina Faso	-	-	-	-	-
Cabo Verde <sup>4</sup>	-	-	-	-	1
Cambodia	-	1	-	1	-
Cameroon	1	1	2	1	3
Canada	7,487	7,258	7,532	7,226	7,793
Cayman Islands	18	8	12	15	9
Chad	-	-	-	-	-
Chile	85	47	59	58	41
China (Hong Kong)	805	825	892	973	1,073
China (Macau)	15	26	31	45	27
China (People's Republic of)	8,598	10,988	14,147	16,315	20,834
Colombia	37	39	31	44	46
Costa Rica	17	27	12	20	25
Cote d'Ivoire	-	10	-	-	-
Croatia	16	14	20	23	22
Cuba	11	9	12	3	5
Curaçao	-	-	-	-	-
Cyprus	11	14	8	13	17
Czech Republic	197	219	264	350	383

Residence	2015	2016	2017	2018	2019
Denmark	1,186	1,221	1,248	1,270	1,320
Dominican Republic	2	2	3	5	4
Ecuador	1	3	3	3	3
Egypt	32	41	40	51	45
El Salvador	1	2	1	1	1
Eritrea	-	-	1	-	1
Estonia	37	51	29	44	48
Ethiopia	-	-	-	-	-
Faroe Islands	1	1	1	-	-
Finland	1,437	1,604	1,727	1,597	1,545
France	7,034	6,907	7,365	6,991	7,532
French Polynesia	1	-	-	-	1
Gabon	-	-	-	1	-
Georgia	2	2	2	-	4
Germany	17,485	17,568	17,998	17,434	18,761
Ghana	1	-	-	-	-
Gibraltar	2	1	8	2	2
Greece	66	87	117	110	133
Greenland	-	-	-	-	1
Guadeloupe	-	1	-	-	-
Guatemala	4	1	1	4	5
Guernsey	2	-	1	1	-
Guinea	-	-	-	-	1
Haiti	-	-	-	-	-
Honduras	-	-	2	-	-
Hungary	146	193	183	139	145
Iceland	67	42	61	42	50
India	3,328	3,685	4,206	4,248	5,075
Indonesia	25	24	21	9	13
Iran	26	32	33	55	86
Iraq	1	-	1	-	-
Ireland	523	570	612	628	755
Isle of Man	15	12	9	10	5
Israel	3,839	3,820	4,306	4,168	4,630
Italy	3,060	3,158	3,212	3,247	3,718
Jamaica	9	5	8	5	5
Japan	54,487	53,046	51,743	50,012	53,176
Jersey	10	7	7	14	8
Jordan	9	7	11	16	19
Kazakhstan	5	2	2	2	10
Kenya	2	5	5	9	12
Korea (Democratic People's Rep of)	-	-	-	-	-
Korea (Republic of)	19,615	21,865	22,687	22,054	22,427
Kuwait	78	54	48	27	44
Kyrgyzstan	-	-	-	-	-
Latvia	9	8	7	8	12

TABLE 10: PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES<sup>1,2</sup> (FY 2015–FY 2019)<sup>3</sup> (continued)

Residence	2015	2016	2017	2018	2019
Lebanon	14	19	13	9	25
Liechtenstein	37	27	30	36	28
Lithuania	10	20	22	18	20
Luxembourg	63	62	64	63	58
Macedonia	2	1	1	2	1
Madagascar	1	-	-	1	-
Malawi	1	-	-	-	-
Malaysia	266	301	270	239	296
Mali	-	1	-	-	1
Malta	17	13	14	7	20
Mauritius	-	1	1	2	1
Mexico	215	246	315	385	411
Moldova	-	1	1	2	2
Monaco	19	17	17	15	20
Mongolia	1	1	-	-	1
Montenegro	1	-	-	-	1
Morocco	3	1	2	3	7
Myanmar	-	-	-	1	-
Namibia	-	1	5	-	-
Nepal (Federal Democratic Republic of)	1	-	-	1	-
Netherlands	2,732	2,941	3,133	3,216	3,340
New Caledonia	-	1	-	2	-
New Zealand	342	349	374	376	435
Nicaragua	1	-	2	-	-
Nigeria	-	1	2	4	1
Norway	625	720	628	636	676
Oman	5	1	4	5	3
Pakistan	17	19	18	16	26
Panama	2	5	9	9	6
Paraguay	1	-	-	1	1
Peru	4	9	7	9	10
Philippines	43	46	66	82	88
Poland	201	265	281	291	337
Portugal	68	83	115	110	151
Qatar	8	9	20	28	33
Romania	72	82	110	96	106
Russian Federation	457	542	570	536	615
Saint Barthélemy	1	-	-	-	-
Saint Kitts and Nevis	-	1	-	-	-
Saint Lucia	-	-	-	1	-
Samoa	-	-	4	1	1
San Marino	-	-	2	1	1
Saudi Arabia	339	442	541	608	871
Senegal	-	-	-	-	-
Senegal	1	-	-	-	-
Serbia	7	15	20	21	26

Residence	2015	2016	2017	2018	2019
Seychelles	2	2	5	2	-
Singapore	1,074	1,018	1,043	1,071	1,102
Sint Maarten	-	1	-	-	-
Slovakia	25	26	42	40	58
Slovenia	40	65	57	77	79
South Africa	198	208	216	190	202
Spain	857	940	927	965	1,058
Sri Lanka	6	6	6	7	10
State of Palestine	1	-	-	-	-
Sudan	-	-	1	-	-
Sweden	2,828	3,044	3,328	3,164	3,321
Switzerland	2,745	2,905	3,022	2,893	3,198
Syrian Arab Republic	2	-	-	2	1
Taiwan	12,317	12,738	12,540	11,424	11,857
Tanzania	-	1	1	-	-
Thailand	129	106	113	114	128
Trinidad and Tobago	6	7	2	3	4
Tunisia	4	3	4	2	5
Turkey	128	149	190	181	252
Turkmenistan	1	-	-	-	1
Turks and Caicos Islands	-	-	2	1	-
Uganda <sup>4</sup>					1
Ukraine	62	64	82	59	71
United Arab Emirates	57	60	95	100	98
United Kingdom	7,143	7,289	7,633	7,549	8,493
Uruguay	4	8	12	12	5
Uzbekistan	1	-	1	3	-
Vanuatu	0	-	-	1	-
Venezuela	24	15	7	9	10
Vietnam	6	18	21	24	57
Yemen	-	-	-	2	-
Zambia <sup>4</sup>					1
Zimbabwe	1	-	-	-	-

- Represents zero.

<sup>1</sup> Data include utility, design, plant, and reissue patents.

<sup>2</sup> Each patent grant is listed under only one country of residence. Country listings include possessions and territories of that country unless separately listed in the table.

<sup>3</sup> Past years' data may have been revised from prior- year reports to reflect patent withdrawal information that was updated during the year. It is not uncommon for the withdrawal status of patents issued in prior years to change.

<sup>4</sup> Countries/territories not previously reported.

TABLE 11: **PERCENTAGE OF UTILITY PATENTS ISSUED TO MICRO, SMALL, AND LARGE ENTITIES (FY 2015-FY 2019)**

<b>Fiscal Year of Grant</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
<b>Percentage Micro Entity</b>	<b>1.80%</b>	<b>2.16%</b>	<b>2.33%</b>	<b>2.48%</b>	<b>2.49%</b>
U.S. Origin <sup>1</sup>	3.26%	3.81%	4.06%	4.34%	4.22%
Foreign Origin <sup>1</sup>	0.49%	0.68%	0.77%	0.84%	0.94%
<b>Percentage Small Entity</b>	<b>19.40%</b>	<b>19.24%</b>	<b>19.54%</b>	<b>19.86%</b>	<b>19.94%</b>
U.S. Origin <sup>1</sup>	25.79%	25.45%	25.68%	25.91%	25.82%
Foreign Origin <sup>1</sup>	13.66%	13.65%	14.02%	14.49%	14.67%
<b>Percentage Large Entity</b>	<b>78.80%</b>	<b>78.60%</b>	<b>78.13%</b>	<b>77.66%</b>	<b>77.57%</b>
U.S. Origin <sup>1</sup>	70.96%	70.74%	70.26%	69.75%	69.97%
Foreign Origin <sup>1</sup>	85.85%	85.67%	85.21%	84.67%	84.39%

<sup>1</sup> Patent origin is based on residence of the first- named inventor.

