



United States Patent and Trademark Office 2010-2015 Strategic Plan



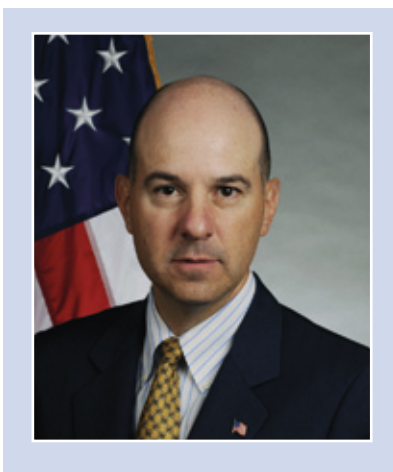
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Message from the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO)

Without question, innovation has become the principal driver of our modern economy. America's innovators stimulate economic growth and create high-paying jobs. We at the USPTO embrace the opportunity to serve America's innovators. A patent and trademark system provides our innovators with the ability to secure investment capital and to bring their products and services to the marketplace.



We will use the *USPTO 2010-2015 Strategic Plan* as a management tool to help us track our progress in meeting each element of the plan. The plan includes a Balanced Scorecard—a detailed chart showing how each of our various initiatives supports a strategic goal. Each initiative in the Balanced Scorecard has at least one performance metric. This data will be reported to me and senior management on a regular basis. The USPTO management team will use this data to manage each of our business

A well-run USPTO is critical to the nation's continued economic prosperity. The *USPTO 2010-2015 Strategic Plan* is designed to strengthen the capacity of the USPTO, to improve the quality of patents and trademarks that are issued, as well as to shorten the time it takes to obtain a patent.

The *USPTO 2010-2015 Strategic Plan* outlines a focused, specific set of goals and the steps we must take to reach those goals. A cornerstone of our plan is reducing patent pendency and optimizing patent and trademark quality. But, like any enterprise, the USPTO must address challenges as varied as our funding model, communication with our stakeholders, our information technology system, and cooperation with global intellectual property (IP) offices. We intend to meet these challenges head on.

units to achieve a higher level of performance.

I want to thank our employees and stakeholders for their support and thoughtful comments provided in the formulation of this strategic plan, and I look forward to working with the USPTO team and the IP community as we move to implement it. By working together, we can implement a plan that will strengthen the USPTO, enhance the world's IP systems, and help drive innovation, job creation, and economic growth for years to come.

A handwritten signature in black ink that reads "David J. Kappos".

David J. Kappos

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

Introduction



As we move into the second decade of the 21st Century, it has become increasingly clear that innovation is the key driver of long-term economic growth and a sustainable source of competitive advantage for United States (U.S.) businesses. Strong domestic and international intellectual property (IP) protection and policies encourage creativity, and incentivize inventors, university research laboratories, and businesses to invest knowledge, time, and money into the creation of inventions and brands.

Technological innovation is linked to three-quarters of America's post-WW II growth rate. Two innovation-linked factors—capital investment and increased efficiency—represent 2.5 percentage points of the 3.4 percent average annual growth rate achieved since the 1940's.¹ Invention, innovation, and diffusion benefit consumers not only through new products and processes that promote efficiency and improve health and lifestyle, but also by providing better, higher-paying jobs. Since 1990, the average compensation per employee in innovation-intensive sectors increased 50 percent—nearly two and one-half times the national average.²

Promoting innovation and creativity, stimulating economic growth, and creating high-paying jobs are key priorities of the Obama Administration. By providing IP protection in the form of patents and trademarks, the USPTO plays a key role in fostering the innovation that drives job creation, investment in new technology and economic recovery, and in promoting and supporting the administration's priorities.

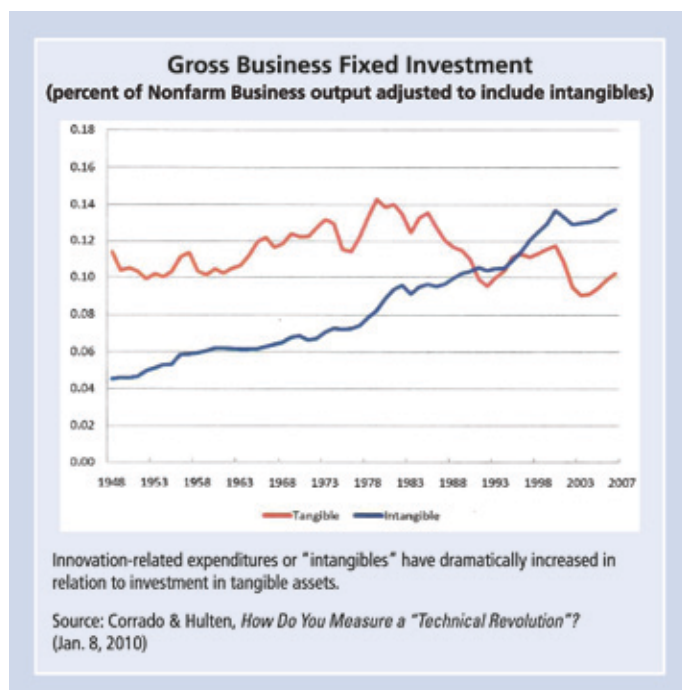
As a world economic and technological leader, the United States remains the benchmark by which other nations define their growth and success. **Yet, while we stand on a strong foundation, our Nation's "innovation edge" is at risk.**

Strong, robust, international markets are of increasing significance to America's global competitiveness. This trend has coupled with a growing importance of IP to the world economy. During the last decade, patent and trademark filings have increased significantly in the United States and indeed throughout most of the world. Because patent and trademark applicants target the important U.S. market for IP protection, the upsurge in filings has resulted in increased demand for USPTO services. This in turn has put considerable strain on the USPTO's workforce, workloads, information technology (IT) infrastructure, and management—all of which jeopardizes the USPTO's ability to review and issue timely, high-quality patents and trademarks.

Timely-prosecuted, high-quality patents and trademarks support innovation and promote creativity. Delay, uncertainty, poor quality, and costly litigation are obstacles to innovation and creativity. A well-run USPTO is critical to our nation's continued economic prosperity. The *USPTO 2010-2015 Strategic Plan* is designed to strengthen the capacity of the USPTO,

¹ United States Department of Commerce (2010). *Patent Reform: Unleashing Innovation, Promoting Economic Growth & Producing High-Paying Jobs*.

² Id.



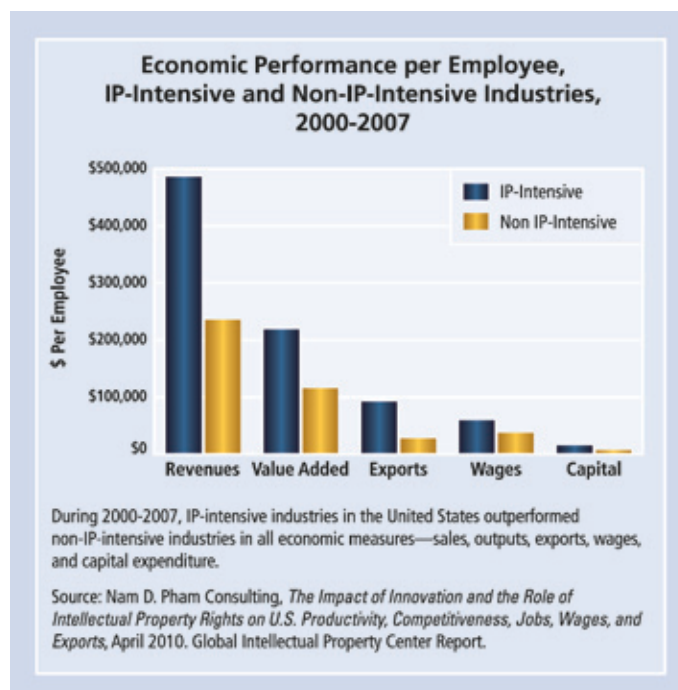
improve the quality of patents and trademarks issued, and shorten the time it takes to get a patent. The performance metrics that will ensure the successful implementation of this strategic plan are set forth in the accompanying Balanced Scorecard—a key driver for the plan's execution.

USPTO Vision

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

The incentives and rewards associated with strong protection of ideas, creativity, and innovation stimulate further innovation and creativity in the form of new products, services, and technology. Simply put, IP rights are a stimulus to innovation and are critical to long-term economic growth.

The United States is a global leader in promoting laws and policies that foster innovation and IP rights—and in encouraging economic investment in the arts, innovation, and creativity. The USPTO must continue to encourage legal and regulatory policies that protect IP, inform the public of the critical role of IP, and nurture a world in which IP rights are valued and enforced.



USPTO Mission

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

The USPTO's mission is anchored in Article I, Section 8, Clause 8, of the *U.S. Constitution*: "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writing and discoveries"; as well as the Commerce Clause of the *U.S. Constitution* (Article 1, Section 8, Clause 3) supporting the federal registration of trademarks.

For most of the last century, the United States has been the clear leader in developing new technologies, products, and entire industries that provide high-value jobs for Americans, enabling us to maintain our economic and technological leadership. Successful execution of the USPTO's mission can foster decades of continued U.S. leadership.

The USPTO is committed to continuing a broad multilateral dialog aimed at improving coordination among the IP systems of all countries, thereby enabling innovators to secure IP protection more efficiently and at lower cost. The USPTO will participate, and lead as appropriate, in advancing that dialog for patents, trademarks, copyrights, and other forms of IP protection.

As an agency within the Department of Commerce (DOC), the USPTO is uniquely situated to support the accomplishment of the DOC's mission to *create the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and stewardship*.

Challenges to Accomplishing the USPTO's Vision and Mission

The distance between innovation and the marketplace is shrinking. Said another way, innovation is moving more quickly from creation to manufacture and distribution. IP is often a necessary instrument for innovators and businesses to capture value as ideas move to market. In performing its mission, the USPTO faces significant challenges. These challenges include:

- Funding authority to support agency performance objectives.
- The volume of applications.
- Rapid advances in technologies.
- Necessity for global cooperation and protection.
- Antiquated and decaying IT infrastructure.
- Hiring, retaining, and training examiners.
- Balancing competing objectives.
- The need for greater transparency in defining accountability metrics for agency objectives and performance.

Whereas prior USPTO strategic plans have demonstrated knowledge and insight of the agency's challenges, the *USPTO 2010-2015 Strategic Plan* sets forth specific initiatives and detailed performance metrics necessary to fully execute,

implement, and deliver on the goals set forth in this plan. Success is critical to our country's continued economic prosperity. The USPTO must ***focus, build, manage, adapt, and execute***.

The USPTO must harness the expertise, skill, and technology necessary to ***focus*** on its goals and engage in the initiatives required to accomplish them. Those activities that keep us on the road to accomplishing our goals must be enhanced and continued, while those that do not must be modified or eliminated. The USPTO must focus on establishing appropriate metrics—those that are meaningful and actually measure the activities necessary to determine progress and achieve success.

The USPTO cannot accomplish these aggressive goals alone. We must ***build*** stronger working relationships with our workforce, applicants, attorneys, agents, the international community, owners of patents and trademarks, Congress, and the public. The USPTO must build a high-quality, efficient, cost-effective, end-to-end electronic IT process that provides examiners with the tools needed to efficiently and effectively perform their jobs, and provides applicants and the user community with access to information and data. We must establish a sustainable funding model that provides the USPTO with fee-setting authority and the ability to build an operating reserve to manage patent and trademark revenue fluctuations. We must collaborate and build relationships with our international counterparts to foster seamless and cost-effective exami-



Under Secretary David Kappos and Deputy Under Secretary Sharon Barner greet Secretary of Commerce Gary Locke during his visit to the USPTO campus October 6, 2010.

nation and issuance of IP rights on a global basis, and to ensure global competitiveness for American innovators and businesses. Only through building these solid partnerships—where we work together to achieve our goals—will the USPTO be fully successful.

The success of the *USPTO 2010-2015 Strategic Plan* will be dependent on our ability to **manage, adapt, and execute**. USPTO leadership must use this strategic plan as a management tool—a roadmap to stay focused on the important objectives and initiatives that must be accomplished. USPTO management must be transparent, adopting metrics that actually measure relevant data and publishing that data to keep itself and the public adequately informed of progress. The USPTO must adapt to changing circumstances and conditions, while at the same time executing on the initiatives necessary to accomplish its critical objectives. Simply put, the USPTO—at all levels—must lead.

USPTO Strategic Goals

To achieve its mission and vision, the USPTO has laid out four goals: three mission-focused goals and one management-focused goal. The management goal and its objectives are considered enabling and cross-cutting in that they are essential to achieving each of the three mission-focused goals.

Mission-Focused Strategic Goals

- Goal I: *Optimize Patent Quality and Timeliness*
- Goal II: *Optimize Trademark Quality and Timeliness*
- Goal III: *Provide Domestic and Global Leadership to Improve IP Policy, Protection and Enforcement Worldwide*

Management-Focused Strategic Goal

- Management Goal: *Achieve Organizational Excellence*

In order to accomplish the above four goals, the USPTO has prepared this five-year strategic plan. Provided that the USPTO receives the funding and statutory changes necessary for implementation, this plan as implemented will strengthen and enhance innovation to transform America's economy, foster competitiveness, and drive the creation and growth of U.S.

businesses. The USPTO's mission-focused goals will be accomplished when:

- Patent pendency time is optimized, allowing a final action on the merits within one year of filing for any applicant who requests it, with overall patent pendency time reduced to 10 months for a first office action and 20 months total pendency, by 2014 and 2015 respectively.
- The number of patent applications awaiting examiner action is reduced by almost 50 percent, to slightly less than 10 months of inventory.
- Issued patents are of higher quality, and the stakeholder community has a clear understanding of the meaning of a “quality” patent.
- The world's IP offices enjoy increased efficiency as a result of collaboration in areas including automation, global patent classification, search results and work sharing.
- USPTO staffing is stabilized by lower attrition levels and a workforce that can be recruited from and stationed across the United States.
- Trademark pendency times remain between 2.5 and 3.5 months, on average, to first office action, and 13 months to final disposition.
- Trademark quality is enhanced via input from stakeholders and new metrics are focused on excellence for the entire office action.

The USPTO will also be making major contributions to improved U.S. global competitiveness and domestic job growth, while protecting American security through strengthened IP rights and more consistent enforcement worldwide.

Our organization—the United States Patent and Trademark Office—will take its place as our nation's “Innovation Agency” and serve as a model for IP offices around the world. The USPTO's management-focused goal will be accomplished when:

- Accelerated processing time and increased efficiency occurs via electronic, end-to-end processing for patent applications.
- A sustainable funding model allows the USPTO, in conjunction with stakeholders, to set its fees to reflect the cost of providing the services and products requested by businesses and innovators.

- The public has greater insight into – and confidence in – the operations and progress of the USPTO due to more transparent and meaningful performance metrics.

External Factors

The following are key factors, external to the USPTO, which may significantly affect achievement of its mission and goals. The USPTO must monitor and respond to:

- Economic volatility that affects quantities of filings, fee collections, and the ability to hire and retain high quality staff.
- Court decisions that affect USPTO practices and procedures.
- Completion of pending legislation, particularly patent reform provisions that address USPTO funding and fee-setting authority, and enhance post-grant review proceedings.
- Outcomes of international discussions on topics affecting USPTO operations. These include discussions within the World Intellectual Property Organizations (WIPO), Group B+ (a working group established to focus on patent law harmonization), the Trilateral Offices (the European Patent Office (EPO), the Japan Patent Office (JPO) and the USPTO), and the IP5 (made up of the Trilateral Offices and the Korean and Chinese IP offices), as well as bilateral negotiations that may determine the extent to which the USPTO is able to realize operational efficiencies through work sharing and harmonization.



Deputy Under Secretary Sharon Barner shakes hands with India's Department of Industrial Policy and Promotion official Ajay Shankur after signing a Memorandum of Understanding on Bilateral Cooperation on IP rights that would facilitate comprehensive bilateral cooperation on a range of IP rights issues focusing on capacity building, human resource development and raising public awareness of the importance of IP rights.

Strategic Goals



Strategic Goal I: *Optimize Patent Quality And Timeliness*



A sound and effective IP system is essential to technological innovation. Strong and enforceable IP laws work to secure the rapid introduction of competing technologies that expand market options. American innovators and businesses rely on the legal rights associated with patents in order to reap the benefits of their innovations. This means that the longer it takes for the USPTO to review a patent application, the longer it will take for the benefit of patent protection to accrue. Congress and the public have recognized that patent pendency has a direct impact on America's competitiveness.

The USPTO must adopt private sector business practices and market-driven services for patent application processing. The traditional "one-size-fits-all" examination timing does not match applicants' real-world needs. While seeking an optimal pendency time that is efficient for applicants generally, the USPTO will seek to provide applicants greater control over the timing of examination, thereby allowing the USPTO to deploy resources in a manner that better meets the needs of innovators.

