

Message from the Director Concerning the USPTO Business Plan

To meet the needs of intellectual property owners in the 21st Century, the United States Patent and Trademark Office (USPTO) -- a fully fee-supported agency that does not rely on taxpayer funding -- has developed the USPTO Business Plan. This is a major step toward a long-range strategy to strengthen America's patent and trademark system by refocusing the agency's priorities on improving quality and timeliness in the products we deliver to our customers. This Business Plan also responds to the concerns of the Administration and the Congress that the USPTO establish realistic goals to use automation more effectively. The goals outlined in the Business Plan are both important and, many feel, ambitious.

In recent years we have seen enormous private sector investments in research and development, resulting in dramatic increases in the filing of patent applications. This, coupled with an inability to hire sufficient numbers of examiners to keep pace with increased workload demands, and a crippling attrition rate caused by more experienced examiners going to higher paying private sector jobs, has created a burdensome backlog for both our customers and our examiners. As a result, average patent pendency is now at 24.7 months. Furthermore, the very nature of unpredictable levels of agency funding over the past decade has resulted in starts and stops in IT projects that negatively impact overall agency performance.

Our past analysis has shown that unless dramatic changes are implemented, in the face of unprecedented growth in the number of patent applications filed, not to mention increasingly technical and complex applications, average patent pendency would have escalated to 38.6 months by FY 2006. This Business Plan will, however, avoid that outcome and reduce that projected pendency rate to 26-month pendency by 2006, an improvement of more than one year over the projected rate.

President Bush's 2003 Budget proposes a very significant increase in funding for the USPTO. This investment by the Administration will allow us to fund the hiring of 950 new patent examiners, thereby beginning the lengthy process of training them to attack increasing patent complexity and workloads. History shows that such an investment will create a short-term increase in pendency (since experienced examiners must take time away from examining in order to train new hires). The long-term prospect for our being able to see improvement and continue to support the technological growth underlying our national prosperity from such investment is more encouraging.

While the most significant challenge facing USPTO is hiring the examiners necessary to keep pace with an increasing workload, I believe additional steps can be taken to deal with the pendency issue. The Business Plan was completed before I assumed office last December; in reviewing it, I prefer to think of it as a "First Step Business Plan." I am preparing to begin a top-to-bottom review of all non-examination

and administrative support operations, and will expect to see a compelling justification for every non-examination operation within the agency.

USPTO leads the Federal Government in the transition to e-Government, and we will continue to accelerate our goals to use this more efficient and customer-friendly means of doing business.

Thus, to improve patent pendency and quality, I am committed to shifting resources to the frontline examination process at a rate greater than the current Business Plan anticipates if it appears such changes are warranted. I am also fully prepared to propose other changes, including both regulatory and statutory reforms, that will allow the USPTO to streamline processes to accomplish what I know we all want: efficiency, quality, and timeliness.

I expect the agency to focus on these core principles. This Business Plan is a significant first step toward that refocusing, but only a first step. President Bush and Secretary Evans are committed to ensuring that the USPTO continues to lead the world in producing the most timely and reliable intellectual property rights protection for American innovators. I look forward to helping them succeed in that vision.

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USPTO Business Plan

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EXECUTIVE SUMMARY

Over the course of the past decade, the United States Patent and Trademark Office (USPTO) has faced unprecedented challenges including soaring workloads, increasingly complex technology, growing demands from our customers, resource limitations, our establishment as a performance-based organization, new legislative mandates, and unprecedented need for policy guidance in all fields of intellectual property including patents, trademarks, and copyrights. It is abundantly clear, however, that intellectual property laws have become the “currency of the 21st century.” The U.S. economy and global economy are driven by new technology, which is spread by the incentives provided by our intellectual property laws. Now more than ever, it is critical that the USPTO further establish itself as the leading intellectual property organization in the world by providing the highest quality patents and trademarks in a timely manner.

To further establish the USPTO as the world intellectual property leader, the USPTO has assessed its needs to achieve the simple goals set in this business plan: 1) enhance the quality of USPTO products and services, and 2) minimize patent and trademark applicant processing time.

The Patent Business targets and strategies identified in this business plan will reverse the trend of increasing patent pendency and address the quality issues that have been expressed. While the USPTO’s FY 2002 budget request predicted increasing pendency to 38.6 months in 2006, this business plan establishes initiatives to reduce that by 1 full year to 26.8 months and to establish a trend to an ultimate goal of 18 months pendency in the future. Further, bolstering confidence in the quality of U.S. patents is essential. By decreasing the patent error rate to the lowest levels in history and by increasing our customer satisfaction rate to world-class service levels, the USPTO will further establish the confidence in the quality of products and services needed to increasingly spur our economy and reduce unneeded litigation costs.

Patent business quality initiatives include increased participation by applicants and third parties in aiding the USPTO in the examination process to improve quality. The USPTO will also reengineer processes to free more time for the critical examination functions performed by examiners. Additionally, by aggressively moving toward complete electronic processing, greater levels of quality and customer service will be achieved.

Timeliness goals, even in the face of unprecedented workload increases, will be met through a balanced set of timeliness initiatives that include increasing the examining staff, reducing attrition rates even further, outsourcing non-critical functions to free examiner time to address backlogs, and redesigning processes. Additionally, customers will be offered a choice in the processing time, providing a “Rocket Docket” that will deliver the promise of extremely fast processing for those applications where time is critical.

Similarly in the Trademark Business, this business plan identifies the highest standard of quality examination to be achieved through complete electronic processing of trademark applications from filing to publication. With electronic processing, world-class customer relationship management is attainable through the leveraging of the information available in an electronic environment.

Timeliness goals for the Trademark Business have been established at unprecedented levels – two months to first action, and 12 months total pendency. Through the use of electronic processing, innovative management processes such as creative incentive award programs based on a “billable hours” concept and the expansion of a successful telecommuting program that has reduced the attrition rate and increased productivity, the Trademark Business will continue to be successful in achieving its timeliness targets.

The resources needed to achieve the results set forth in this business plan are in excess of our currently projected fee income in FY 2003 – FY 2007. A portion of the increase is needed to fund the initiatives identified in this plan to meet plan goals and objectives while another portion is needed to cover full retirement costs (e.g., current and post-retirement benefits of USPTO employees), consistent with the Administration’s requirement for all fee-funded agencies. We will finance this plan by proposing a one-year surcharge on patent statutory fees and selected trademark fees to ensure sufficient funds to begin plan implementation in FY 2003. We will subsequently propose regulations to raise trademark fees and a legislative proposal to realign current patent fees to support the longer-term goals of this business plan. Our approach is to adopt a fee structure commensurate with USPTO business requirements.

While the details of this plan are set forth below, the objective of this plan is clear – to set forth the needed initiatives and resources to further establish the USPTO as the preeminent intellectual property organization in the world. By performing our core business functions - the processing of patent and trademark applications - with the highest quality of products and services and the shortest pendency times possible, our goals will be achieved.

CURRENT ENVIRONMENT

The United States Patent and Trademark Office (USPTO) is an agency of the U.S. Department of Commerce, employing over 6,000 full-time equivalent (FTE) staff. The agency is located in Arlington, Virginia, where we occupy 18 buildings in the Crystal City neighborhood.

The USPTO's mission is to promote industrial and technological progress in the United States and strengthen the economy by:

- Administering the laws relating to patents and trademarks while ensuring the creation of valid, prompt, and proper intellectual property rights; and
- Advising the Administration on all domestic and global aspects of intellectual property.

Although the USPTO's mission in administering the intellectual property laws has a continuous tradition stretching back to the founding of the republic, the economic environment in which it undertakes that mission has changed in the past decade. Technological innovation and the marketing of new goods and services have increasingly driven U.S. economic growth. This has led to prolonged rapid growth in demand for the USPTO's principal products – patents and trademark registrations. Recognizing the mounting importance of intellectual property rights, Congress has enacted laws making the USPTO responsible for additional functions and reforming its organizational powers. At the same time, the globalization of economic activity has led to new cooperative initiatives between the USPTO, international bodies, and other intellectual property offices.

The USPTO has undertaken major projects to come to grips with these challenges. In doing so, we have been recognized as a leader in e-Government initiatives, especially with regard to the Trademark Business applications. The USPTO has applied technology that has facilitated examiners' searches of prior art relevant to patentability and of potentially conflicting marks relevant to the registrability of trademarks and allowed for the filing of both patent and trademark applications over the Internet, thereby enhancing the efficiency of interactions between the public and the USPTO.

Nevertheless, the USPTO finds itself trying to catch up in its efforts to maintain and improve accuracy rates in patent and trademark examinations and keep the time for making decisions on applications at acceptable levels. In planning for the next five years, the USPTO must first examine factors that will affect its efforts to break the cycle in which it is continually in danger of falling further behind. The following describes customer expectations, trends in demand for our products, developments in legislative direction, and international initiatives which will remain key elements of the environment in which we currently work and which will have future impacts on our endeavors to provide added value to our customers for the next five years.

Target Customers

The USPTO has many different customers and stakeholders. Individual inventors, as well as those affiliated with small businesses, corporations, government agencies, and academia file applications with the USPTO to obtain valuable intellectual property protection.

The USPTO receives patent and trademark applications from all over the world. For patents, roughly 55% of the applicants are from the United States with the remaining applications coming from non-U.S. citizens. For trademarks, 85% of the applicants are from the United States with the remaining applications coming from non-U.S. citizens.

The USPTO invests considerable time and resources in understanding the unique needs of these various market segments. We hold focus sessions and roundtable discussions to identify customer and stakeholder needs and expectations. We partner with customers from various market segments to further our knowledge and understanding of new, emerging, and ever evolving technologies. We survey our customers to understand how well we are meeting their expectations. And, we leverage information and feedback from the membership of our Public Advisory Committees to gain a clearer understanding of the future needs of our customers and stakeholders. We have used this advice and assistance in shaping our business strategies.