TABLE 12: UNITED STATES GOVERNMENT AGENCY PATENTS<sup>1</sup> (FY 2015–FY 2019)<sup>2</sup>

Agency	2015	2016	2017	2018	2019	Total
<b>Total</b>	<b>1,029</b>	<b>916</b>	<b>940</b>	<b>953</b>	<b>1,007</b>	<b>4,845</b>
Agriculture	59	43	53	46	40	<b>241</b>
Commerce	13	12	28	28	33	<b>140</b>
Defense:						
Air Force	53	55	48	53	73	<b>282</b>
Army	161	144	139	148	131	<b>723</b>
Navy	395	320	345	341	367	<b>1,768</b>
National Security Agency (NSA)	2	3	1	2	7	<b>15</b>
Energy	29	24	23	18	29	<b>123</b>
Environmental Protection Agency	7	3	3	4	3	<b>20</b>
Health and Human Services	147	161	135	132	131	<b>706</b>
Homeland Security (DHS)	4	3	2	7	7	<b>23</b>
Interior	3	2	3	5	1	<b>14</b>
Justice:						
Office of the Attorney General	-	-	-	-	-	<b>-</b>
National Aeronautics and Space Administration (NASA)	114	107	117	118	129	<b>585</b>
National Science Foundation	1	3	6	3	1	<b>14</b>
Postal Service	20	20	20	28	36	<b>124</b>
State	-	-	-	-	-	<b>-</b>
Transportation	-	1	-	-	-	<b>1</b>
Tennessee Valley Authority	-	-	1	-	-	<b>1</b>
United States <sup>3</sup>	3	2	3	2	3	<b>13</b>
Veterans Affairs	18	13	13	18	16	<b>78</b>

- Represents zero.

<sup>1</sup> Data in this table represent utility patents assigned to agencies at the time of patent issue. Data subject to minor revisions.

<sup>2</sup> Past years' data may have been revised from prior year reports to reflect patent withdrawal information that was updated during the year. It is not uncommon for the withdrawal status of patents issued in prior years to change.

<sup>3</sup> No Agency or Department listed in Database

TABLE 13A: **EX PARTE REEXAMINATION (FY 2015-FY 2019)**

	2015	2016	2017	2018	2019
<b>Requests Filed, Total<sup>1</sup></b>	<b>243</b>	<b>219</b>	<b>188</b>	<b>187</b>	<b>167</b>
By Patent Owner	14	8	25	30	29
By Third Party	229	211	163	157	138
Commissioner Ordered	-	-	-		
<b>Determinations on Requests, Total<sup>2</sup></b>	<b>245</b>	<b>218</b>	<b>203</b>	<b>185</b>	<b>151</b>
Requests Granted:					
By Examiner	230	201	188	173	145
By Petition	2	4	4	2	1
Requests Denied	13	13	11	10	5
<b>Requests Known to Have Related Litigation<sup>2</sup></b>	<b>135</b>	<b>116</b>	<b>92</b>	<b>76</b>	<b>83</b>
<b>Filings by Discipline, Total<sup>3</sup></b>	<b>243</b>	<b>223</b>	<b>191</b>	<b>178</b>	<b>160</b>
Chemical	55	40	38	34	50
Electrical	105	101	63	66	54
Mechanical	80	78	75	71	48
Design	3	4	15	7	8

- Represents zero.

<sup>1</sup> Applies only to requests that have received a filing date.

<sup>2</sup> Litigation search numbers were updated to include old pending reexam that ultimately require new litigation.

<sup>3</sup> Filings were updated to include reexams that had not been granted a filing date or had a filing date vacated in FY 2018.

TABLE 13B: **SUPPLEMENTAL EXAMINATION (FY 2015-FY 2019)**

	2015	2016	2017	2018	2019
<b>Supplemental Examinations Filed, Total<sup>1</sup></b>	<b>53</b>	<b>44</b>	<b>60</b>	<b>32</b>	<b>26</b>
<b>Supplemental Examinations Granted a Filing Date, Total<sup>1</sup></b>	<b>37</b>	<b>46</b>	<b>61</b>	<b>31</b>	<b>23</b>
<b>Determinations on Supplemental Examinations Granted a Filing Date, Total</b>	<b>38</b>	<b>46</b>	<b>61</b>	<b>35</b>	<b>25</b>
Substantial New Question Found	26	31	46	22	20
Substantial New Question Not Found	12	15	15	13	5
Requests Known to Have Related Litigation <sup>2</sup>	2	3	5	2	2
<b>Filings by Discipline, Total</b>	<b>53</b>	<b>45</b>	<b>59</b>	<b>31</b>	<b>26</b>
Chemical <sup>1</sup>	7	14	16	15	5
Electrical <sup>1</sup>	34	18	33	11	10
Mechanical <sup>1</sup>	12	13	8	5	11
Design	-	-	2	-	-

- Represents zero.

Late-filed Requests may not have had a determination by the end of the fiscal year. Numbers will be revised in the following year's PAR, where necessary. While the transition to Inter Partes Reexams began in FY 2011, no measureable caseload activity began until FY 2013. FY 2013 is the earliest date of activity for this Workload Table.

<sup>1</sup> Filings were updated to include supplemental examinations that had not been granted filing dates or had their filing dates vacated in FY 2019.

<sup>2</sup> Litigation search numbers were updated to include old pending reexaminations that ultimately require new litigation.

TABLE 14: SUMMARY OF CASES BEFORE THE PATENT TRIAL AND APPEAL BOARD, AS OF SEPTEMBER 30, 2019

Cases	Total
<b>Ex Parte Appeals</b>	
<b>Ex Parte and Reissue Appeals</b>	
Cases pending as of 9/30/18*	10,993
Cases filed during FY 2019	6,983
Cases disposed during FY 2019	9,388
<b>Total Ex Parte and Reissue Appeals pending as of 9/30/19</b>	<b>8,588</b>
<b>Ex Parte Appeal and Reissue Rehearings</b>	
Cases pending as of 9/30/19	37
<b>Reexamination Appeals</b>	
<b>Ex Parte Reexamination Appeals</b>	
Cases pending as of 9/30/18	13
Cases filed during FY 2019	31
Cases disposed during FY 2019	31
<b>Total Ex Parte Reexamination Appeals pending as of 9/30/19</b>	<b>13</b>
<b>Inter Partes Reexamination Appeals</b>	
Cases pending as of 9/30/18	13
Cases filed during FY 2019	8
Cases disposed during FY 2019	17
<b>Total Inter Partes Reexamination Appeals pending as of 9/30/19</b>	<b>4</b>
<b>Supplemental Examination Appeals</b>	
Cases pending as of 9/30/18	2
Cases filed during FY 2019	3
Cases disposed during FY 2019	4
<b>Total Supplemental Examination Appeals pending as of 9/30/19</b>	<b>1</b>
<b>Reexamination Appeals Rehearings</b>	
Cases Pending as of 9/30/2019	1
<b>Interferences</b>	
Cases pending as of 9/30/18	16
Cases declared during FY 2019	16
Cases disposed during FY 2019	17
<b>Total Interferences pending as of 9/30/19</b>	<b>15</b>

TABLE 14: **SUMMARY OF CASES BEFORE THE PATENT TRIAL AND APPEAL BOARD, AS OF SEPTEMBER 30, 2019** (continued)

Cases	Total
<b>Leahy-Smith America Invents Act (AIA) Trials</b>	
<b>Inter Partes Reviews</b>	
Cases pending as of 9/30/18**	1,559
Cases filed during FY 2019	1,394
Cases reinstated during FY 2019	3
Cases disposed during FY 2019	1,670
<b>Total Inter Partes Reviews pending as of 9/30/19</b>	<b>1,286</b>
<b>Transitional Program for Covered Business Method (TPCBM)</b>	
Cases pending as of 9/30/18	24
Cases filed during FY 2019	22
Cases disposed during FY 2019	22
<b>Total TPCBM Proceedings pending as of 9/30/19</b>	<b>24</b>
<b>Post Grant Reviews</b>	
Cases pending as of 9/30/18**	48
Cases filed during FY 2019	48
Cases disposed during FY 2019	45
<b>Total Post Grant Reviews pending as of 9/30/19</b>	<b>51</b>
<b>Derivation Proceedings</b>	
Cases pending as of 9/30/18**	31
Cases filed during FY 2019	7
Cases disposed during FY 2019	16
<b>Total Derivation Proceedings pending as of 9/30/2019</b>	<b>22</b>

\* Change in methodology to include reissues (previously counted separately)

\*\*Changes in end-of-year data for FY 2018 are due to an internal year-end audit during FY 2019.

TABLE 15: SUMMARY OF TRADEMARK EXAMINING ACTIVITIES (FY 2015–FY 2019)