The USPTO must also improve the quality of application review. Without well-defined claims, the value of a patent is uncertain. Uncertainty means risk that a patent is invalid; risk that a patent does not protect the patentee's product; and risk that a good faith competitor cannot determine a patent's scope to responsibly avoid infringement. Low quality patents exact a high cost by decreasing public confidence in the IP system. On the other hand, the economic value of a patent increases when its metes and bounds are clearly defined and consistently interpreted under the law. Clarity leads to certainty, which enables efficient and confident determination of value. This in turn creates high value for high quality patents, and bolsters public confidence.

It is critical that we strengthen the examination capacity of the USPTO, improve the quality of patents issued, and provide optimal timing for obtaining a patent. Enhancing quality for all, and allowing faster examination for those applicants who need it, will increase value for the entire IP system and for America.

The USPTO must identify and implement the efficiencies, tools, and policies necessary to increase the number of applications it is capable of examining, while also improving quality. The USPTO has identified a twofold basis to attack the capacity challenge: **increasing examination capacity and improving efficiency**. Increasing examination capacity is achieved by increased strategic hiring, coupled with decreased attrition. Improving efficiency is achieved by removing unnecessary barriers to efficient and more streamlined examination and by providing better IT systems and tools in the patent examination process. In meeting our capacity challenge, this strategic plan recognizes that while examiner hiring is a significant contributor to pendency/backlog reduction, the USPTO must also focus on efficiency improvements generated by re-engineering many systems and processes, including its IT systems.



Under Secretary David Kappos, Commissioner for Patents Robert Stoll, Deputy Under Secretary Sharon Barner and Deputy Commissioner for Patents Margaret Focarino commemorate Ollie Person's career milestone of 50 years of federal service with the USPTO.

However, increased speed must not come at the expense of quality. The challenges of determining the appropriate measures of patent quality and the related performance targets are critical. To that end, in this strategic plan the USPTO will also undertake to improve quality and re-engineer its patent quality measurement and management program.

Finally, globally integrated economies and companies, along with increased electronic processing capability, require us to have full electronic processing that is safe, secure, and continually available to employees, applicants, and stakeholders. While significant challenges to interoperability and standards exist, the USPTO's strategic plan includes developing an IT system incorporating an operating platform that enables the transition of the patent application process to one in which applications are submitted, handled, and prosecuted electronically using fully machine-readable formats and open standards.

The USPTO is committed to full transparency with respect to pendency, backlog, and quality. To that end, we are creating—and will post on our Web site—various “dashboards” providing data and other key metrics, such as pendency and quality. We intend to update these dashboards regularly so that the public can have access to important information about how the USPTO is doing its job.

This plan also acknowledges and embraces the necessity of efficiency improvements brought about by re-engineering

many USPTO management and operational processes. Efforts to optimize examination capacity, implement compact prosecution initiatives, overhaul the patent examiner production system, prioritize work, and increase international work sharing will yield efficiency gains to achieve these goals.

The USPTO will achieve optimal quality and reduce patent pendency to 10 months for first office action and 20 months total by 2014 and 2015, respectively, by focusing on the following six objectives:

Objective 1: Re-Engineer Patent Process to Increase Efficiencies and Strengthen Effectiveness

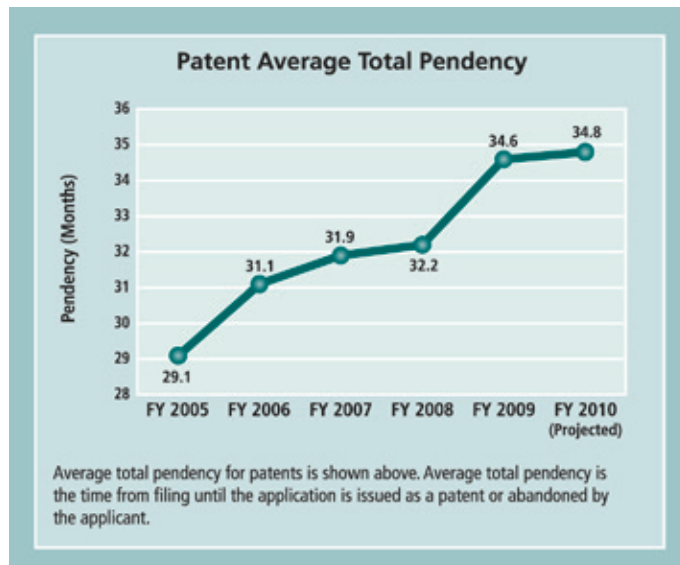
Initiatives to Achieve Strategic Goal I, Objective 1

- Re-engineer the Patent Examiner Production (Count) System
- Prioritize Work: Green Technology Acceleration, Project Exchange, Multi-Track Customized Examination
- Institutionalize Compact Prosecution Initiatives
- Re-engineer the Patent Classification System
- Re-engineer the Manual of Patent Examining Procedure (MPEP)
- Re-engineer the Patent Examination Process

The USPTO must implement major process improvements in its patent examination workflow. Efforts to optimize examination capacity, implement compact prosecution initiatives, overhaul the patent examiner production system, prioritize incoming work, and increase international work sharing will yield efficiency gains to achieve USPTO goals.

A. Re-Engineer the Patent Examiner Production (Count) System

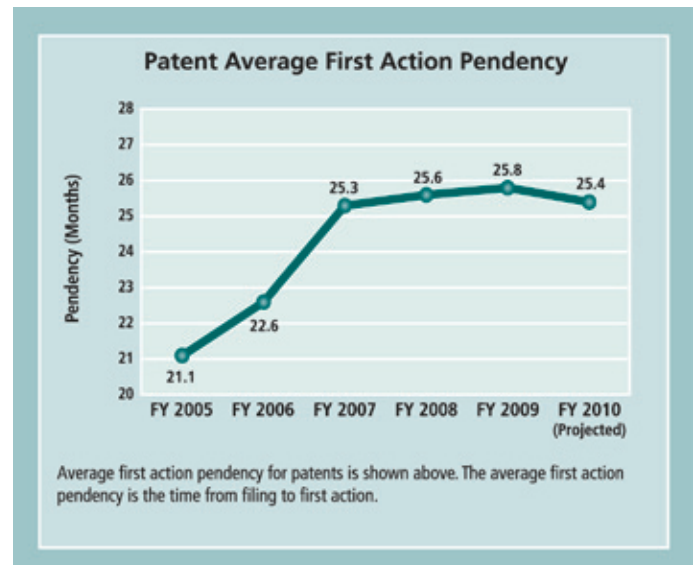
In fiscal year (FY) 2010, the USPTO adopted significant revisions to the patent examiner production (count) system. The new



count system sets the foundation for long-term pendancy improvements by encouraging early identification of patentable subject matter, helping examiners resolve issues more quickly, and rebalancing incentives both internally and externally to decrease re-work. It is also expected to produce quality gains as a result of giving examiners more time to do a thorough search and examination.

The revised count system provides incentives encouraging examiners to provide a high-quality first action, and shifts resources from a focus on examiner recertification to front-end quality improvements. This change in incentives encourages examiners to dispose of applications more efficiently. The revised count system also gives examiners more time overall, more time for a first action on the merits, and time for examiner-initiated interviews, while decreasing credits on requests for continued examination (RCEs) and providing consistent credits for transferred or inherited amendments. These changes increase work-credit certainty for examiners, increase fairness to applicants, and balance the load on IT systems.

We will monitor the revised count system closely to ensure it is producing the desired results. We will measure the effects of the changes, gathering internal and public feedback, and meeting on a regular basis to monitor progress and consider additional improvements.



B. Prioritize Work: Green Technology Acceleration, Project Exchange, Multi-Track Customized Examination

The USPTO is moving from a “one-size-fits-all” patent examination process to a multi-track process by adopting procedures and initiatives that incentivize abandoning applications that are not important to applicants, accelerating critical technologies, permitting applicants to accelerate important applications, and exploring other incentives and accelerated examination options. These initiatives are a continuation of USPTO’s efforts to provide more examination options that enable applicants to prioritize their applications, and the USPTO’s workload, to meet the needs and demands of the marketplace. To date, these initiatives have included:

- Green Technology acceleration, which allows inventors to accelerate applications in certain technologies. Pending patent applications in green technologies are eligible to be accorded special status and given expedited examination. The Green Technology Pilot Program will accelerate the development and deployment of green technology, create green jobs and promote U.S. competitiveness in this vital sector.
- Project Exchange, which allows advancement of an application in exchange for express withdrawal of another application, and enables applicants to focus USPTO resources on what is important, rather than having examiners review applications that are no longer important to their owners.

- Customized Examination Tracks, providing applicants greater control over the speed with which their applications are examined and promoting greater efficiency in the patent examination process. The program aims both to provide applicants with the timing of examination they need and to reduce pendency of patent applications.

C. Institutionalize Compact Prosecution Initiatives

Encourage the practice of finding the core issues with patent applications and resolving them – conducting a complete initial search, issuing a complete first office action, and identifying allowable subject matter so as to expedite prosecution. To facilitate this, we will:

- Implement specific training programs (interview, negotiation authority, etc.).
- Improve after-final practices and final rejections – use quality review data to identify outliers and trends, and emphasize proper after-final practices during training.
- Develop and deploy Interview Training to improve communications by examiners, encourage examiners to hold interviews earlier in prosecution so that issues and potentially allowable subject matter can be identified early in the examination process, and also encourage interviews later in prosecution to prevent unnecessary RCEs.
- Expand the First Action Interview Pilot Program, which provides manager-examiner communication and training, and examiner-applicant communication training, to promote examiner-applicant communication early in the process. This enhanced communication improves quality and decreases pendency.

D. Re-Engineer the Patent Classification System

Re-engineering the Patent Classification System is necessary to address the effective assignment of applications for examination, and to improve the system used for locating prior art relevant to determining patentability. The re-engineering efforts will be based on learning from and building upon best practices of our partners in foreign IP offices, as well as leveraging modern thinking and technology from related fields. This initiative will improve pendency and patent quality and reduce cost by putting the best prior art in the hands of examiners efficiently, and by partnering with our international counterparts to leverage resources.

E. Re-Engineer the Manual of Patent Examining Procedure (MPEP)

In addition to expediting updates to the MPEP, the USPTO will establish a more collaborative process involving contributions by our stakeholders, provide more examples and greater integration of guidelines, and include links to related USPTO on-line examiner education materials and case law. The new, dynamic MPEP will enable practitioners and examiners to find information quickly, get accurate and complete guidance, and ensure that the examination and prosecution of all patent applications complies with the laws and regulations governing the patent system.

F. Re-Engineer the Patent Examination Process

The USPTO has begun an effort to re-engineer the entire patent examination process from the time an application is filed all the way through to the granting of a patent. This effort is a necessary companion to upgrading and redesigning the IT infrastructure, and allowing innovative redesign of the examination process supported by state-of-the-art automated work flow capabilities. This re-engineering effort will be enhanced by the new electronic processing capabilities of the USPTO's end-to-end IT system which is concurrently being designed for patent processes.

The effort will be undertaken by allowing employees (examiners and technical support) and first-line supervisors to be the drivers of the re-engineering process. The project due dates will be linked to those of the end-to-end IT initiative such that the IT system is built to implement the functionality of the re-engineered process.

Objective 2: Increase Patent Application Examination Capacity

Initiatives to Achieve Strategic Goal I, Objective 2

- Hire Approximately 1,000 Examiners in Both FY 2011 and FY 2012
- Use a Hiring Model that Focuses on Experienced IP Professionals
- Target Overtime to High Backlog Technology Areas
- Develop and Implement a Nationwide Workforce
- Reduce Attrition by Developing Mentoring, Best Practices, and Retention Strategies
- Contract for Patent Cooperation Treaty (PCT) Searching

The USPTO continues to balance the need to address the growth of patent pendency and the backlog, while improving patent quality. The USPTO must address the dual challenges of heavy workloads and a shift of applications to more complex technologies. To address these challenges, the USPTO must hire, train, and retain highly skilled, diverse examiners, employing different hiring and development models than it has in the past.

A. Hire Approximately 1,000 Examiners in Both FY 2011 and FY 2012

The USPTO is embarking on an ambitious effort to hire approximately 1,000 examiners in both FY 2011 and FY 2012. The USPTO will recruit candidates from its traditional applicant pools, such as recent graduates from science and engineering colleges, as well as new sources of applicants, discussed below with regard to experienced IP professionals.

B. Use a Hiring Model that Focuses on Experienced IP Professionals

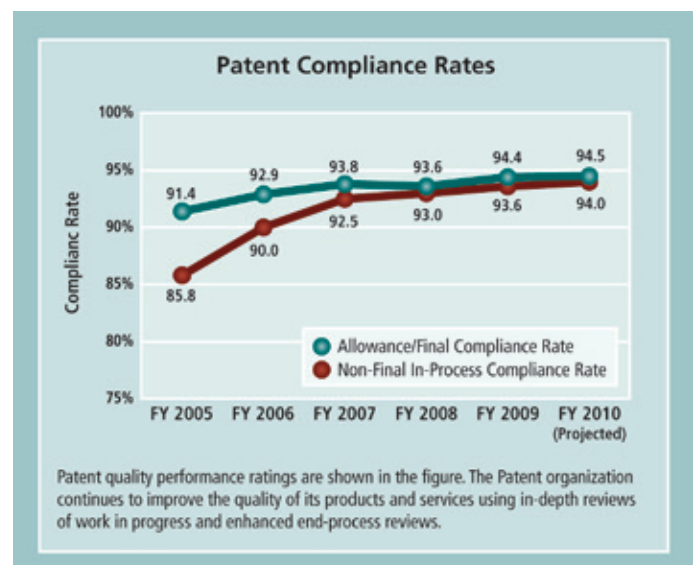
While continuing to draw candidates from our traditional sources, the USPTO expects that hiring experienced IP professionals will assist in developing a balanced workforce, a lower attrition rate, and a faster transition to productivity for new

hires. Recruiting candidates with significant IP experience will lead to a reduced training burden and increased ability to examine applications much sooner than an inexperienced new hire. In addition to being more productive sooner, examiners in higher grades have higher production goals, which results in increased production output.

In FY 2010, the USPTO initiated a new hiring model, supported by strong publicity and expanded “nationwide” recruitment, to encourage individuals with previous IP experience to apply for positions as patent examiners. Whereas USPTO’s previous hiring has been focused on scientific background and experience, this new model places more emphasis on recruiting candidates with significant IP experience, such as registered patent attorneys and patent agents, former examiners, as well as skilled technologists having experience with the USPTO as inventors.

C. Target Overtime to High Backlog Technology Areas

Overtime is a critical element of our plan to reduce the backlog of pending patent applications and to achieve our pendency goals. Because each overtime hour worked is directly tied to production output, overtime has proven to be more efficient on a per-hour basis than equivalent regular time hours. Its inherent flexibility allows the agency to more easily expand its production capacity while maintaining optimal staffing levels. Based on funding availability, the USPTO plans to prioritize the use of overtime by targeting technology areas with highest backlogs



first, while permitting other examiners to work overtime in the targeted areas, and to work overtime in other areas as resources permit.

D. Develop and Implement a Nationwide Workforce

The USPTO will develop a nationwide workforce using telework or other appropriate measures that will allow us to hire experienced IP professionals interested in joining the USPTO, but who do not want to relocate to the Washington, D.C. region. It is expected that this different hiring demographic will provide a more productive and balanced workforce, lower attrition, and faster transition to productivity for new hires. Additional benefits include:

- Minimizing real estate costs associated with workforce expansion.
- Expanding our employment candidate pool.

E. Reduce Attrition by Developing Mentoring, Best Practices, and Retention Strategies

The USPTO's mission requires the recruitment and retention of highly skilled individuals in a highly competitive employment market. As a result, the USPTO must continually improve and enhance its recruitment and retention strategies to make our agency an employer of choice.

The USPTO analyzes patent examiner hiring and attrition down to the smallest working group. As part of this analysis, the USPTO has instituted bi-weekly meetings to focus on developing better methods to manage and stem attrition and identifying ways to retain our highly skilled examiner workforce.

Utilizing employee exit data and employee satisfaction surveys, the USPTO is addressing specific areas of job satisfaction concerns. Based on this information, the USPTO has developed and enhanced "best practices" for retaining examiners and Supervisory Patent Examiners (SPE) which includes active front-line management, mentoring, detail appointments, an improved compensation structure, and other proactive management efforts. Patent examiner attrition is tracked on a monthly basis to allow Patents' Technology Centers (TCs) to address retention and set measurable retention targets.



Commissioner for Patents Robert Stoll delivers congratulatory remarks to the 2010 Patent Hoteling Program (PHP) graduate class.