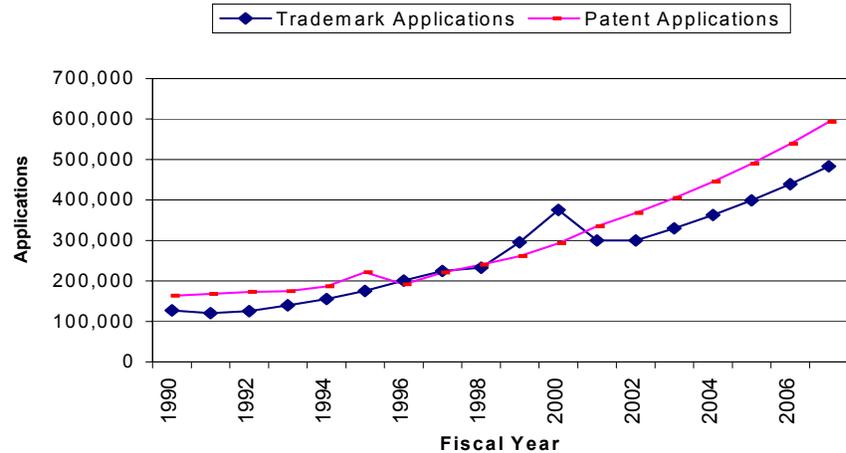
The Market Environment

During the 1990's, the patent and trademark operations both faced similar challenges in satisfying customer demand as a result of steadily increasing workloads. That demand, however, has diverged somewhat in FY 2001. Patent applications rose at an average annual rate of 8 percent per year throughout the 1990s, but rose over 12 percent in FY 2000 and FY 2001. This rise shows no sign of slowing despite the downturn in economic growth in FY 2001. The USPTO has found that patent application volumes often are anticipated by the behavior of national research and development expenditures two to four years in the past. While leading indicators are currently still predicting strong patenting growth, continuing economic weakness over an extended period could negatively affect future filing plans.

Trademark applications grew at more than a 13 percent annual rate between 1990 and 1998, and by 27 percent per year in FY 1999 and FY 2000. However, the accelerating trend in trademark application filings came to an abrupt halt in FY 2001 when the filing rate for new applications dropped by approximately 20 percent.

These filing trends suggest that, while firms recognize the long-term necessity of continual innovation and protection of rights to inventions, commercialization of new products and services and the consequent need for trademark protection can rise and fall more unpredictably. Despite these fluctuations, the USPTO expects continued growth in demand for patent examinations in FY 2003 – FY 2007 while trademark applications are expected to grow modestly during this same time period after declining during FY 2000 and FY 2001.

Trends in Patent and Trademark Application Growth

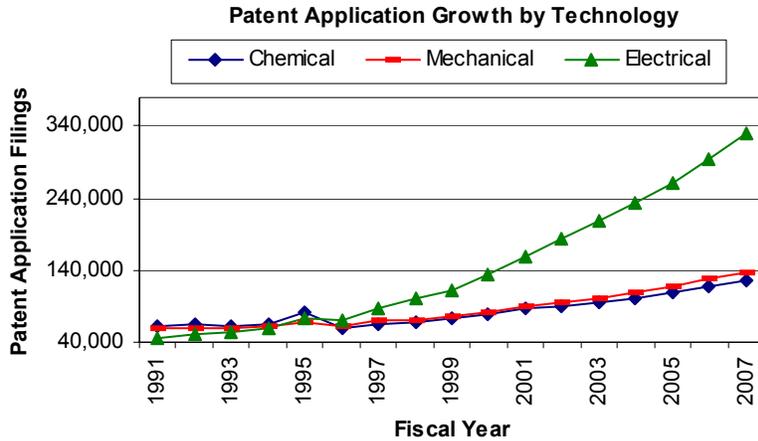


Patents

Today's technology is advancing faster than ever before in history, with new technologies emerging on the horizon. Well-known examples are in the computer software, business methods, telecommunications, and biotechnology areas. As the potential value of new inventions increases, the demand for intellectual property protection will increase. The value now being given to intellectual property is seeding our technology-based economy as the exclusivity and economic life cycle of an innovative product becomes the primary monetary stream for an entrepreneur or business.

New technologies are also merging with existing technologies in more complex ways. This results in increased technological complexity of inventions. An example is the field of bioinformatics. This interplay of technologies creates greater interdependencies between technologies, expanding each new patent's field of effect. This has a growing impact on the increasing scope of new innovations throughout all technology disciplines. At the same time, the globalization of economies has further expanded a business' range and interdependencies. When taken as a whole, a business' encounters with markets and cross-linkages to new and modified technologies are almost without limit for the foreseeable future. This virtually infinite realm of potential innovation defines the scope and complexity of technology currently being filed at the USPTO and anticipated for the future.

Looking at the change in demand for patents in different business arenas can help illuminate the challenge for which the USPTO must prepare. Although patent application filings have grown steadily at 12% per year in all technological areas in the past 2 years, that growth has been particularly explosive in the electrical technologies which experienced 19% growth. The USPTO can expect this trend to continue.



Finally, the USPTO has experienced growth in newly evolving technologies, as well as filing growth in areas that have arisen due to clarification of law by the courts, such as has been the case for biotechnology and business methods. Rather than rely on court decisions or other rulings, the USPTO must be prepared to predict our future workload and the types of patents that will be desired. This will require us to assess market, production, and scientific trends. This assessment will allow us to foresee trends that will in turn allow us to create the appropriate policies and organizations and hire the types of individuals necessary to handle requests for new types of patents in the future.

Trademarks

The Trademark Business has a long history of increasing demand for registering and maintaining trademarks. Over the past ten years, trademark applications for registration have tripled from 125,000 to more than 375,000 a year, with increases of 27% in both FY 1999 and FY 2000. Consistent with the decline in the U.S. economy, as reflected by reductions in business-related markets, trademark application filings are now projected to decrease from FY 2000 to FY 2001 by 20% with increases beginning again in 2003 of 10 percent each year based on historical trends. Filings for the continued maintenance and renewal of registered trademarks continue to meet projections. The trademark register currently contains more than 1 million marks in use. We cannot project with certainty what our filings will be several years into the future, and in the short term, we must be prepared to manage fluctuations in the demand for our services.

The Legislative Environment

The types of products and services and corresponding fees, the resources available to meet workload demands, and the nature of the USPTO organization itself are predominantly determined by law. Congressional action, therefore, constitutes a critical driver for the USPTO’s operations and business planning.

Legislative changes in the Patent and Trademark Acts can be expected to continue. In 1999, for example, Congress mandated that the USPTO administer a process for adjusting patent terms, publish pending patent applications, and offer optional reexamination of patents. In the current Congressional session, bills are pending to integrate trademark

application processes with the Madrid Protocol regime and expand procedures for administrative review of patents after issuance.

The resources available to the USPTO also remain a matter of public debate. For the past decade, the USPTO has been funded from the fees it charges for its services. Congress has required the USPTO to perform a study of its fees. The outcome of such deliberations will of course affect USPTO operations.

This business plan seeks to anticipate the challenges and opportunities that legislative actions may create. However, outcomes are sometimes unpredictable and beyond the USPTO's control. In light of this, the USPTO has developed this plan to specifically identify its quality and timeliness performance goals for its core business and the resources needed to meet these goals. Our challenge will be the integration of these goals and objectives with other legislative actions and deliberations.

The International Environment

As part of its policy responsibilities, the USPTO is active in cooperative efforts with its major counterparts, the European Patent Office (EPO), Japan Patent Office (JPO), and European Union's Office for Harmonization in the Internal Market (OHIM) for trademarks and designs, as well as with international organizations such as the World Intellectual Property Organization (WIPO) and World Trade Organization (WTO). Efforts are under way toward developing a substantive patent law treaty to harmonize requirements for obtaining patent protection throughout the world. The USPTO is also engaged in efforts related to protecting Geographical Indications and in substantial training efforts in intellectual property enforcement. The USPTO is working with WIPO to consider steps in harmonizing national and regional patent and trademark law, on trademark issues related to domain names, and copyright issues. Finally, we are engaged in the international arena seeking support for simplifying the Patent Cooperation Treaty.

All three of the major international intellectual property offices have experienced the rapid increase in demand for intellectual property and the resulting consequences. The USPTO has been working with the JPO and EPO to address the increasing amount of work in each of the offices and seeking opportunities for work sharing and efficiency. Progress on issues such as mutual recognition of search/examination results and harmonizing classification systems and electronic filing systems could garner substantial efficiency benefits for all three offices and their customers.

We expect all of these activities to enhance international cooperation, as described above, to continue during the FY 2003 – FY 2007 timeframe.

Comparison with Other Intellectual Property Offices

Obtaining intellectual property protection is based on national or regional laws. For example, applicants wanting intellectual property protection in the United States must file in the United States, and U.S. protection does not confer protection in other countries. Therefore, the three major intellectual property offices, the USPTO, EPO, and JPO are not market competitors in a traditional sense but rather counterparts. The USPTO compares very favorably to both the EPO and JPO in timeliness and cost.

In regard to e-Commerce activities, the USPTO remains the first national intellectual property office in the world to offer electronic filing over the Internet for both patent and trademark applications. Although both the JPO and EPO offer some electronic filing, neither has achieved the level or breadth of services as the USPTO. The JPO implemented electronic filing in 1990 but has done so through a closed system using dedicated lines versus an Internet approach. The EPO has offered Internet filing since 2000, but only allows patent applications to be filed electronically.

Patents

The USPTO, EPO, and JPO grant the majority of the world's patents. At the end of 1999, a total of 4.4 million patents were in force. The contracting states of the European Patent Convention (EPC), JPO, and USPTO cover about 84% of the total patents granted worldwide. In the EPC contracting states, patents are granted by the National Offices or by the EPO.

