



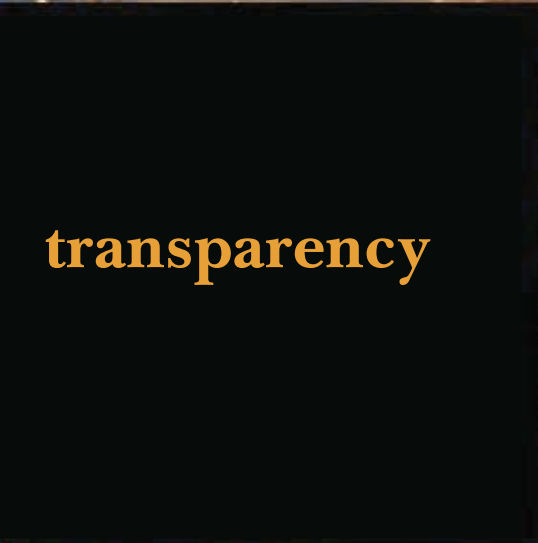
United States Patent and Trademark Office
Fiscal Year 2010 President's Budget



quality



goals



transparency



performance



timeliness



UNITED STATES PATENT AND TRADEMARK OFFICE



FISCAL YEAR 2010 PRESIDENT'S BUDGET

May 2009

TABLE OF CONTENTS

Section I – Executive Summary	1
Introduction.....	1
Mission Statement	5
Vision and Strategic Plan.....	5
FY 2010 Challenges.....	7
USPTO Budget and Performance-At-A-Glance.....	10
FY 2010 Budget Highlights.....	11
FY 2010 Appropriations Language and Explanation of Changes	12
Section II – Budget Request by Business Line	15
Patent Business Line.....	15
Trademark Business Line	15
Full Costing of Patent and Trademark Business Lines.....	15
Section III – Budget and Performance by Goal	19
Goal 1 – Optimize Patent Quality and Timeliness	19
Goal 2 – Optimize Trademark Quality and Timeliness.....	29
Goal 3 – Improve Intellectual Property Protection and Enforcement Domestically and Abroad	37
Management Goal: Achieve Organizational Excellence	44
Section IV – Budget Exhibits	49
Exhibit 3a –Total Resource Requirements	49
Exhibit 7 – Summary of Financing.....	50
Exhibit 8 – Adjustments to Base	51
Exhibit 16 – Summary of Requirements by Object Class	52

TABLES

Summary of Fee Projections	1
Summary of Budget Request	3
USPTO FY 2010 Budget and Performance-at-a-Glance	10
Summary of Changes to the Base	11
FY 2010 Patent and Trademark Business Funding.....	17
Goal 1 Resource Requirements Summary	27
Patent Performance Measures/Targets.....	28
Goal 2 Resource Requirements Summary	35
Trademark Performance Measures/Targets	36
Goal 3 Resource Requirements Summary	42
International/Policy Performance Measures/Targets	43
Exhibit 3a –USPTO Total Resource Requirements Summary	49
Exhibit 7 – Summary of Financing.....	50
Exhibit 8 – Adjustments to Base.....	51
Exhibit 16 – Summary of Requirements by Object Class	52

Section I – Executive Summary

INTRODUCTION

The United States Patent and Trademark Office (USPTO) is requesting \$1,930 million for FY 2010. As an Agency funded exclusively through fees collected for patent and trademark products and services, the USPTO must deliberate over spending requirements and make management decisions to ensure that the request does not exceed projected fee collections. The requested amount represents the estimated fee collections for the same period of time and it is less than the amount of resources necessary to sustain the USPTO at a desirable production level. The impact of the current economic downturn has led to a dramatic decline in the demand for USPTO products and services which has caused the latest forecast of total fee collections in FY 2010 to be 12.4 percent lower than the forecast in the FY 2009 President's Budget. However, the total FY 2010 fee collections are estimated to be approximately 1.5 percent above current estimates for FY 2009 fee collections and actual collections for FY 2008.

Summary of Fee Projections							
(Dollars in Thousands)							
	FY 2009				FY 2010		
	FY 2009 President's Budget	FY 2009 Enacted	FY 2009 Current Estimate	Current Estimate compared to President's Budget	FY 2009 President's Budget	FY 2010	Change
Patent Fees	\$1,827,796	\$1,781,663	\$1,674,655	(8.4%)	\$1,946,361	\$1,716,917	(11.8%)
Trademark Fees	246,977	228,437	226,295	(8.4%)	\$258,231	213,444	(17.3%)
Total Fees	\$2,074,773	\$2,010,100	\$1,900,950	(8.4%)	\$2,204,592	\$1,930,361	(12.4%)

Economy and Demand for Intellectual Property

There is a strong correlation between economic conditions in the United States and other countries and the demand for intellectual property (IP) rights. As a result, the current economic recession is having a significant impact on the demand for the USPTO's products and services. USPTO applicants are carefully managing their IP portfolios according to current economic and market conditions. As the economy struggles and more businesses declare bankruptcy, the applicant base for USPTO products and services may shift and could continue to decline. Analyses of current filing trends indicate that patent and trademark filings in FY 2009 will finish below FY 2008 levels. In addition to the decline in application filings, patent holders are not maintaining their exclusivity rights during FY 2009 at the same rates as in recent years. Projected growth of issued patents accounts for the FY 2010 patent fee collections increase.

The Administration and the Congressional Budget Office (CBO) predict that the economy will remain in a recession for FY 2009 and rebound slightly in FY 2010. The Gross Domestic Product (GDP), the broadest measure of economic activity, reported a decline for the fourth quarter of FY 2008, an indication that more economic difficulty lies ahead. Based on the latest GDP indicators and other economic factors, forecasts for FY 2010 predict no growth for patent application filings, and a continued decrease in trademark application filings.

Fees collected for patent related products and services occur at different intervals over the life of the pending patent application and granted patent. Applicants pay initial fees when they file an application, while additional fees are paid once examination is complete at the allowance (issue) and maintenance of successful patents. Half of all patent fee collections are from issue and maintenance fees, which essentially subsidize examination activities. Changes in application filing levels have an immediate impact on current year fee collections. They also have an out year impact because fewer patent application filings means less fees in the current year devoted to production related costs, such as new staff and overtime. Less production output in one year results in fewer issue and maintenance fee payments in future years.

Significantly more than half of all fees collected for trademark related products and services are from trademark application filings. Therefore, any large declines of applicant demand mean trademark fee collections drop immediately.

The USPTO is monitoring the economic situation carefully by following economic indicators, and trends in international IP offices, and holding discussions with domestic filers of patent and trademark applications, as well as with the Patent and Trademark Public Advisory Committees.

A continued decline in consumer prices as measured by the Consumer Price Index (CPI) means that the USPTO will not adjust patent statutory or trademark fee amounts to provide for the increased costs of doing business. Fee collection estimates assume the fee structure based on the provisions of Title VIII in the Consolidated Appropriations Act, 2005 (Pub. L. No. 108-447).

FY 2009 and FY 2010 Budgets

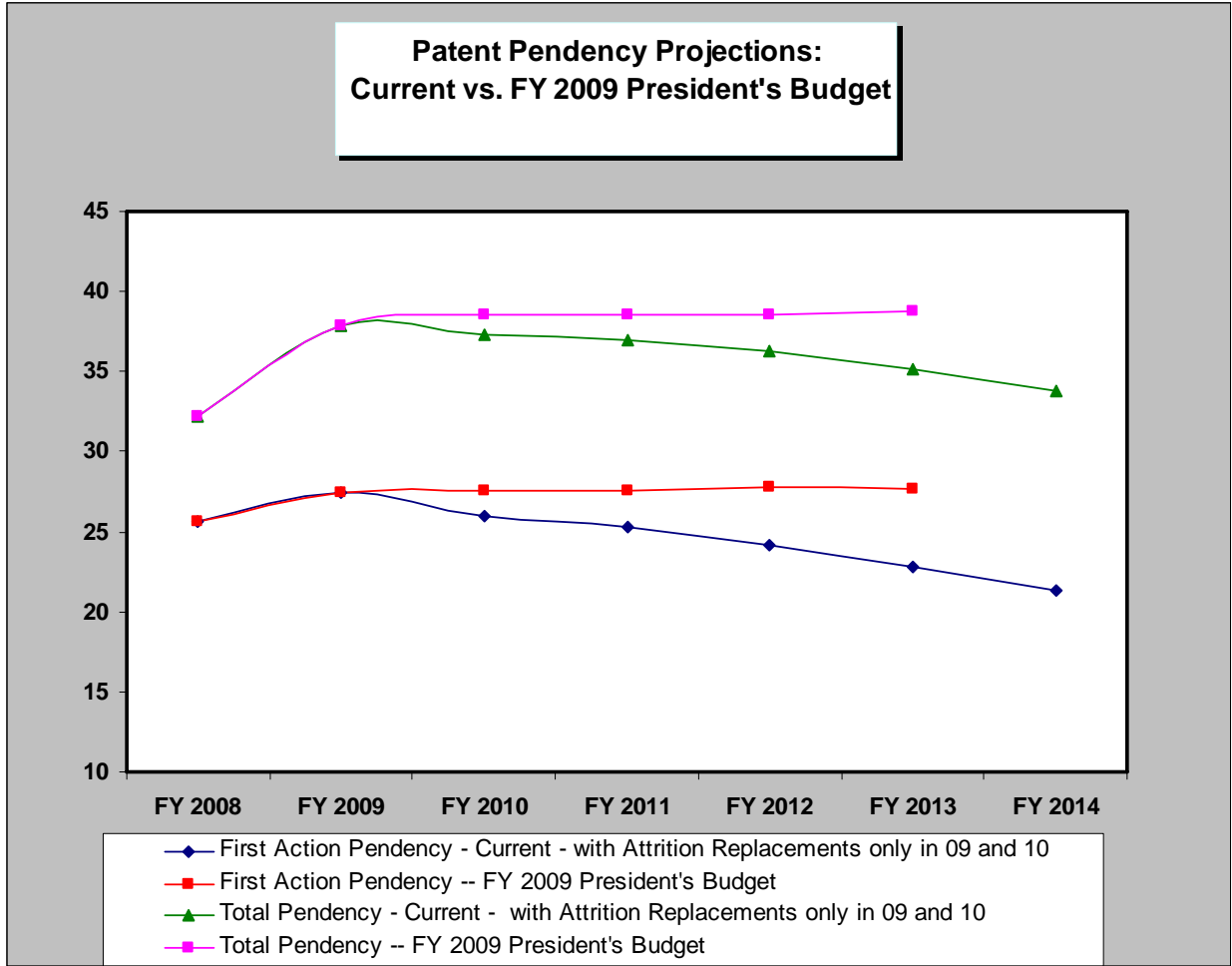
As a result of the economic recession and its effect on demand for USPTO products and services, projected fee collections for both FY 2009 and FY 2010 are significantly below the amounts projected for these fiscal years in the FY 2009 President's budget, but above actual fee collections for FY 2008 and estimated collections for FY 2009.

- For FY 2009, fee projections are 8.4 percent or \$174 million below the projections in the FY 2009 President's Budget, but almost unchanged from FY 2009 fee collection estimates.
- The current fee projections for FY 2010 are 1.5 percent above the current projection for FY 2009 and 12.4 percent or \$274 million below the projected level in the FY 2009 President's budget.

As a fully fee-funded Agency, the USPTO must adjust its current and planned spending to levels that remain within our projected fee collections. Therefore, the USPTO has engaged in an Agency-wide comprehensive review of programs to identify reductions that can be taken in FY 2009, and then carried forward into FY 2010. After several years of hiring approximately 1,200 patent examiners per year, the USPTO has limited patent examiner hiring to attrition replacement, and has stopped hiring in other business areas. Other reductions include: stopping non-bargaining unit performance award payments; stopping non-production and non-revenue generating overtime; curtailing production-related overtime; restricting training, travel, and non-production and non-mission administrative and discretionary expenses; and restructuring contracts. In addition, the USPTO has limited its adjustments to base to only certain pay inflation and non-pay inflation adjustments. The following table shows the USPTO's revised FY 2009 budget and proposed FY 2010 budget request.