F. Contract for Patent Cooperation Treaty (PCT) Searching

The USPTO—as an International Searching Authority (ISA) under Chapter I of the PCT—receives international applications that require the performance of an international search to discover relevant prior art. This international search is made on the basis of the application's claims and includes the preparation of an international search report (ISR). The substance of a search report consists of the most pertinent prior art cited against the claims of the application according to PCT. A written opinion (WO) is prepared at the same time as the ISR and provides a detailed indication of whether or not the claims have novelty, inventive step, and industrial applicability in view of the prior art cited in the ISR. The WO additionally indicates whether the application complies with other requirements of the PCT and its enabling regulations. Chapter I applications filed with the USPTO are initially reviewed and processed in PCT Operations. Following completion of the initial processing, each application is reviewed and analyzed, and the appropriate action is taken. For a Chapter I application, a complete and comprehensive search of pertinent art is conducted, and an ISR and WO are prepared. The ISR and WO are reviewed for completeness and quality after which they are mailed to the applicant and the International Bureau.

By USPTO contracting for searching on PCT international applications, our examiners have more time to conduct the examination process on U.S. national applications. Contracting for this function allows vendors, instead of USPTO patent examiners, to provide an ISR and a WO of the ISA under the provisions of the PCT. We estimate that continued contracting will allow our examiners to examine an additional 17,000 utility, plant, and reissue applications, which will reduce the backlog of U.S. national applications. Furthermore, patent examination capacity will be gained in related national applications through the re-use of contractor-prepared ISRs and WOs. The USPTO has instituted quality review and other measures to ensure the resulting product provided by contractors is consistent with our own quality metrics applicable to USPTO work product.

Objective 3: Improve Patent Pendency and Quality by Increasing International Cooperation and Work Sharing

Initiatives to Achieve Strategic Goal I, Objective 3

- Make More Effective Use of the PCT
- Increase Use of the Patent Prosecution Highway (PPH)
- Explore Strategic Handling of Applications for Rapid Examination (SHARE)
- Work with Trilateral Offices and IP5 to Create New Efficiencies

Patent rights, like other IP rights, are territorial and thus subject to enforcement only in the territory in which the right was granted. Thus, given the global nature of trade, many innovators seek patent rights in multiple countries. The need to obtain protection in multiple countries creates tremendous duplication of work. Each office performs the same basic search and examination on the same invention for the same or corresponding applications. As a result, backlog and pendency have grown in all of the major patent offices around the world.



EPO, Korean Intellectual Property Office (KIPO), USPTO officials participate in the PCT Collaborative Search and Examination Workshop to discuss the IP5 search and examination pilot.

These problems are only going to get worse. As our economies emerge from recession, filings are likely to rise again. For large markets like the United States, many of these applications will also have been filed in other countries. Already, the United States faces a situation where about 50 percent of the applications it receives have foreign inventors and assignees. This percentage has been rising steadily in the last few decades. Duplication of effort, and the resulting delay in ascertaining patent rights, has a significant negative global economic impact. Unless addressed, duplication of work will continue to grow and impede efforts to reduce the backlog.

In view of this growing duplication of work and the impact it is having on processing times and backlogs, the USPTO is implementing several international initiatives aimed at managing its workload. The USPTO has identified work sharing as a key priority. Work sharing is a cooperative approach to workload management under which one country's office leverages the search and examination work previously completed by another country's office on a corresponding application to the maximum extent possible.

The USPTO's experience with work sharing shows that it significantly increases the efficiency and effectiveness of the second office's own search and examination. We believe that work sharing, if taken to scale, can have a significant impact on backlog.

Each international patent office, including the USPTO, is ultimately responsible for granting patents in accordance with the laws applicable in that particular jurisdiction. The principle of sovereignty places certain restrictions on the degree to which one office may leverage work done by another. Therefore, work sharing implies the leveraging, or “reutilization of work to the maximum extent reasonable,” rather than “mutual recognition.”

Work sharing reinforces the importance of greater procedural and substantive harmonization of patent laws across countries. The more our laws are harmonized, the easier it will be to reuse work from other countries. We are thus continuing our efforts to harmonize substantive patent laws to facilitate work sharing.

A. Make More Effective Use of the PCT

The PCT is an international filing system that makes it possible to seek patent protection for an invention simultaneously in multiple countries by filing an “international” patent application.



Under Secretary David Kappos and the heads of the five major intellectual property offices (the IP5) pose after announcing the expansion of their existing bilateral PPH agreement to include international search reports with written opinions, and international preliminary examination reports developed within the framework of the international PCT. From Left: Under Secretary David Kappos, former Commissioner of the JPO Tetsuhiro Hosono, Commissioner of the State Intellectual Property Office of the People's Republic of China Tian Lipu, former President of the EPO Alison Brimelow, and former Commissioner of the KIPO Jung-Sik Koh.

An international application under the PCT is subject to an international search by an ISA. The ISA then prepares an ISR listing the prior art discovered that may have some effect on the patentability of the application and prepares a WO on the novelty, inventive step and industrial applicability of the claimed invention.

The PCT is often considered the original international work sharing mechanism. However, for a variety of reasons, the substantive results of the search and patentability opinions prepared at the international stage have not been re-used in the national stage to the extent originally envisioned.

With over 150,000 international applications filed annually under the PCT, and almost half a million resulting national stage entries, it is now imperative to make full use of the work done at the international stage in order to reduce duplication of effort at the national stage. With this in mind, the USPTO is committed to providing world-class products and services under the PCT in order to maximize the re-use potential of the international search and patentability opinions and reports prepared during the international stage.

Our PCT initiatives include:

- Maximizing the potential for re-use of PCT work in the national stage by improving the quality and timeliness of ISR, WO and international preliminary examination reports issued by the USPTO. As part of this effort,
 - We will raise the quality required by our PCT search contracts to be substantially consistent with that required of our examiners, provide training to our PCT contractors, and make a detailed search recordation document of record in international applications in which we perform the international search.
- Supporting and assisting with improvements to the PCT process articulated in the PCT Roadmap. This will focus on:
 - Assisting with and support the creation of a third-party observation system within the PCT and participate in a collaborative international search pilot.
- Providing additional training to PCT users in order to improve the form and content of new international applications and the prosecution of international applications at the international stage. Such improvements will lead to

higher quality applications at the national stage and enhance the likelihood that the international search and WO on patentability will lead to a focused and compact prosecution at the national stage.

B. Increase Use of the Patent Prosecution Highway (PPH)

Under the PPH program, if an application filed in an Office of First Filing (OFF) receives an indication that at least one claim is patentable, then a corresponding application with corresponding claims filed in the USPTO as the Office of Second Filing may be advanced in the queue for examination. To have the request for participation in the PPH accepted in the USPTO, an applicant must make available to the USPTO the relevant work of the OFF as well as any necessary translations. PPH applications have proven to take significantly less time to prosecute on average than non-PPH applications. Using the PPH process also increases the sharing and re-use of information (primarily search and examination results) between the USPTO and its partner offices. Improving the PPH framework to make it more user-friendly, thereby encouraging greater participation by applicants, will support the USPTO's goal to optimize both the quality and timeliness of patents. Expanding the PPH to include search results and patentability opinions from the PCT international examination phase demonstrates the compatibility of the PPH and PCT mechanisms.

Our PPH initiatives include:

- Increasing examiner awareness of PPH and providing training in the reuse of foreign office work products.
- Doubling the number of PPH applications filed annually in 2010, 2011, and 2012 through increased awareness of PPH, increased knowledge of the PPH process, and expansion of the PPH network.

C. Explore Strategic Handling of Applications for Rapid Examination (SHARE)

One difficulty with achieving optimal work sharing involves timing. Work sharing is optimal if the second office does not begin its own search and examination before the first office has at least completed an initial search and examination of the corresponding application. The reason is straightforward—if the second office examination has already begun, it is difficult to reutilize the first office results effectively after the fact.

According to a concept introduced by the USPTO called SHARE, when applications are filed in multiple offices, the office where an application is first filed would balance and manage workloads to make its workproduct available in a timely fashion to the other offices in which corresponding applications are pending. Additionally, offices of second filing would wait for the results from offices of first filing before they begin their work. This initiative enables the office where an application is first filed to make available search and examination results for use in the other offices where a corresponding case is filed.

The USPTO has established a SHARE pilot with Korea, and depending on results, will decide whether to take the program to a larger scale. SHARE may also become a component of multi-track examination. The USPTO is also planning to launch a pilot program called First-Look Application Sharing with the EPO and the JPO—this pilot program will test the feasibility of certain aspects of SHARE. In addition, the USPTO is exploring other options to test the SHARE concept and to determine whether to expand the program.

D. Work with Trilateral Offices and IP5 to Create New Efficiencies

The Trilateral Offices consist of the EPO, the JPO, and the USPTO. The IP5 consists of the Trilateral Offices plus the KIPO and China's State Intellectual Property Office. The IP5 account for 75 percent of all patent applications filed worldwide and 93 percent of all work carried out under the PCT.

The vision of the Trilateral Offices and the IP5 is global cooperation, the elimination of unnecessary work among the IP5, the enhancement of patent examination efficiency and quality, and the guarantee of stable patent rights.

The Trilateral Offices and IP5 strive to contribute to an efficient worldwide patent system through:

- Improving the quality of examination processes and reducing the processing time of patent applications.
- Improving the quality of incoming applications.
- Developing common infrastructure and compatible data for electronic business systems and search tools.
- Exploiting the full potential of work performed by the other IP5 Offices and Trilateral Offices in search, examination, documentation, and electronic tools.

The IP5 have been engaged in ten collaborative projects known as the Foundation Projects. These projects are designed to harmonize the search and examination environment of each office and to standardize the information-sharing process. The projects are expected to facilitate work sharing initiatives by enhancing the quality of patent searches and examinations and by building mutual trust in each other's work.

The USPTO has recommended proposals to accelerate some of the projects as part of this strategic plan, taking full consideration of available resources. Additionally, given the parallel missions of the Trilateral Offices and the IP5, the USPTO will coordinate the projects conducted within each group.

Objective 4: Measure and Improve Patent Quality

Initiatives to Achieve Strategic Goal I, Objective 4

- Initiate 21st Century Analysis, Measurement and Tracking of Patent Quality
- Improve and Provide More Effective Training
- Reformulate Performance Appraisal Plans (PAPs)
- Implement and Monitor Revisions to Patent Examiner Production (Count) System

The USPTO is re-engineering its patent quality management program from top to bottom in order to improve the process for obtaining the best prior art, as well as improving the quality of the initial application and the subsequent examination process, and importantly the quality of the final examination result. The USPTO has sought comments from the public on methods to enhance the quality of issued patents, to identify appropriate indicia of quality, and to establish metrics for the measurement of those indicia. Along with the Patent Public Advisory Committee (PPAC), we have engaged our stakeholders in roundtable discussions on the best ways to address patent process inefficiencies, while also improving patent quality and reducing overall application pendency.

In addition, a number of training efforts have been designed to enhance patent examination fundamentals, communication, and cooperation between the examiner and applicant.

A. Initiate 21st Century Quality Analysis, Measurement and Tracking of Patent Quality

The USPTO is working collaboratively with the PPAC to identify quality measurements at each major step in prosecution and examination. Public comment was sought for six proposed new metrics of patent quality:

- Final disposition error rate.
- In-process review error rate.
- Complete application process review scoring.
- Quality index review scoring.
- Customer survey data.
- Examiner survey data.

B. Improve and Provide More Effective Training

- Provide a Leadership Development Program (LDP) and additional training for examiners and SPEs. Patent managers and supervisors are participating in a newly developed, state-of-the-art LDP. The program is designed to foster the development of all employees and to help managers and supervisors hone their skills so they can enable all employees to reach their full potential.
- The USPTO is training all of its patent examiners in efficient interview techniques, compact prosecution, and negotiations. This training is targeted to streamline the examination process by working with applicants to identify and correctly resolve issues early in the process, thereby reducing patent application backlog and pendency.
- The Office of Patent Training (OPT) has developed a catalog of refresher training courses for patent examiners to enhance the quality of examination. In FY 2010, over 1,600 requests for refresher training have been registered in the Commerce Learning Center. OPT will continue to enhance and expand the courses being offered.
- We will continue to revamp and measure the effectiveness of the ISO-9001 (International Organization for Standardization) certified New Examiner Training program. The New Examiner Training Program has been re-engineered to serve two different groups of new hires. The Experienced IP Program is a four-week, accelerated training program that is being piloted with examiners who have prior IP experience. We will monitor and improve this program as needed. The eight-month new examiner training program has been



*Members of the Patent Office Professional Association (POPA) labor union and Patent Management team established a joint task force to develop recommendations to move the Agency significantly forward towards a new examiner count system which is properly aligned to achieve both efficient and high-quality examination. **From Left:** POPA Secretary Kathleen Duda, Technology Center (TC) 3600 Director Kathy Matecki, Deputy Commissioner for Patent Operations Margaret Focarino, POPA President Robert Budens, Under Secretary and Director David Kappos, Assistant Deputy Commissioner for Patent Operations Andrew Faile, POPA Assistant Secretary Pamela Schwartz, POPA Vice President Howard Locker, and TC 2100 Director Wendy Garber.*

redesigned into a one-year program that consists of a four-month curriculum in the Patent Training Academy followed by an eight-month, on-the-job training program in the TCs.

C. Reformulate Performance Appraisal Plans (PAPS)

- Continuously review and revise the Senior Executive Service (SES) PAPS to ensure they are aligned with the strategic plan goals and objectives, and flexible enough to adapt to changing conditions.
- Establish an SES PAP Task Force to evaluate the SES performance management system. This Task Force will conduct a comprehensive review and analysis of the system, including assessing organizational performance, goal alignment, performance accountability, measurable results, and 360-degree leadership assessments.
- Provide framework for new Patent Examiner PAPS that focus on quality and pendency reduction. The new Patent Examiner PAP will ensure transparency, educate employees on their responsibilities, and enable managers to set clear expectations

and objectives for the achievement of organizational goals. The PAP will be aligned with organizational goals and the strategic plan at all levels. A strong emphasis will be placed on clearly defining objective measures that will be universally applied during the performance appraisal process. In doing so, we will improve the USPTO's management and employee development capabilities.

D. Implement and Monitor Revisions to Patent Examiner Production (Count) System

- Implement and monitor revisions to patent examiner production (count) system.
- Rebalance internal and external incentives.
- Evaluate key metrics of the Count System and make appropriate changes.

Objective 5: Improve Appeal and Post-Grant Processes

Initiatives to Achieve Strategic Goal I, Objective 5

- Develop and Implement Process Efficiency Recommendations
- Streamline the Appeal Process and Reduce Appeal Pendency
- Review the Board of Patent Appeals and Interferences (BPAI) Rules to Amend, Simplify and Optimize Process
- Increase BPAI Capacity through Additional Hires and New Chambers Organization
- Maintain High Quality BPAI Decisions

The Board of Patent Appeals and Interferences is an administrative board within the USPTO whose two main functions are: (1) to review an examiner's decision where a patent applicant or owner seeks an appeal of a rejection, and (2) to determine "priority" in interference proceedings where two or more individuals claim to be the first inventor. A major challenge facing the BPAI is a backlog of over 10,000 appeals.

A. Develop and Implement Process Efficiency Recommendations

- Optimize BPAI workflow by streamlining the entire process from notice of appeal to mailing of final decision, and producing timely decisions in docketed appeals.
- Increase BPAI capacity through new hires and other strategies.
- Increase BPAI productivity by determining and defining new productivity goals, metrics, and PAPs for Administrative Patent Judges (APJs) and their Patent Attorneys.

B. Streamline the Appeal Process and Reduce Appeal Pendency

- Conduct a process analysis and implement new streamlined procedures for review of briefs filed in both regular appeals and reexamination appeals.
- Post aids on the USPTO Web site to assist applicants in avoiding the common mistakes that result in defective briefs and delays.

C. Review the Board of Patent Appeals and Interferences (BPAI) Rules to Amend, Simplify and Optimize Process

- The regulations governing the appeals process can be further simplified and streamlined so as to provide the BPAI with adequate information to decide *ex parte* appeals, while at the same time not unduly burdening appellants or examiners. The BPAI will engage with PPAC and the public on further recommended changes.

D. Increase BPAI Capacity Through Additional Hires and New Chambers Organization

- Hire additional APJs and Patent Attorneys, with the goal of having each APJ supported by a Patent Attorney in a “chamber”-type organizational structure.

E. Maintain High Quality BPAI Decisions

- Ensure, through hiring criteria and PAPs, that decisions rendered by the BPAI continue to reflect the expert technical and legal skills of the BPAI.

- Provide training to new hires, including both APJs and their Patent Attorneys.

Objective 6: Develop and Implement the Patent End-to-End Processing System

Initiatives to Achieve Strategic Goal I, Objective 6

- Develop and Implement eXtensible Markup Language (XML) for all Data from Application to Publication
- Build Infrastructure for Patents’ End-to-End Processing System
- Redesign and Re-architect Patent IT Systems to Provide End-to-End Electronic Processing

USPTO legacy IT systems are based on obsolete technologies that are difficult to maintain, leaving the USPTO highly vulnerable to disruptions in patent operations. Patent databases are among the world’s largest, and continue to grow at multiple terabytes per year, further raising the possibility of failure. Automation of many manual business functions has been deferred because of the limitations of legacy systems. A new generation of patent IT systems is needed, built upon modern data formats to provide “end-to-end” electronic processing.