There is considerable difficulty in presenting a comparison with respect to the operations, efficiency, and even workload of the three offices. This is because the three offices operate within different legal and cultural environments. These differences result in practical distinctions in the products and actions that are subject to measurement. Thus, setting out the offices' workload statistics is in large part an "apples to oranges" exercise. Nevertheless, an accounting of the production of these three major offices can help give an idea of the USPTO's role in the international intellectual property system. The chart below gives key patent statistics for each organization for calendar year 2000:

	EPO	JPO	USPTO
Application Filings	100,692	436,865	295,926
Patents Granted	27,523	125,880	157,497
Applications Awaiting Request for Examination	16,788	2,152,416	Not Applicable
Pendency to First Office Action in Months ¹	20.7	21.3	13
Overall Average Patent Pendency in Months ²	72.7	Not Reported	24.7
Patent Price ³	\$37,323 ⁴	\$12,058	\$7,740
Total Examiners	2653	1,088	2,905
Number of Applications Examined Per Examiner	Not Reported	177	85
Examiner Attrition Rate	2.3%	Not Reported	14%
Error Rate	Not Reported	Not Reported	6.6%

¹ EPO and JPO pendency statistics do not take into account the time applications are awaiting requests for examination. JPO applicants have 3 years from the date of filing during which requests for examination can be filed. In the EPO, requests for examination have to be filed not later than 6 months after publication of the search. U.S. pendency statistics are measured from the date of filing.

² For the EPO, statistics for pendency search in months (20.6) and pendency examination in months (52.1) were totaled to provide the pendency rate.

³ Rates are in U.S. dollars for fees collected through the 20-year life of a typical patent.

⁴ This amount reflects the full cost that an applicant pays to receive equal patent protection in Europe. However, the EPO only receives \$16,000 of that amount. The remaining amounts are paid to the National Offices.

Trademarks

The USPTO, OHIM, and JPO issue the majority of the world's trademark registrations. As is the case with patents, there is considerable difficulty in presenting a meaningful comparison with respect to the operations, efficiency, and even workload of the three offices that register trademarks. For example, the European Communities require that trademark applications be filed electing a primary and secondary Community language of which there exist eleven choices. The European Communities could recognize significant efficiencies in the timely examination of applications were only one language used as the official language for trademark filings. The political realities in the European Community are such that OHIM cannot itself impose such an "efficiency" on its trademark users.

Of the three offices, the USPTO receives the largest number of applications. In fact, the USPTO is, by volume of applications received and processed, the largest government trademark organization in the world.

All three offices offer substantive examination of trademark applications, however, the USPTO offers a more complete examination practice by considering existing marks in determining registration. This means that each application is reviewed for legal and regulatory compliance. The USPTO is the only one of the three offices that publishes its pendency statistics, including average months between filing and examiner's first action and between filing, registration, abandonment or issuance of a Notice of Allowance.

The chart below gives key trademark statistics for each organization for calendar year 2000:

	JPO	OHIM	USPTO
Trademark Applications	121,861	57,324	375,428
Trademark Registrations	94,369	34,242	127,794
Trademark Price ¹	\$4,203	\$4,159	\$2,475
Total Examiners	142	78	383
Number of Applications Examined Per Examiner	862	772	800
Examiner Attrition Rate	Not Reported	0%	13%
Error Rate	Not Reported	Not Reported	3.4%

¹ Includes 3 classes and one renewal. Exchange rates: 120 Yen = \$1.00 and 1.10 Euro = \$1.00

PATENT GOALS AND STRATEGIES

The continuing increase in the demand for our products and services reflects an appreciation for the value that we provide to our customers. Additionally, high quality standards for patents issued by USPTO must be maintained to instill confidence in patent holders and the public in general to preserve that value. Throughout the 1980s and into the 1990s, the principal vehicle to address timeliness and quality demands was singularly to hire more examiners. We need to expand this focus to include creative management, innovative business practices, and the latest technology. Accordingly, the Patent Business has set the following goals and strategic initiatives:

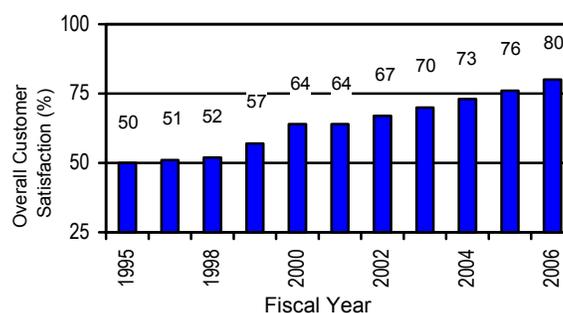
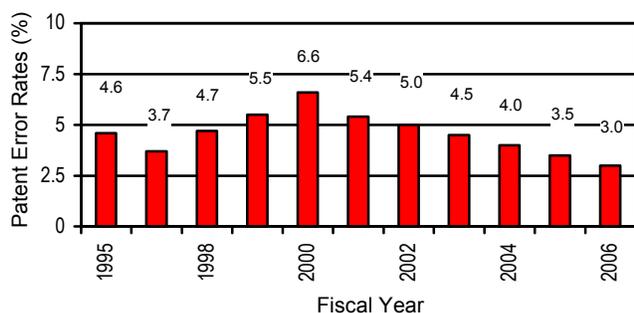
Goals

The goals of the Patent Business are as follows:

- Enhance the quality of our products and services
- Minimize patent application processing time

Quality Target: Improve quality of patents by 55% through reducing the error rate from 6.6% to 3% by FY 2006
Increase overall customer satisfaction from 64% to 80% by FY 2006

Trends and Targets in Patent Error Rates and Customer Satisfaction



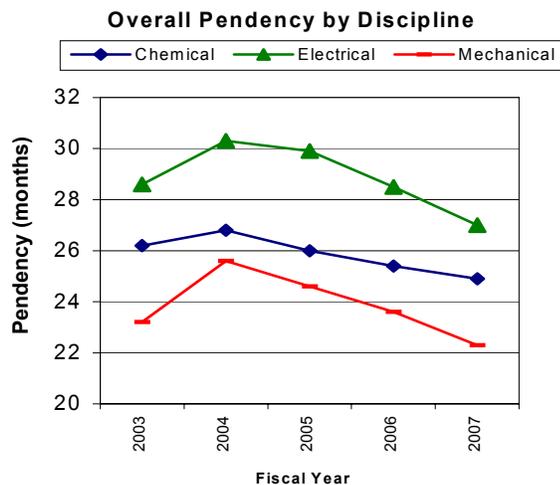
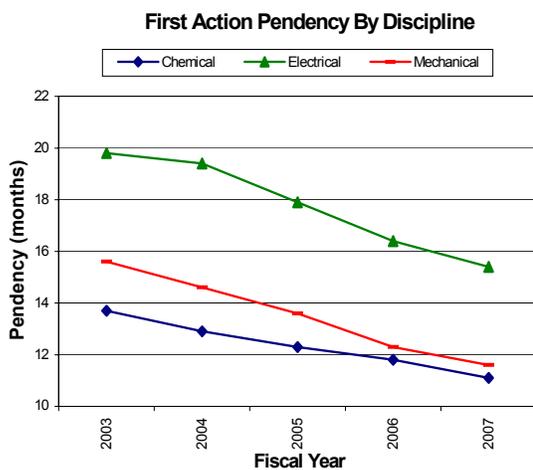
The Patent Business quality targets are derived from internal objective data and customer satisfaction data obtained through our annual survey. Our objective is to measure our performance with respect to both the quality of the patents we issue and the service we render to the users of the patent system. While benchmarking against other patent offices in the area of quality is difficult because of the lack of data available, our target of a 3% error rate would be the lowest that we have achieved in the 25 years that records have been kept. Additionally, customer satisfaction in world-class service organizations similar to the USPTO can be benchmarked at the 80% level. Increasingly, however, the quality of U.S. patents has been questioned as a result of litigation results and other quality indices. The Patent Business will develop a quality index that will incorporate a number of metrics, including those mentioned above, as well as external post examination data to achieve a balanced measure of quality. That index will be baselined and used in the future as a more

balanced tool for measuring our performance with respect to quality. Three quality initiatives are set forth below that will immediately begin to move the USPTO toward its quality targets.

Timeliness Target: Reduce average first action pendency to 12 months by FY 2006
Reduce average total pendency to 26 months by FY 2006

The Patent Business timeliness targets are derived from customer input and the American Inventors Protection Act (AIPA) enacted in 1999. The AIPA provides that issuance of a first Office action on the merits of the claimed invention more than 14 months from the filing date, or issuance of a patent more that 36 months from the filing date, will result in a commensurate restoration of patent term to the applicant. The U.S. patent system encompasses both the incentives offered to inventors to share their discoveries, as well as the benefits that accrue to society as a whole from the disclosure of the inventive concepts. Therefore, to support these parallel objectives, it is incumbent upon the Patent Business to both maximize the term of patent protection for the inventor by reducing internal processing, as well as to minimize the extension of patent term resulting from processing delays.

The Patent Business ultimately strives for a total pendency of **18 months** to grant a patent. Rationale for this target is based on the worldwide standard of publishing applications 18 months after filing. While no major intellectual property organization in the world comes close to issuing patents in 18 months, our ultimate goal would serve to fuel investments in our technology-driven economy. Current backlog and filing rates, particularly in the electrical arts, prevent us from reaching the 18 months total pendency during the course of this 5-year business plan. The 18 months total pendency target will be a challenge in the electrical arts. However, the Patent Business is confident that we can move toward this milestone in the longer-term, first in the mechanical and chemical areas, and eventually in the electrical area.



In addition, we recognize that customers have different demands for processing time depending on the invention and technology. For example, applicants in the computer areas may need a quicker turn-around time because of the short life cycle of computer products, whereas some applicants, possibly in the biotechnology and pharmaceutical areas, would rather have additional time to determine the commercial viability of their inventions. With this in mind, we have designed an initiative where customers will have the option of choosing the processing time best suited to their needs. Six timeliness initiatives are set forth below that will begin to drive pendency down toward our ultimate target.