Summary of Budget Request (Dollars in Thousands)				
Business Line	FY 2009 Enacted	FY 2009 Current Estimate	FY 2010 President's	Change Compared to FY 2009 Current Estimate
Patents	\$1,781,663	\$1,674,655	\$1,716,917	2.5%
Trademarks	228,437	226,295	213,444	(5.7%)
Total Appropriated Resources	\$2,010,100	\$1,900,950	\$1,930,361	1.5%

The following chart compares the current projections for first action and total pendency versus the projections contained in the FY 2009 President's Budget. Since the release of the 2009 Budget, the combination of declining workload, fee collections, and Agency-wide spending reductions have impacted patent pendency performance metrics. In the FY 2009 President's budget, patent application filings were projected to increase at the rate of 5 percent per year. The USPTO is currently projecting negative and zero growth respectively in FYs 2009 and 2010, and a gradual increase back to 5 percent annual growth by FY 2013 when the economy is expected to begin to rebound in FY 2010 and beyond. This decline in the growth rate of incoming work has accelerated the improvement trend shown in the FY 2009 budget whereby pendency times began to level off rather than increase. However, an unanticipated change to the projections in future years, such as rapid increase in applications instead of a gradual increase as projected, could lead to increases in pendency above current projections, as workload may increase faster than USPTO's ability to respond.



In the event incoming work and therefore fee projections are understated, the USPTO is requesting authority to retain and use any excess fee collections up to a level of \$100 million, or approximately 5 percent of the projected fee collections in FY 2010. These funds would be available for processing the additional work for which the fees were paid. This is particularly important given uncertain economic conditions affecting the ability to project fee collections accurately.

MISSION STATEMENT

Foster innovation and competitiveness by providing high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide.

VISION AND STRATEGIC PLAN

The USPTO vision is to *lead the world in intellectual property protection and policy*. In order to achieve this vision, the USPTO released its *2007-2012 Strategic Plan* in March 2007, leading the Agency to promote the IP systems of the future to keep American innovators competitive in the global economy, and to transform the Agency into a quality-focused, highly productive and responsive organization. The USPTO strategic plan is in alignment with the Department of Commerce goal to foster science and technological leadership by protecting IP, and the related objective to protect IP and improve the patent and trademark systems.

The *2007-2012 Strategic Plan* established three strategic goals and a management goal as follows:

Goal #1: Optimize patent quality and timeliness

Effectively build human capital and promote the use of the patent hoteling program; build quality into every aspect of patent examination; fully leverage and expand the potentials of the electronic work environment; and explore the feasibility of offering alternatives to the current one-size-fits-all filing and examination system.

Goal #2: Optimize trademark quality and timeliness

Explore alternative methodologies for predicting workloads, making process improvements, hiring and retaining a qualified workforce and assigning work; fully leverage and expand the potential of the electronic work environment; and improve Trademark Trial and Appeal Board (TTAB) case processing.

Goal #3: Improve intellectual property protection and enforcement domestically and abroad

Advocate U.S. Government IP policy by increasing the USPTO presence and activities domestically and internationally; partner with international counterparts in pursuit of harmonization; and increase the certainty and effectiveness of IP rights through developments in decisional law.

Management Goal: Achieve organizational excellence

Develop an enterprise-wide approach to providing reliable and consistent information for decision-making purposes; recruit, hire, develop, and retain employees with competencies for accomplishing the USPTO mission; enhance the capabilities of corporate systems, processes, and services; and improve the quality, cost-effectiveness, timeliness, and user friendliness of information technology (IT) solutions.

Guided by the *2007-2012 Strategic Plan* and supported with resources identified in annual budget requests, the USPTO has:

- Made quality the number one priority.
- Moved toward full patent and trademark electronic processing.
- Protected the U.S. IP system and American interests internationally.

FY 2010 CHALLENGES

Economic Outlook

The current economic outlook for the United States and most of the developed world is uncertain. Officially, the United States is in the midst of a recession, which some economists believe to be the worst downturn since the Great Depression.

The GDP, the broadest measure of economic activity, has declined for three of the last four quarters, which signals that more economic difficulty may lie ahead. The Administration and the Congressional Budget Office (CBO) predicts that the economy will remain in a recession throughout 2009, before rebounding modestly in 2010. The annual Consumer Price Index – Urban (CPI-U), which measures consumer inflation for urban consumers, has remained below 0.5 percent in recent months, due in large part to the decline in housing and energy prices. The CBO is projecting that the continued recession will keep inflation near zero for the rest of the year.

Patent Pendency, Backlog and Complexity

The USPTO continues to confront the need to address the growth of patent pendency, the backlog of patent applications waiting to be examined, and the increasing technical complexity of patent applications. Timely examination of patent applications advances science and technology. Given the recent economic decline, the USPTO continues to address this challenge by training and retaining patent examiners, however the hiring levels for FYs 2009 and 2010 have been reduced to attrition replacement only.

Patent Quality

High quality patents create the certainty and confidence that is valued by innovators, the general public, and the marketplace. Unfortunately, there may be differing perceptions between the public and the USPTO on how to measure patent quality and determine whether or not patent quality is at an acceptable level, and how to improve patent quality.

Strengthen Intellectual Property Systems At Home and Abroad

The USPTO is challenged to maintain an effective IP rights system. This includes deepening the dialogue on global IP policy, facilitating technical cooperation with foreign countries, and surveying and exchanging information on the current status of IP rights protection and administrative systems. This also includes arriving at agreement on standards of enhanced IP enforcement, such as increased criminal and civil protection.

Replacement and Modernization of Information Technology Infrastructure

The USPTO is beginning a system-wide review and overhaul of its IT resources focused on nine program areas that cover technology, organization, personnel and performance, as described in Section III, under the Management Goal. However, the major focus during FY 2010 will occur within the technology based programs.

- Telecommunications – The USPTO will implement the core PTONet III network components and approximately 80 percent of the building support network. Additionally, work will begin to upgrade the network firewalls, distribution systems and load balancers during FY 2010. The first phase of the command center (operations

management and security) will be developed and implemented along with supporting tools and infrastructure.

- Applications – The process of evaluating applications and identifying opportunities for improvement will continue. During FY 2010, the Office of the Chief Information Officer (OCIO) will initiate the shift from analysis to redesign and improvement. Additionally, there will be major changes in the development structure, tools and process/procedures to support overall improvement in the quality of the developed product.
- Data Center – The focus of the Data Center during FY 2010 will be hardware replacement. The targeted budget should support a starting investment in new hardware to replace aging or end-of-life hardware. Additionally, the USPTO will continue investments in power upgrades to support the reconstitution of the Data Center power environment and the development of a reasonable power model to support future growth.
- Disaster Recovery – The development of a robust disaster recovery environment is a very high priority for the USPTO and will continue for a number of years. During FY 2010 the disaster recovery environment will continue to be developed. It is anticipated that the basic alternate site will be expanded (2-3 times the current space), new network, server and storage capacity will be added, additional applications and infrastructure software environments will be identified for migration to the alternate site and the processes and procedures developed to support the integration of the disaster recovery facility into the overall USPTO network/production environment will be concluded.
- Desktop – During FY 2010 work will continue on the development of a controlled Federal Desktop Core Configuration (FDCC) (one-third of the FDCC settings) approved image. Image will be deployed to the workforce and support improvement in the USPTO's security through the implementation of improvement in security settings, image management, local administrative rights control and patch/release management.

Finally, the USPTO will continue to integrate a number of these initiatives into a comprehensive change and configuration management process to support the long-term shift to a fully-integrated IT strategy.

USPTO Financing

Operating as a performance based organization and a conscientious steward of the public's money, the USPTO must be efficient. The annual revenue stream (fee collections) is dependent on the number of applications filed, the rate at which the Agency allows and registers applications, and the rate at which owners of patents maintain them in force, which in turn are dependent on the economy. To operate as a true performance based organization and ensure a stable and predictable revenue stream, the USPTO will do the following:

- Stress the importance of full access to fee collections,
- Pursue the long term financial stability and sustainability of operations with the acumen of a business-type Agency, while ensuring full accountability to Congress and patent and trademark users.
- Recover 100 percent from our customers of the costs for patent and trademark operations, products and services.

Maintain Organizational Excellence

Organizational excellence must keep pace with the size of the workforce and an environment that is approaching 24/7 electronic operations. The USPTO has traditionally invested in mission-critical activities (i.e., patent and trademark examination). The challenge is to ensure that management functions continue to meet the short and long term needs of mission operations.

USPTO FY 2010 BUDGET AND PERFORMANCE-AT-A-GLANCE

(Dollars in Thousands)

	Actual ¹	Enacted	Current Estimate ²	President's	Outyear Estimates			
	FY 2008	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
USPTO GOAL 1: OPTIMIZE PATENT QUALITY AND TIMELINESS								
<i>Amount</i>	\$1,600,154	\$1,739,169	\$1,653,638	\$1,688,841	\$1,783,905	\$1,883,633	\$1,978,094	\$2,079,469
Full Time Equivalent (FTE)	7,934	8,625	8,579	8,456	8,877	9,307	9,702	10,038
Allowance Compliance Rate	96.3%	96.0%	96.5%	96.5%	96.5%	96.5%	96.5%	96.5%
In-Process Examination Compliance Rate	92.5%	93.0%	93.0%	94.0%	94.0%	94.0%	94.0%	94.0%
Average First Action Pendency/Utility, Plant and Reissue (UPR) (Months)	25.6	27.5	27.5	26.0	25.3	24.2	22.8	21.3
UPR Units of Production	395,311	427,500	427,500	444,800	462,700	492,500	524,900	556,600
Average Total Pendency/UPR (Months)	32.2	37.9	37.9	37.3	37.0	36.3	35.2	33.8
USPTO GOAL 2: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS								
<i>Amount</i>	\$188,730	\$214,386	\$192,725	\$195,013	\$198,692	\$221,361	\$239,766	\$252,346
FTE	887	974	960	946	993	1,041	1,085	1,123
First Action Compliance Rate	95.8%	95.5%	95.5%	95.5%	95.5%	95.5%	95.5%	95.5%
Final Compliance Rate ³	N/A	96.0%	97.0%	97.0%	97.0%	97.0%	97.0%	97.0%
Average First Action Pendency (Months)	3.0	2.5 to 3.5	2.5 to 3.5	2.0	2.0	2.0	2.0	2.0
Balanced Disposals	853,211	803,000	772,000	731,000	731,000	780,000	846,000	923,000
Office Disposals	430,343	358,100	354,100	326,400	316,900	323,800	349,100	381,000
Average Total Pendency (Months) Excluding Suspended and <i>Inter Partes</i> Proceedings ⁴	11.8	N/A	13.0	11.0	11.0	11.0	11.0	11.0
USPTO GOAL 3: IMPROVE INTELLECTUAL PROPERTY PROTECTION AND ENFORCEMENT DOMESTICALLY AND ABROAD								
<i>Amount</i>	\$45,368	\$49,545	\$47,587	\$46,507	\$47,483	\$48,561	\$49,668	\$50,804
FTE	141	171	152	150	158	165	173	178
Percentage of countries on the USTR 301 list, awaiting WTO accession, or targeted by OIPPE for improvements that have positively amended or improved their IP systems ⁵	N/A	N/A	40%	50%	55%	60%	65%	65%
Number of countries that implement at least 75% of action steps which improve IP protections in their joint cooperation, action or work plans ⁵	N/A	N/A	4	6	7	8	10	10
Amounts not supporting goals. ⁶	\$45,043	\$7,000	\$7,000	\$0	\$0	\$0	\$0	\$0
USPTO Gross Appropriation	\$1,879,295	\$2,010,100	\$1,900,950	\$1,930,361	\$2,030,080	\$2,153,555	\$2,267,528	\$2,382,619
FTE⁷	8,962	9,770	9,691	9,552	10,028	10,513	10,960	11,339

¹ FY 2008 Actual reflects the original appropriation of \$1,915,500,000, less \$36,205,000 in lower direct fee collections.

² FY 2009 Current Estimate reflects FY 2009 Enacted Budget less \$109,150,000 in estimated lower fee collections and workloads.

³ Final Action Compliance Rate is being replaced in FY 2009 by the Final Compliance Rate which is a more comprehensive measure of quality to include all actions that would result in an application being completed or disposed.

⁴ Average Total Pendency Including Suspended and *Inter Partes* Proceedings in FY 2009 is replaced by Average Total Pendency Excluding Suspended and *Inter Partes* Proceedings, which is a better indicator of the amount of time it takes to dispose of the trademark application.

⁵ New outcome-oriented performance measures that replaced previously reported measures. USTR = United States Trade Representative; OIPPE = Office of Intellectual Property Protection and Enforcement.

⁶ Other amounts not supporting goals include for:

FY 2008 \$44 million of unused Trademark fees which remained in the unobligated balance and \$1 million in transfers.