Item	2015	2016	2017	2018	2019
<b>Applications for Registration</b>					
Applications Including Additional Classes <sup>1</sup>	503,889	530,270	594,107	638,847	673,233
Applications Filed <sup>1</sup>	369,877	391,837	435,384	468,926	494,513
<b>Disposal of Trademark Applications</b>					
Registrations Including Additional Classes	282,091	309,188	327,314	367,382	396,836
Abandonments Including Additional Classes	156,929	170,469	187,693	273,808	212,288
<b>Trademark First Actions Including Additional Classes</b>	<b>500,368</b>	<b>536,830</b>	<b>596,678</b>	<b>613,555</b>	<b>711,075</b>
<b>Applications Approved for Publication Including Additional Classes</b>	<b>403,750</b>	<b>432,454</b>	<b>464,806</b>	<b>489,918</b>	<b>552,449</b>
<b>Certificates of Registration Issued<sup>2</sup></b>					
1946 Act Principal Register	126,359	142,300	153,195	179,179	199,223
Intent-to-Use (ITU) Statements of Use Registered	72,594	74,796	79,276	83,606	86,705
1946 Act Supplemental Register	9,707	10,311	10,238	11,023	11,846
<b>Total Certificates of Registration</b>	<b>208,660</b>	<b>227,407</b>	<b>242,709</b>	<b>273,808</b>	<b>297,774</b>
Renewal of Registration <sup>3</sup>					
Section 9 Applications Filed <sup>4</sup>	63,981	72,744	79,557	85,563	80,526
Section 8 Applications Filed <sup>4</sup>	64,010	72,708	79,580	85,571	80,545
Registrations Renewed	58,284	62,604	84,727	90,192	72,270
Affidavits, Sec. 8/15					
Affidavits Filed	88,486	87,447	92,138	96,091	98,234
Affidavits Disposed	80,593	77,105	95,613	97,296	87,817
<b>Amendments to Allege Use Filed</b>	<b>8,241</b>	<b>8,167</b>	<b>8,113</b>	<b>8,089</b>	<b>9,127</b>
<b>Statements of Use Filed</b>	<b>75,461</b>	<b>76,943</b>	<b>83,394</b>	<b>84,939</b>	<b>115,673</b>
<b>Notice of Allowance Issued</b>	<b>198,349</b>	<b>215,764</b>	<b>215,944</b>	<b>232,910</b>	<b>255,609</b>
<b>Total Active Certificates of Registration</b>	<b>2,074,702</b>	<b>2,138,546</b>	<b>2,202,390</b>	<b>2,415,550</b>	<b>2,519,866</b>
<b>Pendency—Average Number of Months</b>					
Between Filing and Examiner's First Action	2.9	3.1	2.7	3.4	2.6
Between Filing, Registration (Use Applications) Abandonments, and Notices of Allowance (NOAs)—Including Suspended and Inter Partes Proceedings	11.5	11.3	10.9	10.9	10.7
Between Filing, Registration (Use Applications) Abandonments, and NOAs—Excluding Suspended and Inter Partes Proceedings	10.1	9.8	9.5	9.6	9.3

<sup>1</sup> Applications filed" refers simply to the number of individual trademark applications received by the USPTO. There are, however, 47 different classes of items in which a trademark may be registered. An application must request registration in at least one class, but may request registration in multiple classes. Each class application must be individually researched for registerability. "Applications filed, including additional classes" reflects this fact, and therefore more accurately reflects the Trademark business workload. With the exception of Certificates of Registration, Renewal of Registration, Affidavits filed under Section 8/15 and 12(c), the workload count includes extra classes.

<sup>2</sup> With the exception of Certificates of Registration, Renewal of Registration, Affidavits filed under Section 8/15 and 12(c), the workload count includes extra classes.

<sup>3</sup> Renewal of Registration is required beginning 10 years following registration concurrent with 20-year renewals coming due.

<sup>4</sup> Since the implementation of the Trademark Law Treaty on October 30, 1999 (FY 2000), a Section 8 Affidavit is required for filing a renewal.

TABLE 16: **TRADEMARK APPLICATIONS FILED FOR REGISTRATION AND RENEWAL AND TRADEMARK AFFIDAVITS FILED (FY 1999–FY 2019)**

Year	For Registration	For Renewal <sup>1</sup>	Section 8 Affidavit
1999	295,165	7,944	33,104
2000	375,428	24,435	28,920
2001	296,388	24,174	33,547
2002	258,873	34,325	39,484
2003	267,218	35,210	43,151
2004	298,489	32,352	41,157
2005	323,501	39,354	47,752
2006	354,775	36,939	48,444
2007	394,368	40,786	49,241
2008	401,392	42,388	68,470
2009	352,051	43,953	65,322
2010	368,939	48,214	61,499
2011	398,667	49,000	65,771
2012	415,026	63,636	76,646
2013	433,654	74,280	93,174
2014	455,017	67,865	107,823
2015	503,889	63,981	88,486
2016	530,270	72,744	87,447
2017	594,107	79,557	92,138
2018	638,847	85,563	96,091
<b>2019</b>	<b>673,233</b>	<b>80,526</b>	<b>98,234</b>

<sup>1</sup> Renewal of registration term changed in November 16, 1989 (FY 1990) with the implementation of the Trademark Law Reform Act (Pub. L. No. 100-667).

TABLE 17: **SUMMARY OF PENDING TRADEMARK APPLICATIONS (FY 2019)**

Stage of processing	Application Files	Classes
<b>Pending Applications, Total</b>	<b>622,406</b>	<b>908,360</b>
<b>In Preexamination Processing</b>	<b>103,049</b>	<b>128,841</b>
<b>Under Examination, Total</b>	<b>416,221</b>	<b>633,305</b>
<b>Applications Under Initial Examination</b>	<b>152,555</b>	<b>233,243</b>
Amended, Awaiting action by Examiner	139,416	213,963
Awaiting First Action by Examiner	13,139	19,280
<b>Intent-to-Use Applications Pending Use</b>	<b>198,936</b>	<b>299,763</b>
<b>Applications Under Second Examination</b>	<b>14,289</b>	<b>20,152</b>
Administrative Processing of Statements of Use	40	42
Undergoing Second Examination	4,760	6,335
Amended, Awaiting Action by Examiner	9,489	13,775
<b>Other Pending Applications<sup>1</sup></b>	<b>50,441</b>	<b>80,147</b>
<b>In Postexamination Processing<sup>2</sup></b>	<b>103,136</b>	<b>146,214</b>

<sup>1</sup> Includes applications pending before the Trademark Trial and Appeal Board and suspended cases.

<sup>2</sup> Includes all applications in all phases of publication, issue, and registration.

TABLE 18: TRADEMARKS REGISTERED, RENEWED, AND PUBLISHED UNDER SECTION 12(c) (FY 1999–FY 2019)

Year	Certificates of Registration Issued	Renewed <sup>2</sup>	Registrations (Including Classes)
1999	87,774	6,280	104,324
2000	106,383	8,821	127,794
2001	102,314	31,477	124,502
2002	133,225	29,957	164,457
2003	143,424	34,370	185,182
2004	120,056	34,735	155,991
2005	112,495	32,279	143,396
2006	147,118	37,305	188,899
2007	150,064	47,336	194,327
2008	209,904	42,159	274,250
2009	180,520	42,282	241,637
2010	164,330	46,734	221,090
2011	177,661	44,873	237,586
2012	182,761	59,871	243,459
2013	193,121	63,709	259,681
2014	206,555	56,166	279,282
2015	208,660	58,284	282,091
2016	227,407	62,604	309,188
2017	242,709	84,727	327,314
2018	273,808	90,192	367,382
<b>2019</b>	<b>297,774</b>	<b>72,270</b>	<b>396,836</b>

<sup>1</sup> Includes withdrawn numbers.

<sup>2</sup> Includes renewals that were affected by the reduction of the renewal term of registration from 20 years to 10 years as a result of the implementation in November 16, 1989 (FY 1990) of the Trademark Law Reform Act (Pub. L. No. 100-667).

TABLE 19: TRADEMARK APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES (FY 2019)

State/Territory	2019	State/Territory	2019	State/Territory	2019
<b>Total</b>	<b>456,463</b>	Kentucky	2,842	Oklahoma	2,192
		Louisiana	2,551	Oregon	5,484
Alabama	2,571	Maine	1,001	Pennsylvania	12,387
Alaska	301	Maryland	7,041	Rhode Island	1,352
Arizona	12,451	Massachusetts	11,183	South Carolina	4,135
Arkansas	1,847	Michigan	9,040	South Dakota	535
California	97,762	Minnesota	7,270	Tennessee	6,953
Colorado	10,914	Mississippi	1,030	Texas	31,548
Connecticut	5,075	Missouri	5,334	Utah	5,620
Delaware	5,382	Montana	1,013	Vermont	814
District of Columbia	3,611	Nebraska	1,372	Virginia	9,507
Florida	36,285	Nevada	7,834	Washington	10,091
Georgia	13,562	New Hampshire	1,280	West Virginia	425
Hawaii	1,175	New Jersey	15,173	Wisconsin	4,918
Idaho	1,411	New Mexico	1,208	Wyoming	2,126
Illinois	16,113	New York	44,018	Puerto Rico	876
Indiana	4,795	North Carolina	9,921	U.S. Virgin Islands	69
Iowa	1,856	North Dakota	426	U.S. Pacific Islands <sup>1</sup>	45
Kansas	2,194	Ohio	10,334	United States <sup>2</sup>	210

<sup>1</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>2</sup> No State indicated in database (includes Army Post Office filings).

TABLE 20: TRADEMARKS REGISTERED TO RESIDENTS OF THE UNITED STATES<sup>1</sup> (FY 2019)

State/Territory	2019	State/Territory	2019	State/Territory	2019
<b>Total</b>	<b>201,215</b>	Kentucky	1,212	Oklahoma	1,095
		Louisiana	1,099	Oregon	2,519
Alabama	1,275	Maine	550	Pennsylvania	5,807
Alaska	174	Maryland	3,235	Rhode Island	617
Arizona	4,865	Massachusetts	4,680	South Carolina	1,719
Arkansas	809	Michigan	4,367	South Dakota	246
California	40,154	Minnesota	3,679	Tennessee	3,080
Colorado	4,871	Mississippi	479	Texas	13,964
Connecticut	2,387	Missouri	2,683	Utah	2,814
Delaware	1,844	Montana	470	Vermont	374
District of Columbia	1,623	Nebraska	704	Virginia	4,436
Florida	15,536	Nevada	3,007	Washington	4,476
Georgia	6,153	New Hampshire	612	West Virginia	254
Hawaii	640	New Jersey	7,019	Wisconsin	2,463
Idaho	751	New Mexico	579	Wyoming	787
Illinois	7,819	New York	18,459	Puerto Rico	372
Indiana	2,287	North Carolina	4,810	Virgin Islands	32
Iowa	1,029	North Dakota	235	U.S. Pacific Islands <sup>2</sup>	20
Kansas	996	Ohio	4,958	United States <sup>3</sup>	90

<sup>1</sup> When a trademark is registered, the trademark database is updated to indicate the home state of the entity that registered the trademark.