Quality Initiatives

Process Reengineering Enhancements

We have a number of activities currently underway that we will continue to enhance as part of our quality improvement actions. First, we will focus on enhancing the quality of our patents by using process redesign and improvement. One way of raising the quality level is through an enhanced reexamination process whereby both patent owners and third parties have the ability to request that the USPTO reconsider patentability if new evidence is presented. Reexamination is an economical and potentially higher quality alternative to litigation for testing patent validity. We foresee that reexamination services will improve quality and reduce the customer cost of re-evaluating the patentability of issued patents rather than using litigation. Legislative action is needed to modify our current reexamination process to make it a viable alternative to litigation. Through this initiative, we expect greater applicant and third-party participation in the patent process and greater confidence in the quality of the patents that we issue.

We will also strengthen our in-process reviews of work performed by examiners. This will be accomplished by conducting quality reviews of patent applications prior to their disposal and using a number of our senior level Quality Assurance Specialists to function as a "Second Pair of Eyes" by reviewing for correctness each allowed application in a target technology. This is particularly useful for emerging technologies where the prior art is not well established or where the examining staff is less experienced. This enhanced review is not only effective in preventing the issuance of invalid patents, but is also useful in identifying trends in examination where training is needed, the ultimate result being better quality patents.

Finally, we will expand our process reengineering studies to look for ways to eliminate or transfer duties traditionally performed by patent examiners to other staff. This redistribution of functions frees examiners' time to focus on the technical and legal aspects of patent examination such as search and patentability determination, while moving paralegal-like duties to support staff who can also handle such activities. We will also test and implement other concepts that partner more with applicants and industry experts to empower and make them an active participant in the examination process. We further expect to perform other studies and scope out ways to use knowledge management systems to better train our examiners.

Search Tool Enhancements

Critical to the quality of the examination process is the search by an examiner for prior art pertinent to the invention claimed in an application. The search is an investigation of relevant patents and non-patent literature (technical journals, manuals, etc.) to determine if a claimed invention is new, useful, and non-obvious. In performing the search, an examiner relies on prior art and the body of public knowledge disclosed at the time the invention was

created. Much of the non-patent literature is available only through commercial database vendors. We will increase access to commercial databases, non-patent literature, and foreign patent documents. We will also harmonize the subject matter indexes of the other trilateral organizations to ease our ability to share the burden of creating patent classification systems and classifying patents.

e-Government

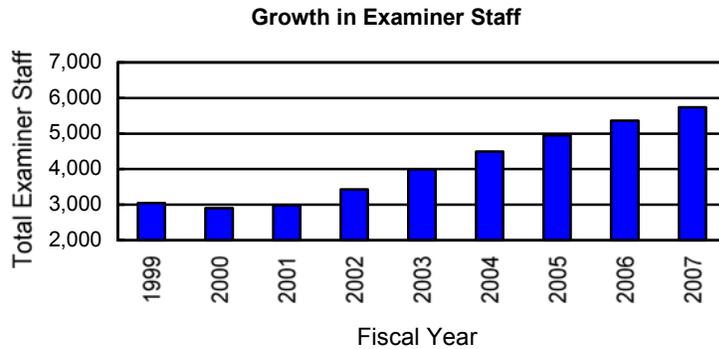
The continued growth in our workload cannot be effectively managed in our current paper-based environment. Implementing an e-Government strategy that includes electronic receipt, processing, reporting, and publication will enable us to migrate to a more efficient operating environment that supports our business goals to provide quality services and products in a timely manner to our customers and stakeholders.

At the center of our e-Government initiative is the Tools for Electronic Application Management (TEAM) project. TEAM is a document management and workflow system that will provide us the capability to electronically process a patent application. It will integrate and capitalize on features from a variety of information technology systems currently in use. TEAM will rely on the input of electronically submitted applications and continue the prosecution of patent applications in electronic format. Scheduled for a rolling deployment throughout the Patent Business during FY 2006, TEAM will be based on the creation of an electronic file wrapper (EFW). All the individual paper documents involved in the back and forth exchanges between the USPTO and patent applicants will be captured electronically in the EFW. TEAM will provide new electronic workflow tracking and document management capabilities that will improve application processing and provide increased information to external customers. Within this concept, the e-Petitions program will be implemented in 2005. TEAM will ultimately result in an electronic record being our official legal record of patent application processing. A preliminary benefit cost assessment indicates that the TEAM project will more than pay for itself through publication, space, and contract labor cost avoidance.

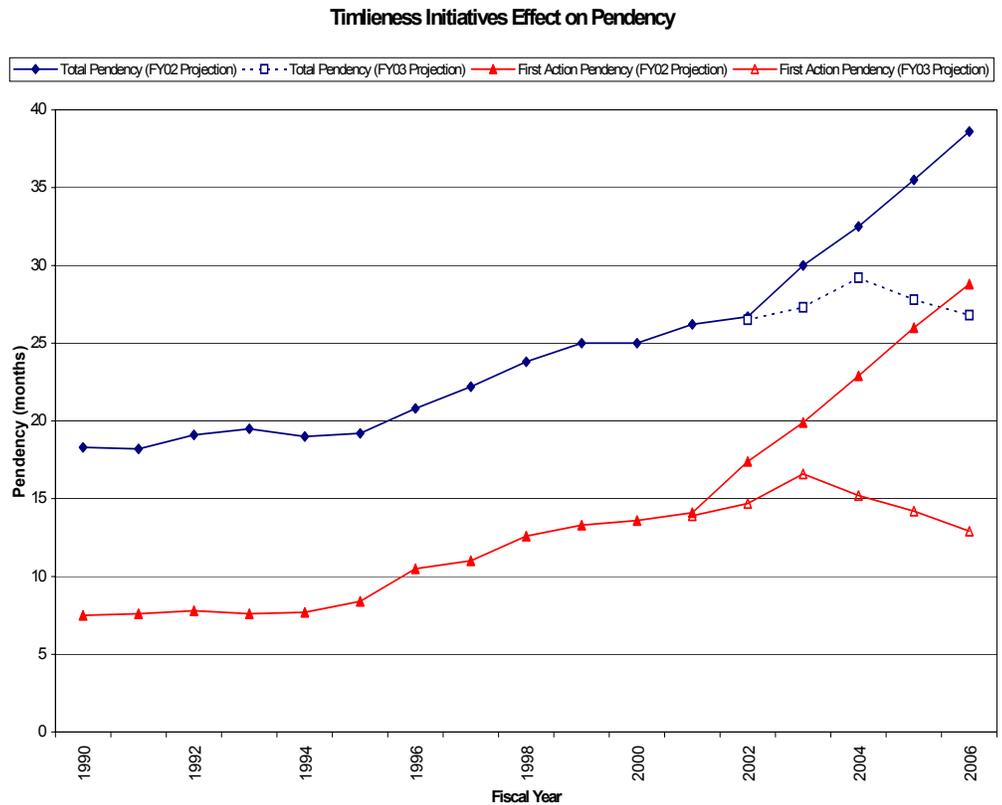
Timeliness Initiatives

Increase Examiner Staff

In order to meet our timeliness goals and offer a choice of services, an essential part of our strategy will be to hire new examiners and expand our examining staffing level. Though we are reengineering our processes, changing our procedures, and implementing information technology solutions, the total number of patent applications processed is principally determined by the number of patent examiners. This is because the heart of the patent examination process is the intellectual effort put forth by an individual patent examiner. Our plan is to hire 950 new examiners each year. Some of these hires will replace examiners lost through attrition and others are necessary to meet the growing workloads. The following chart displays our projected on-board examiner staff during the life of this business plan.



These aggressive timeliness initiatives will improve the pendency forecasts originally outlined in our FY 2002 budget submitted to Congress. Under this business plan, we will issue approximately 312,000 first office actions and achieve an average overall pendency of 27 months in FY 2003. By FY 2004, pendency to first action will begin trending downward. By FY 2006, our objective is to achieve an average of 12 months pendency to first action and 26 months total pendency. This is a substantial improvement when contrasted against the USPTO's FY 2002 budget, which assumed 28.8 months first action pendency and 38.6 average months total pendency in FY 2006.



Customer Choice in Processing Time

We will offer our customers a choice of processing time options, including an expedited review and the ability to choose a separate search and examination approach for patent applications. Customers will have the option of choosing the pendency timeframe best suited to their needs while receiving the same high quality examination regardless of the option they choose.

Standard Processing

Under the standard processing option, customers will receive the current search and examination services. Standard processing will continue to comprise the vast majority of our workload. By FY 2006, our objective is to achieve an average pendency of 12 months to first action and 26 months total pendency.

Expedited Processing (Rocket Docket)

In this option, the Patent Business will guarantee customers 12 months pendency from date of filing to patent issuance. Customers who choose this option will pay an additional fee for the quicker turnaround and agree to certain stipulations and actions to ensure the 12-month timeframe. These actions include:

- Mandatory electronic application filing
- Mandatory applicant search of prior art before submission of application
- Limit on the number of claims
- Examination of first-claimed invention
- Applicant waiver of extensions of time
- Limit to a single applicant-initiated amendment
- Pre-examination statement that claims will stand or fall together

Expedited processing will be offered to meet the needs of those customers whose business needs require a quick decision on their patent application. We anticipate that our standard processing will be satisfactory to the majority of customers and that only a small segment of our customers will request this option.

Deferred Examination

The deferred examination option will allow customers to protect their intellectual property while determining its future market viability. Under this option, customers will pay the initial fees for pre-examination and then pay the search and examine fee once they decide which applications to pursue. Upon their determination of commercial viability, applicants will only require the full patent processing and its associated costs for those they wish to further pursue. We estimate that 10% of applications filed may “drop out” and as a result, USPTO examination resources will not be expended for applications that are not considered economically viable. Mandatory publication and sacrifice of any patent term adjustments would be required of those applicants choosing this option. Legislative action is needed to modify our current fee structure to allow for this specific option.

These processing choices will also ensure that the USPTO minimizes patent term extensions and provides products and services that continue to stimulate the U.S. and global economies.

Recruitment and Retention

One critical factor that affects our achievement of business goals is our ability to recruit and retain a quality workforce. A well-educated, experienced, and properly trained staff is key to achieving higher quality and lower pendency timeframes. The Bureau of Labor Statistics has projected that the demand for electrical engineers, scientists, and computer and information systems specialists – all critical positions for the USPTO – will grow by 40% over the next 7 years.