A. Develop and Implement eXtensible Markup Language (XML) for all Data from Application to Publication

Develop XML-based electronic filing and processing solutions by identifying the next generation of detailed architecture and requirements, and working with commercial vendors to build appropriate XML templates. To do so, the USPTO must:

- Establish standards for user interfaces.
- Establish standards for international exchange and publication of patent data.
- Gather and implement requirements to enhance the system capabilities and support the needs of internal and external users.

B. Build Infrastructure for Patents' End-to-End Processing System

- Establish a “Cloud” Computing infrastructure in consolidated data centers that will serve “virtual” patent systems.
- Identify a host infrastructure for patents' systems within consolidated “Cloud” data center(s).
- Establish environments to support prototyping, development, testing, production, and back-up of new patent systems.

C. Redesign and Re-Architect Patent IT Systems to provide End-to-End Electronic Processing

Fill gaps in legacy patent IT systems that now require patent employees and external stakeholders to perform labor-intensive, manual business processes. The USPTO plans to:

- Deploy a new graphical user interface that eliminates the need to learn multiple systems and improves the sharing of data among various business functions.
- Provide the patent examiner with improved search tools and docket management systems.
- Improve the current Web site with Web 2.0 assistance technologies.
- Provide the USPTO patent examiner search systems to the public via a Web 2.0 interface.

Strategic Goal II: *Optimize Trademark Quality and Timeliness*

Trademarks have served an important purpose throughout recorded history, as owners of goods and services have historically affixed their names on their products. Trademarks perform a valuable function by identifying the source of products and services and being an indicator of safety and quality to the consumer. In the 21st Century, trademarks represent highly valuable business assets, serving as symbols of a company's goodwill and helping to cement customer loyalty. By registering trademarks, the USPTO plays 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. It can provide access to the Federal court system and, when registered with U.S. Customs and Border Protection, can be used to stop the importation of infringing goods.

For the last four years, the Trademark Organization has met or exceeded its performance targets (ranging above 95 percent accuracy in recent years). The challenge, therefore, is to continue to maintain the timeliness and quality standards that users of the U.S. trademark system have come to expect. In order to achieve this goal, the Trademark Organization will focus on the excellence of all aspects of the office action by creating a new quality standard: "comprehensive excellence". This new standard expands upon the existing first and final action standards for correct decision making. The Trademark Organization continues to seek input from various IP interest groups to determine what they consider to be measures of "excellent quality" in order to further define and enhance quality standards. The Trademark Organization will also evaluate incentives for examining attorneys who meet and/or exceed these new measures.

Maintaining pendency at current levels requires a balance between forecasted new filings and workloads, existing inventories, and examination capacity. This balancing calls for dynamic resource allocation, appropriate staffing, and enhanced management tools.

The new challenges that the Trademark Organization will face as part of this strategic plan are creating a modern, high-performance and cost-effective IT infrastructure that is reliable, flexible, scalable, and secure. This infrastructure will be focused on providing additional services to the internal and external users of Trademark computer-based resources (CBRs). We solicited our stakeholders who have told us about the kinds of services they would like to find on our Web site. These services would enable stakeholders to save time and money during the process of registering and maintaining their trademark rights—time and money that could be better invested to grow the economy.

The Trademark Organization will separate its current IT systems and create a virtual environment to support Trademarks' *Next Generation* CBRs. The transition will require judicious



maintenance of legacy systems and legacy system improvements while migrating to a virtual architecture. Trademarks' *Next Generation* CBRs will address current business requirements while anticipating and designing future ones. The USPTO will prepare an investment plan and assess the costs and benefits of the next generation IT system.

The Trademark Organization has a robust interaction with trade associations and trademark owners, seeking input on Trademarks' *Next Generation* CBRs. Literally hundreds of ideas have been collected from internal and external stakeholders.

The goal to optimize trademark quality and timeliness will be accomplished by focusing on the following objectives:

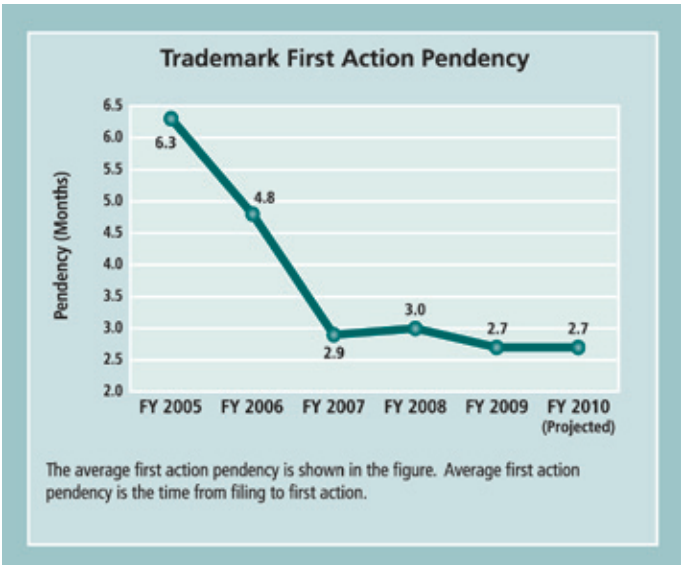
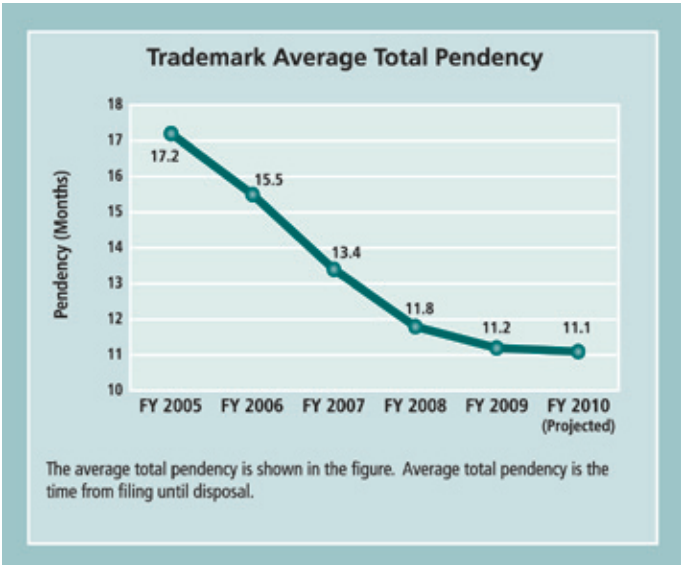
Objective 1: Maintain Trademark First Action Pendency on Average Between 2.5 – 3.5 Months with 13 Months Final Pendency

- Initiatives to Achieve Strategic Goal II, Objective 1**
- Align Examination Capacity with Incoming Workloads

A. Align Examination Capacity with Incoming Workloads

Trademark filings exhibit large variability and reflect the state of the economy and business confidence. Economic uncertainty generates even greater uncertainty in filings and fee collections. To maintain first action pendency at 2.5 to 3.5 months and final pendency at 13 months, the Trademark Organization needs to dynamically align examination capacity with incoming workloads by maintaining appropriate staffing levels, sustaining high productivity, and judiciously adjusting production incentives and overtime usage to boost production when needed.

The 2.5 to 3.5-month first action pendency target was established with the assistance of both internal Trademark employees



and various interest groups and stakeholders. This range allows the Trademark Organization to react to economic uncertainties mentioned previously. Any rise above the 3.5-month level enables Trademarks to boost production with incentives and overtime while a decrease below the 2.5 level provides an opportunity to allocate more resources to non-production activities. Stability is thereby maintained no matter what economic fluctuations may occur.

The 13-month final pendency target will be achieved through increasing incentives for settling matters by phone or electronic mail, improving functionality of existing systems, and streamlining automation processes.

Objective 2: Continuously Monitor and Improve Trademark Quality

Initiatives to Achieve Strategic Goal II, Objective 2

- Enhance Examination Quality by Establishing a New Quality Measure

A. Enhance Examination Quality by Establishing a New Quality Measure

Input from trademark user groups will be incorporated in order to validate standards for measuring comprehensive excellent quality. In the recent past, the Trademark Organization's quality numbers have been outstanding (at or above 95 percent). This figure was initially determined through internal review, but has recently been confirmed by external IP groups that have reviewed and rated individual Office actions of examining attorneys.

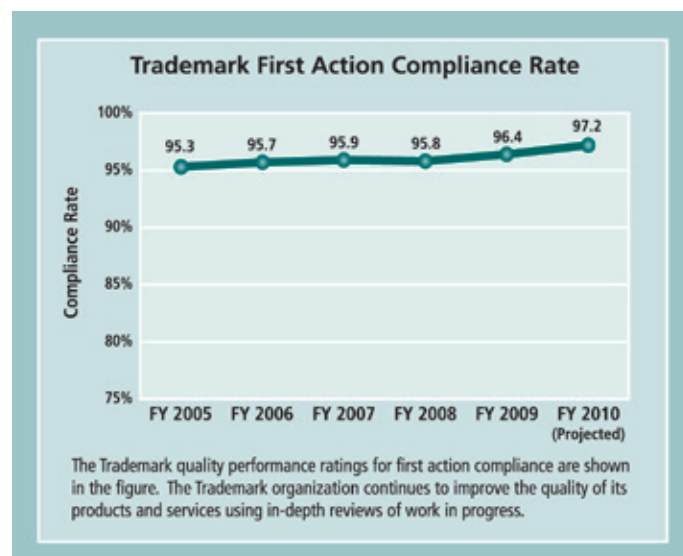
However, the previous quality percentages measured only the correctness of the decision-making of the examining attorneys regarding substantive issues. The new standard to be "established by Trademarks will account for all aspects of the office action including the search, proper use of form paragraph language, clarity and accuracy of writing, and proper handling



Commissioner for Trademarks Lynne Beresford, Combined Federal Campaign (CFC) chair Gwen Stokols, USPTO employees and characters attended the Zumba®-thon and Wellness Charity Fair supporting the CFC.

of procedural and substantive issues. Particular emphasis will be placed on phone and/or informal electronic mail communications with applicants in order to increase understanding and resolve obstacles to approval of their marks.

Incentives in the form of bonuses for examining attorneys who meet or exceed these standards will be implemented and evaluated to determine overall effectiveness. Input from both internal personnel and external stakeholders will be used to make this determination.



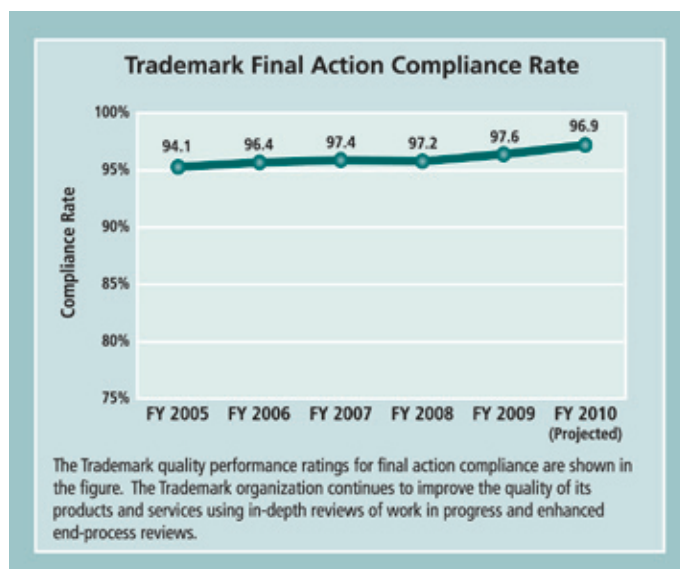
Objective 3: Ensure Accuracy of Identifications of Goods and Services in Trademark Applications and Registrations

Initiatives to Achieve Strategic Goal II, Objective 3

- Determine What Actions, if any, are Needed to Ensure Accuracy of Identified Goods and Services

A. Determine What Actions, if any, are Needed to Ensure Accuracy of Identified Goods and Services

In order to register a trademark with the USPTO, an applicant must prove that he or she has used the mark in interstate commerce within the United States. The applicant may file an application to register the mark on the basis of either (1) current use of the mark in commerce, or (2) a *bona fide* intent to use the mark in commerce in the future. The registration can be cancelled, however, if the applicant obtained the registration fraudulently—that is, by knowingly making a false, material representation with the intent to deceive the USPTO. *In re Bose Corp.*, 580 F.3d 1240 (Fed. Cir. 2009).



The USPTO will work with the applicant community to determine what actions, if any, are needed to ensure that marks being registered or renewed are actually in use on all claimed goods and services at the time a declaration is filed for use-based registrations, and to ensure that there is a *bona fide* intent to use all claimed goods and services at the time a declaration is filed for registrations issued upon an intent to use.

Objective 4: Enhance Operations of Trademark Trial and Appeal Board (TTAB)

Initiatives to Achieve Strategic Goal II, Objective 4

- Maintain TTAB Workload and Pendency Metrics Within Acceptable Limits
- Develop Additional Accelerated Case Resolution (ACR) and Other Streamlining Options for *Inter Partes* Cases
- Improve TTAB Involvement in Parties' Settlement Negotiations
- Maintain Quality of Orders and Opinions
- Develop Law through Issuance of Precedential Decisions

The TTAB is an administrative board within the USPTO which hears and decides adversarial proceedings between parties, namely, oppositions (when a party opposes a mark after publication in the *Official Gazette*) and cancellations (when a party seeks to cancel an existing registration). The TTAB also handles interference and concurrent use proceedings, as well as appeals of final refusals issued by USPTO examining attorneys in the course of application prosecution.

A. Maintain TTAB Workload and Pendency Metrics Within Acceptable Limits

The TTAB will face challenges moving forward, because of expected retirements of Administrative Trademark Judges (ATJs). In facing these challenges, the TTAB will monitor filing levels to maintain appropriate staffing and will work closely with stakeholders to reassess performance goals relating to

pendency. This will include reexamination of the traditional focus on measuring pendency of contested motions and final decisions from the time motions and cases are “ready for decision.” The TTAB will actively engage stakeholders in developing appropriate measures for overall pendency of *ex parte* and *inter partes* cases, from commencement to disposition, and in developing appropriate measures for disposition of contested motions and issuance of final decisions on the merits.

B. Develop Additional Accelerated Case Resolution (ACR) and other Streamlining Options for *Inter Partes* Cases

The TTAB will promote and facilitate the use of ACR and other options for streamlining *inter partes* cases. ACR is a streamlined alternative to traditional discovery and trial, and the TTAB will actively engage stakeholders to continue the development of numerous alternatives that parties will be able to select as more efficient and economical means for trying issues in *inter partes* cases.

C. Improve TTAB Involvement in Parties’ Settlement Negotiations

The TTAB will engage stakeholders to determine how best to utilize TTAB judges and attorneys to facilitate settlement negotiations in *inter partes* cases. While TTAB attorneys now participate in settlement and discovery planning conferences, they do so only on the request of either party to a case. Moving forward, the TTAB will assess the desirability and feasibility of routinely having judges participate in settlement discussions of parties to *inter partes* cases, at various points in proceedings, to aid in negotiated resolution of disputes. TTAB personnel will receive additional training, as necessary, to facilitate their involvement in settlement negotiations.

D. Maintain Quality of Orders and Opinions

Analyze the results of the TTAB’s established peer review program for monitoring and assessing the quality of work done by ATJs to assess the need for any additional training. Continue assessment of the quality of orders by Interlocutory Attorneys on contested motions, first begun in FY 2009, and assess need for any additional training. Conclude a pilot project running from FY 2010 into FY 2011 involving quality review of orders prepared by paralegals, and utilize the results of the pilot to



Commissioner for Trademarks Lynne Beresford and President of the NTEU 245 union Howard Friedman sign the Geographical Pilot Expansion for the Trademark Examiners.

deploy a standardized quality review program for paralegal and customer service team members’ work in FY 2011 or early FY 2012.

E. Develop Law Through Issuance of Precedential Decisions

The TTAB will continue to discuss with stakeholders the substantive and procedural legal issues that require development through the issuance of precedential decisions. The TTAB will complete the revision of the TTAB’s Manual of Procedure (TBMP), to reflect changes in the Trademark Act and Trademark Rules, and the many precedential decisions issued in recent years. The TTAB will also ensure that the revised manual is released and posted on the TTAB’s web page early in FY 2011, in a form that will be easily searched by users and easily updated in the future.