<sup>2</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>3</sup> No State indicated in database (includes Army Post Office filings).

TABLE 21: TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES (FY 2015-FY 2019)

Residence	2015	2016	2017	2018	2019
<b>Total</b>	<b>125,461</b>	<b>141,249</b>	<b>180,487</b>	<b>192,906</b>	<b>216,770</b>
Afghanistan	4	1	1	3	3
Albania	6	8	2	4	15
Algeria	1	-	2	-	9
Andorra	3	17	17	2	20
Angola	4	9	-	1	1
Anguilla	4	7	14	5	5
Antarctica	-	-	-	-	-
Antigua and Barbuda	2	2	7	13	1
Argentina	280	263	277	243	374
Armenia	25	19	38	46	36
Aruba	18	9	18	3	5
Australia	5,144	5,482	6,600	7,275	7,303
Austria	1,328	1,351	1,495	1,719	1,550
Azerbaijan	6	17	1	13	17
Bahamas	132	146	149	163	113
Bahrain	12	9	11	12	32
Bangladesh	1	6	10	32	17
Barbados	122	105	110	138	217
Belarus	29	71	70	41	84
Belgium	944	1,063	2,069	1,340	1,245
Belize	34	40	54	79	108
Benin	-	-	-	2	7
Bermuda	245	278	199	201	228
Bolivia	6	12	7	15	6
Bosnia and Herzegovina	5	5	1	5	8
Botswana	-	-	-	135	-
Brazil	856	870	864	791	845
British Virgin Islands	908	886	899	888	874
Brunei Darussalam	3	11	6	5	2
Bulgaria	150	163	297	277	384
Burkina Faso	-	-	-	-	-
Cambodia	2	4	1	3	5
Cameroon	-	-	4	3	2
Canada	11,585	12,431	13,855	15,470	17,764
Cayman Islands	836	920	1,008	1,068	973
Channel Islands	-	-	-	-	-
Chile	300	312	288	211	243
China (Hong Kong)	2,926	3,463	4,123	4,563	4,383
China (Macau)	-	-	-	-	-
China (People's Republic of)	14,144	28,770	50,942	57,879	76,334
Colombia	344	256	316	297	371
Cook Islands	-	11	8	3	-
Costa Rica	31	52	95	62	93
Croatia	65	75	72	71	99
Cuba	15	28	18	10	9
Curaçao	170	74	89	23	45
Cyprus	393	354	480	494	571
Czech Republic	315	332	413	411	516
Denmark	1,387	1,399	1,510	1,533	1,511
Dominica	1	3	1	4	4
Dominican Republic	84	113	104	91	105
Ecuador	36	56	57	88	48
Egypt	33	31	15	45	64
El Salvador	44	68	48	57	60
Estonia	73	142	144	226	247
Ethiopia	1	2	-	4	-
Faroe Islands	-	-	3	-	-
Fiji	7	9	10	3	4
Finland	959	1,191	1,468	1,253	1,199
France	6,983	7,157	7,953	7,642	8,660
French Polynesia	2	9	6	12	2
Gabon	-	1	-	-	1
Georgia	24	26	32	31	27
Germany	12,310	12,792	14,617	15,095	14,359
Ghana	2	1	-	2	4
Gibraltar	57	41	45	65	59
Greece	188	166	252	234	238
Grenada	-	4	-	2	3
Guadeloupe	-	-	-	1	-
Guatemala	55	43	53	83	72
Guernsey	67	40	33	43	45
Guinea	-	-	-	-	4
Guyana	10	4	4	1	-
Haiti	-	2	-	-	5
Honduras	7	8	13	19	40
Hungary	112	114	178	269	207
Iceland	156	98	92	157	161
India	963	983	1,100	1,238	1,558
Indonesia	65	80	90	96	63
Iran	41	59	41	35	16
Iraq	12	4	-	1	-
Ireland	1,117	942	1,141	1,247	1,190
Isle of Man	79	75	54	157	67
Israel	1,287	1,231	1,698	2,082	2,047
Italy	5,200	4,764	5,759	5,705	5,715
Ivory Coast	-	2	3	-	-
Jamaica	43	43	32	41	35
Japan	6,521	6,199	7,340	7,883	8,779
Jordan	89	77	35	33	44
Kazakhstan	49	15	39	15	27
Kenya	18	5	7	7	24
Korea (Democratic Republic of)	1	1	-	5	2
Korea (Republic of)	4,111	4,462	4,529	5,011	5,649
Kuwait	23	49	37	79	34
Kyrgyzstan	1	-	2	-	4

TABLE 21: TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES (FY 2015-FY 2019) (continued)

Residence	2015	2016	2017	2018	2019
Laos	-	-	-	-	1
Latvia	72	86	81	148	101
Lebanon	84	89	63	87	72
Liberia	21	3	1	-	1
Liechtenstein	178	105	129	129	113
Lithuania	65	76	131	150	138
Luxembourg	945	1,168	1,374	1,094	793
Macao	66	32	21	58	20
Macedonia	9	18	34	17	16
Madagascar	2	-	4	-	1
Malaysia	201	183	195	208	197
Malta	283	308	311	353	365
Marshall Islands	21	8	31	35	19
Martinique	-	-	-	-	-
Mauritania	-	-	2	-	-
Mauritius	46	58	78	80	89
Mexico	2,285	2,437	2,014	2,260	2,393
Micronesia	-	-	-	2	-
Moldova	36	19	25	27	41
Monaco	283	94	208	187	171
Mongolia	6	4	6	7	14
Montenegro	8	28	31	6	6
Montserrat	2	2	-	2	-
Morocco	74	52	93	66	68
Myanmar	-	2	-	1	-
Namibia	5	48	272	131	3
Nepal	1	-	1	2	5
Netherlands	2,851	2,823	3,320	3,539	2,983
New Zealand	733	922	1,016	1,064	1,253
Nicaragua	13	20	11	6	13
Nigeria	6	22	8	20	20
Northern Mariana Islands	-	-	-	-	-
Norway	733	568	815	1,048	953
Oman	-	9	3	9	6
Pakistan	87	36	58	42	74
Palau	-	1	-	4	-
Panama	261	222	156	175	137
Papua New Guinea	-	-	-	-	-
Paraguay	11	5	7	46	7
Peru	92	78	86	134	102
Philippines	78	80	111	155	137
Poland	563	463	723	659	640
Portugal	373	369	428	436	331
Qatar	77	73	24	36	53
Romania	129	153	290	440	299
Russian Federation	850	674	1,020	1,369	1,377
Rwanda	-	1	-	1	-
Saint Kitts and Nevis	15	17	8	53	32
Saint Lucia	48	28	25	14	22
Sint Maarten	-	-	4	28	4
Saint Vincent and the Grenadines	1	2	6	4	3
Samoa	21	35	28	33	22
San Marino	18	26	14	11	15
São Tomé and Príncipe	-	-	-	-	-
Saudi Arabia	109	105	104	122	111
Scotland	76	45	41	90	61
Senegal	3	-	-	3	4
Serbia	50	27	74	70	139
Seychelles	77	60	44	99	63
Singapore	1,132	1,077	1,442	1,640	1,707
Slovakia	115	117	148	121	122
Slovenia	123	101	148	189	283
South Africa	268	243	218	308	274
Spain	2,326	2,276	2,723	2,462	2,765
Sri Lanka	44	40	29	61	29
Suriname	-	1	1	5	1
Swaziland	1	-	2	-	-
Sweden	2,168	2,073	2,694	2,466	2,403
Switzerland	5,561	5,285	5,741	6,433	6,922
Syria	1	5	45	9	9
Taiwan	1,782	1,610	1,734	1,965	2,004
Tanzania	-	2	4	6	12
Thailand	146	147	238	321	371
Timor-Leste	-	-	-	-	-
Togo	-	-	-	-	-
Trinidad and Tobago	64	49	32	21	17
Tunisia	19	3	26	12	25
Turkey	1,052	967	1,059	1,283	1,413
Turkmenistan	-	-	-	-	1
Turks and Caicos Islands	23	29	40	15	14
Uganda	-	9	-	3	-
Ukraine	194	147	376	450	579
United Arab Emirates	517	422	461	414	391
United Kingdom	14,061	14,249	15,953	14,925	16,116
Uruguay	38	72	58	62	67
Uzbekistan	4	-	-	-	2
Vanuatu	-	-	2	-	4
Venezuela	100	64	59	38	32
Vietnam	126	124	220	254	384
West Bank/Gaza Strip	-	2	-	-	5
Yemen	-	-	2	4	9
Yugoslavia	-	-	-	-	-
Zambia	3	-	-	-	-
Zimbabwe	-	1	2	-	-
Other <sup>1</sup>	9	7	26	65	21

- Represents zero.