For the USPTO, the competition will be steep. We have to compete with the private sector for the talent we need. To do so will require us to employ innovative methods for recruitment and retention. The USPTO's efforts will be focused on retaining our employees and expanding the examiner corps in all technology areas with a particular emphasis in the electrical discipline.

The standard federal benefits we offer compare quite favorably to those offered by top U.S. corporations, including substantial holiday, sick, annual and compensatory leave; paid overtime; outstanding health insurance; and excellent retirement packages. In addition to these and the generous Federal career advancement opportunities, we will offer our current and prospective employees a variety of other benefits to include flexible work arrangements, law school and technical tuition payment, generous awards, and recruitment bonuses. We have recently obtained approval from the Office of Personnel Management (OPM) to establish a special pay scale for patent professionals. In the event that these benefits do not allow us to hire and retain the best candidates, we will consider other incentives such as payment of relocation expenses, repayment of college loans, or other incentives to stay competitive.

Finally, the Patent Business has recently implemented a telecommuting work pilot. The pilot is geared toward allowing patent examiners to work remotely from home for one day each week without the fatigue and stress of daily commuting and balancing work with family and personal activities. Although this program is still in its infancy stage, we believe it will be successful and plan to expand the program after the pilot. We are hopeful to experience the same success that the program in the Trademark Business has demonstrated, including an increase in production per individual examiner along with increases in quality and employee satisfaction. Additionally, as the program expands, more efficient use of office space will be realized through space sharing or hoteling.

Productivity Incentives and Accelerated Career Track

The Patent Business delegates the authority and responsibility for making independent patentability decisions, including the decision to issue an application as a patent, when it appoints the examiner to be a "primary examiner". This achievement reflects the highest degree of competence and expertise. The current career track requires about 6 years for an examiner to become a primary examiner. Information gathered from other patent offices and intellectual property law firms indicates that they require between 4-6 years of training to reach a similar level of competency.

Recognizing that gains in productivity must be balanced with the quality of the work produced, we will explore the implementation of a new performance-based awards system. In addition to producing more output, this initiative will bring a junior examiner up to speed more quickly by examining more applications. By implementing a generous monetary award, the examiner will be enticed to produce more work and work more efficiently, which will make our examiners more knowledgeable in less time. Combined with improved

training programs and knowledge-based management tools, these mechanisms may be conducive to an expedited path for reaching full signatory authority, where an examiner can make patentability decisions independently while improving quality standards. We expect this initiative will result in 29,500 or approximately 10% additional patent applications being processed annually.

Outsource Non-Examination Functions

We will outsource classification functions currently performed by examiners in the examination pipeline. As a result, examiner resources will be freed to focus on the principal patent examination functions, thereby increasing examiner productivity. The mandate to publish patent applications 18 months after filing, pursuant to the Pre-Grant Publication provision of the American Inventors Protection Act of 1999, has placed a tremendous additional burden upon the USPTO. In response, we intend to also contract out the Pre-Grant Publication classification functions currently being performed by patent professionals. Additionally, other classification duties required to maintain the U.S. classification system will be outsourced as needed. This initiative will allow the Patent Business to redirect approximately 30 full-time equivalent patent examiners and associated hours to examination.

Similar to classification, certain stages of work on international applications that do not lead to patent issuance will be contracted out. The search related to completion of Patent Cooperation Treaty (PCT) Search Reports will be outsourced, thus freeing examiners to act on the backlog of U.S. applications. This initiative will allow the Patent Business to redirect approximately 100 full-time equivalent patent examiners and associated hours to examination.

Workload Rebalancing

Traditionally, the three main disciplines within the Patent Business have been categorized as chemical, mechanical, and electrical art areas, which are further organized into 7 Technology Centers – 2 in chemical, 2 in mechanical, and 3 in electrical areas. We have seen an unprecedented growth in filings in the electrical engineering fields. Last fiscal year, we experienced a growth of 19% as compared to 8% in the mechanical and 7% in the chemical areas. To address these workload issues and reach our timeliness goals, we will rebalance the work in the Technology Centers. This approach envisions at the very least, identifying electrical technologies that overlap other disciplines, and integrating them into the corresponding chemical or mechanical areas. The emerging technologies have fewer experienced/senior examiners and managers, resulting in challenges of incorporating and training new examiners. By restructuring the Technology Centers, we will be able to take full advantage of the experienced staff available in greater numbers in the mechanical and chemical Technology Centers to improve training, retention, quality, and effectiveness in the other related technologies. We will also take advantage of our move to the new campus to restructure our organization and rebalance our workload to streamline our processes and enhance our effectiveness.

TRADEMARK GOALS AND STRATEGIES

The Trademark Business plans to complete its transition from a paper-based process to complete electronic processing by FY 2004. We have made substantial progress over the past eight years improving quality and timeliness by applying electronic communications and technology to our business processes. Currently, approximately 25% of trademark applications are filed electronically over the Internet, all new applications are captured electronically and are available at every employee's desktop, and the **Trademark Official Gazette (TMOG)** is published weekly on paper and electronically on the Internet.

Completing the transition from paper to processes primarily based on electronic processing will result in an efficient and effective trademark examining function with greater flexibility to respond to fluctuations in demand for services. Although we will continue to address pendency, productivity, quality, and efficiency issues, the focus in FY 2003 will be on implementing changes that rely on technology and electronic communications to improve operations and expand access to the Federal registration system in the United States.

Our customers have significantly benefited from Internet access to USPTO systems that allow them to conduct searches of relevant trademark information to make business decisions related to adopting a trademark, checking the status of their pending application, or reviewing the TMOG on-line. The availability of the Internet for filing and disseminating information has increased customer expectations for how we respond to requests for information and service. In turn, this has required the Trademark Business to increasingly consider the impact on customers when we design and implement new systems. Electronic access has promoted greater understanding and awareness of the registration system and provided customers flexibility and convenience relative to how they interact with the USPTO. While we have witnessed a drop in trademark filings and a reduction in pendency times in FY 2001, the Trademark Business views this as an opportunity to position itself to expand the use of technology to address workload fluctuations and maintain high quality and timeliness standards. We believe that moving to e-Government will allow U.S. businesses to have better access to the value that flows from the Federal registration of their trademarks.

Goals

The goals of the Trademark Business are as follows:

- Enhance the quality of our products and services
- Minimize trademark application processing time

Quality Target:	Reduce the error rate from 6% to 3% by FY 2004 Increase overall customer satisfaction from 70% to 80% by FY 2005
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The Trademark Business quality targets are derived from internal objective data and customer satisfaction data obtained through our annual survey. Our objective is to measure our performance with respect to quality of the marks we register and the service we render to the users of the trademark system. The Trademark Business will develop a quality index that will incorporate a number of metrics, including those mentioned above, to achieve a balanced measure of quality. That index will be baselined and used in the future as a more balanced tool for measuring our performance with respect to quality.

Timeliness Target: Reduce average first action pendency to 2 months by FY 2004
Reduce average total pendency to 12 months by FY 2006

The Trademark Business will focus on reversing the trend of ever-increasing government spending by working within its authorization and minimizing the size of its program initiatives to handle workload increases. Our goals are designed to deliver cost-effective programs in support of the American people that will deliver substantially more value to the marketplace and the U.S. economy than the fees used to support direct examination operations. Our strategy is to continue to improve our operating efficiency by effectively leveraging technology and contribute directly to the national economy by creating a predictable and reliable trademark examination and registration system.

Quality Initiatives

Quality Review

Using available resources, we will prototype a comprehensive internal quality review program focused on improving examination quality to complement the corporate quality review program already in place. We intend to use the results from the internal quality review program to identify areas most in need of improvement. The internal quality review program will incorporate results from its findings into examiner reference materials, such as practice and procedure guidelines, and focused training programs to match individuals in need of remedial training with the type of training most beneficial to them. The expected results include improved quality and consistency and a reduction in the number of cases returned to examination. If successful, an internal quality review program will be incorporated into our business practices in FY 2004 based on the results of the FY 2003 prototype.

Customer Relationship Management

We will transition our existing Trademark Assistance Center to a full service Customer Relationship Management (CRM) center to reduce or eliminate the source of customer complaints related to internal processes. The program will be similar in concept to private sector programs that use CRM methodologies. CRM will provide a resource for the consolidation and sharing of information that we collect regarding customer inquiries and problem resolution. Moving to CRM will contribute to the re-engineering of our paper-based processes by providing customer-based requirements to ensure that new technologies meet the needs of our customers and address their complaints. We believe a CRM systems approach will improve customer satisfaction by reducing processing errors, provide a smoother transition to e-Government, and increase customer support for the move to full electronic processing. Eventually, the rest of the USPTO will be able to leverage the Trademark Business' experience with CRM and roll this system out enterprise-wide.

Peer-to-Peer

Trademark systems will be designed with the goal of implementing a "peer-to-peer" (P2P) pilot to investigate whether P2P will further improve the processing of Trademark applications and reduce costs once we complete our e-Government infrastructure in FY 2004. We expect that P2P has the potential to significantly enhance the benefits of electronic communications for large volume customers by creating a partnership focused on improving access to information specifically related to the customer. The concept offers the

potential for improved processes using fewer resources, maximization of trademark technology investments, and a reduction in processing and dissemination times.

Madrid Protocol

The Madrid Protocol requires that the USPTO process requests for extension of protection and other materials sent to and received from the International Bureau (IB) of the World Intellectual Property Organization (WIPO) within timeframes established by the Protocol. In anticipation of the U.S. joining the Madrid Protocol, all new systems will be implemented with a capability to electronically receive and process international registrations and requests for extension of protection. Requirements will focus on developing a peer-to-peer operating environment between the USPTO and the IB.

The Madrid Protocol provides a one-stop, streamlined registration process for U.S. businesses that need protection for their trademarks outside of the United States. The trademark owner, by filing one application in the USPTO, in English, can potentially receive protection for the trademark in each member country of the Protocol. Because the U.S. is not yet a member of the Protocol, American businesses operate at a disadvantage to businesses in Protocol member countries because Americans must seek trademark protection on a country-by-country basis. A streamlined, electronic system for filing for trademark applications in other countries will help all U.S. businesses, particularly small and medium-sized businesses, that frequently cannot afford to file separate trademark applications in each foreign country.