FY 2009 \$2 million in transfers and \$5 million in Congressional restricted funds.

⁷ FY 2008 FTE are based on the standard number of 2,080 work hours/year. If the calculation were based on the actual number of work hours of 2,096 in FY 2008, the revised total would be 8,896.

FY 2010 BUDGET HIGHLIGHTS

The FY 2010 President's Budget request for the USPTO is \$1,930 million, which is a \$29 million or 1.5 percent increase over the current estimate for FY 2009 and an \$80 million or -4.0 percent decrease from the FY 2009 enacted level. This request would provide \$1,717 million for the Patent business, including corporate support costs, for completing 458,200 first actions on patentability determinations, and 431,500 patent application disposals (equaling 444,800 units of production), and \$213 million for the Trademark business, including corporate support costs, for completing 403,000 examiner disposals on trademark applications and completing work on 326,400 office disposals.

This request will fund the estimated costs of pay and benefit increases and non-pay inflation, as follows:

Summary of Changes to the Base	
(Dollars in thousands)	
Changes to the Base	
Pay Adjustments	\$53,033
Non Pay Inflation Adjustments	5,096
Mandatory Requirements	<u>971</u>
Gross Current Services Level Increases	59,100
Less: Amount to be Absorbed	<u>(37,169)</u>
Net Changes to the Base	21,931

As depicted in the chart above, the \$29 million increase over the FY 2009 current estimate is insufficient to cover the gross required inflationary changes to the base, thus requiring additional cost savings measures above the significant reductions taken in FY 2009.

FY 2010 APPROPRIATIONS LANGUAGE AND EXPLANATION OF CHANGES

Salaries and Expenses

For necessary expenses of the United States Patent and Trademark Office (USPTO) provided for by law, including defense of suits instituted against the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, [\$2,010,100,000] \$1,930,361,000 to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 are received during fiscal year [2009] 2010, so as to result in a fiscal year [2009] 2010 appropriation from the general fund estimated at \$0: *Provided further*, That during fiscal year [2009] 2010, should the total amount of offsetting fee collections be less than [\$2,010,100,000] \$1,930,361,000, this amount shall be reduced accordingly: *Provided further*, That any amount received in excess of \$1,930,361,000 in fiscal year 2010, in an amount up to \$100,000,000, shall remain available until expended: [*Provided further*, That \$750,000 may be transferred to 'Departmental Management, Salaries and Expenses' for activities associated with the National Intellectual Property Law Enforcement Coordination Council:] *Provided further*, That from amounts provided herein, not to exceed \$1,000 shall be made available in fiscal year [2009] 2010 for official reception and representation expenses: [*Provided further*, That of the amounts provided to the USPTO within this account, \$5,000,000 shall not become available for obligation until the Director of the USPTO has completed a comprehensive review of the assumptions behind the patent examiner expectancy goals and adopted a revised set of expectancy goals for patent examination:] *Provided further*, That in fiscal year [2009] 2010 and hereafter, from the amounts made available for "Salaries and Expenses" for the USPTO, the amounts necessary to pay: (1) the difference between the percentage of basic pay contributed by the USPTO and employees under section 8334(a) of title 5, United States Code, and the normal cost percentage (as defined by section 8331(17) of that title) of basic pay, of employees subject to subchapter III of chapter 83 of that title; and (2) the present value of the otherwise unfunded accruing costs, as determined by the Office of Personnel Management, of post-retirement life insurance and post-retirement health benefits coverage for all USPTO employees, shall be transferred to the Civil Service Retirement and Disability Fund, the Employees Life Insurance Fund, and the Employees Health Benefits Fund, as appropriate, and shall be available for the authorized purposes of those accounts: *Provided further*, That sections 801, 802, and 803 of division B, Public Law 108-447 shall remain in effect during fiscal year [2009] 2010: *Provided further*, That the Director may, this year, reduce by regulation fees payable for documents in patent and trademark matters, in connection with the filing of documents filed electronically in a form prescribed by the Director: [*Provided further*, That \$2,000,000 shall be transferred to the Office of Inspector General for activities associated with carrying out investigations and audits related to the USPTO: *Provided further*, That from the amounts provided herein, no less than \$4,000,000 shall be available only for the USPTO contribution in a cooperative or joint agreement or agreements with a non-profit organization or organizations, successfully audited within the previous year, and with previous experience in such programs, to conduct policy studies, including studies relating to activities of United Nations Specialized agencies and other international organizations, as well as conferences and other development programs, in support of fair international protection of intellectual property rights.]

Explanation of Proposed Changes to Appropriation Language

Proposed Change	Explanation
<p>Provided further, That any amount received in excess of \$1,930,361,000 in fiscal year 2010, in an amount up to \$100,000,000, shall remain available until expended:</p>	<p>The USPTO is requesting that any excess fee collections in an amount up to \$100 million be made available to the Office. Access to fee collections, are needed to:</p> <ul style="list-style-type: none"> • Process additional work in the event uncertain economic conditions or other factors cause a significant unexpected increase in workload. • Address changes in traditional demands for office products and services that might result because of anticipated future changes to fee amounts and rules of practice. • Continue operations in the event an emergency situation precludes the USPTO from collecting and processing new fee collections.
<p><i>Provided further</i>, That \$750,000 may be transferred to 'Departmental Management, Salaries and Expenses' for activities associated with the National Intellectual Property Law Enforcement Coordination Council:</p>	<p>Proposed for deletion. Funding for the National Intellectual Property Law Enforcement Coordination Council is not needed because of the creation of the intellectual property coordinator position within the executive office of the president.</p>
<p><i>Provided further</i>, That of the amounts provided to the USPTO within this account, \$5,000,000 shall not become available for obligation until the Director of the USPTO has completed a comprehensive review of the assumptions behind the patent examiner expectancy goals and adopted a revised set of expectancy goals for patent examination:</p>	<p>Proposed for deletion. In FY 2009, \$5 million will remain unobligated until the review has been completed and a revised set of goals adopted.</p>
<p><i>Provided further</i>, That \$2,000,000 shall be transferred to the Office of Inspector General for activities associated with carrying out investigations and audits related to the USPTO:</p>	<p>Proposed for deletion, as this is a one-time requirement.</p>
<p><i>Provided further</i>, That from the amounts provided herein, no less than \$4,000,000 shall be available only for the USPTO contribution in a cooperative or joint agreement or agreements with a non-profit organization or organizations, successfully audited within the previous year, and with previous experience in such programs, to conduct policy studies, including studies relating to activities of United Nations Specialized agencies and other international organizations, as well as conferences and other development programs, in support of fair international protection of intellectual property rights:</p>	<p>Proposed for deletion, as this is a one-time requirement.</p>
<p><i>Provided further</i>, That sections 801, 802, and 803 of division B, Public Law 108-447 shall remain in effect during fiscal year [2009] 2010.</p>	<p>Extends the changes to patent and trademark fee amounts and practices to FY 2010 to give USPTO leadership under the new Administration sufficient time to pursue enactment of permanent fee legislation.</p>

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Section II – FY 2010 Budget Request by Business Line

As a result of the American Inventors' Protection Act of 1999 (AIPA) (Public Law 106-113), the USPTO operates as a performance-based organization with two mission-driven business lines – Patents and Trademarks. The USPTO administers the patent and trademark laws [15 U.S.C. §113 and 35 U.S.C. §41 and 376], which provide protection to inventors and businesses for their inventions and corporate and product identifications. The USPTO also encourages innovation and scientific and technical advancement of American industry through the preservation, classification, and dissemination of patent and trademark information. In addition, the USPTO provides technical advice and information to Executive Branch agencies on IP matters and the trade related aspects of IP rights, and assists governments of other countries in establishing regulatory and enforcement mechanisms that meet their international obligations to protect IP.

PATENT BUSINESS LINE

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

TRADEMARK BUSINESS LINE

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

FULL COSTING OF THE PATENT AND TRADEMARK BUSINESS LINES

Funding for USPTO operations aligns with the current fee structure, which had its genesis in legislation that was crafted almost 30 years ago, to fully recover operational costs from the customers, promote patent activity while mitigating the impact on small businesses and independent inventors, and foster use of the Federal trademark registration system. Costs to

examine and process patent work are substantially subsidized by successful patent holders with fees due upon issuance and post-issue (maintenance) of allowed patents.

Fees support trademark operations at 100 percent of the cost of operations.

Collections generated from fees for patent work support all patent-related activities, and collections generated from fees for trademark work support all trademark-related activities. Funding at the business line level includes the processing activities associated with the receipt and examination of patent and trademark applications, and the issuance of patents and the registration of trademarks.

In addition, the business line funding also includes executive and policy leadership, quality review and training, and the development and maintenance of all automated information systems. Finally, funds are used for cross-cutting activities carried out by other USPTO organizations, such as IT security, space and facilities management, program administration, internal operations, human and financial resource management, and infrastructure that support the entire Agency.

The table on the following page shows the costs of operating the Patent and the Trademark business lines, using the USPTO's activity-based information (ABI).

FY 2010 Patent and Trademark Business Funding						
(Dollars in thousands)						
	Patent		Trademark		Total USPTO	
	\$	FTE	\$	FTE	\$	FTE
FY 2009 Enacted Budget	1,781,663	8,698	228,437	1,072	2,010,100	9,770
Changes in FY 2009 Fee Collections	(107,008)	(73)	(2,142)	(6)	(109,150)	(79)
FY 2009 Revised Fee Collections¹	1,674,655	8,625	226,295	1,066	1,900,950	9,691
FY 2009 Revalidated Program Level – Direct²	1,697,748	8,625	210,682	1,066	1,908,430	9,691
Pay Adjustments	47,461		5,572		53,033	
Non Pay Inflation Adjustments	4,511		585		5,096	
Total ATBs³	51,972		6,157		58,129	
Mandatory ⁴	864		107		971	
Less: Amount to be Absorbed ⁵	(33,667)	(124)	(3,502)	(15)	(37,169)	(139)
FY 2010 USPTO Budget Request (Program Level)⁶	1,716,917	8,501	213,444	1,051	1,930,361	9,552
FY 2010 Offsetting Collections⁶	(1,716,917)		(213,444)		(1,930,361)	

¹ Reflects an 8.4 percent decline in estimated FY 2009 fee collections versus the original FY 2009 President's Budget as a result of economic factors.

² The revised FY 2009 program level after incorporating reductions from the Agency-wide review, such as:

- Limit patent hires to attrition replacement
- Freeze hiring in other business areas
- Stop non-bargaining unit performance award payments
- Stop non-production and non-revenue generating overtime
- Curtail production-related overtime, training, travel and discretionary expenses
- Restructure contracts

³ FY 2010 adjustments to base reflect the gross requirements calculated from the reduced FY 2009 revalidated program level.. See Exhibit 8 for additional details in the Exhibit section.

⁴ Increased portion of post-retirement benefits due to the Office of Personnel Management as required by the USPTO's annual appropriation legislation, and the cost of administering the National Medal of Technology and Innovation Award.

⁵ Reflects the amount that needs to be absorbed below the Current Services Level. Planned actions include taking additional reductions as described in note 2.

⁶ Fee collections for FY 2010 are currently projected to be 12.4 percent below the projected level shown in the FY 2010 column of the FY 2009 President's budget.

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Section III – Budget and Performance By Goal

GOAL 1 – OPTIMIZE PATENT QUALITY AND TIMELINESS

Patent Program

The need for a patent system was addressed in the Constitution more than 200 years ago. Since then, the ingenuity of American inventors, coupled with a patent system that encourages and rewards innovation, has transformed America into the world's preeminent technological and economic nation.

Today, economic success depends on intangible, information-based assets and industries, which cut across traditional economic sectors. As the clearinghouse for U.S. patent rights, the USPTO is an important catalyst for U.S. economic growth. Through the prompt granting of patents, the USPTO promotes the economic vitality of American business, paving the way for investment, research, scientific development, and the commercialization of new inventions. The USPTO also promotes economic vitality by ensuring that only valid patent applications are approved for granting, thus providing certainty that enhances competition in the marketplace.

To reap the benefits of their innovations, applicants often rely on the legal rights associated with a patent. Congress and the public have recognized that “pendency,” or the time an application remains with the USPTO until a final decision is made – as having a direct impact on American competitiveness.