Objective 5: Modernize IT System by Developing and Implementing the Trademark Next Generation IT System

Initiatives to Achieve Strategic Goal II, Objective 5

- Address Trademark Business Needs with a Re-Architected, Virtualized and Service-Driven Solution
- Separate Trademark CBRs from Other USPTO CBRs
- Move to Cloud Computing Based on a Sound Business Case
- Add Functionality to Meet the Needs of Users

A. Address Trademark Business Needs with a Re-Architected, Virtualized and Service-Driven Solution

A new generation of Trademark IT systems will address business needs with a re-architected, virtualized, and service-oriented solution:

- Physically separate Trademark CBRs from other USPTO CBRs.
- Lower IT costs.
- Incorporate collaboration tools.
- Minimize failure points.
- Reduce reliance on contractors and develop institutional knowledge and capacity.
- Increase availability of CBRs.

B. Separate Trademark CBRs from other USPTO CBRs

Develop and implement the next generation Trademark IT system in a multi-year program:

- Separate CBRs and maintain these legacy systems to support on-going operations.
- Virtualize Trademark computer-based resources.
- Comply with Federal mandates aimed at making trademark CBRs capable of running in a Cloud Computing environment.
- Migrate trademark CBRs to a virtual architecture.

C. Move to Cloud Computing Based on a Sound Business Case

- Move to Cloud Computing, which provides scalable, reliable, and flexible features that allow CBR workloads to be spread across multiple servers. Once the Cloud environment is available, the USPTO will start to move its virtualized trademark CBRs to the Cloud.

D. Add Functionality to Meet the Needs of Users

Close interaction with internal and external subject matter experts and user groups will help define current user requirements and anticipate future needs. These business requirements will then be translated into technical requirements which will allow the USPTO to estimate funding needs and assess the cost-benefits of associated investments.

The Trademark Organization continues to automate its processes and encourage electronic filings with user-friendly forms and a novel generic Trademark Electronic Application System (TEAS) form. Electronic filings help guide the applicant and speed up the examination process.

A modern IT infrastructure is a key enabler to build a flexible high performance organization. It helps us attract and retain a talented workforce via our telework program. It also brings us closer to an environmentally-friendly paperless organization.

Objective 6: Develop a New Generation of Trademark Leaders

Initiatives to Achieve Strategic Goal II, Objective 6

- Improve and Provide Effective Training
- Revamp PAPS to Include Leadership Skills Development
- Develop an Effective Human Capital Succession Plan

A. Improve and Provide Effective Training

A LDP is designed for all USPTO managers, and the Trademark Organization will ensure all current and aspiring managers participate in the newly developed program. In addition to the agency-wide LDP, on-site and off-site training will be provided for Trademark managing attorneys, supervisors and senior attorneys. The program will be designed to allow managers and supervisors to hone their skills and enable all employees to reach their full potential. The training will be designed to achieve the following:

- Allow front-line managers and supervisors to effectively manage in a virtual workplace with a diverse, nationwide workforce.
- Provide comprehensive training to all managers on techniques that will help motivate and inspire others and build more effective working relationships with employees and stakeholders.



The Trademark Assistance Center (TAC) received the Trademark Customer Service Award and was recognized by the Under Secretary David Kappos and Commissioner for Trademarks Lynne Beresford for going above and beyond the responsibilities of their jobs in the level of service that they provide to their customers.

B. Revamp PAPS to Include Leadership Skills Development

- Implement a PAP for front-line and senior managers that evaluates them, in part, based on their skills and achievements in managing, leading, mentoring and coaching their employees.

C. Develop an Effective Human Capital Succession Plan

The USPTO's Office of Human Resources (OHR) will develop a Strategic Human Capital Plan (SHCP) that will set forth the USPTO's overarching policies and practices relating to human capital management. One of the key elements of the SHCP is "Leadership and Knowledge Management," whose goal is to preserve and pass down knowledge critical to each business unit. Knowledge management is especially important as senior employees retire from the agency.

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



By law, the USPTO Director serves as policy advisor to the President (via the Secretary of Commerce) on IP matters. Given the demonstrated importance of high-quality IP to innovation and competitiveness, the USPTO is a key component of the administration's strategy to encourage American innovation and global competitiveness.

Historically, the United States has been at the forefront of creating the infrastructure—including public research funding, appropriate laws, and robust capital markets—that generates groundbreaking research, supports the transformation of research into innovation, and then translates innovation into economic growth and jobs. Growing international competition, however, makes continued leadership far from certain.

The administration's *Strategy for American Innovation* white paper, published by the President's National Economic Council in September 2009, demonstrated a strong commitment to retaining U.S. innovation leadership. This white paper noted that the importance of high-quality, timely patents to innovation creates an urgent need for adequate funding of the USPTO. The paper left open, for the USPTO to develop, the specific mechanisms and overall impact that IP plays in fostering innovation.

As the *Strategy for American Innovation* continues to evolve, the USPTO will lead in ensuring that the overall Innovation Strategy encompasses a comprehensive National IP Strategy. This National IP Strategy, in turn, will reflect the growing body of research demonstrating the importance of high-quality IP to innovation.

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

The USPTO must work to raise awareness, both domestically and internationally, of the value of IP and the positive economic, social, and cultural impact it has. The USPTO must promote and support coordinated policies that improve the protection of IP rights afforded by both domestic and international laws and agreements. The USPTO supports the development of U.S. policies that reflect the vital importance of IP rights in ensuring the continued competitiveness of U.S. industry.

The challenges to maintaining effective IP rights include: gathering data on how IP rights function in the marketplace; deepening the dialogue on global IP policy; facilitating technical cooperation with foreign countries; optimizing the interaction of the IP system with other

legal regimes; arriving at agreement on standards for IP protection; and improving IP enforcement.

The USPTO's goal to provide domestic and global IP leadership will be accomplished by focusing on the following two objectives:

Objective 1: Provide Domestic Leadership on IP Policy Issues and Development of a National IP Strategy

Initiatives to Achieve Strategic Goal III, Objective 1

- Provide Policy Formulation in All Fields of IP Protection and Enforcement
- Provide Ongoing Policy Guidance on Key IP Issues
- Provide Domestic Education Outreach, Knowledge Enhancement and Capacity Building
- Engage other U.S. Government Agencies and Congress on Legislation that Improves the IP System

Countries that excel in innovation will be the economic powers of the 21st Century. Our major global competitors have recognized this and have developed national innovation strategies. Many of our competitors have also recognized that, because IP is a key driver of innovation, a sophisticated, well-crafted IP strategy is critical to a National Innovation Strategy. Similarly, the USPTO must develop *A National IP Strategy for the 21st Century* that is a central component of the administration's evolving Strategy for American Innovation.

The *National IP Strategy* will ensure that policy developments and implementation take place in a coordinated manner within a national framework that allows all national stakeholders to work together to create, own, and exploit research results, innovations, new technologies, and works of creativity.

Both within and outside the administration's *Strategy for American Innovation* implementation process, the USPTO must fulfill its mission of advising the President and Executive



Under Secretary David Kappos and Patent Office Professional Association (POPA) President Robert Budens testify before the House of Representatives Oversight Committee on May 5, 2010.

Branch on key IP issues, and must continually review the adequacy of our laws in the face of scientific and technological change.

We must build public awareness, both domestically and internationally, of the link between IP protection, innovation, exports, and economic growth. To provide the empirical basis for building this awareness, the USPTO has established an Office of the Chief Economist. The Chief Economist will investigate and document the interplay of ideas and economic growth to establish a framework for analyzing the growth of an economy increasingly dominated by IP-based products.

Moreover, in conjunction with other federal agencies and the White House Office of the Intellectual Property Enforcement Coordinator, we must also work to increase awareness of the health, safety, and economic impact of counterfeit and pirated goods. Further, we must ensure that enforcement policies, strong interagency coordination, and public education are strengthened to combat this problem.

A. Provide Policy Formulation in all Fields of IP Protection and Enforcement

- Develop a White Paper on "U.S. Innovation and Creativity: A National IP Strategy for the 21st Century."
- Develop the commitment in the administration's "Strategy for American Innovation" to sound IP policy as a driver of innovation by developing a "National IP Strategy."

- Staff the Office of the Chief Economist to formulate data sets for use in developing the U.S. National IP Strategy.
- Promote transparency, to the greatest extent possible, of both data sets formulated by the Chief Economist and other USPTO data sets.
- Develop data showing the contributions of high-quality patents to entrepreneurship, jobs, and economic growth.
- Study economic implications of using fees and other mechanisms to create different tracks for examination of patent applications.
- Improve data on the economic effects of patent backlog.
- Develop novel criteria for assessing both ultimate patent quality and quality of the search and examination process.
- Hold symposia, conferences, and roundtables on the contribution of IP to innovation and economic growth, intersection of patent policy and competition policy, digital copyright, enforcement issues, and humanitarian and social responsibility issues.



The USPTO hosted an examination workshop with examiners from the KIPO. The workshop was an interactive component of the ongoing SHARE pilot program between the USPTO and KIPO that began in September 2009. The objective of the program is to have an open dialogue between both offices to address differences in each other's patent systems and to discuss the effectiveness of the searches completed by each office. (Front Row) Keun Young Park, Khiem Nguyen, Seema Rao; (Back row) Kwang Han, John Cabeca, Tom Thomas and Dab Wei-Yuan.

B. Provide Ongoing Policy Guidance on Key IP Issues

The USPTO will monitor and provide policy guidance in cases before the Supreme Court, the Court of Appeals for the Federal Circuit, other federal courts, BPAI, and TTAB; provide legal and technical support to legislative, regulatory, and judicial initiatives; and ensure domestic implementation of treaty obligations.

C. Provide Domestic Education Outreach, Knowledge Enhancement and Capacity Building

In collaboration with other educational initiatives, the USPTO will provide education outreach via the Global Intellectual Property Academy (GIPA) including: public speaking and seminars; Native American artists and crafts persons outreach within Interior's Indian Arts & Crafts Board; Minority Business Development Agency memorandum of understanding for IP training; and education outreach to U.S. businesses on IP rights, protection, and enforcement abroad.

- Evaluate GIPA-based training as well as other training through use of a professional survey tool.

Further, the USPTO will support government-wide efforts to promote educational initiatives for elementary, middle school, high school, and university students including teacher lesson plans and careers in science, technology, engineering and math fields.

- Provide consolidated management, oversight, and assessment of all USPTO education and outreach programs.

D. Engage U.S. Government Agencies and Congress on Legislation that Improves the IP System

- Provide information and technical assistance to the Congress on agency initiatives and proposed IP legislation, including patent reform legislation and related issues.
- Engage other U.S. Government agencies and stakeholders to discuss pending legislation and other potential legislative proposals consistent with administration views.

Objective 2: Provide Leadership on International Policies for Improving the Protection and Enforcement of IP Rights

Initiatives to Achieve Strategic Goal III, Objective 2

- Lead Efforts at the World Intellectual Property Organization (WIPO) and Other International Fora to Improve IP Protection and Enforcement
- Prioritize Countries of Interest for Purposes of Improved IP Protection and Enforcement, Capacity Building, Legislative Reform, Including Creation of Country/Region Strategic Plans and Specific Action Plans
- Improve Efficiency and Cooperation in Global IP System
- Provide International IP Policy Advice and Expertise to Other U.S. Government Agencies
- Provide Technical Expertise in the Negotiation and Implementation of Bilateral and Multilateral Agreements that Improve IP Rights Protection and Enforcement
- Create USPTO and Attaché Integrated Action Plans that Focus on Country-Specific Needs and Interagency Cooperation

The USPTO will work with the business community and other government agencies to secure improved international protection of IP rights, including use of bilateral relationships to encourage improvements in the laws and policies of other countries as well as in the implementation of effective enforcement regimes. The USPTO will also work to strengthen multilateral arrangements regarding IP rights.

The USPTO will leverage its relationships in international fora to strengthen international IP systems and protection and to create efficiencies in the patent and trademark areas.



Minster for Commerce Mrs. Portiva Nakasai and the Thai delegation visit the USPTO May 6, 2010.

A. Lead Efforts at the World Intellectual Property Organization (WIPO) and Other International Fora to Improve IP Protection and Enforcement

- Participate as a member of the WIPO Committee on Development and IP in implementing the recommendations of the WIPO Development Agenda in a manner that improves and strengthens overall IP protection and enforcement.
- Actively promote improvements in the PCT process articulated in the WIPO PCT Roadmap, including improvements in PCT search quality in the U.S. and other patent offices.
- Reduce redundancy of work projects in Trilateral and IP5, with the ultimate goal of folding Trilateral into IP5.
- Lead in forming international consensus around the U.S. strategy for promoting access to copyrighted works by the visually impaired.

B. Prioritize Countries of Interest for Purposes of Improved IP Protection and Enforcement, Capacity Building, Legislative Reform, Including Creation of Country/Region Strategic Plans and Specific Action Plans

- Prioritized Countries/Regions include: China, Brazil/Latin America, Russia, India, Association of Southeast Asian Nations, Middle East/North Africa, Sub-Saharan Africa.

- Develop a plan identifying strategic IP priorities and issues for each priority country/region.
- For each prioritized country/region, each revision of our action plan should rank order the efficacy, since the prior revision, of mechanisms utilized for improving laws and/or enforcement.
- Use quarterly calls to ensure that IP Attachés in prioritized regions have adequate support.
- Focus resources on prioritized countries, and evaluate efficacy of training through standardized survey instrument.

C. Improve Efficiency and Cooperation in Global IP System

- Engage with international IP offices on bilateral and plurilateral policy activities.
- Provide policy leadership in developing mechanisms for maximizing work sharing by identifying additional countries to engage and sign bilateral PPH agreements.
- Drive development of an internationally harmonized list of trademark identifications and classifications of goods and services by seeking out additional countries to join the Trademark Trilateral Identification of Goods and Services Project.
- Promote Madrid System improvements to streamline processes and increase use of the System for Trademark registrations, including identifying Madrid System inefficiencies and advancing potential solutions through the WIPO Madrid Working Group and bilateral consultations.

D. Provide International IP Policy Advice and Expertise to Other U.S. Government Agencies

- Advise United States Trade Representative (USTR) on Special 301 Activities, Trade-Related Aspects of Intellectual Property Rights Council, World Trade Organizations (WTO) Accessions, and WTO Trade Policy Reviews.
- Advise USTR, Office of Science and Technology Policy, and other agencies on international science and technology agreements.

E. Provide Technical Expertise in the Negotiation and Implementation of Bilateral and Multilateral Agreements that Improve IP Rights Protection and Enforcement

- Compile all partner agreements, memoranda of understanding, work plans and determine whether agreements are viable/functional, and identify gaps (e.g., funding).

F. Create USPTO and Attaché Integrated Action Plans that Focus on Country-Specific Needs and Interagency Cooperation

- Develop training plan, hiring and succession plan and performance metrics for attaché positions.
- Subject to resources, place additional IP attachés in countries (or regions) where the U.S. has a significant economic relationship and/or significant enforcement challenges.

Management Goal: *Achieve Organizational Excellence*

Fulfilling the USPTO's mission will require strong leadership and collaborative management. While the three strategic goals focus on our core mission, our overarching management goal focuses on the shared responsibility that is a prerequisite for achieving success, namely: sound resource management, solid workforce planning, corporate support services, and effective use of IT. These priorities are particularly important as the USPTO grows and modernizes.

The USPTO's management goal to achieve organizational excellence will be accomplished by focusing on the following three objectives:

Objective 1: Improve IT Infrastructure and Tools

Initiatives to Achieve Management Goal, Objective 1

- Establish Cost-Effective, Transparent Operations and Processes
- Improve the User Experience
- Upgrade IT Infrastructure
- Develop and Implement the Next Generation Fee Processing System (FPNG)

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

A. Establish Cost-Effective, Transparent Operations and Processes

- Make USPTO data easily accessible to USPTO customers, partners, industry, and the public.
- Expand access to USPTO data and knowledge through the world wide web.
- Migrate to XML.
- Establish partnerships with customers, industry and other IP Offices.



B. Improve the User Experience

- Simplify user interfaces to USPTO systems, and expand the technologies used to collaborate within and with the USPTO.
- Improve USPTO Web site with Web 2.0 assistance technologies.
- Expand Collaboration Tools.
- Expand e-Learning.

C. Upgrade IT Infrastructure

- Replace the aging IT infrastructure with expandable, reliable, secure technologies.
- Stabilize and consolidate Data Centers.
- Expand the Network.
- Expand Business Continuity and Disaster Recovery capabilities.
- Stabilize Desktops.
- Improve Cyber-security.

D. Develop and Implement the Next Generation Fee Processing System

- Develop the FPNG and interfaces to other USPTO financial management systems in a virtualized environment.
- Develop interfaces between FPNG and other USPTO systems.
- Retire legacy systems.