No additional resources will be required until the U.S. joins the Protocol. However, incorporating Protocol requirements into new systems as they are developed will minimize the cost of future development and permit the U.S. to quickly offer the benefits of the Protocol to our customers.

Timeliness Initiatives

e-Government

The Trademark Business plans to complete its transition from a paper-based to a fully electronic operation during FY 2004. There are a number of initiatives to be accomplished over the next two fiscal years to achieve this goal.

The first initiative involves increasing the number of applications filed electronically. In FY 2003, we plan to increase the number of new applications filed electronically to 80%. Our customers currently have the ability to conduct nearly all of their trademark-related business electronically but use of electronic communication is relatively low when compared to communication using paper. Specifically, only 25% of new applications are currently filed electronically and other electronic interactions are at lower levels despite the fact that electronic filing reduces the time that it takes to capture and process applications and ensures a level of quality and accuracy that is not possible with paper-filed documents. In FY 2003, we intend to promote the value and benefits of electronic filing and the distribution of information by creating a formal communication and education plan designed to encourage the adoption of electronic communication as the preferred method of doing business. We will also consider implementing changes in our rules and regulations, such as instituting processing fees for paper-filed documents and removing preferences for paper filers related to filing dates, as well as consider mandating electronic filing as an alternative if other efforts are unsuccessful in meeting our goal.

The second initiative, to also be accomplished in FY 2003, will be to implement full examination using electronic files. This will eliminate the current use of paper files for the examination process.

The final initiative to be implemented in FY 2003 is a "hotelling" plan in conjunction with our highly successful work-at-home project. The implementation of examination using electronic files facilitates hotelling, a concept in which 5-6 examining attorneys will share a single office and will further reduce the number of days they spend working in the office. Hotelling minimizes the need for office space at USPTO facilities and allows the Trademark Business to recover office space expenses for other uses.

In FY 2004, we will complete our transformation with the implementation of the Trademark Information System (TIS). TIS will integrate existing electronic systems to create an electronic file management system that will permit full electronic processing and examination of new applications and post-registration materials. It will allow us to process and examine more applications with greater quality in less time and with fewer resources. TIS will eliminate the need for paper-based records resulting in an electronic record being our official legal record of trademark application processing.

Workforce Flexibility

We will create a trained and ready workforce that provides more flexibility in managing fluctuating workloads and employees with more choice. Our most pressing challenge is to have options for increasing or reducing staffing related to our need for production capacity. We will consider creating variable positions and work schedules as an alternative to hiring permanent employees on a full-time work schedule. We also believe new technologies associated with our move to an e-Government operation will provide the USPTO the ability to better manage work by offering more employees the opportunity of working from home.

TECHNOLOGY ASSESSMENT AND INTEGRATION

Our full transition to an electronic, e-Government environment as defined in this business plan will result in the automation of the majority of complex requirements and business processes for both our customers and internal operations. We must, however, continue to maintain our technological superiority to allow us to meet customer demands, provide state-of-the-art products and services, maintain operational efficiencies, and minimize operating costs. Our approach includes the following:

- Ensure an information technology infrastructure that ties all of our distributed web applications, business logic applications, database servers, security functions, and backup recovery functions together into a structured, responsive architecture
- Undertake a continual functional assessment to implement major enabling technologies

To build on our transition to a technology-based environment, we will establish a strategic architecture assessment program that will produce an enterprise-oriented, integrated, and coordinated approach to implementing emerging and enabling technologies. This will include coordinating and setting strategic direction as needed to meet information technology planning objectives. The result will be a more efficient, less complex architecture that increases systems performance and reduces the costs and timeframes for integrating new technologies.

We will also establish a team to evaluate a broad portfolio of technological advances and software packages, such as knowledge management/e-learning, intelligent searching, customer self-service/customer relationship management, workflow/document management, and web/e-Government. Though some of our information technology investments to date have been on the “bleeding edge”, our intent is to assess new technologies and to integrate those that have proven their capacity and capabilities. This will allow the USPTO to continue to automate manual processes and provide customers and employees with additional and/or enhanced tools and technologies.

MOVE TO CARLYLE

The USPTO plans to consolidate its current operations on the Carlyle site in Alexandria, Virginia, about 3 miles from our current site. This space consolidation is a critical step in making the USPTO the best in the world with a world-class facility. On June 1, 2000, the General Services Administration (GSA), as agent for the USPTO, executed a 20-year lease for a 2 million-square-foot facility to consolidate the USPTO's operations that are now dispersed among 18 separate Crystal City buildings spanning a 1-mile distance, in space covered by 33 separate GSA leases. On December 19, 2001, the developer, LCOR Alexandria LLC, closed the bond financing that will cover the cost of the project, purchased the underlying land, and awarded excavation and construction contracts. Relocation to Carlyle will be phased to coincide with delivery of the five interconnected Carlyle buildings. Occupancy is expected to begin in late calendar year 2003 and be completed by mid-2005.

Economic analyses completed during the early stages of the project showed that this consolidation of agency operations into an interconnected complex will generate \$72 million in present value savings over the 20-year initial lease. A more recent report issued by the General Accounting Office (GAO), dated June 5, 2001, concluded that because the USPTO's Crystal City rentals have escalated faster than USPTO's studies had projected, consolidation now has the potential to realize \$98 million in savings. The GAO further noted that even if no savings were to occur, consolidation will enable the USPTO to provide better security for staff and to meet current fire, life safety, and accessibility standards for Federal facilities. Further, the per-square-foot rate for the USPTO's new consolidated lease is \$6 less than the per-square-foot rate for space recently leased by a major intellectual property law firm in a building directly across from the USPTO's planned Carlyle facility. These square-foot savings will increase even more over the 20-year lease term, because the base payment for the USPTO's consolidated lease is flat for the 20-year lease life as opposed to base rates for commercial leases that escalate annually.

Consolidation is critical to the agency's transition to e-Government. The USPTO now has the opportunity to tailor the design of a comprehensive state-of-the art communication backbone for the facility and to provide for current communication methods such as videoconferencing. Also, in conjunction with the move and as part of the transformation to a fully electronic work place, the agency plans to eliminate paper files in both employee and public search areas to the maximum extent possible.

Consolidation will also benefit our employees. We will be able to provide employee amenities such as childcare, cafeteria, and expanded fitness facilities, which will aid in recruitment and retention of talented personnel.

The USPTO will face numerous logistical and operational challenges in executing the move to Carlyle. Dual operations, including dual computer operations, will be required during the phasing of the relocation, because the space will be delivered over a protracted period. Supporting employees and customers at geographically separate locations will require careful planning. The USPTO will also carefully monitor costs during project construction and ensure that any interim purchases are competitive and consistent with our standardized space utilization approach for the new facility. However, the long-term benefit will be a world-class facility with operational efficiencies and improved allocation of workspaces to accommodate our growing and changing workplace.

ORGANIZATION AND MANAGEMENT

The USPTO's organization and management philosophy is based on the direction that Congress gave the agency in the American Inventors Protection Act enacted in 1999. That Act reestablished the USPTO as an agency within the Department of Commerce. Recognizing the USPTO's dual role as a policy arm of government providing leadership on intellectual property issues and an operational unit issuing patents and granting trademark registrations, the Act redesignates the head of the agency as the Under Secretary of Commerce for Intellectual Property and Director of the USPTO.

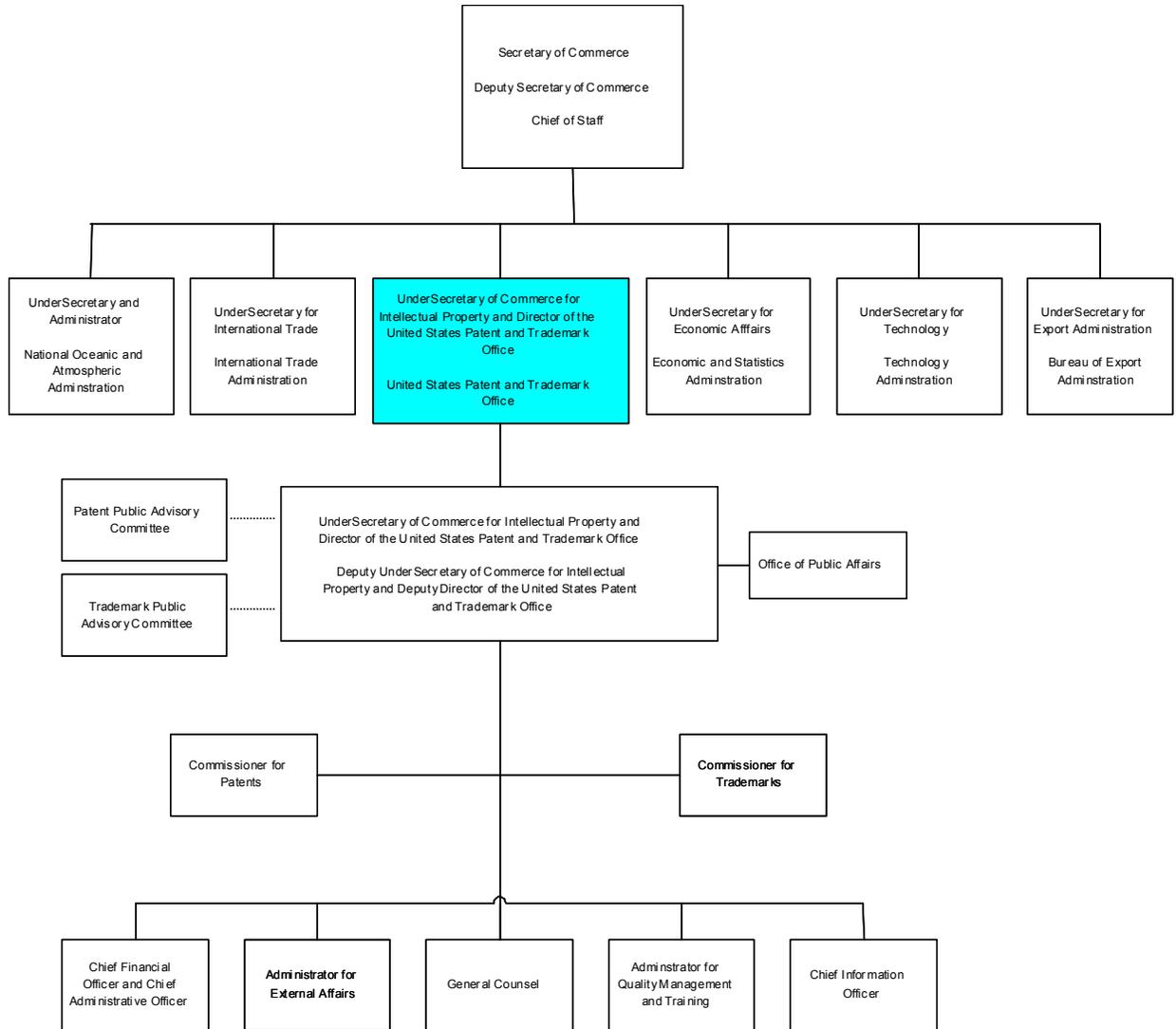
The Act designated the USPTO as a performance-based organization, which granted us greater management flexibility. Subject to the policy direction of the Secretary of Commerce, the USPTO is now responsible for its own management and administration and exercises independent control of such functions as budget allocations and expenditures, personnel decisions and processes, and procurements. Greater accountability accompanies that flexibility. The Commissioner for Patents and Commissioner for Trademarks have established performance agreements with the Secretary of Commerce. These agreements set out specific goals and performance expectations. The Act also created two Public Advisory Committees – one for Patents and one for Trademarks – to provide the USPTO with ongoing advice on budget and management issues of concern to its constituents.