Implementing the types of changes needed to fully realize the outcomes of a more efficient and effective examination process requires a multi-faceted approach that includes the following:

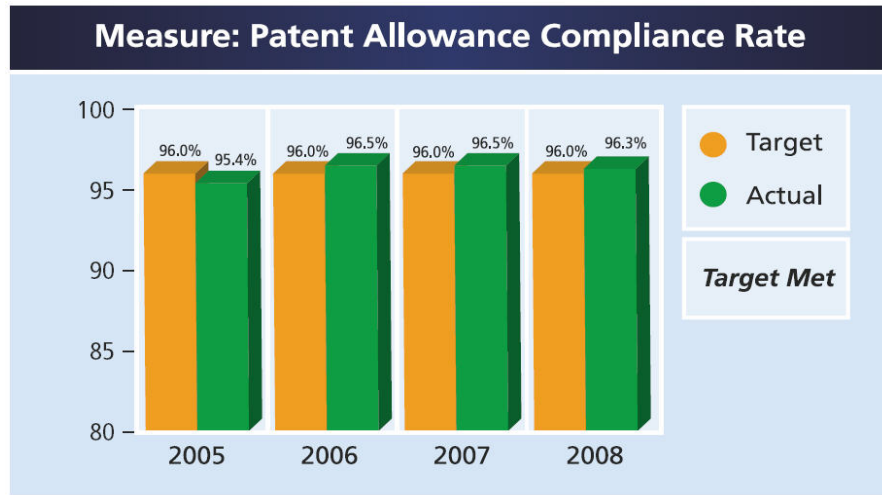
- Effectively building human capital and promoting the use of telework programs;
- Building quality into every aspect of patent examination;
- Fully leveraging and expanding the potentials of the electronic work environment; and
- Exploring the feasibility of offering alternatives to the current one-size-fits-all filing and examination system.

FY 2008 Goal I Accomplishments

Providing High Quality

- Hired 1,211 patent examiners in FY 2008 to address the increasing backlog of unexamined applications and address growing pendency, thereby increasing patent production by 14 percent over FY 2007 by examining 448,003 UPR, design and Patent Cooperation Treaty (PCT) applications – the highest number in USPTO history.

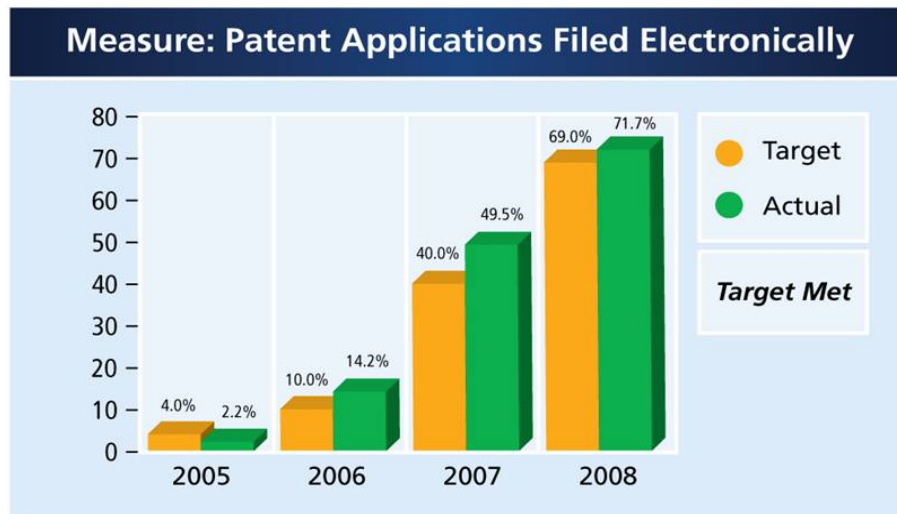
- Maintained a high allowance compliance rate for the third year in a row, achieving 96.3 percent of reviewed applications allowed by examiners determined to be error-free.



- Expanded the successful Patent Training Academy by adding a new facility to train the growing patent examiner workforce, and continued emphasis on quality examination.
- Announced the Chief Scientist position, which will further leverage the effectiveness of the Patent Training Academy by enhancing technical training.
- Implemented the Patent Prosecution Highway (PPH), a work-sharing cooperative framework between the USPTO and the Japan Patent Office (JPO), which is resulting in a quick turnaround time for a first office action, shorter overall pendency, and improved quality. In addition, established pilot or permanent programs with the IP offices of Australia, Canada, Korea, and the United Kingdom.
- Enhanced the mutual exploitation of work results through the Trilateral Strategic Working Group, comprised of the USPTO, JPO and the European Patent Office (EPO), to reduce duplicative efforts among the Trilateral Offices.

Improving E-Systems

- Continued to transition to electronic filing and processing of patent applications as a means of reducing paper-based inefficiencies. E-filings, which were only 2.2 percent of total filings in FY 2005, jumped to 71.7 percent at the end of FY 2008.



- Implemented the eRed Folder (eRF) automated tool, which is an integrated process that improves document file management and permits the electronic submission of office actions for review and credit.
- Extended electronic capabilities by providing patent examiners with better electronic tools and by increasing the number of patent examiners who can work from home to more than 4,000, of which approximately 1,500 are in the Patent Hoteling Program.

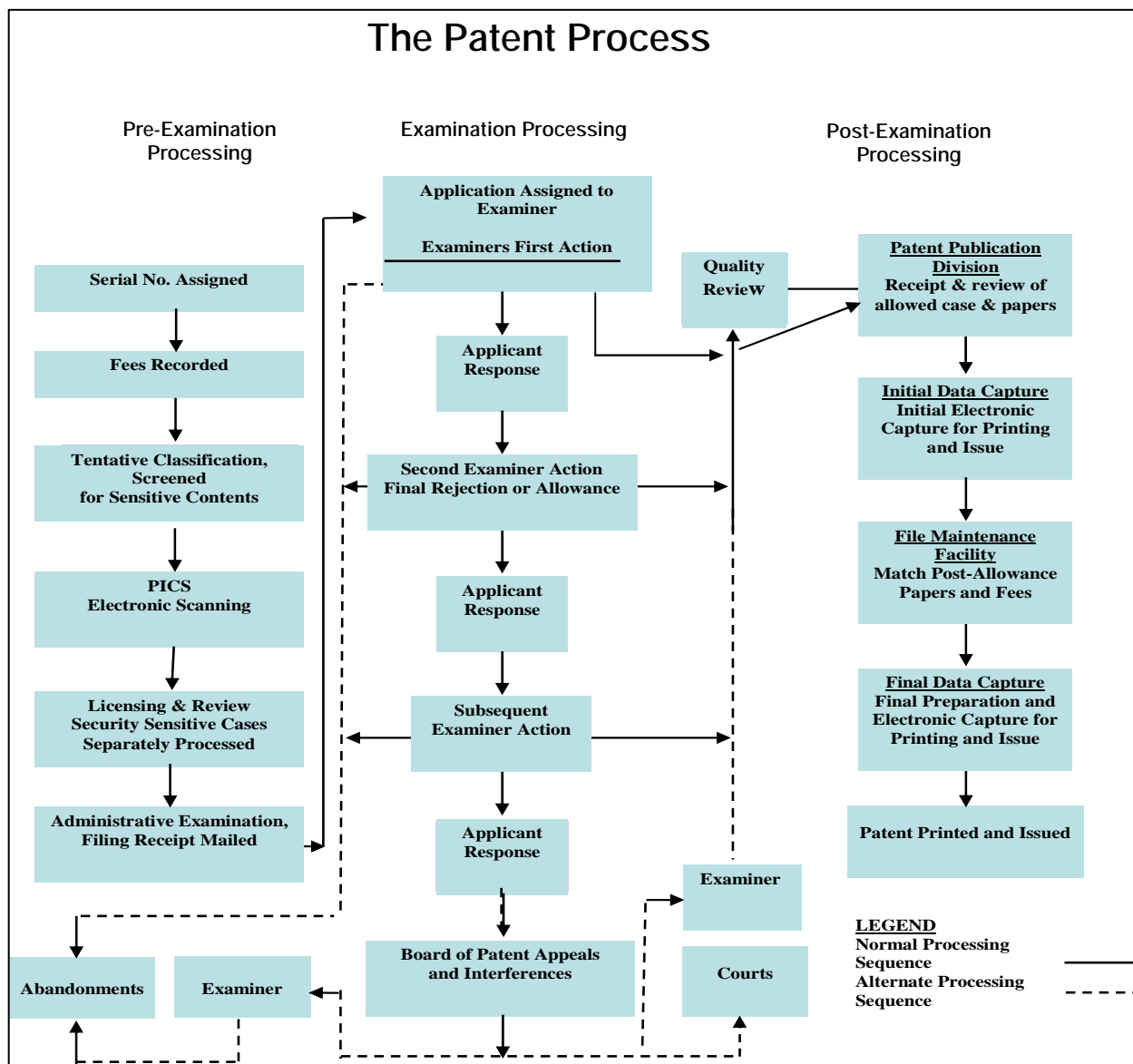
Exploring Range of Options to Meeting Challenges

- Continued the Patent Examiner Laptop Program, a voluntary program which offers flexibility in time and location where overtime work is performed, thereby improving production and job satisfaction.
- Continued the Accelerated Examination program, which provides applicants with final disposition of their patent applications in less than a year in exchange for concise information up front and submission of a limited number of claims. The number of patent filings rose 173 percent over its introduction in 2007, and pendency was maintained at 12 months or less for every application in the program, with an average time to final action or allowance of 186 days, or just over 6 months.
- Expanded the First-Action Interview pilot program in which the applicant is entitled to a first action interview, upon request, prior to the first office action on the merits. In view of the success of the initial pilot program in TC 2100, the First-Action Interview pilot program has been extended and expanded to one work group in each technology center in the patent corps.
- Expanded the Peer Review pilot program, which was first started in 2007 by inviting members of the public to review volunteered applications and submit prior art and comments, to include business methods in addition to the original computer-related applications.
- Continued to reach out to the IP community and sought their input on improvements to the patent system. These activities received support from the Patent Public Advisory Committee.

- Launched development of an e-Grant procedure for electronically publishing a patent that would include applying an electronic symbol to granted patents as part of the statutorily required “seal”. This electronic symbol would identify when a patent has been tampered with or otherwise changed.

Goal I Resources

For FY 2010, the USPTO will allocate \$1,688,841,000 and 8,456 FTE to carry out programs in support of Goal #1. The major activity funded under this goal is the examination of patent applications, which consists of distinct but interrelated stages as shown on the following schematic, and in the high-level summary description which follows.



Pre-Examination Processing

When a patent application is received at the USPTO, the office conducts an administrative review to determine compliance with requirements for form, content, adequacy, and acceptability of statutory fees. Currently, about 80 percent of patent applications are filed electronically. If the application is filed in paper form, it is converted to an electronic image. From this point forward, the application is managed electronically, including assignment of the official filing date and application tracking number, and inputting the patent bibliographic data (e.g., filing date, priority date, abstract) in the Patent Application Location Monitoring (PALM) system.

Some applications are subject to the pre-grant publication process, whereby the application is published 18 months after the earliest effective filing date.

Examination Processing

In this stage, the application is placed on the docket of one of the approximately 6,000 utility, plant and reissue (UPR) and design patent examiners working in one of the nine technology centers. During the examination process, the patent examiner compares the application's subject matter to a large body of technological information to determine the patentability of the claimed invention, whether or not the invention is new, useful, non-obvious, adequately described or enabled, and claimed in definite terms that are clearly understood by individuals knowledgeable in that subject matter.

Integral support for the patent examination process is provided by the patent scientific, technical and classification services. A patent classification system is maintained by subject matter to provide electronic access to all U.S. and foreign patents and related technical literature used for searching. The current examiner search files contain more than 10 million U.S. patent documents and 29 million foreign patent documents. Examiners also have access to over one thousand commercial databases containing non-patent technical literature documents.

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

If the applicant has received two actions from the examiner and disagrees with the position of the examiner, the applicant can appeal the examiner's decision by filing a notice of appeal and an appeal brief. The examiner may file an examiner's answer to the appeal brief. The Board of Patent Appeals and Interferences (BPAI) will make a decision based upon the record.

Post-Examination Processing

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

Maintenance

The granted UPR patent has a maximum term fixed by law – 20 years from the application filing date. In order to maintain the protection right during this period, patent maintenance requires the payment of fees in three stages—at 3.5, 7.5 and 11.5 years after issue.

Patent program base funding also supports the following activities toward accomplishment of this goal.