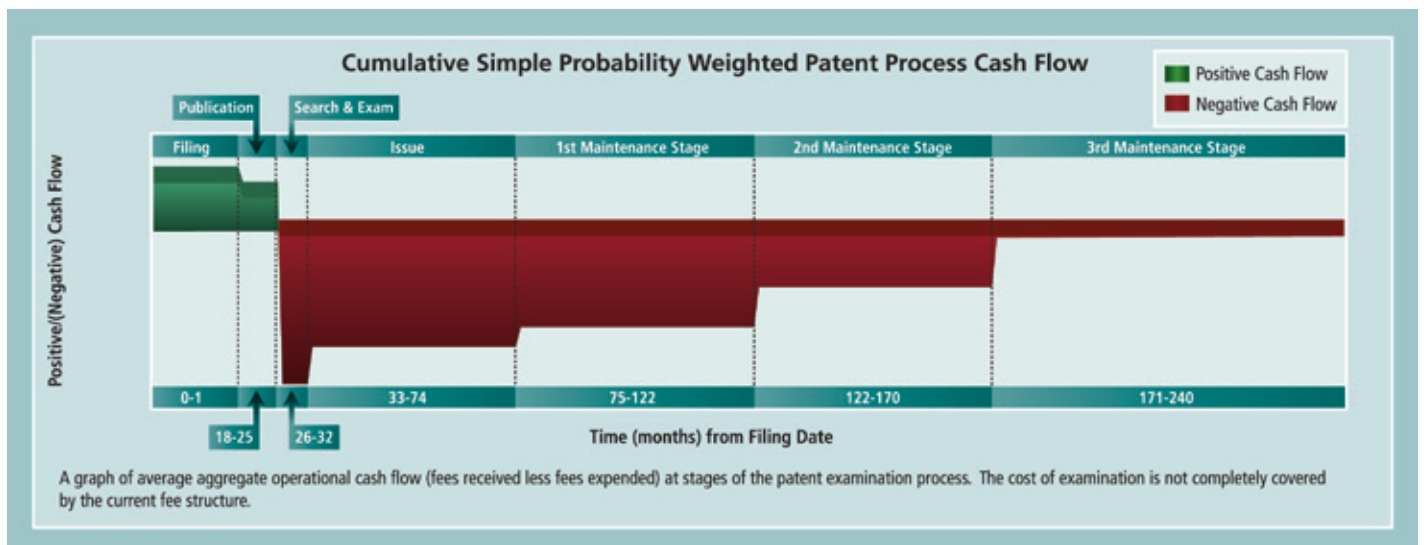
Objective 2: Implement a Sustainable Funding Model for Operations

Initiatives to Achieve Management Goal, Objective 2

- Obtain and Implement Interim Funding Authority
- Obtain and Implement Fee Setting Authority
- Reformulate the Fee Structure
- Obtain and Implement Private Sector Business Tools
- Present Requirements-Based Budgets
- Strengthen Financial and Non-Financial Internal Controls

The USPTO’s strategic goals cannot be achieved without a reliable and sustainable source of funding. To accomplish this multi-year plan, the USPTO must have the authority to set the fees necessary to recover the cost of operations, spend fees collected on requirements-based operations, and adapt and manage its funding requirements as changes occur in internal and external conditions.

The USPTO operating structure is like a business in that it receives requests for services—applications for patents and trademark registrations—and charges fees projected to cover the cost of performing the services it provides. However, the



USPTO does not have as much flexibility to adjust its fees or spending if filings and revenues change unexpectedly.

The USPTO must secure a funding model that facilitates long-term planning and is adaptable to fluctuations. Such planning will sustain operation of our nation’s IP system over an extended period of time. The USPTO will achieve the following financial initiatives as a means to deliver on its pendency, quality, IT, and international strategic priorities.

Each of the USPTO’s six initiatives to achieve a sustainable funding model can be placed into one of three categories:

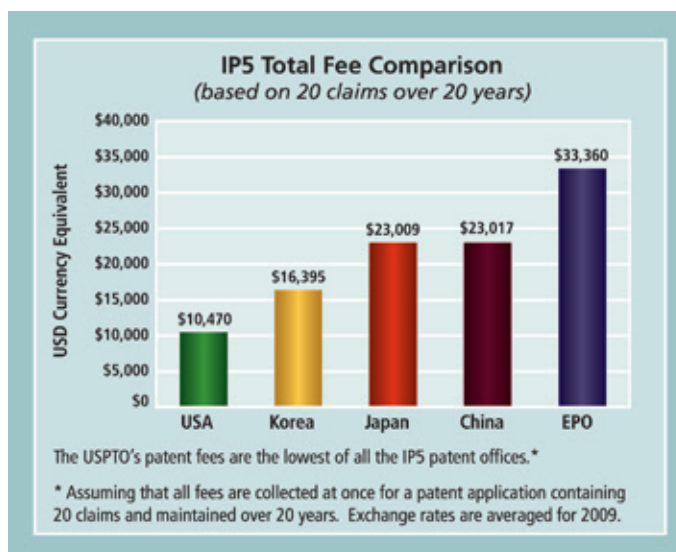
- Authority to spend and manage resources.
- Multi-year planning and management tools.
- Transparency of financial and non-financial operations.

The table below demonstrates that achieving any one of these initiatives does not alone constitute a sustainable funding model. The six initiatives work together.

The necessary initiatives for the USPTO to implement a sustainable funding model for operations are set forth below.

A. Obtain and Implement Interim Funding Authority

The USPTO does not have sufficient resources to reduce the patent application backlog and achieve our stated pendency goals without an increase in funding. We will seek legislative authority to implement an interim increase in patent fees to recover the cost of operations as defined in our requirements-based budget requests. The interim fee increase is a bridge to provide the required resources until the USPTO obtains fee-setting authority and develops a fee structure in cooperation with our stakeholders that will provide sufficient financial resources to support multi-year performance goals and objectives.



B. Obtain and Implement Fee Setting Authority

To operate in a truly businesslike fashion, the USPTO must have the means to ensure a sufficient and predictable year-over-year revenue stream. A temporary interim fee increase will not accomplish that goal. Without fee setting authority, any change to statutory fees requires legislation. This limits the USPTO’s ability to proactively adjust its fees in response to changes in demand for services, processing costs, or other factors. To ensure a sustainable funding model for long-term operations, the USPTO needs authority to set and adjust fees by regulation, so that it can properly establish and align fees in a timely, fair, and consistent manner to recover the actual costs of USPTO operating requirements without the inherent time impediments experienced today.

Sustainable Funding Model Objectives	Authority	Multi-year Tools	Transparency
Obtain and Implement Interim Funding Authority	✓		
Obtain and Implement Fee Setting Authority	✓	✓	
Reformulate the Fee Structure		✓	✓
Obtain and Implement Private Sector Business Tools	✓	✓	
Present Requirements-Based Budgets		✓	✓
Strengthen Financial and Non-Financial Internal Controls			✓

C. Reformulate the Fee Structure

The current patent fee structure sets application filing fees at a rate much lower than the cost to perform application examination activities. Once a patent is allowed or a trademark is registered, an applicant will pay additional fees for issuing and maintaining a patent in force or renewing a trademark registration. These fees are paid later in the life of a patent or trademark by those who are successful in obtaining rights and who wish to maintain those rights.

Fee setting authority and routine evaluation of the fee structure will permit the USPTO to compare the cost of activities with fees to ensure that rates are set at appropriate levels and that the fee structure is achieving a rational result. An optimal fee structure will:

- Align fees with the full aggregate cost to achieve the USPTO's mission.
- Facilitate the effective administration of patent and trademark processes.
- Offer stakeholders application processing options.

We will use historical cost information as a framework for comparing the cost of products and services to current fee rates and prospective, multi-year production and cost estimates to ensure fee rates are set to recover the aggregate estimated cost of USPTO requirements for achieving its strategic priorities. The USPTO will engage stakeholders in discussions to obtain input, and use a variety of communication tools including roundtables, Federal Register notices and speeches, to provide notice to the public, public advisory committees, and Congress for review and comment.

D. Obtain and Implement Private Sector Business Tools

The USPTO will establish and fund an operating reserve that permits adjustment for unexpected revenue changes without putting the agency at operational risk. This will allow the USPTO to undertake long-term strategies for improvement in a financially sensible way.

Specifically, an operating reserve will provide three main benefits. First, it will be used for operational purposes to manage the balance between the timing of fee collections and expenditures. Second, it will be used to manage fee collections as part of a plan to implement multi-year strategies. Third, it

will be used to provide reasonable cash reserves for large, unplanned contingency items such as significant damage to capital assets, legal damages or other contingent liabilities, and precipitous drops in operating funds due to unforeseen circumstances.

To assure proper oversight of an operating reserve, the USPTO would assess the reserve fund's balance annually as a part of preparing a requirements-based budget plan and reevaluating the fee structure. The fund balance would be evaluated against the USPTO's needs, and operating risk plans made for any fee-setting measures or spending plan adjustments required to right-size the balance.

We will continue to investigate other businesslike tools that will improve financial operations and provide benefit to our stakeholders.

E. Present Requirements-Based Budgets

The USPTO recognizes the complexity of its financial and operational model. To improve transparency, we will prepare an annual requirements-based budget that identifies the cost to meet annual performance targets aligned with our strategic goals. The requirements-based budget will outline the cost of day-to-day activities, improvements to those activities, and how resources will be used to meet performance targets for providing quality and timely patent and trademark examination, global, and domestic IP policy leadership, as well as global IP protection and enforcement capacity building.

F. Strengthen Financial and Non-Financial Internal Controls

The USPTO recognizes the importance of safeguarding our financial resources and ensuring external oversight. We will continue to maintain our track record of 17 consecutive unqualified financial statement audit opinions. We will also review and test both financial and non-financial internal controls to ensure the management processes we employ will achieve the intended result and can be relied upon to accurately identify the full cost of providing our products and services. Identifying areas for improvement will allow us to continually strengthen the internal management controls to maximize program efficiency, ensure compliance with statutes and regulations, and prevent fraud, waste, and abuse of stakeholder resources.

Objective 3: Improve Employee and Stakeholder Relations

Initiatives to Achieve Management Goal, Objective 3

- Recruit, Develop, Train, and Retain a Highly-Skilled, Diverse Workforce
- Enhance Current and Future Agency Leadership by Focusing on Leadership Development, Accountability, and Succession Planning
- Optimize Effectiveness of Patents Ombudsman Program
- Enhance the Independent Inventors Program
- Provide Information and Communication Channels for Employees and the Public
- Ensure Transparency of USPTO Information and Materials by Increasing the Availability of Public Information
- Strengthen Relationships with DOC, Office of Management and Budget (OMB), and Congress

A. Recruit, Develop, Train, and Retain a Highly Skilled Diverse Workforce

The USPTO has worked across its business units to develop a multi-year human capital plan aligned with the strategic plan. The SHCP contains the following elements: (1) Talent Management, which includes hiring and retention initiatives; (2) Results-Oriented Performance Culture, which includes awards, task forces and performance initiatives; and (3) Leadership and Knowledge Management, which includes leadership development and succession planning. These categories cover the human capital programs and activities within the over-arching Management Goal of Achieving Organizational Excellence.

In implementing the SHCP, the USPTO will:

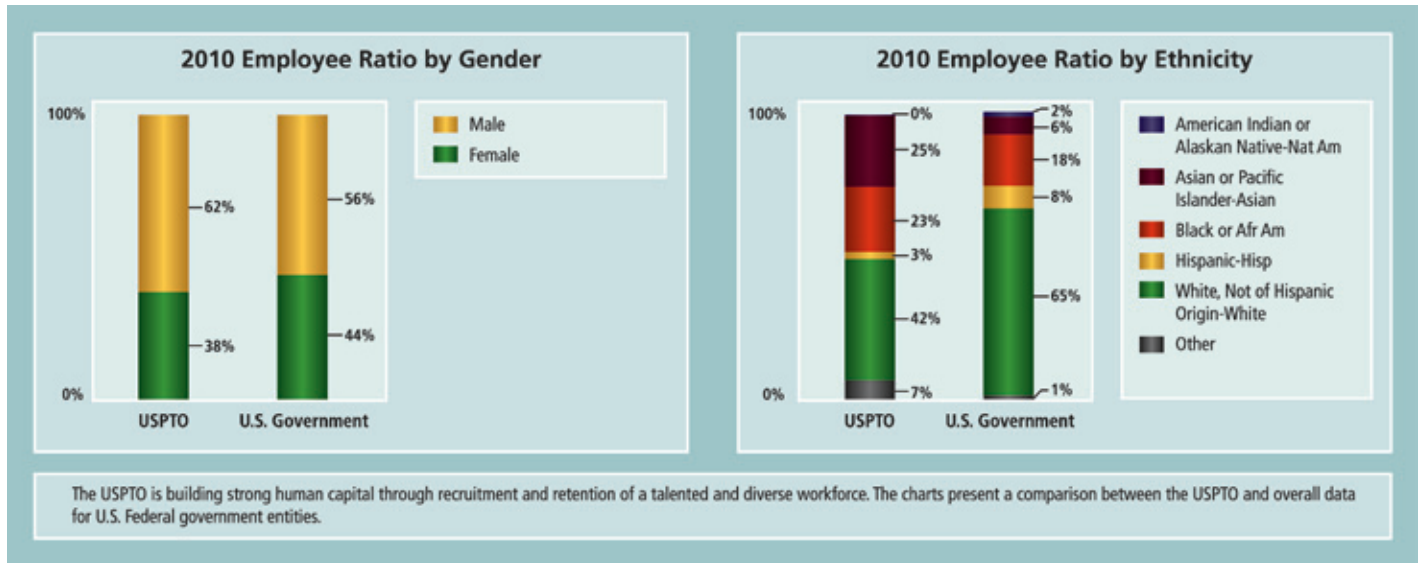
- Identify agency best practices for improving employee retention, for application throughout all business units.
- Use a joint labor and management team to update the patent examiner PAP, improve processes for addressing performance and conduct issues, and align the patent

examiner PAP to organizational goals and ensure strategies at all levels.

- Implement and monitor reform of the examiner count system.
- Use a SPE PAP Award Task Force to revamp the PAP and award program for SPEs. The new SPE PAP will reflect key priorities of the Patents Organization: enhanced examination quality, reduced application pendency, improved stakeholder responsiveness, and increased recognition of key SPE activities in developing their employees while also recognizing the importance of contributions to TC and corps-wide initiatives.
- Develop a USPTO-wide mentoring framework based on best practices derived from existing agency programs.
- Provide technical training to patent examiners by developing a formal Patent Examiner Technical Training Program. The program will provide opportunities for scientists and attorneys to directly convey their knowledge of prior art and industry standards to patent examiners in-house and through “field trips” to research and industrial sites applicable to all of the USPTO’s art units. The program will be a valuable tool in providing patent examiners with training by experts working in the entire range of technologies handled by the Patent Organization. The USPTO will cooperate with stakeholders as a resource for expert lecturers and field trip sites.



Frederick Person assists USPTO employees at the OHR on Wheels event held across the USPTO campus. OHR on Wheels consists of a cross-functional team of OHR specialists that answer employees' questions on human resources-related topics.



- Provide a solid foundation for newly hired Patent Examiners. Using a university-style model, the Patent Training Academy will continue to provide a robust training program for newly hired Patent Examiners. The curriculum (both for IP Experienced and 2-Phase, 12-Month Programs) will provide intensive patent examining training in lecture and laboratory format, as well as “soft-skill” courses. Upon graduation, the Patent Examining Corps will continue to receive new Patent Examiners who are better equipped to attain proficiency quickly and with greater technical competency.

B. Enhance Current and Future Agency Leadership by Focusing on Leadership Development, Accountability, and Succession Planning

The SES Council was established to develop USPTO senior leaders to their maximum potential. Leadership development efforts are most successful when senior leaders set the example for others by engaging in their own development. The SES Council continues to maximize the capabilities, contributions and potential of senior executives by bringing them together to regularly network, discuss agency strategic priorities, collaborate by sharing knowledge and resources across business units, focus on results, recognize others’ performance and contributions and share best practices for helping subordinate leaders lead more effectively.

The LDP is a USPTO program designed to develop leaders who:

- Earn respect through a balance of technical competence and demonstrated organizational effectiveness.
- Optimize performance through employee engagement in achieving agency strategic objectives and priorities.
- Inspire dedication by building trust, developing others, and demonstrating integrity and commitment to the growth of the national and global economy.

The USPTO will invest resources to support and enhance the LDP which is designed to close leadership and management competency gaps. Current managers, supervisors, executives, and employees aspiring to become organizational leaders, can benefit from a variety of learning opportunities. Opportunities include online and classroom training, 180-degree and 360-degree leadership assessments and targeted LDPs. The LDP includes a Leadership in Action Program which highlights best practices and allows employees to recognize supervisors and managers who model superior leadership skills.

C. Optimize Effectiveness of Patents Ombudsman Program

The Patents Ombudsman program is intended to provide patent applicants, attorneys, and agents assistance with application-specific issues including concerns related to prosecution advancement.

The program is running across all of our TCs, using Ombudsman representatives who are SPEs and Quality Assurance Specialists prepared to field questions and concerns from the public and work with the appropriate USPTO employees to facilitate responses. Ombudsman representatives help to ensure that applicants' issues are addressed quickly—usually within five business days. The Ombudsman representative will also ensure confidentiality when requested by the applicant or applicant's representative.