The USPTO has reorganized its management structures in keeping with the more business-like approach expected of a performance-based organization. Its major management body is an Executive Committee, at which each of the major functional units is represented. Each unit regularly reports to the Committee on its progress toward meeting performance goals, so that cross-divisional monitoring of the USPTO's progress is ongoing. The Executive Committee is supported by Operations, Quality, and Policy Committees.

The USPTO has also restructured its operating divisions to make full use of its management flexibility. Two new divisions with substantive responsibilities cutting across the main business areas have been created – the Office of Quality Management and Training (OQMT) and the Office of General Counsel (OGC). OQMT holds corporate responsibility for monitoring the quality of products from both the Trademark and Patent examining operations. It also organizes training throughout the agency. The OGC creates, for the first time, a unified management structure for the several independent units concerned with legal review and representation – the Board of Patent Appeals and Interferences and the Trademark Trial and Appeal Board; the Office of the Solicitor and the newly formed Office of General Law; and the Office of Enrollment and Discipline. Formation of the Office of General Law reflects the USPTO's added administrative functions. Likewise, two other principal divisions of the agency -- the Office of the Chief Information Officer, and the Office of the Chief Financial Officer and Chief Administrative Officer -- provide the full range of support operations needed to operate the USPTO.

These structures have now been in place about a year. They are designed to create more flexible and accountable responses to developments in the environments in which the USPTO operates. Crucial, however, to our success is overall planning based on performance goals. Although this business plan focuses on the performance of the USPTO's main business units, all parts of the agency contributed to the plan's development and all will contribute to its accomplishment.

Organizational Structure



Management Team

James E. Rogan, Under Secretary of Commerce for Intellectual Property and Director, USPTO

Judge Rogan was sworn in as Under Secretary of Commerce for Intellectual Property and Director of the USPTO on December 7, 2001. Judge Rogan manages USPTO's operations and is principal policy advisor to the Bush Administration on all domestic and international intellectual property matters. Judge Rogan was a member of the United States House of Representatives from 1997 to 2001. He was one of only two members of the House of Representatives to serve on both the prestigious House Commerce Committee and the House Judiciary Committee. His service on the Judiciary Committee's Subcommittee on Courts and Intellectual Property earned him a reputation as a leader on both the protection of intellectual property and the modernization of intellectual property laws to protect America's economic interests. Judge Rogan was a gang murder prosecutor in the Los Angeles County District Attorney's office. He became California's youngest sitting state court judge in 1990, and served as presiding judge of his court until his election to the California State Assembly in 1994. Elected to Congress in 1996, Judge Rogan served two terms in the House of Representatives. Judge Rogan earned a B.A. degree from the University of California at Berkeley in 1979, and a J.D. from UCLA School of Law in 1983, where he served as a member of the UCLA Law Review.

John W. Dudas, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director, USPTO

Jon Dudas was appointed Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the USPTO on January 11, 2002. In this capacity, Mr. Dudas assists the Under Secretary/Director in the overall coordination of policy and management of the USPTO. Prior to this appointment, Mr. Dudas served as the Counsel for Legal Policy and Senior Floor Assistant to Speaker of the House J. Dennis Hastert. In that capacity, Mr. Dudas was responsible for managing legislation on the floor of the House of Representatives and served as the primary advisor to the Speaker on issues ranging from intellectual property policy to counter terrorism. From 1997 to 2000, Mr. Dudas was the Deputy General Counsel and Staff Director for the House Judiciary Committee, where he was responsible for advancing legislation relating to intellectual property, technology law, antitrust, and constitutional law. His duties also included managing congressional oversight of the USPTO, Copyright Office, and Department of Justice. Mr. Dudas also served as Counsel to the Subcommittee on Courts and Intellectual Property and as Legislative Counsel to Congressman Henry Hyde. Prior to his employment with the House of Representatives, he practiced law in Chicago at Neal, Gerber & Eisenberg, where he represented clients in a variety of areas including intellectual property and antitrust. He is a member of the Illinois State Bar and the Bar of the United States District Court for the Northern District of Illinois. Mr. Dudas received a B.S. in Finance, *summa cum laude*, from the University of Illinois and a J.D. from the University of Chicago, with honors.

Nicholas P. Godici, Commissioner for Patents

Mr. Godici's current responsibility includes managing all aspects of the Patent Business, including administering and formulating policy relating to patent processing, examination, search, and procedural functions, and overseeing more than 4000 employees and an annual operating budget of over \$500 million. He is implementing a wide variety of changes in the organization to ensure that the agency functions as a performance-based organization. He has led efforts to reengineer USPTO processes that have resulted in

reduced processing time and increased customer satisfaction. He graduated from Pennsylvania State University with a B.S. in Engineering Mechanics and earned a graduate level Certificate of Advanced Public Management from the Maxwell School of Citizenship and Public Affairs at the Syracuse University.

Anne H. Chasser, Commissioner for Trademarks

Ms. Chasser oversees all aspects of the Trademark organization, including administering and formulating policy related to trademark examination and registration operations. She manages a budget of \$72 million and more than 700 employees, and is responsible for proposing programmatic changes in the trademark system. Prior to joining the USPTO, she was Director of Trademarks and Licensing Services at Ohio State University (OSU). Ms. Chasser established OSU's trademark licensing program, which is currently ranked third among all American colleges and universities in the amount of revenue generated annually from licensing university trademarks on goods and products. She also served as President of the International Trademark Association, a trade association of leading trademark owners with over 3,600 members from 120 countries. She is a recognized expert in the economics of trademarks and collegiate trademark licensing, and has a strong track record of successfully managing organizational change, business development, continuous quality improvement, and strategic planning. Ms. Chasser received a B.A. at the University of Dayton and a Master's in Public Policy and Management from Ohio State University.

Douglas J. Bourgeois, Chief Information Officer

Mr. Bourgeois directs the development, implementation, maintenance, enhancement, and operation of USPTO's automated information systems and the development of supporting strategic and operational information technology plans. He also serves as the agency's Senior Information Resources Management (IRM) official. Prior to joining USPTO, Mr. Bourgeois served as the Managing Director of Customer Service Technology for FedEx from 1999 to 2001, managing the computer application and telephony network environments at that company. He ensured that information technology services were available to support the customer-focused mission of FedEx. Mr. Bourgeois received a B.S. degree in Aeronautical Engineering from Cal Poly University in San Luis Obispo, California, and an M.B.A. in Finance and Marketing from Tulane University in New Orleans, Louisiana.

Clarence C. Crawford, Chief Financial Officer and Chief Administrative Officer

Mr. Crawford serves as the Chief Financial Officer and Chief Administrative Officer. Prior to coming to the USPTO, Mr. Crawford held senior executive positions in the White House and for the Congress. Mr. Crawford was the Associate Director for Administration at the Office of Management and Budget in the White House. Serving both as OMB's CFO and its CIO, Mr. Crawford focused on dramatically improving OMB's resource planning and investment decisions. At the General Accounting Office, an agency of the legislative branch, Mr. Crawford served as Associate Director for Education and Employment Issues, and later as Director of Operations of the National Security and International Affairs Division. Mr. Crawford frequently testified before the Congress as the GAO's chief witness. Mr. Crawford worked extensively with Congressional appropriations, budget, authorization, and oversight committees. Mr. Crawford also served as the Director of Planning and Project Management with the Internal Revenue Service and as a police officer with the District of Columbia. He received a B.S. in Criminal Justice and a Master's of Public Administration from American University.

Mary C. Lee, Administrator for Quality Management and Training

Ms. Lee is responsible for assessing USPTO's product quality and training programs, coordinating agency quality improvement and training activities, and developing agency skills and personal development opportunities and programs. She also chairs the USPTO Quality Council and the USPTO Training Council. Ms. Lee has been a leader in helping the agency streamline examination processes and procedures to reduce internal cycle time and improve quality of examination and customer service. She led various special projects, such as a team examination initiative and a team responsible for creating examination search guidelines, in an effort to increase the consistency and efficiency of the patent examination process. Ms. Lee joined the USPTO in 1973 upon receiving a B.S. in Chemistry from the State University of New York. Additionally, She earned a graduate level Certificate of Advanced Public Management from the Maxwell School of Citizenship and Public Administration at the Syracuse University in 1998.