<sup>1</sup> Country of origin information not available or not indicated in database (includes African Regional Intellectual Property Organization filings).

TABLE 22: TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES (FY 2015-FY 2019)

Residence	2015	2016	2017	2018	2019
<b>Total</b>	<b>40,864</b>	<b>50,980</b>	<b>65,636</b>	<b>85,182</b>	<b>96,559</b>
Afghanistan	-	1	1	1	1
Albania	1	3	2	6	3
Algeria	-	1	-	-	1
Andorra	-	4	9	-	4
Angola, Republic of	1	1	-	-	1
Anguilla	16	1	5	2	2
Antigua and Barbuda	-	1	1	-	1
Argentina	140	135	101	159	125
Armenia	1	7	13	17	20
Aruba	-	5	2	1	1
Australia	1,445	1,940	2,016	2,388	2,733
Austria	305	406	467	454	494
Azerbaijan	-	-	3	1	4
Bahamas	63	56	51	36	50
Bahrain	10	6	7	2	6
Bangladesh	3	1	2	13	12
Barbados	82	48	38	44	45
Belarus	3	12	13	18	27
Belgium	161	372	398	567	522
Belize	20	16	18	23	11
Benin	-	-	-	-	-
Bermuda	194	76	100	70	71
Bhutan	-	-	-	-	-
Bolivia	1	1	2	2	4
Bosnia and Herzegovina	1	2	3	1	-
Botswana	2	-	-	-	-
Brazil	346	257	301	333	361
British Virgin Islands	445	286	426	280	325
Brunei Darussalam	5	2	5	6	2
Bulgaria	23	67	55	109	86
Burkina Faso	-	-	-	-	-
Burundi	-	-	-	-	-
Cambodia	1	2	1	-	3
Cameroon	-	-	-	2	1
Canada	6,420	4,288	4,739	4,827	5,131
Cape Verde	-	-	-	-	-
Cayman Islands	250	169	202	224	271
Channel Islands	-	-	-	-	-
Chile	128	111	109	131	134
China (Hong Kong)	1,472	1,268	1,504	1,859	2,110
China (Macau)	2	6	-	-	-
China (People's Republic of)	4,016	10,582	23,893	38,399	47,319
Colombia	118	128	142	147	162
Congo	-	-	-	-	-
Cook Islands	-	1	1	2	-
Costa Rica	36	21	22	31	30
Croatia	4	18	17	20	22
Cuba	2	11	11	5	5
Curaçao	56	28	16	30	20
Cyprus	67	117	114	186	169
Residence	2015	2016	2017	2018	2019
Czech Republic	85	115	129	142	133
Denmark	275	472	442	523	491
Djibouti	-	-	-	-	-
Dominica	3	3	2	-	3
Dominican Republic	29	44	56	44	53
East Timor	-	-	-	-	-
Ecuador	20	16	17	30	40
Egypt	14	18	6	6	9
El Salvador	20	28	30	30	40
Equatorial Guinea	-	-	-	-	-
Estonia	30	36	40	61	82
Ethiopia	-	-	-	2	1
Faroe Islands	3	-	-	-	-
Fiji	1	1	3	3	2
Finland	190	292	330	423	352
France	1,488	2,358	2,455	2,697	2,563
French Guiana	-	-	-	-	-
French Polynesia	4	3	2	3	3
Gabon	-	-	-	-	-
Georgia	9	17	9	14	18
Germany	2,478	3,875	3,978	4,312	4,352
Ghana	3	-	-	1	1
Gibraltar	39	33	28	44	50
Greece	63	79	54	83	79
Greenland	-	-	-	1	-
Grenada	4	1	-	-	-
Guatemala	-	-	15	-	-
Guernsey	23	13	13	7	14
Guinea	-	-	-	-	-
Guinea-Bissau	-	-	-	-	-
Guyana	3	4	1	3	-
Haiti	-	3	1	-	2
Honduras	8	5	3	2	10
Hungary	50	41	41	63	62
Iceland	9	36	29	33	28
India	364	315	386	480	584
Indonesia	37	28	28	20	45
Iran	-	9	13	15	6
Iraq	-	5	-	3	-
Ireland	464	365	346	444	495
Isle of Man	58	-	17	35	19
Israel	470	596	574	879	1,019
Italy	730	1,994	1,928	2,309	2,363
Ivory Coast	2	1	3	-	-
Jamaica	12	24	21	17	13
Japan	2,433	2,982	2,763	2,929	3,203
Jordan	20	41	25	26	16
Kazakhstan	-	4	8	5	14
Kenya	-	11	7	1	3
Korea (Democratic Republic of)	6	-	-	2	2
Korea (Republic of)	1,997	1,724	2,316	2,289	2,629

TABLE 22: TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES (FY 2015-FY 2019) (continued)

Residence	2015	2016	2017	2018	2019
Kuwait	5	12	6	11	11
Kyrgyzstan	-	2	-	1	-
Laos	1	-	-	-	-
Latvia	8	20	26	44	50
Lebanon	33	40	29	27	28
Liberia	1	4	1	-	-
Liechtenstein	23	68	35	41	46
Lithuania	2	28	38	46	66
Luxembourg	343	375	388	369	340
Macao	-	-	14	31	10
Macedonia	-	1	4	7	3
Madagascar	-	-	-	-	-
Malawi	-	-	-	-	-
Malaysia	53	54	61	100	88
Mali	-	-	-	102	-
Malta	368	122	107	-	114
Martinique	1	-	-	-	-
Marshall Islands	2	12	6	12	7
Mauritius	26	20	20	19	12
Mexico	1,123	1,005	982	1,020	1,106
Micronesia	-	-	-	-	-
Moldova	3	7	7	9	15
Monaco	14	55	33	38	36
Mongolia	1	-	1	2	5
Montenegro	43	19	1	21	23
Montserrat	-	-	-	-	1
Morocco	3	12	13	44	25
Mozambique	-	-	-	1	-
Myanmar	-	-	-	-	1
Namibia	-	1	1	-	1
Nauru	-	-	-	-	-
Nepal	3	-	-	1	1
Netherlands	582	1,017	951	1,207	1,207
New Zealand	299	375	353	434	472
Nicaragua	8	5	15	8	12
Nigeria	2	3	3	8	9
Niue	-	-	-	-	-
Northern Mariana Islands	2	-	-	-	-
Norway	122	217	182	249	273
Oman	2	1	1	5	5
Pakistan	31	24	20	24	18
Palestinian Authority	-	-	-	-	-
Panama	107	82	66	68	76
Papua New Guinea	-	-	-	-	8
Paraguay	5	1	2	2	-
Peru	37	32	33	33	68
Philippines	51	43	47	61	58
Poland	100	150	167	206	202
Portugal	136	194	172	189	188
Qatar	36	19	23	8	14
Romania	23	45	64	179	229

Residence	2015	2016	2017	2018	2019
Rwanda	-	-	-	-	-
Russian Federation	122	251	215	322	356
Saint Kitts and Nevis	16	12	8	8	14
Saint Lucia	16	9	29	9	7
Sint Maarten	-	1	-	5	3
Saint Vincent and the Grenadines	1	-	2	2	3
San Marino	-	8	12	6	7
Saudi Arabia	58	46	31	40	42
Scotland	23	-	-	27	25
Senegal	6	-	-	-	1
Serbia	6	10	7	22	24
Seychelles	31	17	23	19	19
Sierra Leone	-	-	-	-	-
Singapore	311	385	431	524	524
Slovakia	6	33	45	46	42
Slovenia	11	32	38	60	56
South Africa	189	94	97	89	124
Spain	786	1,151	1,086	1,140	1,124
Sri Lanka	33	14	7	26	17
Sudan	-	-	-	-	-
Swaziland	-	1	-	1	-
Sweden	604	744	749	845	921
Switzerland	1,268	2,060	1,775	1,961	2,012
Syria	1	-	5	7	5
Taiwan	1,172	902	921	1,002	1,094
Tajikistan	-	-	-	-	-
Tanzania	-	-	-	-	4
Thailand	92	70	73	101	152
Timor- Leste	-	-	-	-	-
Togo	11	-	-	-	-
Trinidad and Tobago	12	5	8	7	15
Tunisia	-	4	2	9	5
Turkey	99	369	350	360	508
Turks and Caicos Islands	15	17	21	16	3
Uganda	2	-	-	2	1
Ukraine	12	80	70	200	232
United Arab Emirates	121	137	134	128	151
United Kingdom	4,836	4,299	4,552	4,993	4,944
Uruguay	22	13	25	20	25
Uzbekistan	-	1	-	-	-
Vanuatu	-	-	-	1	-
Vatican City	3	-	-	3	1
Venezuela	51	26	41	33	25
Vietnam	23	60	68	117	120
Western Samoa/Samoa	17	13	8	-	10
Yemen	-	-	-	-	5
Zambia	1	-	-	-	-
Zimbabwe	-	-	1	2	-
Other <sup>1</sup>	4	2	1	25	22

- Represents zero.