D. Enhance the Independent Inventors Program

The patent and trademark process can be complicated for independent inventors, and small and medium entities. As part of the USPTO's stakeholder outreach, we have numerous assistance programs. We will continue to provide resources for this important group of inventors including:

- ***Inventors Eye Newsletter***, the USPTO's electronic, bimonthly publication for the independent inventor community. <http://www.uspto.gov/inventorseye/index.htm>.
- **Independent Inventors Roundtables**, held periodically to address current issues of concern to the independent and small entity inventor community.
- **Training and Education** will be provided by the USPTO to facilitate the dissemination of training materials and best practices in collaboration with our stakeholders, and includes:
 - Creating and posting computer training modules on the USPTO Web site.
 - Hosting educational conferences where inventors can learn about the importance of IP protection.
 - Webcasting presentations to university business and entrepreneurship classes.
 - Creating training and educational programs concerning international filings.
- **Pro bono IP Legal Services** provided by nonprofit organizations and law schools/universities will be explored as a means for providing independent inventors with help applying for patents and trademarks.



Under Secretary David Kappos and Deputy Under Secretary Sharon Barner led a roundtable on BPAI ex parte rules at the USPTO's Alexandria, VA headquarters.

- **Pilot Program to Accelerate the Patent Process for Small Entity Inventors**, which allows applicants having multiple applications currently pending before the USPTO to have greater control over the priority with which their applications are examined while also stimulating a reduction of the backlog of unexamined patent applications. The pilot began as a program for small entities, and was recently expanded to all patent filers.

E. Provide Information and Communication Channels for Employees and the Public

The USPTO Web site is the official source for Office news and information. The Web site serves as the public's single point of access for a host of useful information, including emergency notices, DOC and USPTO press releases, testimony and speeches, Federal Register notices, upcoming training and events, and independent inventor programs. Visit the USPTO Web site at: www.uspto.gov.

In addition to the USPTO Web site, the USPTO offers a variety of mechanisms for stakeholders to submit feedback on USPTO programs, including:

- **Feedback Channels** that allow the public to comment on USPTO initiatives and activities. Information on USPTO programs will be posted for feedback on a regular basis.

- **USPTO Director's Forum Blog** that allows the public to provide comments on agency initiatives via the Director's Forum blog (www.uspto.gov/blog).
- **Roundtables** where the USPTO actively solicits and gathers opinions and suggestions from the public. For major roundtables, we establish a "feedback loop" that includes communication with stakeholders, posting summaries of comments, and providing summaries of resulting actions. Past Roundtables have addressed:
 - International Work Sharing and the PCT.
 - BPAI Rules of Practice and Procedure.
 - Patent Quality.
 - Bose Fraud on the Trademark Office.
 - Joint workshop with Department of Justice and the Federal Trade Commission on the Intersection of Patent Policy and Competition Policy.
 - Joint workshop with National Telecommunications and Information Administration on Digital Copyright.
 - Three-track proposal.
- **Facebook**, which will be used to engage the public and the IP community directly and provide real-time information. The USPTO's page on Facebook will offer regular updates from the Agency on a range of issues, and give Facebook users the chance to comment on, discuss, and offer feedback to the USPTO on our announcements and initiatives. The page can be found at www.facebook.com/uspto.gov.
- **Labor Management Council**, which will continue to allow USPTO management to work with the unions to promote the exchange of ideas and collaborative problem solving.

F. Ensure Transparency of USPTO Information and Materials by Increasing the Availability of Public Information

The USPTO is committed to providing increased transparency as called for by the President's Open Government Initiative. An important element of this transparency initiative is making valuable public patent and trademark information widely available in bulk form so companies and researchers can download it for analysis and research.

The USPTO has entered into a no-cost, two-year agreement with Google to make bulk electronic patent and trademark public data available to the public in bulk form. Under this agreement, the USPTO is providing Google with existing bulk electronic files, which Google will host without modification for the public free of charge. This bulk data can be accessed at <http://www.google.com/googlebooks/uspto.html>.

This arrangement is to serve as a bridge while the USPTO develops an acquisition strategy toward a contract to distribute USPTO patent and trademark bulk public data to the public. The USPTO estimates that nearly ten terabytes of information will be made available through the above-described arrangement. Examples of the types of data that will be made available include:

- Patent grants and published applications.
- Trademark applications.
- TTAB proceedings, files, and decisions.
- BPAI decisions.
- Patent classification information.
- Patent maintenance fee events.
- Patent and Trademark assignment data.
- Petition decisions.



The United States Marine Drum & Bugle Corps performs the National Anthem at the 2010 USPTO Community Day event held at the agency's Alexandria, VA campus.

The USPTO also regularly updates its Web site to include monthly activities conducted by the agency, recent press coverage, speeches provided by USPTO officials, and many other noteworthy items including on-line “dashboards” that will provide pendency metrics.

G. Strengthen Relationships with DOC, Office of Management and Budget (OMB), and Congress

To help achieve its goals and objectives, the USPTO must coordinate and maintain a close and robust relationship with DOC, OMB, and Congress. The USPTO will continue to engage these stakeholders by:

- Providing technical assistance on proposed legislation, education on issues related to obtaining and enforcing IP rights, and clear messages on the USPTO’s strategic priorities and their effect on the U.S. economy.
- Proactively briefing and providing timely input and coordination on budget, policy, and operational issues.
- Inviting participation at roundtables and other relevant stakeholder-oriented events.

Accompanying Information



Strategic Planning Process



The USPTO launched a bottom-up, collaborative process to formulate this new plan, which consisted of:

Input from Interested Parties

- USPTO Employees.
- Patent Office Professional Association.
- National Treasury Employees Union.
- Director's blog.
- USPTO Weekly (employee newsletter).
- Patent and Trademark Office Society.
- PPAC and Trademark Public Advisory Committee (TPAC) meetings.
- Outreach to external stakeholders.

Strategy Development

- Executives validated and updated the USPTO goals that drove the strategic planning process.
- USPTO Deputy Director Sharon Barner personally met with the Heads of the Business Units, as well as each of the TC Directors, to discuss objectives the USPTO should achieve over the next five years and to develop metrics to evaluate progress in meeting these goals.
- Business heads identified high-level strategies/means, objectives, and performance measures for accomplishing the goals.
- Supporting plans were developed to complement the strategic plan, such as the SHCP.

Budget and Performance Integration

- The *USPTO 2010-2015 Strategic Plan* and FY 2011 budget are in alignment.
- Performance accountability cascades from the strategic plan to the yearly performance agreements between the Secretary of Commerce and the Commissioners for Patents and Trademarks, respectively, to senior executives, office directors, managers and supervisors.
- The attached Balanced Scorecard aligns the DOC themes, USPTO goals and objectives with the associated performance measures linked to action plans that will provide meaningful information on the status and performance of every objective in this plan.

Evaluations

USPTO Executives reviewed recently issued reports and evaluations and took these findings and suggestions into consideration as they formulated the strategic goals, objectives, and initiatives that comprise this plan.



Deputy Under Secretary Sharon Barner and Deputy Commissioner for Patents Margaret A. Focarino meet with USPTO employees at the international tea presentation. The program launched the executive advisors program, which partners agency affinity groups with an executive level advisor.

Future Evaluations

Consistent and timely program evaluation is critical to making informed decisions based on analysis of how the USPTO is carrying out its activities to examine patent and trademark applications, to guide international IP policy, and to deliver IP information.

To ensure that the USPTO successfully implements changes to patent laws and rules, makes changes to internal processes that provide benefits and increased efficiency, and makes sound investment decisions, initiatives documented in this plan may be tested on a pilot basis and subjected to evaluation. Evaluation plans will incorporate, where appropriate, measurable objectives, critical measures of success, baseline data, and conditions for full implementation.

Consultation Process

- A draft *2010-2015 Strategic Plan* was posted on the USPTO Web site on July 9, 2010 and comments were solicited from both employees and stakeholders. A dedicated email address was created for the purpose of obtaining comments (strategicplan@uspto.gov).
- USPTO Deputy Director Sharon Barner conducted three employee sessions on July 20-22 to present the draft strategic plan and to solicit employee feedback.
- Individual letters encouraging review of the draft plan and feedback were sent to various key stakeholder groups.
- A draft strategic plan was sent to TPAC and PPAC for comment.
- The proposed strategic plan was shared with DOC, OMB and Congress.

Communications

In conjunction with the development of this strategic plan, the USPTO is committed to making strategic thinking and execution of the strategic plan an express responsibility of USPTO executives, with monitoring implementation of the plan, and keeping employees, stakeholders, and the public informed of progress, one of their express tasks.

United States Patent and Trademark Office BALANCED SCORECARD				
Theme	Goals	Objectives/Initiatives	Performance Measures	Work Plan Linkages
ECONOMIC GROWTH Advance economic prosperity founded on cutting-edge science and technology, a competitive business environment, and unsurpassed information availability	GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS Determine and implement the efficiencies, tools and policies necessary to reduce patent pendency for first action and for final action from current levels of 26.8 and 37.3 months respectively and increase quality of issued patents critical to protecting innovation, fostering U.S. competitiveness, and driving the development of new businesses	1. Re-engineer Patent Process to increase efficiencies and strengthen effectiveness		
		A. Re-engineer the patent examiner production (count) system	<ul style="list-style-type: none"> ● Decrease in actions per disposal ● Decrease in backlog ● Decrease first action patent pendency ● Decrease total patent pendency ● Decrease in RCEs 	Examiner Count Task Force
		B. Prioritize work: Green Technology Acceleration, Project Exchange, multi-track customized examination	<ul style="list-style-type: none"> ● Number of petitions filed ● Number of days to decision ● Pendency of applications in the programs ● Number of applications in program 	Project Greentech Project Exchange
		C. Institutionalize compact prosecution initiatives	<ul style="list-style-type: none"> ● Increase in quality metrics performance ● Decrease in actions per disposal ● Number of first action allowance ● Decrease in second non-final actions ● Decrease in RCEs ● Increase in interview time 	Compact Prosecution First Action Interview
		D. Re-engineer the Patent Classification System	<ul style="list-style-type: none"> ● Number of class/subclasses updated 	Classification Plan
		E. Re-engineer the Manual of Patent Examining Procedure (MPEP)	<ul style="list-style-type: none"> ● Reduction of time to update MPEP 	MPEP Plan
		F. Re-engineer the Patent Examination Process	<ul style="list-style-type: none"> ● Decrease in actions per disposal ● Reduction in processing time for major process segments (e.g., pre-exam, clerical processing time, printer rush) 	Reengineering Plan
ECONOMIC GROWTH	GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS	2. Increase patent application examination capacity		
		A. Hire approximately 1,000 examiners in both FY 2011 and FY 2012	<ul style="list-style-type: none"> ● Number of examiners hired 	Patents Human Capital Plan
		B. Use a hiring model that focuses on experienced IP professionals	<ul style="list-style-type: none"> ● Number of experienced IP hires ● Production level of experienced IP hires ● Training results ● Quality of Office Actions ● Reduced attrition rate 	OHR Work Plan IP Experienced Training Task Force
		C. Target overtime to high backlog technology areas	<ul style="list-style-type: none"> ● Overtime (OT) hours in high backlog areas ● OT usage in all TCs 	OT Work Plan
		D. Develop and implement a nationwide workforce	<ul style="list-style-type: none"> ● Number of experienced hires ● Attrition rate at the nationwide workforce (NWF) location ● Production level at the NWF location ● Cost comparison between NWF location and headquarters 	Nationwide Training Task Force and Plan

(continued)

United States Patent and Trademark Office BALANCED SCORECARD <i>(continued)</i>				
Theme	Goals	Objectives/Initiatives	Performance Measures	Work Plan Linkages
ECONOMIC GROWTH	GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS	2. Increase patent application examination capacity <i>(continued)</i>		
		E. Reduce attrition by developing mentoring, best practices and retention strategies	<ul style="list-style-type: none"> ● Reduced attrition rate ● Number of employees achieving less than fully successful rating 	High Performance Team
		F. Contract for Patent Cooperation Treaty (PCT) searching	<ul style="list-style-type: none"> ● Overall quality and timeliness of mailing of international search report and written opinion within 16 months from priority 	PCT Contracting
ECONOMIC GROWTH	GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS	3. Improve patent pendency and quality by increasing international cooperation and work sharing		
		A. Make more effective use of the PCT	<ul style="list-style-type: none"> ● Quality and timeliness of ISR ● Quality and timeliness of WO 	PCT Work Plan
		B. Increase use of the Patent Prosecution Highway (PPH)	<ul style="list-style-type: none"> ● Number PPH Petitions ● Number PPH patents issued ● Additional Country Participants in PPH ● Actions per disposal in PPH cases ● Allowable rate in PPH compared to general allowance rate 	PPH Work Plan and Presentations
		C. Explore Strategic Handling of Applications for Rapid Examination (SHARE)	<ul style="list-style-type: none"> ● Number of SHARE Petitions ● Actions per disposal 	SHARE Work Plan
		D. Work with Trilateral Offices and IP5 to create new efficiencies	<ul style="list-style-type: none"> ● Progress of IP5 Foundation Projects ● Compatible infrastructure and data for electronic business systems 	Trilateral Work Plan IP5 Work Plan
ECONOMIC GROWTH	GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS	4. Measure and improve patent quality		
		A. Initiate 21st Century analysis, measurement and tracking of patent quality	Current Metrics:* <ul style="list-style-type: none"> ● Allowance/Final Compliance Rate ● Non-final In-Process Compliance Rate <i>*Quality roundtables in order to establish new metrics</i>	Patent Quality Metrics
		B. Improve and provide more effective training	<ul style="list-style-type: none"> ● Number of training courses given 	Patents Human Capital Plan
		C. Reformulate performance appraisal plans (PAPs)	<ul style="list-style-type: none"> ● Percent of work units achieving PAP quality targets 	Patents Human Capital Plan
		D. Implement and monitor revisions to patent examiner production (count) system	<ul style="list-style-type: none"> ● Decrease in actions per disposal ● Attrition rate ● Increase in quality metrics performance ● Balanced disposals/examiner ● Decrease in RCEs 	Examiner Count Plan

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United States Patent and Trademark Office BALANCED SCORECARD (continued)				
Theme	Goals	Objectives/Initiatives	Performance Measures	Work Plan Linkages
ECONOMIC GROWTH	GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS	5. Improve appeal and post-grant processes		
		A. Develop and implement process efficiency recommendations	<ul style="list-style-type: none"> ● Reduced number of non-compliant briefs ● Reduced number of remands/returns ● Appeal pendency from notice of appeal to final decision 	BPAI Plan
		B. Streamline the appeal process and reduce appeal pendency	<ul style="list-style-type: none"> ● Appeal pendency from notice of appeal to final decision 	BPAI Plan
		C. Review the Board of Patent Appeals and Interferences (BPAI) rules to amend, simplify and optimize process	<ul style="list-style-type: none"> ● Appeal pendency from notice of appeal to docketing 	BPAI Rules Taskforce
		D. Increase BPAI capacity through additional hires and new chambers organization	<ul style="list-style-type: none"> ● Number of decisions per APJ ● Appeal pendency from docketing to decision 	BPAI Plan
		E. Maintain high quality BPAI decisions	<ul style="list-style-type: none"> ● APJ quality rating (PAP) 	BPAI Plan
ECONOMIC GROWTH	GOAL I: OPTIMIZE PATENT QUALITY AND TIMELINESS	6. Develop and implement the Patent end-to-end processing system		
		A. Develop and implement eXtensible markup language (XML) for all data from application to publication	<ul style="list-style-type: none"> ● Establish standards for user interface ● Gather and Implement requirements 	Patents End-to-End
		B. Build infrastructure for Patents' end-to-end processing system	<ul style="list-style-type: none"> ● Establish a Cloud Computing infrastructure 	Patents End-to-End
		C. Redesign and re-architect Patent IT systems to provide end-to-end electronic processing	<ul style="list-style-type: none"> ● Deploy a new graphical user interface ● Provide search system to public via Web 2.0 interface 	Patents End-to-End
ECONOMIC GROWTH	GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS Determine and implement the efficiencies, tools and policies necessary to sustain first action and total pendency and increase quality of issued trademarks	1. Maintain Trademark first action pendency on average between 2.5-3.5 months with 13 months final pendency		
		A. Align examination capacity with incoming workloads	<ul style="list-style-type: none"> ● Trademark average first action pendency ● Trademark average total pendency 	Trademark Pendency Plan