Robert L. Stoll, Administrator for External Affairs

Mr. Stoll serves as Administrator for External Affairs. From 1995-2000, he served as Administrator for the Office of Legislative and International Affairs. He previously served as Executive Assistant to the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks from November 1994-December 1995. He joined the Federal Government in 1979 as a Chemical Engineering Researcher in metallurgy at the U.S. Bureau of Mines where he worked until 1982, when he joined USPTO as a Patent Examiner in the area of metal containing complexes and compounds. While working at the USPTO, Mr. Stoll attended Catholic University where he earned a J.D. in 1985, and was admitted to the Maryland Bar. He received a B.S. in Chemical Engineering from the University of Maryland in 1979.

James A. Toupin, General Counsel

Mr. Toupin has served as General Counsel since January 2001. A member of the California and District of Columbia Bars, he began his career at Covington & Burling in Washington, D.C., specializing in trademark and copyright registration and litigation, as well as unfair competition and administrative agency litigation. In 1987, he was appointed Assistant General Counsel for Litigation of the United States International Trade Commission. He was subsequently promoted to Deputy General Counsel of that agency. In those positions, he was responsible for supervising defense of the Commission's actions in U.S. courts and international tribunals. The domestic court representation included defense of the Commission's determinations on patent and other intellectual property matters in the U.S. Court of Appeals for the Federal Circuit and of the Commission's determinations in antidumping and countervailing duty investigations in the U.S. Court of International Trade and the Federal Circuit. He received an A.B. degree with distinction from Stanford University, and a J.D. from the Boalt Hall School of Law, University of California at Berkeley.

FINANCIAL PLAN

Key Assumptions

This business plan has proposed a number of initiatives that support achievement of our quality and timeliness goals. There are, however, a number of critical drivers that can affect our performance. The charts below outline those factors and the key assumptions that we have made in projecting our funding and performance levels. Changes to these assumptions can affect the levels of pendency and quality we are able to achieve.

Projections of Key Patent Data

	2000	2001	2002	2003	2004	2005	2006	2007
EOY Examiner Staff	2,905	3,061	3,435	3,991	4,495	4,950	5,362	5,735
Examiners Hired	375	414	750	950	950	950	950	950
Examiners Attrited	437	263	272	351	408	460	506	548
Attrition Rate	14%	8.2%	9%	10%	10%	10%	10%	10%
Applications Filed	293,244	326,081	367,800	404,600	445,100	489,600	538,600	592,500
Growth Rate	12%	11.2%	12%	10%	10%	10%	10%	10%
Total Production								
Patents Issued	165,504	170,643	170,800	182,471	217,225	257,870	288,282	313,679
Disposals	234,344	239,493	238,840	286,015	338,930	403,122	419,556	481,024
First Office Actions	237,421	241,770	280,896	312,482	397,870	414,482	476,113	490,202
Inventory on Hand EOY	256,520	364,523	451,428	503,085	505,805	531,983	540,591	583,639
Total Pendency	25.0	24.7	26.5	27.3	29.2	27.8	26.8	25.5
First Action Pendency	13.6	14.4	14.7	16.6	15.2	14.2	12.9	12.7
Error Rate	6.6%	5.4%	5%	4.5%	4%	3.5%	3%	3%
Customer Satisfaction	64%	64%	67%	70%	73%	76%	80%	80%

Patent Sensitivity Analysis

The above-described factors are significantly interrelated and interdependent. A change in only one factor, e.g., higher growth rate in new applications filed, will have a direct and negative impact on the achievement of our quality and timeliness goals. However, a change in several factors may not have such an impact. For example, a greater growth rate in new applications filed may be manageable without impacting the achievement of our timeliness goals if our examiner attrition rate is also lower than anticipated. Our challenge will be to manage each of the factors and to find approaches for offsetting any impact while maintaining planned performance outcomes.

Projections of Key Trademark Data

	2000	2001	2002	2003	2004	2005	2006	2007
EOY Examiner Staff	383	389	353	321	338	362	395	433
Examiners Hired	74	60	0	0	46	54	66	74
Examiners Attrited	58	54	40	32	29	30	33	36
Attrition Rate	13%	12%	10%	9%	9%	9%	9%	9%
Applications Filed	375,428	296,388	300,000	330,000	363,000	399,000	439,000	483,000
Growth Rate	27%	-21%	0%	10%	10%	10%	10%	10%
Total Production								
Trademarks Registered	127,794	124,502	123,000	138,600	156,100	175,600	197,600	217,400
Applications Abandoned	101,099	142,973	96,000	101,900	109,500	118,100	128,800	141,500
Disposals	228,893	267,465	250,100	290,200	334,500	387,200	450,100	516,900
Inventory On Hand EOY	145,000	20,000	62,000	68,000	45,000	50,000	55,000	60,000
Applications Received Electronically	15%	24%	50%	80%	80%	80%	80%	80%
Total Pendency	17.3	17.8	15.5	13.5	13	13	12	12
First Action Pendency	5.7	2.7	3.0	2.5	2.0	2.0	2.0	2.0
Error Rate	3.4%	3.1%	5%	4%	3%	3%	3%	3%
Customer Satisfaction	65%	70%	72%	75%	78%	80%	80%	80%

Trademark Sensitivity Analysis

The budget requirements for the Trademark Business are principally based on the expectation of receiving and processing 80% of all applications electronically. Processing of electronic applications is more efficient than paper. It significantly reduces costs for paper handling and results in higher productivity per examiner. If this key driver is not met, budget requirements will have to be re-evaluated to process paper applications. Achievement of this key factor is critical to meeting the quality and timeliness goals and estimated resource requirements.

Budget Requirements

The following chart identifies the funding levels needed to meet the requirements identified in the USPTO's business plan. This chart also identifies the obligations for the specific initiatives in support of our goals. The amounts identified reflect the delta between amounts in our base funding and the total costs.

As the USPTO was formulating this business plan, which begins in FY 2003, it identified opportunities and funding in FY 2001 and FY 2002 to begin some of these initiatives. In this light, the USPTO was able to redirect significant funds to begin the Patent e-Government development and automation, as well as begin hiring new Patent Examiners, and to fund some portions of the remaining automation for Trademark's transition to a fully electronic environment. The resources identified below are necessary to complete those efforts, as well as support the other initiatives that comprise this business plan.

FUNDING REQUIREMENTS

	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
BASE					
Subtotal Base	\$1,212,975,810	\$1,419,456,610	\$1,615,843,157	\$1,723,832,349	\$1,832,859,630
WORKLOAD INCREASES					
Subtotal Workload	\$54,600,000	\$84,246,274	\$53,024,002	\$80,174,850	\$78,779,567
OTHER INCREASES					
Subtotal Other	\$30,550,879	\$29,729,256	\$21,069,180	\$41,130,564	\$40,193,176
INITIATIVES					
Patent – Quality Initiatives	5,000,000	52,577,720	47,489,929	42,142,138	38,056,812
Patent – Timeliness Initiatives	43,688,577	77,324,928	76,800,747	76,466,039	76,221,254
Subtotal Patent	\$48,688,577	\$129,902,648	\$124,290,676	\$118,608,177	\$114,278,066
TM – Quality Initiatives	N/A	718,761	747,022	755,839	764,974
TM – Timeliness Initiatives	18,092,800	15,474,828	17,671,459	15,646,787	10,745,200
Subtotal Trademarks	\$18,092,800	\$16,193,589	\$18,418,481	\$16,402,626	\$11,510,174
Subtotal Initiatives	\$66,781,377	\$146,096,237	\$142,709,157	\$135,010,803	\$125,788,240
TOTAL REQUIREMENTS	\$1,364,908,066	\$1,679,528,377	\$1,832,645,496	\$1,980,148,566	\$2,077,620,613
FEE INCOME					
TOTAL FEES					
Total Fee Income	\$1,526,908,066	\$1,679,528,377	\$1,832,645,496	\$1,980,148,566	\$2,077,620,613
Total USPTO Requirements	\$1,364,908,066	\$1,679,528,377	\$1,832,645,496	\$1,980,148,566	\$2,077,620,613
PATENT FEES					
Patent Fee Income	\$1,328,850,655	\$1,481,424,641	\$1,620,749,391	\$1,755,341,600	\$1,847,726,402
Patent Requirements	\$1,190,623,583	\$1,481,424,641	\$1,620,749,391	\$1,755,341,600	\$1,847,726,402
TRADEMARK FEES					
Trademark Fee Income	\$198,057,411	\$198,103,736	\$211,896,105	\$224,806,966	\$229,894,211
Trademark Requirements	\$174,284,483	\$198,103,736	\$211,896,105	\$224,806,966	\$229,894,211

Fee Strategy

The current USPTO fee structure had its genesis in legislation that was crafted to fully recover operational costs from the customers, foster use of the Federal trademark registration system, and mitigate the impact on small businesses and independent inventors who apply for patents and trademarks.

For Trademarks, the Congress passed a fee schedule, which the USPTO adopted, that recovered 100 percent of the trademark costs and kept the filing fee as low as possible. The strategy for patents recovered 50 percent of the cost of processing a patent application through the filing and issue fees. The legislation also established maintenance fees to be paid at three stages throughout the life of the patent to recover the remaining 50 percent of the estimated cost. Both patent fees and trademark fees can be adjusted annually to reflect changes in the Consumer Price Index (CPI). However, fundamental changes to the underlying patent and trademark fee amounts require legislation.

The capital investment required to fund the initiatives contained in this business plan and the full retirement costs for USPTO employees as required by the Administration will outstrip projected fee income based on current established fee levels. To mitigate this problem, the USPTO will propose a one-year surcharge for FY 2003 to cover the costs to begin initiatives in support of the USPTO's longer-term pendency, quality, and e-Government goals. The USPTO will propose regulatory changes to Trademark fees and submit a fee restructuring legislative proposal to realign the current patent fee structure, effective in FY 2004, to provide sufficient funding to cover retirement costs and complete the initiatives and goals identified in this business plan.