<sup>1</sup> Country of origin information not available or not indicated in database (includes African Regional Intellectual Property Organization filings).

TABLE 23: SUMMARY OF CONTESTED TRADEMARK CASES (WITHIN THE USPTO, AS OF SEPTEMBER 30, 2019)

Activity	Ex Parte	Opposition	Cancellations	Concurrent Use	Interference	Total
<b>Cases Pending as of 9/30/18, Total</b>	<b>1,503</b>	<b>4,965</b>	<b>1,564</b>	<b>20</b>	-	<b>8,052</b>
<b>Cases Filed During FY 2019</b>	<b>3,333</b>	<b>6,955</b>	<b>2,426</b>	<b>25</b>	-	<b>12,739</b>
<b>Disposals During FY 2019, Total</b>	<b>3,024</b>	<b>8,243</b>	<b>2,867</b>	<b>24</b>	-	<b>14,158</b>
Before Oral Hearing or Briefing	2,576	8,097	2,812	22	-	13,507
After Briefing (No Oral Hearing)	413	120	43	2	-	578
After Oral Hearing	35	26	12	-	-	73
<b>Cases Pending as of 9/30/19, Total</b>	<b>1,812</b>	<b>3,677</b>	<b>1,123</b>	<b>21</b>	-	<b>6,633</b>
Awaiting Decision	123	57	24	2	-	206
In Process Before Hearing or Final Briefing <sup>1</sup>	1,689	3,620	1,099	19	-	6,427
<b>Requests Made for Extension of Time to Oppose in FY 2019</b>	-	20,502	-	-	-	-

- Represents zero.

<sup>1</sup> Includes suspended cases.

TABLE 24: **ACTIONS ON PETITIONS TO THE DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE (FY 2015–2019)**

<b>Nature of Petition</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
<b>Patent Matters</b>					
<b>Actions on Patent Petitions, Total</b>	<b>45,381</b>	<b>49,467</b>	<b>47,678</b>	<b>48,063</b>	<b>48,373</b>
Acceptance of:					
Late Assignments	631	846	735	580	635
Late Issue Fees	1,498	2,242	2,702	2,543	2,678
Late Priority Papers	75	289	371	242	285
Access	1	12	4	3	1
Certificates of Correction	26,443	26,319	22,765	26,363	23,406
Deferment of Issue	13	14	20	18	7
Entity Status Change	2,425	2,813	2,542	2,657	3,008
Filing Date	104	222	117	66	68
Maintenance Fees	1,976	2,359	2,343	2,374	2,460
Revivals	5,330	7,621	7,811	6,249	6,258
Rule 47 (37 CFR 1.47)	354	131	94	45	32
Supervisory Authority	708	360	440	362	446
Suspend Rules	126	117	146	3	71
Withdrawal from Issue	4,859	4,783	5,605	5,225	7,113
Withdraw Holding of Abandonment	838	1,339	1,983	1,333	1,905
Late Benefit or Priority Claim	2,139	4,051	5,095	3,326	2,922
Withdraw as Attorney	2,390	3,440	3,286	2,196	3,693
Matters Not Provided For (37 CFR 1.182)	1,012	1,601	2,376	1,768	1,762
To Make Special	19,026	23,672	20,906	21,257	24,015
Patent Term Adjustment/Extension	4,900	688	507	390	448
<b>Trademark Matters</b>					
<b>Actions on Trademark Petitions, Total</b>	<b>26,768</b>	<b>28,194</b>	<b>31,277</b>	<b>37,740</b>	<b>35,097</b>
Filing Date Restorations <sup>1</sup>	3	4	6	10	8
Inadvertently Issued Registrations	76	54	96	117	105
Letters of Protest	2,161	2,258	2,726	3,385	4,106
Madrid Petitions	87	68	88	80	99
Make Special	343	391	539	817	648
Reinstatements <sup>2</sup>	150	564	215	167	202
Revivals					
Reviewed on Paper	713	629	881	1,415	687
Granted Electronically <sup>3</sup>	19,857	20,432	22,610	26,108	23,862
Waived Fees and Refunds	15	13	14	13	5
Miscellaneous Petitions to the Director	1,271	1,143	1,335	1,371	1,453
Board Matters	37	27	24	31	24
Post Registration Matters	145	270	315	698	1,181
Post Publication Amendments	1,910	2,341	2,428	3,528	2,717
<b>Petitions Awaiting Action as of 9/30/19</b>					
Trademark Petitions Awaiting Response	36	46	42	35	-
2.66 Petitions <sup>4</sup>					70
2.146 Petitions <sup>4</sup>					99
Trademark Petitions to Revive <sup>5</sup>	8	-	49	350	-
2.66 Petitions <sup>4</sup>					36
2.146 Petitions <sup>4</sup>					425
Trademark Pending Filing Date Issues	-	-	-	-	-

- Represents zero.

<sup>1</sup> Trademark applications that are entitled to a particular filing date based on clear evidence of error by Trademarks.

<sup>2</sup> Trademark applications restored to pendency (inadvertently abandoned by the Trademarks).

<sup>3</sup> The petition to revive numbers was not separated into two categories (paper versus electronic) prior to 2006.

<sup>4</sup> Petitions to the Director made under Trademark Rules 2.66 and 2.146 have been counted separately.

<sup>5</sup> Prior to 2018, petitions in this category were designated as "Trademark Petitions Awaiting Action."

TABLE 25: **CASES IN LITIGATION (SELECTED COURTS OF THE UNITED STATES, AS OF SEPTEMBER 30, 2019)**

<b>Cases</b>	<b>Patents</b>	<b>Trademarks</b>	<b>Office of Enrollment and Discipline</b>	<b>Total</b>
<b>U. S. District Courts</b>				
<b>Civil Actions</b>				
<b>Pending as of 9/30/18, Total</b>	<b>47</b>	<b>-</b>	<b>4</b>	<b>51</b>
<b>Filed During FY 2019</b>	<b>6</b>	<b>1</b>	<b>-</b>	<b>7</b>
<b>Disposals, Total</b>	<b>6</b>	<b>-</b>	<b>4</b>	<b>10</b>
Affirmed	-	-	2	2
Reversed	-	-	-	-
Remanded	-	-	-	-
Dismissed	2	-	2	4
Summary Judgment Granted (USPTO)	4	-	-	4
Summary Judgment Granted (Opposing Party)	-	-	-	-
Transfer	-	-	-	-
<b>Cases Pending Before the U.S. District Courts as of 9/30/19, Total</b>	<b>47</b>	<b>1</b>	<b>0</b>	<b>48</b>
<b>United States Courts of Appeals<sup>1</sup></b>				
<b>Ex Parte Cases</b>				
<b>Pending as of 9/30/18, Total</b>	<b>48</b>	<b>15</b>	<b>1</b>	<b>64</b>
<b>Filed During FY 2019</b>	<b>69</b>	<b>5</b>	<b>2</b>	<b>76</b>
<b>Disposals, Total</b>	<b>54</b>	<b>13</b>	<b>-</b>	<b>67</b>
USPTO Affirmed	35	10	-	45
Affirmed-in-Part	1	-	-	1
District Court Affirmed	2	1	-	3
District Court Reversed	1	-	-	1
Reversed	-	-	-	-
Reversed-in-Part	-	-	-	-
Remanded	7	1	-	8
Dismissed	8	1	-	9
Transfer	-	-	-	-
Mandamus Denied	-	-	-	-
Mandamus Granted	-	-	-	-
<b>Ex Parte Cases Pending as of 9/30/19, Total</b>	<b>63</b>	<b>7</b>	<b>3</b>	<b>73</b>
<b>Intervention Cases</b>				
<b>Intervened Cases</b>				
<b>Pending as of 9/30/18, Total</b>	<b>52</b>	<b>-</b>	<b>-</b>	<b>52</b>
<b>Filed During FY 2019</b>	<b>78</b>	<b>3</b>	<b>-</b>	<b>81</b>
<b>Disposals, Total<sup>2</sup></b>	<b>73</b>	<b>-</b>	<b>-</b>	<b>73</b>
USPTO Affirmed	36	-	-	36
Affirmed-in-Part	3	-	-	3
Reversed	3	-	-	3
Reversed-in-Part	-	-	-	0
Remanded	4	-	-	4
Dismissed	15	-	-	15
Vacated	4	-	-	4
Withdrawn	8	-	-	8
<b>Intervention Cases Pending as of 9/30/19, Total</b>	<b>57</b>	<b>3</b>	<b>-</b>	<b>60</b>

TABLE 25: **CASES IN LITIGATION (SELECTED COURTS OF THE UNITED STATES, AS OF SEPTEMBER 30, 2019)** (continued)

Cases	Patents	Trademarks	Office of Enrollment and Discipline	Total
<b>Inter Partes Cases</b>				
Pending as of 9/30/18, Total	479	8	-	487
Filed During FY 2019	575	20	-	595
Disposals, Total <sup>3</sup>	599	15	-	614
Inter Partes Cases Pending as of 9/30/19, Total	455	13	-	468
Cases Pending Before the U.S. Courts of Appeals (Ex Parte, Intervention, and Inter Partes) as of 9/30/19, Total	575	23	3	601
<b>Supreme Court</b>				
<b>Ex Parte Cases</b>				
Pending as of 9/30/18, Total	5	1	-	6
Filed During FY 2019	9	4	-	13
Disposals, Total	11	1	-	12
Cases Pending Before the Supreme Court as of 9/30/19, Total	3	4	-	7

- Represents zero.