Other

To accommodate the large number of patent examiners and improve efficiencies and productivity, several efforts have been implemented that will continue to be funded through base resources toward accomplishing this goal. Examples include:

- Improved training for new patent examiners in a university-style environment, and the **Patent Hoteling Program**, where examiners are able to work from home, and the voluntary program providing laptops for experienced patent examiners which offers flexibility regarding when and where overtime work is performed.

- Externally focused pilots that are designed to improve quality and efficiencies. These include the **Peer Review Pilot** in which members of the public review volunteered applications and submit prior art and comments. The first action interview pilot improves the information placed before the patent examiner via face-to-face substantive interviews between the applicant and the examiner.
- Work sharing efforts whereby the USPTO can utilize work performed by other IP offices. For example, the PPH, first launched with the Japan Patent Office in 2006, permits partnering offices to benefit from work done by offices in other countries. Similar programs with other countries currently are under way.
- The **Accelerated Examination Program**. In exchange for a final determination by the USPTO within 12 months, applicants provide greater information up front to aid the examiner in making a quality patentability determination, and agree to use the electronic filing system, which eliminates the potential for data entry errors.
- To competitively source **PCT Chapter I application search reports**, thereby freeing examiners to make patentability decisions on national cases. Improvements in the ability to manage workload by relieving examiners of these searches will better enable the USPTO to focus its resources towards reducing the backlog of pending national applications.

Resources are committed to improving quality. In the patent examining corps, an enhanced **Quality Assurance Program** has been implemented. Information obtained from enhanced reviews from previous years is being relied upon to determine appropriate training and areas where more focused random second eyes reviews are needed. Training includes corps wide interview practice training as well as search and compact prosecution training. Additionally, to ensure that primary patent examiners maintain the knowledge, skills, and abilities (KSAs) necessary to perform a high quality examination, primary examiners are evaluated and re-certified every three years. This program includes mandatory continuing education courses with quizzes and expanded work product reviews. Also, a certification program was implemented to ensure that junior examiners have the required KSAs prior to promotion to the level where they are given legal and negotiation authority.

In addition to funds allocated to patent application processing, resources are used for patent executive direction and policy leadership, and non-technical training (e.g., supervisory skills). Resources are also used for other USPTO organizations that directly support this goal, such as the BPAI, to conduct **post-examination hearings** and deciding appeals from examiner adverse decisions concerning patent applications, and conducting interference proceedings to make final determinations as to questions of priority of invention. Resources also support a significant portion of the Office of Enrollment and Discipline and indirect costs that are allocated to programs and activities using the ABI methodology.

Resources are also used for the **maintenance of the automated information systems** which directly support the patent process, as follows:

- The PALM system provides current application file location, status, title, legal representation, and other statistics about examiner production, docket information, and maintenance fee payments.
- The Examiner Automated Search Tool (EAST) allows examiners to use a keyboard to search all in-house databases, including U.S. patent images and text, and foreign patent data from a single application.

- The Web-Based Examiner Search Tool (WEST) allows examiners to search individual databases or to search all databases with a single search request.
- Patents-on-the-Web provides the public with access to the full text of U.S. patents, including bibliographic data, the abstract, description of the invention and the claims.
- The Public Patent Application Information Retrieval system (Public PAIR) allows the public to search by application/patent/publication number, and view or download documents.
- The Electronic Filing System (EFS Web) is a web-based patent application and document submission solution that enables users to submit PDF documents directly to the USPTO, while providing all the benefits of paper filing, including an electronic receipt that acknowledges the filing date.
- The Image File Wrapper (IFW) is a document and application management system that captures images of new applications, follow-on papers and outgoing correspondence, which are indexed and used for end-to-end processing.
- The Office Action Correspondence Subsystem (OACS) allows examiners to write and edit their office actions and send them electronically to be approved and then mailed out to the applicant.

This methodology provides transparency to the program's operational performance by identifying the various factors that drive program costs. These Agency-wide activities include security, rent, utilities, program administration, internal operations and infrastructure.

GOAL 1: OPTIMIZE PATENT QUALITY AND TIMELINESS

Resource Requirements Summary

<i>Dollars in Thousands</i>	FY 2008 Actuals	FY 2009 Enacted	FY 2009 Current Estimate	FY 2010 President's Budget	FY 2011 Estimate	FY 2012 Estimate	FY 2013 Estimate	FY 2014 Estimate
Total Funding 1)	\$1,616,065	\$1,757,637	\$1,669,435	\$1,697,519	\$1,792,583	\$1,892,311	\$1,986,772	\$2,088,147
↳ Direct Obligations	1,600,154	1,739,169	1,653,638	1,688,841	1,783,905	1,883,633	1,978,094	2,079,469
↳ Reimbursable/ Recoveries	15,911	18,468	15,797	8,678	8,678	8,678	8,678	8,678
IT Funding (included above)	186,499	226,560	194,022	206,040	208,935	211,900	214,936	218,043
FTE Totals	7,934	8,625	8,579	8,456	8,877	9,307	9,702	10,038

1) Excludes transfers and changes in unobligated balances.

Patent Performance Measures/Targets

	FY 2008 Actuals	FY 2009 Enacted Budget	FY 2009 Current Estimate	FY 2010 President's Budget	FY 2011 Estimate	FY 2012 Estimate	FY 2013 Estimate	FY 2014 Estimate
Allowance Compliance Rate	96.3%	96.0%	96.5%	96.5%	96.5%	96.5%	96.5%	96.5%
In-Process Examination Compliance Rate	92.5%	93.0%	93.0%	94.0%	94.0%	94.0%	94.0%	94.0%
Average First Action Pendency/UPR (Months)	25.6	27.5	27.5	26.0	25.3	24.2	22.8	21.3
Average Total Pendency/UPR (Months)	32.2	37.9	37.9	37.3	37.0	36.3	35.2	33.8
Efficiency	\$3,773	\$3,927	\$3,562	\$3,372	\$3,325	\$3,287	\$3,263	\$3,244
Applications Filed Electronically	71.7%	70.0%	80.0%	85.0%	85.0%	85.0%	85.0%	85.0%
UPR Units of Production	395,311	427,500	427,500	444,800	462,700	492,500	524,900	556,600
UPR Applications Filed	468,699	486,900	465,000	465,000	469,700	483,700	507,900	533,300
UPR Applications Filed Percent Change Over Previous FY	6.1%	3.9%	(1.0%)	0.0%	1.0%	3.0%	5.0%	5.0%
UPR Disposals	368,557	408,700	408,700	431,500	448,800	477,800	509,100	539,900
UPR Issues	156,540	164,700	163,300	176,900	184,000	195,900	208,700	221,400
UPR First Actions	422,065	446,400	446,400	458,200	476,600	507,300	540,700	573,400
UPR Examiners On-Board at End-of-Year	5,955	6,478	5,997	5,984	6,531	7,023	7,470	7,876

GOAL 2 — OPTIMIZE TRADEMARK QUALITY AND TIMELINESS

Trademark Program

Trademarks have served an important purpose throughout recorded history, as owners of goods and services put their names on their products. In the 21st century, trademarks represent valuable business properties, serving as the symbol of a company's good will and the products and services it offers. By registering trademarks, the USPTO has a significant role in protecting consumers from confusion as well as providing important benefits to American businesses.

A mark registered with the USPTO serves as *prima facie* evidence of ownership and the right to use the mark, and can provide access to the Federal court system. The registration can be recorded with U.S. Customs and Border Protection in order to stop the importation of infringing goods. Most importantly, the registration serves as notice to the world of the owner's claim of right in the trademark.

Today, a business developing a new mark to identify its goods or services can search and discover via the USPTO Web site more than two million marks in which others claim rights, and then subsequently file an application for registration.

The Trademark goal will be achieved by:

- Continually assessing the process for improvements, hiring and retaining a qualified workforce, and assigning work,
- Completing electronic processing and workflow to better manage operations,
- Maximizing the use of e-government for conducting business with applicants and registrants, and
- Improving TTAB case processing.

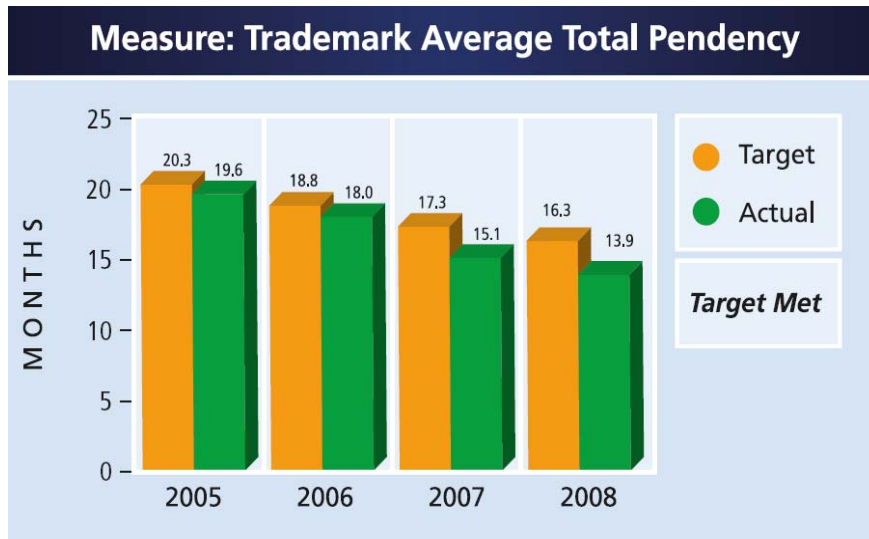
FY 2008 Goal II Accomplishments

Improving Efficiency

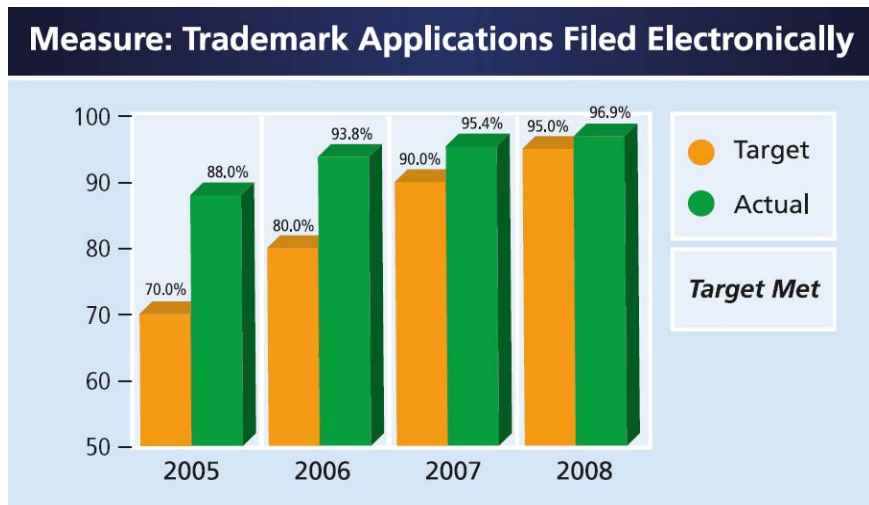
- Maintained first action pendency at 3.1 months or less every month throughout the fiscal year – an unprecedented achievement.



- Sustained significant improvement of the average total pendency with registration occurring within 13.9 months from filing, including suspended and *inter partes* proceedings.



- Improved pendency as electronic filing and processing becomes the primary means of conducting business with and within the office. Increased use of electronic forms, particularly the Trademark Electronic Application System (TEAS) Plus filings, improved the efficiency of examination, and contributed to an increase in applications approved for publication on first examination.



- Decreased the average number of months for disposing and registering those applications filed electronically using TEAS Plus to 10 months compared to those filed on paper which average 31 months.
- Continued making process changes, which are streamlining the examination and post-examination processes, reducing costs and lowering disposal pendency.

Improving Quality

- Demonstrated high levels and sustained improvement of the search and examination process. More than 95 percent of first actions and over 97 percent of final actions met statutory and compliance rates for quality of decision making and writing.

Achieving Organizational Effectiveness

- Hosted the Trademark Expo that was attended by more than 7,000 people over three days. The event focused on the role trademarks play in the national and global economy, and was sponsored and supported by 23 businesses.
- Expanded telework opportunities and the use of remote access and collaboration tools:
 - 86 percent of all eligible examining attorneys work from home nearly full time
 - 83 percent of all eligible Trademark employees work from home at least one day per week
 - 58 percent of all Trademark employees telework
- Developed a Trademark Human Capital Strategic Plan, which focused on three “human capital” objectives of talent management, results-oriented performance culture, and leadership and knowledge management.