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United States Patent and Trademark Office BALANCED SCORECARD (continued)				
Theme	Goals	Objectives/Initiatives	Performance Measures	Work Plan Linkages
ECONOMIC GROWTH	GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS	2. Continuously monitor and improve Trademark quality		
		A. Enhance examination quality by establishing a new quality measure	<ul style="list-style-type: none"> ● Trademark current first action compliance rate ● Trademark allowance/final compliance rate ● Excellent office action ● Quality review from bar association and other group templates 	Trademark Quality Plan
ECONOMIC GROWTH	GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS	3. Ensure accuracy of identifications of goods and services in trademark applications and registrations		
		A. Determine what actions, if any, are needed to ensure accuracy of identified goods and services	<ul style="list-style-type: none"> ● Conduct outreach and roundtables to determine how the <i>Bose</i> decision affects identifications (ID) practice ● Monitor identifications of goods and services to determine impact on ID practice ● With the concurrence of the TPAC, run a pilot in Post Registration to measure accuracy of ID's 	<i>Bose</i> Roundtable
ECONOMIC GROWTH	GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS	4. Enhance operations of Trademark Trial and Appeal Board (TTAB)		
		A. Maintain TTAB workload and pendency metrics within acceptable limits	<ul style="list-style-type: none"> ● Average time to issue decisions on contested motions from ready for decision date ● Average time to issuance of final decisions from ready for decision date ● Conduct outreach or roundtables to assess utility of these existing measures and possible use of additional measures 	TTAB Plan
		B. Develop additional accelerated case resolution (ACR) and other streamlining options for <i>inter partes</i> cases	<ul style="list-style-type: none"> ● Review and assess ACR options suggested by stakeholders in response to TPAC call for comments ● Conduct outreach to gather additional options ● Review and post on TTAB web page most promising options for realizing efficiencies and savings 	TTAB Plan
		C. Improve TTAB involvement in parties' settlement negotiations	<ul style="list-style-type: none"> ● Conduct outreach or roundtables to develop best methods for involving TTAB Administrative Trademark Judges in settlement negotiations for inter partes cases 	TTAB Plan
		D. Maintain quality of orders and opinions	<ul style="list-style-type: none"> ● Analyze results from established quality review procedures for ATJs and Interlocutory Attorneys ● Assess results of quality review pilot project for paralegals and develop collection of standard operating procedures 	TTAB Plan

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United States Patent and Trademark Office BALANCED SCORECARD <i>(continued)</i>				
Theme	Goals	Objectives/Initiatives	Performance Measures	Work Plan Linkages
ECONOMIC GROWTH	GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS	4. Enhance operations of Trademark Trial and Appeal Board (TTAB) <i>(continued)</i>		
		E. Develop law through issuance of precedential decisions	<ul style="list-style-type: none"> ● Complete revision of TBMP; issue timely and helpful precedential decisions ● Revise TBMP on regular basis, as needed 	TTAB Plan
ECONOMIC GROWTH	GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS	5. Modernize IT system by developing and implementing the Trademark Next Generation IT system		
		A. Address Trademark business needs with a re-architected, virtualized and service-driven solution	<ul style="list-style-type: none"> ● Lower IT costs ● Reduced failure points ● Increased CBRs ● Reduced reliance on contractors 	Trademarks Next Gen
		B. Separate Trademark CBRs from other USPTO CBRs	<ul style="list-style-type: none"> ● Making CBRs capable of running on a Cloud Computing environment 	Trademarks Next Gen
		C. Move to Cloud Computing based on a sound business case	<ul style="list-style-type: none"> ● Migrate trademark CBR to Cloud 	Trademarks Next Gen
		D. Add functionality to meet the needs of users	<ul style="list-style-type: none"> ● Electronic filings 	Trademarks Next Gen
ECONOMIC GROWTH	GOAL II: OPTIMIZE TRADEMARK QUALITY AND TIMELINESS	6. Develop a new generation of Trademark Leaders		
		A. Improve and provide effective training	<ul style="list-style-type: none"> ● Number of training courses given 	Trademark Human Capital Plan
		B. Revamp PAPs to include leadership skill development	<ul style="list-style-type: none"> ● New PAP 	Trademark Human Capital Plan
		C. Develop an effective human capital succession plan	<ul style="list-style-type: none"> ● New succession plan 	Trademark Human Capital Plan

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United States Patent and Trademark Office BALANCED SCORECARD <i>(continued)</i>				
Theme	Goals	Objectives/Initiatives	Performance Measures	Work Plan Linkages
ECONOMIC GROWTH	GOAL III: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE Ensure that IP laws in the United States continually adapt to new technological advances, that foreign IP offices similarly adapt and improve their IP systems, and that the IP rights of U.S. businesses are protected at home and abroad	1. Provide domestic leadership on IP policy issues and development of a national IP strategy		
		A. Provide policy formulation in all fields of IP protection and enforcement	<ul style="list-style-type: none"> ● White paper on U.S. Innovation ● National IP Strategy is central component of Administration's "Strategy for American Innovation" ● Define "intellectual property intensive" studies ● White paper on patent and standards issues ● White paper on digital copyright issues 	Economist Action Plan
		B. Provide ongoing policy guidance on key IP issues	<ul style="list-style-type: none"> ● Amicus participation in IP cases ● Consultations on BPAI and TTAB decisions prior to issuance 	Copyright Courts Action Plan Patent Law Treaty (PLT) Hague Action Plan Patent Reform Action Plan
		C. Provide domestic education outreach, knowledge enhancement and capacity building	<ul style="list-style-type: none"> ● Number of events conducted ● Number of web-based seminars created ● Number of STOP Hotline support calls and STOPFakes.gov materials ● Survey tools for GIPA-based training ● Number of country toolkits 	Public Awareness Action Plan GIPA Action Plan Template for Country toolkits
		D. Engage other U.S. Government agencies and Congress on legislation that improves the IP system	<ul style="list-style-type: none"> ● Number of issues on which IP guidance was provided to other agencies or to Congress ● Alteration of language or amendment of legislation 	Governmental Affairs Action Plan

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United States Patent and Trademark Office BALANCED SCORECARD <i>(continued)</i>				
Theme	Goals	Objectives/Initiatives	Performance Measures	Work Plan Linkages
ECONOMIC GROWTH	GOAL III: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE	2. Provide leadership on international policies for improving the protection and enforcement of IP rights		
		A. Lead efforts at the World Intellectual Property Organization (WIPO) and other international fora to improve IP protection and enforcement	<ul style="list-style-type: none"> ● Adopt PCT third party observation system ● Run collaborative search and examination pilot ● Adopt Common Citation Document and Common Application format ● Ensure that U.S. PCT searches capture all relevant prior art references ● Accelerate certain IP5 Foundation Projects ● Joint Resolution at WIPO Standing Committee on Copyright and Related Rights (SCCR) on access to copyrighted works by the visually impaired 	WIPO Action Plan IP & Development Action Plan WIPO SCCR Action Plan Organisation for Economic Co-operation and Development (OECD) Action Plan United Nations Educational, Scientific and Cultural Organisation (UNESCO) Action Plan WTO Action Plan Geographical Indications (GI) Action Plan Compulsory Licensing Action Plan

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United States Patent and Trademark Office BALANCED SCORECARD (continued)				
Theme	Goals	Objectives/Initiatives	Performance Measures	Work Plan Linkages
ECONOMIC GROWTH	GOAL III: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE	2. Provide leadership on international policies for improving the protection and enforcement of IP rights (continued)		
		B. Prioritize countries of interest for purposes of improved IP protection and enforcement, capacity building, legislative reform including creation of country/region strategic plans and specific action plans	<ul style="list-style-type: none"> ● Develop country-specific action plans to monitor each country's progress along following dimensions: <ol style="list-style-type: none"> 1. Institutional improvements of IP office administration for advancing IP rights 2. Institutional improvements of IP enforcement entities 3. Improvements in IP laws and regulations 4. Establishment of government-to-government cooperative mechanisms 	Brazil/Latin America Action Plan China Action Plan India Action Plan Russia Action Plan ASEAN Action Plan Middle East/North Africa Action Plan
		C. Improve efficiency and cooperation in global IP system	<ul style="list-style-type: none"> ● MOU agreements that further work sharing efforts ● Additional countries in bilateral PPH agreements ● Additional countries joined Trademark Trilateral Identification of Goods and Services Project ● Identify Madrid System inefficiencies and advance potential solutions through the WIPO Madrid Working Group and bilateral consultations 	TM Harmonization Action Plan Patent Harmonization Action Plan IP5 Action Plan PPH Action Plan
		D. Provide international IP policy advice and expertise to other U.S. Government agencies	<ul style="list-style-type: none"> ● Input on Special 301 Reviews ● Input on Trade Policy Reviews ● Consultations on WTO accessions ● Number of Science and Technology Agreements reviewed 	Trade Team Action Plan WTO Action Plan
		E. Provide technical expertise in the negotiation and implementation of bilateral and multilateral agreements that improve IP rights protection and enforcement	<ul style="list-style-type: none"> ● Progress of Anti-Counterfeiting Trade Agreement (ACTA) negotiation 	Enforcement Action Plan

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United States Patent and Trademark Office BALANCED SCORECARD (continued)				
Theme	Goals	Objectives/Initiatives	Performance Measures	Work Plan Linkages
ECONOMIC GROWTH	GOAL III: PROVIDE DOMESTIC AND GLOBAL LEADERSHIP TO IMPROVE INTELLECTUAL PROPERTY POLICY, PROTECTION AND ENFORCEMENT WORLDWIDE	2. Provide leadership on international policies for improving the protection and enforcement of IP rights (continued)		
		F. Create USPTO and Attaché integrated action plans that focus on country-specific needs and interagency cooperation	<ul style="list-style-type: none"> ● Integrated work plans for each country ● USPTO selection, succession, training and support of IP attaché ● Quality and thoroughness of integrated IP agenda and work plan for each country ● Number of laws reviewed for each country/region ● Number of Officials trained from each country/region ● Number of capacity building programs carried out in each country/region 	IP Attaché Program Action Plan Country-specific Action Plans
WORKFORCE EXCELLENCE	MANAGEMENT GOAL: ACHIEVE ORGANIZATIONAL EXCELLENCE Ensure sound resource management, solid workforce planning, corporate services, and effective use of information technology	1. Improve IT infrastructure and tools		
		A. Establish cost-effective, transparent operations and processes	<ul style="list-style-type: none"> ● Text-searchable file histories ● Migrate data to XML ● Establish internal mechanisms for tracking and reporting earned value measurement (combines measurements of scope, schedule, and cost for objective project performance measurement for agile development projects) 	Patents End-to-End Trademarks Next Gen
		B. Improve the user experience	<ul style="list-style-type: none"> ● Provide examiners with 2 of the 4 Gbps improvements in bandwidth expansion to improve internal and nationwide support ● Complete 80% deployment of a unified laptop solution leveraging improved processors, increased Random-Access Memory (RAM) and Windows 7/Office 2010 	Patents End-to-End Trademarks Next Gen
		C. Upgrade IT infrastructure	<ul style="list-style-type: none"> ● 10% of modernization completed by Q1 FY 2013 ● 25% of modernization completed by Q2 FY 2013 ● 50% of modernization completed by Q3 FY 2013 ● 100% of modernization completed by Q4 FY 2013 	Patents End-to-End Trademarks Next Gen
		D. Develop and implement the next generation fee processing system (FPNG)	<ul style="list-style-type: none"> ● Develop and implement a plan that will support the long term goals and objectives of Patents end-to-end and Trademarks Next Gen 	Fee Processing Next Gen

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United States Patent and Trademark Office BALANCED SCORECARD (continued)				
Theme	Goals	Objectives/Initiatives	Performance Measures	Work Plan Linkages
WORKFORCE EXCELLENCE	MANAGEMENT GOAL: ACHIEVE ORGANIZATIONAL EXCELLENCE	2. Implement a sustainable funding model for operations		
		A. Obtain and implement interim funding authority	<ul style="list-style-type: none"> Enacted legislation 	Sustainable Funding Model Action Plan
		B. Obtain and implement fee setting authority	<ul style="list-style-type: none"> Enacted legislation 	Sustainable Funding Model Action Plan
		C. Reformulate the fee structure	<ul style="list-style-type: none"> New fee structure in place 	Sustainable Funding Model Action Plan
		D. Obtain and implement private sector business tools	<ul style="list-style-type: none"> Operating reserve established with supporting policy Policy decision on other business tools 	Sustainable Funding Model Action Plan
		E. Present requirements-based budgets	<ul style="list-style-type: none"> Congress, OMB Acceptance of Budget Format 	FY 2012 Budget Formulation Plan
		F. Strengthen financial and non-financial internal controls	<ul style="list-style-type: none"> Maintain unqualified financial statement audit opinions 	Chief Financial Officer
WORKFORCE EXCELLENCE	MANAGEMENT GOAL: ACHIEVE ORGANIZATIONAL EXCELLENCE	3. Improve employee and stakeholder relations		
		A. Recruit, develop, train, and retain a highly-skilled, diverse workforce	<ul style="list-style-type: none"> New examiner PAP deployed New SPE PAP deployed 	Patents Human Capital Plan
		B. Enhance current and future agency leadership by focusing on leadership development, accountability, and succession planning	<ul style="list-style-type: none"> Percent of employees participating in and completing the LDP for each business unit Recognition for supervisors who are nominated and approved as demonstrating great leadership in action 	Strategic Human Capital Plan LDP SES Council
		C. Optimize effectiveness of Patents Ombudsman Program	<ul style="list-style-type: none"> Response rate of Ombudsman program Number of uses of Ombudsman program 	Ombudsman Work Plan
		D. Enhance the Independent Inventors' Program	<ul style="list-style-type: none"> Independent inventors programs Pilot program to accelerate the patent process for small inventors 	Independent Inventors Work Plan
		E. Provide information and communication channels for employees and the public	<ul style="list-style-type: none"> Newsletter Roundtables Training and education Facebook Director's Forum (blog) 	Communications Plan

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United States Patent and Trademark Office BALANCED SCORECARD <i>(continued)</i>				
Theme	Goals	Objectives/Initiatives	Performance Measures	Work Plan Linkages
WORKFORCE EXCELLENCE	MANAGEMENT GOAL: ACHIEVE ORGANIZATIONAL EXCELLENCE	3. Improve employee and stakeholder relations <i>(continued)</i>		
		F. Ensure transparency of USPTO information and materials by increasing the availability of public information	<ul style="list-style-type: none"> ● Percent of all public patent data (applications, petition decisions, file histories) available and searchable on www.uspto.gov ● Number and timeliness of key pendency metrics published on www.uspto.gov 	Communications Plan Patents End-to-End
		G. Strengthen relationships with DOC, Office of Management and Budget (OMB), and Congress	<ul style="list-style-type: none"> ● Technical assistance on legislation and policy 	Governmental Affairs Action Plan

Glossary of Acronyms and Abbreviation List

ACR	Accelerated Case Resolution	OPT	Office of Patent Training
ACTA	Anti-Counterfeiting Trade Agreement	OT	Overtime
APJs	Administrative Patent Judges	PAPs	Performance Appraisal Plans
ATJs	Administrative Trademark Judges	PCT	Patent Cooperation Treaty
BPAI	Board of Patent Appeals and Interferences	PLT	Patent Law Treaty
CBRs	Computer-Based Resources	POPA	Patent Office Professional Association
CFC	Combined Federal Campaign	PPAC	Patent Public Advisory Committee
DOC	Department of Commerce	PPH	Patent Prosecution Highway
EPO	European Patent Office	RAM	Random-Access Memory
FPNG	Next Generation Fee Processing System	RCEs	Requests for Continued Examination
FY	Fiscal Year	SCCR	Standing Committee on Copyright and Related Rights
GI	Geographical Indications	SES	Senior Executive Service
GIPA	Global Intellectual Property Academy	SHARE	Strategic Handling of Applications for Rapid Examination
ID	Identifications of Goods and Services	SHCP	Strategic Human Capital Plan
IP	Intellectual Property	SPE	Supervisory Patent Examiners
IP5	The Five IP Offices	TBMP	TTAB's Manual of Procedure
ISA	International Searching Authority	TCs	Technology Centers
ISO	International Organization for Standardization	TEAS	Trademark Electronic Application System
ISR	International Search Report	TPAC	Trademark Public Advisory Committee
IT	Information Technology	Trilateral	European Patent Office, Japan Patent Office, USPTO
JPO	Japan Patent Office	TTAB	Trademark Trial and Appeal Board
KIPO	Korean Intellectual Property Office	U.S.	United States
LDP	Leadership Development Program	UNESCO	United Nations Educational, Scientific and Cultural Organisation
MPEP	Manual of Patent Examining Procedure	USPTO	United States Patent and Trademark Office
NWF	Nationwide Workforce	USTR	United States Trade Representative
OECD	Organisation for Economic Co-operation and Development	WIPO	World Intellectual Property Organization
OFF	Office of First Filing	WO	Written Opinion
OHR	Office of Human Resources	WTO	World Trade Organization
OMB	Office of Management and Budget	XML	eXtensible Markup Language



United States Patent and Trademark Office

600 Dulany Street
Alexandria, Virginia 22314

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