<sup>1</sup> Includes Federal Circuit and Other Appellate Courts.

<sup>2</sup> Includes Consolidated Cases.

<sup>3</sup> Breakouts Not Shown—Incompatible Reporting Methods.

TABLE 26: **PATENT CLASSIFICATION ACTIVITY (FY 2015-FY 2019)**

Activity	2015	2016	2017	2018	2019
Subgroups Established in the Cooperative Patent Classification System	1,297	1,883	1,336	2,438	1,757
Subclasses Established in the United States Patent Classification System	-	-	-	-	-
Number of Reclassified CPC Patent Families in the Cooperative Patent Classification System	67,947	58,357	68,579	11,821	71,888
Number of Reclassified United States Patent Classification Documents	-	-	-	-	-

- Represents zero.

TABLE 27: **SCIENTIFIC AND TECHNICAL INFORMATION CENTER ACTIVITY (FY 2019)**

<b>Activity</b>	<b>Quantity</b>
<b>Prior Art Search Services Provided</b>	
Genetic Sequence Searches Requested	6,200
Genetic Sequence IDs Completed	30,180
Submissions in Computer Readable Form (CRF) Reviewed	21,870
PLUS Searches Completed	34,102
Foreign Patent Searches Completed	4,319
Commercial Database Searches Completed	22,978
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Document Delivery/Interlibrary Loan Requests Processed	11,052
Copies of Foreign Patents Provided	9,842
<b>Information Assistance and Automation Services</b>	
One-on-One Examiner Information Assistance	24,907
One-on-One Examiner Automation Assistance	23,337
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<b>Collection Usage and Growth</b>	
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NPL Databases Available for Searching (estimated)	292

<sup>1</sup> Includes orally translated requests for Trademarks.

TABLE 28: **END OF YEAR PERSONNEL<sup>1</sup> (FY 2015-FY 2019)**

<b>Activity</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
<b>Business Lines</b>					
<b>Personnel by Business Lines, Total</b>	<b>12,667</b>	<b>12,725</b>	<b>12,588</b>	<b>12,579</b>	<b>12,652</b>
Patents	11,855	11,654	11,453	11,256	11,395
Trademarks	812	1,071	1,135	1,323	1,257
<b>Examination Staff</b>					
<b>Patent Examiners</b>	<b>8,426</b>	<b>8,351</b>	<b>8,147</b>	<b>8,185</b>	<b>8,296</b>
Utility, Plant, and Reissue Examiners	8,255	8,160	7,961	8,007	8,125
Design Examiners	171	191	186	178	171
Patent Examiner Attrition Rate	4.32%	3.02%	3.00%	4.00%	4.50%
<b>Trademark Examining Attorneys, Total</b>	<b>456</b>	<b>505</b>	<b>549</b>	<b>579</b>	<b>627</b>
Trademark Examining Attorneys Attrition Rate	3.51%	2.10%	3.98%	4.91%	5.26%

<sup>1</sup> Total number of available positions within the Patent and Trademark business lines.

TABLE 29A: **TOP 50 TRADEMARK APPLICANTS (FY 2019)**

Name of Applicant	Classes <sup>1</sup>
Xiamen Youjing E-commerce Co., Ltd.	703
Aristocrat Technologies Australia Pty Lt	619
Aphria Inc.	613
Walmart Apollo, LLC	458
Everglades College, Inc.	447
Target Brands, Inc.	380
Novartis AG	347
Amazon Technologies, Inc.	315
BALLY GAMING, INC.	308
JOHNSON & JOHNSON	296
Samsung Electronics Co., Ltd.	279
Warner Bros. Entertainment Inc.	266
Home Depot Product Authority, LLC	242
Marvel Characters, Inc.	231
John Ramunas	221
Essenlix Corporation	203
Eli Lilly and Company	202
Techtronic Cordless GP	201
Microsoft Corporation	191
ALDI Inc.	182
AGS LLC	179
Disney Enterprises, Inc.	179
Bath & Body Works Brand Management, Inc.	177
Huawei Technologies Co., Ltd.	174
Tweed, Inc.	169
Canadian Tire Corporation, Limited	168
Ainsworth Game Technology Limited	166
George Tan	166
ParkJockey Global, Inc.	166
LG Electronics Inc.	162
E. & J. Gallo Winery	161
Euro Games Technology Ltd.	161
MATTEL, INC.	159
THE WINE GROUP LLC	159
Xisheng Xiamenxinikejiyouxiangongsi	157
Google LLC	155
All Elite Wrestling, LLC	153
The Procter & Gamble Company	146
Apple Inc.	141
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Glaxo Group Limited	131
Alibaba Group Holding Limited	130
Cannara Biotech, Inc.	130
Henkel AG & Co. KGaA	128
Outfit7 Limited	126
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Volkswagen Aktiengesellschaft	125

<sup>1</sup> Applications with additional classes.

TABLE 29B: **TOP 50 TRADEMARK REGISTRANTS (FY 2019)**

Name of Registrant	Registrations
Novartis AG	226
Samsung Electronics Co., Ltd.	204
Aristocrat Technologies Australia Pty Lt	190
Bereber, Brian	161
Daimler AG	139
Warner Bros. Entertainment Inc.	124
Amazon Technologies, Inc.	99
AGS LLC	98
LG ELECTRONICS INC.	94
King Show Games, Inc.	91
Everglades College, Inc.	89
Johnson & Johnson	89
MATTEL, INC.	86
Google LLC	83
Home Depot Product Authority, LLC	78
Konami Gaming, Inc.	78
Bally Gaming, Inc.	77
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L'Oreal USA Creative, Inc.	76
Super Bakery, Inc.	76
Target Brands, Inc.	75
Hasbro, Inc.	72
Apple Inc.	70
Playtika Ltd.	68
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Xisheng Xiamenxinikejiyouxiangongsi	64
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# GLOSSARY OF ACRONYMS AND ABBREVIATIONS



USPTO Director Andrei Iancu was among the many USPTO employees who took the opportunity to get a picture with inventor Vint Cerf, commonly known as the Father of the Internet. (Photo: Jay Premack/USPTO)

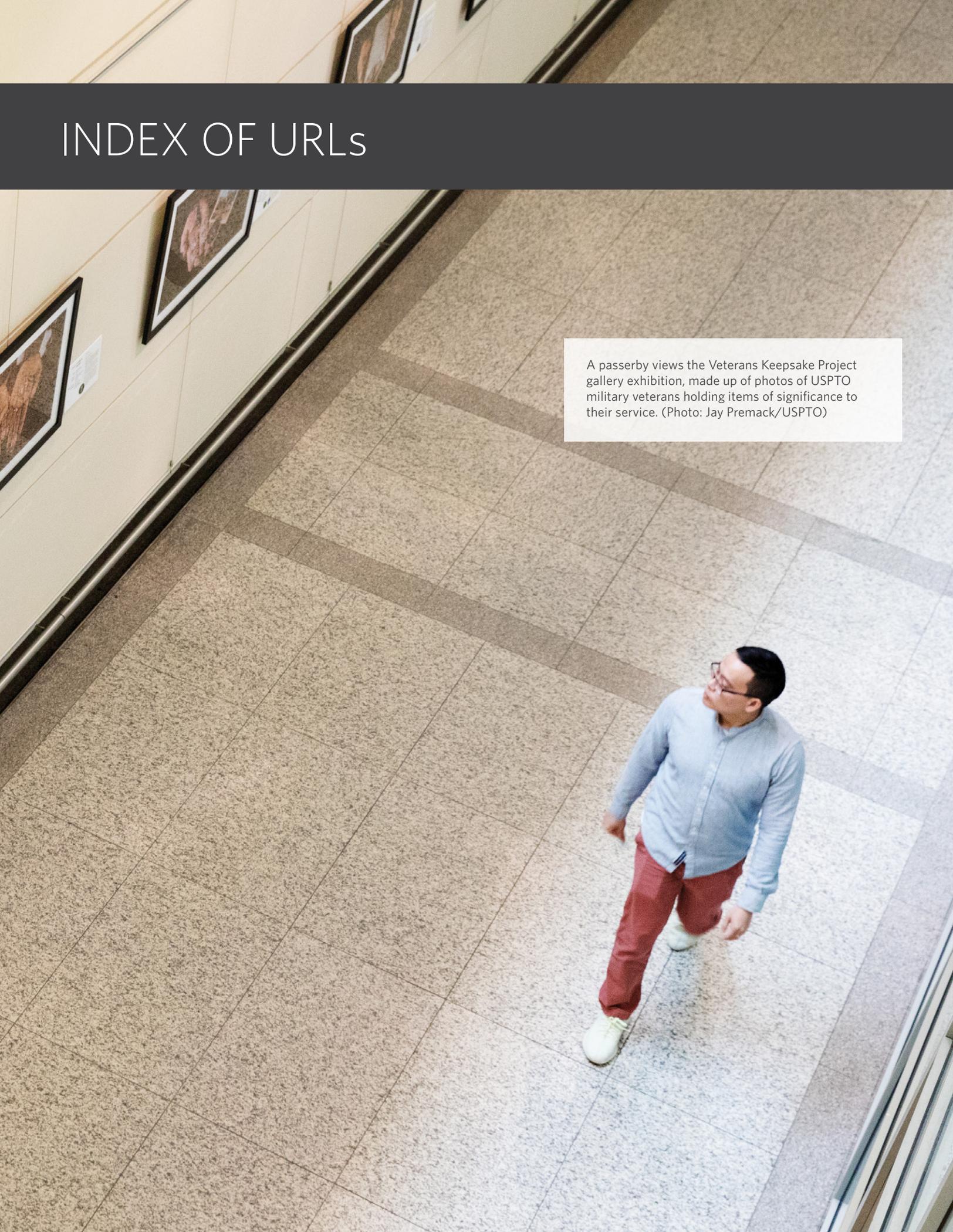
For more information about these acronyms and abbreviations, please consult the agency's limited glossary containing some USPTO-specific definitions: [www.uspto.gov/learning-and-resources/glossary](http://www.uspto.gov/learning-and-resources/glossary).