Providing E-Management and E-Tools

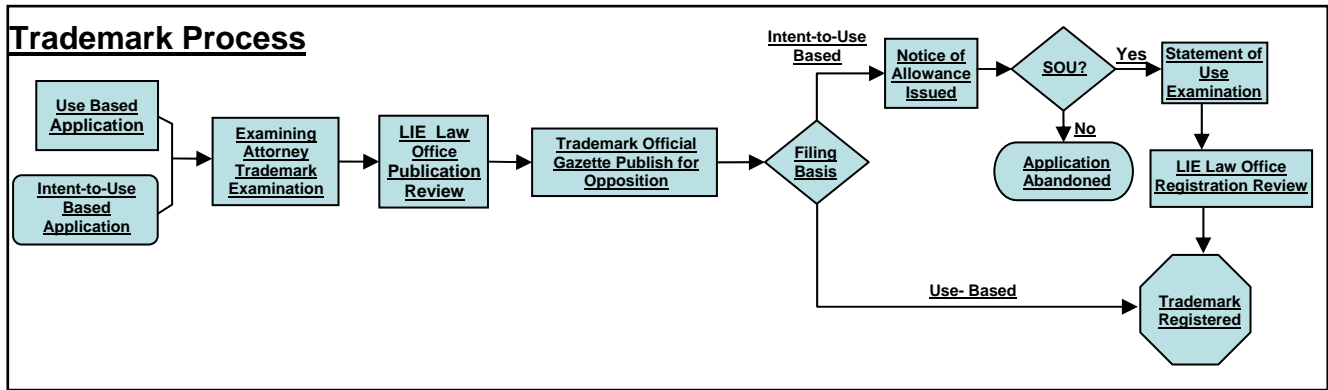
- Improved and expanded the electronic docketing system known as the First Action System for Trademarks (FAST), which significantly improves the processing and management of applications, as well as providing access to online production reports to monitor the status of individual performance.
- Improved the functionality of electronic filing by enhancing existing TEAS forms and releasing additional forms. The number and acceptance of PDF attachments to the initial application form were expanded, and a consistent look and feel were provided, as were additional features such as download portable data, multiple signatures for multiple business owners, e-signature and handwritten signature.
- Closed the Trademark search room and access to the paper search files of registered trademarks. Electronic records have replaced the need to maintain paper records.

Goal II Resources

For FY 2010, the USPTO will allocate \$195,013,000 and 946 FTE to carry out base programs in support of this goal. The major activity funded under this goal is the examination of trademark applications.

The trademark process begins with the submission of a trademark application based on a mark currently used, or intended for use, in commerce. During the examination process, trademark examining attorneys evaluate applications for compliance with current trademark laws, regulations, and policies. At this time, the applicant may submit amendments and the examining attorney may issue amendments or refuse registration unless certain requirements are met. Upon completion of the examination process, a trademark application enters the publication process for inclusion in the *Official Gazette*. Those marks that pass the opposition period move along to issuance of either a trademark registration based on use or a notice of allowance based on intent to use.

The examination of trademark applications consists of the activities shown on the following schematic, and in the high-level summary description of the process that follows.



Filing

About 97 percent of trademark applications for registration of a mark are filed electronically. When an application is received at the USPTO, it is subject to a quality review process. In that process the electronically tagged application data is reviewed to add the international classification and design search codes that facilitate searching. The tagged data in a trademark application is transferred automatically to the appropriate data fields in trademark electronic automated systems. Trademark automated systems are the source for application data that is used in the processing and examination of trademarks. The automated systems are also the source of the *Official Gazette*, which provides notice of marks in use, and which is available to the public through the USPTO Web site. Initial examination also encompasses the processing of applications filed under the Madrid Protocol.

Examination

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

Publication for Opposition and Registration

An approved application is published prior to registration to provide notice to interested parties who may file an opposition to registration. Marks based on use in commerce that are unopposed are registered. Marks filed based on intent to use receive a notice of allowance following the opposition period, if they are unopposed, with registration occurring following acceptance of a Statement of Use.

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

Renewals

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

Base funding also supports the following activities in support of this strategic goal.

Quality is an important component of the examination process that is funded through base resources. The results of an examiner's first and final office action are reviewed for the quality of the substantive basis for decision making, search strategy, evidence, and writing. Based on the data collected from those reviews, the Agency has targeted both electronic and traditional training initiatives addressing specific problem areas. In addition, this program provides prompt feedback to examining attorneys when their work products are reviewed. Specific comments on any work product, which is either "excellent" or "deficient," are sent to the appropriate examining attorney and supervisor. As a result, training takes place on the micro level, with specific feedback, as well as on the macro level, with training modules that address trends, targeting topics that warrant improvement. Examiners are required to take a series of self-paced e-learning tutorials, as part of the USPTO's commitment to improve quality of examination and ensure that all examiners possess the KSAs necessary to perform their jobs. New e-learning modules are implemented throughout the year based on topics that are identified through quality review evaluations.

Funds are allocated to the **TTAB** for appeals and inter partes proceedings. Board members review, at applicant request, adverse registrability determinations. They also conduct opposition hearings where an existing trademark holder believes that an allowed application may be confusingly similar, and handle proceedings involving registrations where a third party wishes to challenge the validity of a registration.

In addition, base resources are used for the costs of **maintaining automated information systems** that directly support the trademark process, including dedicated trademark support personnel who serve as business process experts in working with the OCIO organization. Major systems include:

- The Trademark Reporting and Monitoring System (TRAM), which supports all facets of trademark operations from receipt of new application to the publication of the *Trademark Official Gazette* and post-registration activities, and includes a database consisting of bibliographic text and prosecution history data.
- The Trademark Search System (X-Search), an automated search application which provides the necessary access mechanism to search the trademark database. Users can enter queries and retrieve results which include images in display and print format.
- TEAS, which provides users with the ability to submit their trademark applications electronically over the Internet.
- The Trademark Electronic Search System (TESS), which enables members of the public to search pending and registered trademarks using Web Browser over the Internet.
- The Trademark Application and Registration Retrieval System (TARR), which provides customers with access to trademark status information via the Internet; i.e., for applications and registrations as identified by the associated serial number or registration number.

In addition to the funds that support the direct costs of trademark application processing, resources are used for trademark executive direction and policy leadership and cover indirect costs that are allocated to programs and activities using an ABI methodology. This methodology provides a basis to allocate costs for agency-wide activities, such as security, rent, utilities, program administration, internal operations and infrastructure.

GOAL 2: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS

Resource Requirements Summary

<i>Dollars in Thousands</i>	FY 2008 Actuals	FY 2009 Enacted	FY 2009 Current Estimate	FY 2010 President's Budget	FY 2011 Estimate	FY 2012 Estimate	FY 2013 Estimate	FY 2014 Estimate
Total Funding 1)	\$190,742	\$216,253	\$194,323	\$195,890	\$199,569	\$222,238	\$240,643	\$253,223
↳ Direct Obligations	188,730	214,386	192,725	195,013	198,692	221,361	239,766	252,346
↳ Reimbursable/ Recoveries	2,012	1,867	1,598	877	877	877	877	877
IT Funding (included above)	50,902	62,241	54,064	56,241	57,034	57,846	58,678	59,529
FTE Totals	887	974	960	946	993	1,041	1,085	1,123

1) Excludes transfers and changes in unobligated balances.

Trademark Performance Measures/Targets

	FY 2008 Actual	FY 2009 Enacted	FY 2009 Current Estimate	FY 2010 President's Budget	FY 2011 Estimate	FY 2012 Estimate	FY 2013 Estimate	FY 2014 Estimate
First Action Compliance Rate	95.8%	95.5%	95.5%	95.5%	95.5%	95.5%	95.5%	95.5%
Final Compliance Rate ¹	N/A	96.0%	97.0%	97.0%	97.0%	97.0%	97.0%	97.0%
Average First Action Pendency (Months)	3.0	2.5 to 3.5	2.5 to 3.5	2.0	2.0	2.0	2.0	2.0
Average Total Pendency (Months) Excluding Suspended and <i>Inter Partes</i> Proceedings ²	11.8	N/A	13.0	11.0	11.0	11.0	11.0	11.0
Efficiency	\$470	\$715	\$639	\$654	\$664	\$721	\$722	\$696
Applications Processed Electronically ³	N/A	N/A	62%	62%	62%	62%	62%	62%
Total Balanced Disposals	853,211	803,000	772,000	731,000	731,000	780,000	846,000	923,000
Applications Received – (Includes Additional Classes)	401,392	390,000	363,000	352,000	363,000	392,000	428,000	471,000
Applications Filed Percent Change Over Previous FY	1.8%	-2.8%	-9.6%	-3.1%	3.1%	8.0%	9.2%	10.1%
Total Office Disposals	430,343	358,100	354,100	326,400	316,900	323,800	349,100	381,000
Total Registrations	274,250	226,000	225,000	206,000	198,000	200,000	215,000	234,000
Total First Actions	415,896	390,000	369,000	354,000	358,000	389,000	422,000	460,000
Examining Attorneys On-Board at End-of-Year	398	384	384	374	358	382	427	412

¹ Final Action Compliance Rate is being replaced in FY 2009 by the Final Compliance Rate which is a more comprehensive measure of quality to include all actions that would result in an application being completed or disposed.

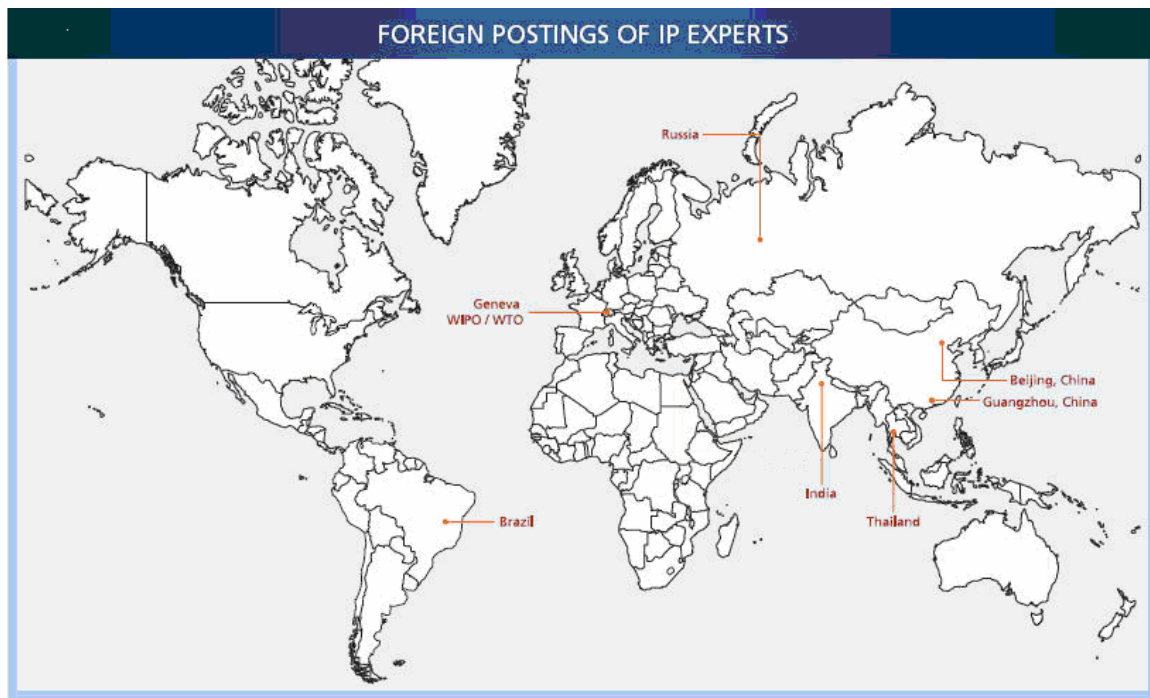
² Average Total Pendency Including Suspended and *Inter Partes* Proceedings in FY 2009 is replaced by Average Total Pendency Excluding Suspended and *Inter Partes* Proceedings, which is a better indicator of the amount of time it takes to dispose of the trademark application.

³ New measure added to show the rate at which applications that are disposed (abandoned or registered) are processed using automated system and transactions.

GOAL 3—IMPROVE INTELLECTUAL PROPERTY PROTECTION AND ENFORCEMENT DOMESTICALLY AND ABROAD

International/Policy Program

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



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

The USPTO believes that the attributes of quality, timeliness, cost-effectiveness, and transparency are universally applicable to legal systems, examination systems, and any international framework dedicated to the protection and promotion of IP rights. The USPTO continues to work diligently to ensure that America has the best IP system and to improve IP practices worldwide.