<b>ACR</b>	Accelerated Case Resolution	<b>FECA</b>	Federal Employees' Compensation Act
<b>AED</b>	Automated External Defibrillator	<b>Fed. Reg.</b>	Federal Register
<b>AFCP 2.0</b>	After Final Consideration Program 2.0	<b>FEGLI</b>	Federal Employees Group Life Insurance Program
<b>AGA</b>	Association of Government Accountants	<b>FEHB</b>	Federal Employees Health Benefit Program
<b>AIA</b>	Leahy-Smith America Invents Act	<b>FERS</b>	Federal Employees Retirement System
<b>AIPA</b>	American Inventors Protection Act	<b>FFMIA</b>	Federal Financial Management Improvement Act
<b>APEX</b>	Administrative Professionals Excellence (Program)	<b>FICA</b>	Federal Insurance Contributions Act
<b>API</b>	Application Programming Interface	<b>FIRST®</b>	Foundation for Inspiration and Recognition of Science and Technology
<b>ATJ</b>	Administrative Trademark Judges	<b>FISMA</b>	Federal Information Security Management Act
<b>APG</b>	Agency Priority Goal	<b>FMFIA</b>	Federal Managers' Financial Integrity Act
<b>AWE</b>	After Work Education (Program)	<b>FPNG</b>	Fee Processing Next Generation
<b>BDR</b>	Big Data Reservoir	<b>FY</b>	Fiscal Year
<b>CEO</b>	Career Enhancement Opportunities	<b>GAAP</b>	Generally Accepted Accounting Principles
<b>CFO</b>	Chief Financial Officer	<b>gTLD</b>	Generic Top-Level Domains
<b>CFS</b>	Consolidated Financial System	<b>GI</b>	Geographical Indication
<b>CIO</b>	Chief Information Officer	<b>GIPA</b>	Global Intellectual Property Academy
<b>CMS</b>	Content Management System	<b>GPRA</b>	Government Performance and Results Act
<b>COR</b>	Contracting Officer Representative	<b>GS</b>	Government Schedule
<b>CPC</b>	Cooperative Patent Classification	<b>GSA</b>	General Services Administration
<b>CPIC</b>	Capital Planning and Investment Control	<b>GUI</b>	Graphical User Interface
<b>CSRS</b>	Civil Service Retirement System	<b>ID</b>	Identification
<b>DATA</b>	Digital Accountability and Transparency Act	<b>ID5</b>	Industrial Design Five (Five Largest Design Patent Offices Worldwide)
<b>DAV</b>	Docket and Application Viewer	<b>IG</b>	Inspector General
<b>DSBD</b>	Digital Services and Big Data	<b>IAC</b>	Inventors Assistance Center
<b>DM&amp;R</b>	Deferred Maintenance and Repairs	<b>INTA</b>	International Trademark Association
<b>DOCX</b>	Word Processing File Format	<b>IP</b>	Intellectual Property
<b>DOL</b>	U.S. Department of Labor	<b>IP5</b>	Five Largest Intellectual Property Offices Worldwide
<b>DSBD</b>	Digital Services and Big Data	<b>IPEAs</b>	International Preliminary Examination Authorities
<b>EBT</b>	Enterprise Budget Tool	<b>IPERIA</b>	Improper Payments Elimination and Recovery Improvement Act
<b>eDAN</b>	Electronic Desktop Application Navigator		
<b>EBT</b>	Enterprise Budget Tool		
<b>EPO</b>	European Patent Office		
<b>EUIPO</b>	European Union Intellectual Property Office		

<b>IPIA</b>	Improper Payments Information Act	<b>PE2E</b>	Patent End-to-End
<b>ISA</b>	International Searching Authorities	<b>PETTP</b>	Patent Examiner Technical Training Program
<b>IT</b>	Information Technology	<b>POA&amp;M</b>	Plan of Actions and Milestones
<b>ITPGRFA</b>	International Treaty for Plant Genetic Resources for Food and Agriculture	<b>PP&amp;E</b>	Property, Plant, and Equipment
<b>JPO</b>	Japan Patent Office	<b>PPAC</b>	Patent Public Advisory Committee
<b>KIPO</b>	Korean Intellectual Property Office	<b>PPH</b>	Patent Prosecution Highway
<b>kWh</b>	Kilowatt Hours	<b>PTAB</b>	Patent Trial and Appeal Board
<b>LDP</b>	Leadership Development Program	<b>PTFRF</b>	Patent and Trademark Fee Reserve Fund
<b>LED</b>	Light-Emitting Diode	<b>PTRC</b>	Patent and Trademark Resource Centers
<b>NBIB</b>	National Background Investigations Bureau	<b>Pub. L. No.</b>	Public Law Number
<b>NIHF</b>	National Inventors Hall of Fame	<b>QPIDS</b>	Quick Path Information Disclosure Statement
<b>No.</b>	Number	<b>RCE</b>	Request for Continued Examination
<b>NSTI</b>	National Summer Teacher Institute	<b>Rep.</b>	Representative
<b>OAS</b>	Office of Administrative Services	<b>SEE</b>	Site Experience Education (Program)
<b>OBRA</b>	Omnibus Budget Reconciliation Act	<b>SF</b>	Square Footage
<b>OC</b>	Office Correspondence	<b>SMEs</b>	Small- and Medium-Sized Enterprises
<b>OCAO</b>	Office of the Chief Administrative Officer	<b>STEPP</b>	Stakeholder Training on Examination Practice and Procedure
<b>OCFO</b>	Office of the Chief Communications Officer	<b>STEM</b>	Science, Technology, Engineering, and Mathematics
<b>OCE</b>	Office of the Chief Economist	<b>SUCCESS</b>	Study of Underrepresented Classes Chasing Engineering and Science Success (Act)
<b>OCFO</b>	Office of the Chief Financial Officer	<b>TAC</b>	Trademark Assistance Center
<b>OCIO</b>	Office of the Chief Information Officer	<b>TC</b>	Technology Center
<b>OECD</b>	Organization for Economic Cooperation and Development	<b>TEAPP</b>	Telework Enhancement Act Pilot Program
<b>OEEOD</b>	Office of Equal Employment Opportunity and Diversity	<b>TM5</b>	Five Largest Trademark Offices Worldwide
<b>OEO</b>	Office of Education and Outreach	<b>TMNG</b>	Trademark Next Generation
<b>OGC</b>	Office of the General Counsel	<b>TPAC</b>	Trademark Public Advisory Committee
<b>OIG</b>	Office of the Inspector General	<b>TSDR</b>	Trademark Status and Document Retrieval
<b>OMB</b>	Office of Management and Budget	<b>TTAB</b>	Trademark Trial and Appeal Board
<b>OPIA</b>	Office of Policy and International Affairs	<b>TTABIS</b>	Trademark Trial and Appeal Board Information System
<b>OPM</b>	Office of Personnel Management	<b>TTABVUE</b>	Trademark Trial and Appeal Board Inquiry System
<b>OPQA</b>	Office of Patent Quality Assurance	<b>UAE</b>	United Arab Emirates
<b>OPT</b>	Office of Patent Training	<b>U.S.C.</b>	U.S. Code
<b>PALM</b>	Patent Application Location Monitoring (system)	<b>UMP</b>	Upward Mobility Program
<b>PAR</b>	Performance and Accountability Report	<b>UPR</b>	University of Puerto Rico
<b>PCT</b>	Patent Cooperation Treaty		

<b>USPTO</b>	U.S. Patent and Trademark Office
<b>USSGL</b>	U.S. Standard General Ledger
<b>USTR</b>	Office of the United States Trade Representative
<b>VHP</b>	Veteran Hiring Program
<b>VILT</b>	Virtual Instructor-Led Training
<b>WIPO</b>	World Intellectual Property Organization
<b>WTO</b>	World Trade Organization
<b>XML</b>	Extensible Markup Language

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A passerby views the Veterans Keepsake Project gallery exhibition, made up of photos of USPTO military veterans holding items of significance to their service. (Photo: Jay Premack/USPTO)

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