In its role as policy advisor on IP matters, the USPTO continues to promote policies that enhance competitiveness for U.S. businesses abroad. The USPTO continues to advocate policies to streamline obtaining IP protection in various countries and negotiates agreements to strengthen the protection of U.S. interests abroad. Furthermore, the USPTO continues to expand its assistance to

innovators and businesses on how to obtain, protect, and enforce IP rights in other countries, and assist with dispute resolution when problems occur.

FY 2008 Goal III Accomplishments

Protecting Intellectual Property and Curbing Intellectual Property Theft

- Advanced work with other U.S. Government agencies to fight piracy and counterfeiting.
- Continued managing an anti-counterfeiting information hotline that helps small and medium-sized businesses leverage U.S. Government resources to protect their IP. The USPTO responded to 1,289 hotline calls in FY 2008.
- Worked with the Office of the USTR on the IP chapters of free trade agreements (FTAs), most notably negotiations with Malaysia, Peru and Costa Rica's implementation of the U.S.-Central American FTA, and implementation of the U.S.-Chile FTA.

Working to Unify International Intellectual Property Practice

- Hosted the second Heads of Office meeting for the five largest IP Offices (Europe, Japan, Korea, China and the United States) to discuss further cooperation initiatives to meet the growing patent application filing demands and improve patent quality. The weeklong talks focused on sharing experiences, analyzing ongoing cooperative initiatives, and exploring IT issues and future work-sharing initiatives to meet the growing demands placed on the patent system.
- Made strides in establishing concrete work sharing arrangements with other IP offices, which are an important step toward reducing duplication of searching by permitting each Office to benefit from work previously done by the other Office, resulting in reductions in examination workload and improved patent quality:
 - Implemented the PPH with Japan, which leverages fast-track patent examination procedures available to allow applicants in both countries to obtain a corresponding patent faster and more efficiently.
 - Implemented or initiated comparable pilots with the EPO, Canada, Korea, Australia and the United Kingdom.
- Hosted the 25th Annual Trilateral Conference with the EPO and the JPO, and agreed on a common patent application format in consultation with users, which allows an applicant to prepare a single application in the common application format, which will be accepted by each office, thereby providing significant savings to applicants in filing and processing of patent applications.
- Continued building consensus for reforms to the Madrid System for the International Registration of Marks; i.e., to increase membership as well as to increase simplicity, transparency, and flexibility of the system for the benefit of users.
- Established technical cooperative agreements with IP offices in other countries, such as Brazil, Kazakhstan and Singapore for increased technical cooperation between the offices.

Giving Domestic Intellectual Property Policy Guidance

- Participated in stakeholder roundtables regarding the protection of industrial designs. This included a town hall meeting with participants from automobile, insurance and consumer product companies, and independent parts manufacturers, and meetings at Ford Motor Company's Michigan design center, and Nike Inc. headquarters in Oregon.

- Assumed responsibility for administering the National Medal of Technology and Innovation. The Medal, which is presented each year by the President, is the nation's highest honor for technological achievement.
- Helped shape IP law and policy through precedential decisions and court cases. For example, in FY 2008:
 - The TTAB issued more than 50 decisions affecting Agency practice and substantive law of trademark registration.
 - The BPAI issued six precedential and 19 informative opinions, particularly concentrating on clarifying the application of the obviousness standard in the wake of the KSR decision (*KSR International v. Teleflex, Inc.*), which gives patent examiners more flexibility when analyzing the obviousness standard, ensuring that allowed applications meet the statutory standard of nonobviousness.
 - The USPTO urged the U.S. Court of Appeals for the Federal Circuit to clarify the standards for patent-eligibility under 35 U.S.C. § 101. Because of the importance of the patent-eligibility question, the Federal Circuit decided to hear en banc the appeal of the USPTO's decision in *In re Bilski*. The USPTO is currently studying how to implement the recent Bilski ruling in examinations of process inventions.
 - The USPTO, in collaboration with the Department of Justice, convinced the U.S. Court of Appeals for the Fourth Circuit to overturn the lower court's decision in *The Last Best Beef LLC v. Dudas*. The case involved the USPTO's authority to cancel two of the plaintiff's trademark registrations. In so doing, the USPTO successfully defended the validity of a recently enacted statute that prohibited the registration of the particular marks.

Delivering IP Education Worldwide

- Delivered high-level capacity building and technical assistance training to approximately 4,100 foreign government officials (judges, prosecutors, customs officials, IP enforcement personnel, as well as officials from IP offices) from 127 countries in the Global Intellectual Property Academy (GIPA).

Goal III Resources

For FY 2010, the USPTO will allocate \$46,507,000 and 150 FTE to carry out base programs in support of this goal. These base funds will be used to continue carrying out efforts to advocate U.S. Government IP policy, develop unified standards for international IP, provide policy guidance on domestic IP issues, and foster innovation through education and outreach.

Resources will be devoted to continuing **strong advocacy policies and U.S. Government representation** that ensure that IP rights are recognized as essential tools for economic growth in both developed and developing economies. The USPTO will continue to work with international partners to promote a strong and effective IP regime that provides adequate and effective incentives for innovation and creativity, worldwide, including within organizations such as the World Intellectual Property Organization (WIPO), the World Trade Organization (WTO), and the United Nations Human Rights Commission (UNHRC).

Resources will be used to **maintain foreign postings of IP experts** to advocate U.S. Government IP policy, interests and initiatives; conduct training on IP rights matters; and assist U.S. businesses. Postings will be maintained in eight locations – Brazil, China (two postings), India, Russia, Thailand, and Geneva, Switzerland (at the WTO and WIPO).

Funds will be used to enable USPTO staff to continue to **advise the Administration on pro-IP principles** in various fora, such as the “Group of Eight” (G8) countries – Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, and the United States -- to assist all countries in adopting and effectively enforcing adequate levels of IP protection for the benefit of all citizens. This will be accomplished by advising other Federal agencies on domestic and international IP policy, and by continually expanding the USPTO’s IP training and technical assistance programs internationally. For example, resources will be used to enable the USPTO to continue working with the Office of the USTR on the IP chapters of free trade agreements.

Funds will be used to continue **raising awareness of IP theft worldwide** and improving the understanding of and respect for IP rights in accordance with the strategic plan for Training and Education. This includes training officials from foreign countries in the GIPA and at international programs focused on specific countries or regions.

Funds will be used to continue **bilateral cooperative agreements** with other countries for increased technical cooperation, along the lines of agreements with Brazil, Kazakhstan and Singapore, and the work plan with China.

Resources will be devoted to **searching for solutions to workload, examination quality, and e-government** challenges by enabling the USPTO to take the lead on cooperative initiatives with other offices throughout the world. This will result in progress in the areas of work-sharing, examination practice uniformity, and electronic access and compatibility. For example, the USPTO will continue work-sharing arrangements with countries like Japan, Canada, Korea, Australia, and the United Kingdom, as well as the EPO.

Funds will be devoted to addressing policy and legal matters relating to **legislative proposals** dealing with IP and the USPTO, particularly in the context of the continuing debate over proposed changes to the patent laws of the United States.

Funds also will be used to continue **shaping IP law and policy** through precedential decisions rendered by the USPTO’s two boards – BPAI and TTAB, and through the USPTO’s participation, along with the Department of Justice, in IP-related court cases.

In addition to the funds that support the direct costs of international/policy activities, resources are used for executive direction and policy leadership and cover indirect costs that are allocated to programs and activities using an ABI methodology. This methodology provides a basis to allocate costs for agency-wide activities, such as security, rent, utilities, program administration, internal operations and infrastructure.

GOAL 3: IMPROVE INTELLECTUAL PROPERTY PROTECTION AND ENFORCEMENT DOMESTICALLY AND ABROAD

Resource Requirements Summary

<i>Dollars in Thousands</i>	FY 2008 Actuals	FY 2009 Enacted	FY 2009 Current Estimate	FY 2010 President's Budget	FY 2011 Estimate	FY 2012 Estimate	FY 2013 Estimate	FY 2014 Estimate
Total Funding 1)	\$45,734	\$49,960	\$47,942	\$46,702	\$47,678	\$48,756	\$49,863	\$50,999
↳ Direct Obligations	45,368	49,545	47,587	46,507	47,483	48,561	49,668	50,804
↳ Reimbursable/ Recoveries	366	415	355	195	195	195	195	195
IT Funding (included above)	6,816	8,256	7,241	7,530	7,636	7,744	7,855	7,969
FTE Totals	141	171	152	150	158	165	173	178

1) Excludes transfers and changes in unobligated balances.

International/Policy Performance Measures/Targets

	FY 2008 Currently Available	FY 2009 Enacted	FY 2009 Current Estimate	FY 2010 President's Budget	FY 2011 Estimate	FY 2012 Estimate	FY 2013 Estimate	FY 2014 Estimate
Percentage of countries on the USTR 301 list, awaiting WTO accession, or targeted by OIPPE for improvements that have positively amended or improved their IP systems ¹	N/A	N/A	40%	50%	55%	60%	65%	65%
Number of countries that implement at least 75% of action steps which improve IP protections in their joint cooperation, action or work plans ¹	N/A	N/A	4	6	7	8	10	10

¹ New outcome-oriented performance measures that replaced previously reported measures.

MANAGEMENT GOAL: ACHIEVE ORGANIZATIONAL EXCELLENCE

Management Program

Fulfillment of the USPTO's mission requires strong leadership and collaborative management – a commitment to organizational excellence. While the three strategic goals focus on the core mission, the management goal focuses on the organizational excellence that is a prerequisite for achieving those goals and objectives, namely, the priorities of sound resource management, solid workforce planning, corporate support services, and effective use of IT. These priorities are particularly important as the USPTO continues to grow and modernize.

Organizational excellence at the USPTO is a shared responsibility and is focused on sound resource management, solid workforce planning, and effective use of IT.

FY 2008 Management Goal Accomplishments

Working as Partners for Superior Performance

- Implemented the Strategic Human Capital Management Plan throughout the Agency by working with individual business units to develop their respective plans related to the three human capital objectives of talent management, results-oriented performance culture, and leadership and knowledge management.

Ensuring Excellence in Management Processes

- Transformed the Office of Human Resources (OHR) to attract and retain the talent the agency needs. Implemented recruitment incentives, re-invigorated the awards program, and enhanced customer service by instituting "OHR on wheels."
- Created a comprehensive, competency based leadership development program framework.
- Developed an Emergency Notification System and trained all USPTO personnel to foster awareness of various emergency situations.
- Collaborated with the OMB on the assessment of two programs using the Program Assessment Rating Tool (PART). The Patent organization received a rating of moderately effective with a score of 73, and the Intellectual Property Protection Activities received a rating of adequate with a score of 67.
- Continued a study of the patent fee structure, and analyzed the full costs of activities related to certain patent products and services, including PCT international transmittals and searches.
- Received an unqualified opinion on our FY 2008 financial statements for the 16th consecutive year and the Association of Government Accountants' Certificate of Excellence in Accountability Reporting award for the seventh consecutive year.

Enhancing On-line Access to Information

- Developed the Office of the CIO Roadmap and Transformation Plan to improve IT services and products.
- Continued helping the Patent and Trademark organizations achieve record numbers of electronic filings of applications and related documents.

- Began planning for modernizing the Revenue Accounting and Management (RAM) system (a mission-critical fee collection system) to improve technical deficiencies, optimize fee collection and reporting processes, obtain efficiencies, improve customer service and ensure compliance.

Organizational Excellence Resources

To achieve organizational excellence, the USPTO devotes base resources to those activities that are required by the core mission programs to carry out their responsibilities. These resources are allocated to the Agency's three strategic goals using the ABI methodology.

To ensure sound **resource management**, funds are used for the salaries and benefits of the financial and budget analysts, accountants and cost accountants, and contract specialists who are responsible for collaborating with the other business units on all aspects of planning, budgeting, financial management, and contracting. These resources enable staff to strategize, provide added value, fulfill fiduciary responsibilities and carry out special studies.

In addition, funds are allocated for the USPTO's financial management systems. For example, the RAM system is a mission-critical fee collection system that serves as a subsidiary to the core financial system. RAM interfaces with more than 20 automated information systems supporting strategic goals to provide fee information (e.g., fee history, payment detail, etc.), and to allow customers to pay various fees over the Internet via credit card, Electronic Funds Transfer (EFT), or via a USPTO-established deposit account.

Funds are also used for **fee management** activities. The USPTO continually reviews the costs of activities related to the patent, trademark and other associated products and services performed by the Agency against the fees charged. A recent analysis of costs related to PCT international transmittals and searches resulted in adjustments to certain fee amounts. Other proposals are under consideration.

Activities using these resources have enabled the USPTO to earn an unqualified audit opinion on its annual financial statements for 16 consecutive years, and the Association of Government Accountants' Certificate of Excellence in Accountability Reporting award for seven consecutive years.

To ensure effective workforce planning, funds are dedicated to **human capital management**. This includes hiring large numbers of patent examiners each year since FY 2006, as well as hiring staff for other organizations throughout the Agency. Guided by an Agency-wide Strategic Human Capital Management Plan, business units are developing initiatives, programs and training in support of the three human capital objectives: talent management, results-oriented performance culture, and leadership and development. Resources are also devoted to the development of a comprehensive, competency-based leadership development framework.

The USPTO is committed to expanding **telework**, and base resources are devoted to increasing the percentage of eligible positions that are teleworking from the FY 2008 level of 54 percent. Base funds are also dedicated to being proactive in preventing discrimination and harassment by providing training to new hires and new managers.

Funds are also used for **corporate services**. This means creating a modern, safe, secure and attractive workplace for USPTO employees, being pro-active in the area of emergency preparedness by providing all personnel with computer-based training to foster awareness of emergency situations, and maintaining an Emergency Notification System to enable emergency messages to be broadcast to every computer desktop instantly.

Resources are also used for the USPTO's **IT program**. In FY 2008, the USPTO began implementing a Roadmap and Transformation Plan to address its aging IT infrastructure and related matters. Over the past several years, the USPTO has pursued an infrastructure investment strategy that aimed at short-term returns rather than maximizing long-term benefits. Investments to sustain and improve the underlying infrastructure have not kept pace with an increasing workforce and the accelerating need to replace "end-of-life" and over-taxed technology components. The current fragile and complex system prevents the USPTO from addressing enterprise growth requirements based on a common, efficient, and coordinated technology infrastructure foundation.

The USPTO has already experienced the consequences of an aging infrastructure and the associated problems. These problems include an increase in the number of major, critical-system failures, an ever-worsening ability to deploy changes without experiencing system failures, and security vulnerabilities. The challenge is to focus on critical areas of stabilization, standardization, consolidation, optimization, and enhancement of the IT infrastructure.

The Road Map and Transformation Plan is a comprehensive approach that includes in-depth analysis, strategy, and supporting executable actions to enable the USPTO to achieve and build upon four major goals:

- Stabilize the existing infrastructure environment and strengthen the core competencies of the IT workforce.
- Consolidate the existing infrastructure and application systems to avoid unnecessary duplication and excessive cost.
- Optimize the IT infrastructure to improve performance, facilitate governance, and ensure compliance.
- Maintain and enhance the services delivered to customers.

Specific initiatives, which have been underway since FY 2008 and which continue to be funded with base resources, include the following:

- Organizational Strengthening – Develop and maintain a skilled and motivated workforce to keep systems running, support periodic capital replacement, and improve efficiency of IT investments.
- Process Standardization – Improve the most critical processes, streamline the Systems Development Life Cycle, define/implement other processes, and improve the definition of roles and responsibilities.
- Data Center Stabilization – Modernize the infrastructure, improve capacity management, and re-engineer storage and the lab to support failover and availability.
- AIS Stabilization – Identify and address the root causes of system failures and remediate problem systems.

- Telecommunications Stabilization – Replace obsolete network and security infrastructure equipment, and support automated network monitoring and enhanced network security.
- Desktop Stabilization – Standardize desktop configurations and administrative access.
- Service Desk – Provide a single point of contact for efficiently and effectively resolving customer problems.
- Business Continuity and Disaster Recovery – Protect the Agency’s assets and data.
- Enterprise Architecture – Align IT to the business requirements of the USPTO, and improve the interoperability, integration, management and change of IT assets.

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SECTION IV – BUDGET EXHIBITS

Exhibit 3a – USPTO Total Resource Requirements

<i>Dollars in Thousands</i>	FY 2008 Actuals	FY 2009 Enacted	FY 2009 Current Estimate	FY 2010 President's Budget	FY 2011 Estimate	FY 2012 Estimate	FY 2013 Estimate	FY 2014 Estimate
Total Funding 1)	\$1,852,541	\$2,023,850	\$1,911,700	\$1,940,111	\$2,039,830	\$2,163,305	\$2,277,278	\$2,392,369
↳ Direct Obligations	\$1,834,252	\$2,003,100	\$1,893,950	\$1,930,361	\$2,030,080	\$2,153,555	\$2,267,528	\$2,382,619
↳ Reimbursable/ Recoveries	\$18,289	\$20,750	\$17,750	\$9,750	\$9,750	\$9,750	\$9,750	\$9,750
IT Funding (included above)	\$244,217	\$297,057	\$255,327	\$269,811	\$273,605	\$277,490	\$281,469	\$285,541
Full-Time Equivalent (FTE) Totals 2)	8,962	9,770	9,691	9,552	10,028	10,513	10,960	11,339

1) Excludes transfers and changes in unobligated balances.

2) FY 2008 FTE are based on the standard number of 2,080 work hours/year. If the calculation were based on the actual number of work hours of 2,096 in FY 2008, the revised total would be 8,898.

EXHIBIT 7 — SUMMARY OF FINANCING

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

	FY 2008 Actual	FY 2009 Enacted	FY 2009 Current Estimate	FY 2010 President's Budget	Increase/ (Decrease) From FY 2009 Current Estimate
Obligations:					
Total direct obligations	\$1,834,252	\$2,003,100	\$1,893,950	\$1,930,361	\$36,411
Total reimbursable/ recovery obligations	18,289	20,750	17,750	14,750	(3,000)
Total obligations	\$1,852,541	\$2,020,850	\$1,911,700	\$1,945,111	\$33,411
Financing:					
Offsetting collections from:					
Reimbursable obligations (Federal Reimbursable)	(6,326)	(8,750)	(5,750)	(5,750)	0
Non-Federal sources/User fee collections	(1,879,295)	(2,010,100)	(1,900,950)	(1,930,361)	(29,411)
Subtotal	(\$1,885,621)	(\$2,018,850)	(\$1,906,700)	(\$1,936,111)	(\$29,411)
Recoveries:					
Recoveries of prior year obligations	(11,963)	(12,000)	(12,000)	(4,000)	8,000
Unobligated balance, start of year	(28,036)	(72,079)	(72,079)	(72,079)	0
Unobligated balance, end of year	72,079	72,079	72,079	67,079	(5,000)
Net change	\$32,080	(\$12,000)	(\$12,000)	(\$9,000)	\$3000
Financing:	0	0	0	0	0
Transfers to Other Accounts	1,000	2,000	2,000	0	(2,000)
Language Restriction on Obligations	0	5,000	5,000	0	(5,000)
Financing total	\$1,000	\$7,000	\$7,000	0	(\$7,000)
Total net appropriation	0	0	0	0	0
Transfers to Other Accounts	(1,000)	(2,000)	(2,000)	0	2,000
Total Budget Authority 1)	(\$1,000)	(\$2,000)	(\$2,000)	\$0	\$7,000

1) The FY 2009 total Budget Authority has been adjusted and thus is different from the total in the FY 2010 Budget Appendix estimate for FY 2009.

EXHIBIT 8 — ADJUSTMENTS TO BASE

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

	FTE	Amount
Other Cost Changes		
2009 Pay Raise		\$12,697
2010 Pay Raise		16,684
Full-Year Cost in 2010 for Positions Financed for Part-Year in 2009	0	0
Other Compensation Adjustments to tie to Comp Model		18,407
Changes in Compensable Day		0
Civil Service Retirement System (CSRS)		(2,128)
Federal Employees Retirement System (FERS)		3,405
Thrift Savings Plan		608
Federal Insurance Contribution Act (FICA) – OASDI		1,988
Health Insurance		1,372
Travel		30
Rental Payments to GSA		2,419
Printing and Reproduction		198
General Pricing Level Adjustment		2,449
Mandatory Requirements 1)		971
Gross Adjustments to Base	0	\$59,100
Less: Amount Absorbed 2)	(139)	(37,169)
Total Adjustments to Base	(139)	\$21,931

1) Increased portion of post-retirement benefits due to the Office of Personnel Management as required by the USPTO's annual appropriation legislation, and the cost of administering the National Medal of Technology and Innovation Award.

2) Reflects the amount that needs to be absorbed below the Current Services Level. Planned actions include deferring attrition replacements, reducing non-bargaining performance award levels, further reducing overtime, training, travel and discretionary expenses. Please note that the absorbed amount is different than the amount shown in the DOC Budget-in-Brief presentation as a result of having to conform with starting from FY 2009 Collections level in the BIB vs. starting with the FY 2009 Revalidated Budget level.

EXHIBIT 16 — SUMMARY OF REQUIREMENTS BY OBJECT CLASS

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

Object Class Title:	FY 2008 Actuals	FY 2009 Enacted	FY 2009 Current Estimate	FY 2010 President's Budget
Full-Time Equivalent Employment:				
Full-Time Permanent	8,858	9,666	9,587	9,448
Other Than Full-Time Permanent	104	104	104	104
Total Full-Time Equivalent Employment	8,962	9,770	9,691	9,552
Authorized Positions:				
Full-Time Permanent	9,382	10,219	10,222	10,222
Other Than Full-Time Permanent	148	148	148	148
Total Authorized Positions	9,530	10,367	10,370	10,370

EXHIBIT 16 — SUMMARY OF REQUIREMENTS BY OBJECT CLASS (CONTINUED)

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

Object Class	Object Class Title	FY 2008 Actual	FY 2009 Enacted	FY 2009 Current Estimate	FY 2010 President's Budget
11.1	Full-Time Permanent Compensation	822,023	932,721	891,585	918,938
11.3	Other Than Full-Time Permanent Compensation	5,725	5,897	5,897	6,014
11.5	Other Personnel Compensation	68,996	80,913	73,876	78,790
	Total Personnel Compensation	896,744	1,019,531	971,358	1,003,742
12.0	Personnel Benefits	297,682	325,977	312,207	317,870
13.0	Benefits for Former Personnel	97	0	2,135	2,135
21.0	Travel and Transportation of Persons	6,081	6,921	6,068	8,358
22.0	Transportation of Things	673	1,065	225	274
23.1	Rental Payments to GSA	101,726	63,503	63,503	99,164
23.2	Rental Payments to Others	9,827	8,090	6,073	6,568
23.3	Communications, Utilities, and Misc. Charges	18,853	13,200	10,990	18,629
24.0	Printing and Reproduction	48,666	45,699	44,635	68,131
25.1	Advisory and Assistance Services	53,765	53,843	51,921	3,937
25.2	Other Services	313,234	394,727	362,675	344,367
25.3	Purchase of Goods and Services from Gov't Accounts	12,413	16,580	11,195	11,109
26.0	Supplies and Materials	10,700	19,546	18,462	11,561
31.0	Equipment	63,464	34,418	32,503	34,516
42.0	Insurance Claims and Indemnities	315	0	0	0
43.0	Interest and Dividends	12	0	0	0
	Total Direct Obligations	1,834,252	2,003,100	1,893,950	1,930,361
	Total Indirect Obligations	18,289	20,750	17,750	14,750
	Total Obligations	1,852,541	2,023,850	1,911,700	1,945,111
	Less: Financing from Offsetting Collections	(1,879,295)	(2,010,100)	(1,900,950)	(1,930,361)
	Less: Other Estimated Reimbursable Income	(6,326)	(8,750)	(5,750)	(5,750)
	Less: Language Restriction on Obligations	0	5,000	5,000	0
	Less: Unobligated Balance, EOY	72,079	72,079	72,079	67,079
	Less: Prior Year Unobligated Balance Brought Forward	(28,036)	(72,079)	(72,079)	(72,079)
	Less: Recoveries of Prior Year Obligations	(11,963)	(12,000)	(12,000)	(4,000)
	Plus: Transfer to Other Accounts	1,000	2,000	2,000	0
	Total Appropriation	0	0	0	0
	Transfer to Other Accounts	(1,000)	(2,000)	(2,000)	0
	Total Budget Authority	(1,000)	(2,000)	(2,000)	0