

# FY 2020

United States Patent and Trademark Office

## PERFORMANCE AND ACCOUNTABILITY REPORT



Expanding American Innovation

UNITED STATES  
PATENT AND TRADEMARK OFFICE



## FINANCIAL AND RELATED HIGHLIGHTS

(Dollars in Thousands)	% Change 2020 over 2019	For the Year Ended September 30, 2020	For the Year Ended September 30, 2019
Fund Balance with Treasury	11.9%	\$ 2,739,700	\$ 2,448,264
Property, Plant, and Equipment, Net	(26.4%)	337,983	459,341
Other Assets	65.6%	58,089	35,075
Total Assets	6.6%	<u>\$ 3,135,772</u>	<u>\$ 2,942,680</u>
Deferred Revenue	4.9%	\$ 1,033,073	\$ 984,971
Accounts Payable	(1.3%)	105,256	106,665
Accrued Payroll, Benefits, and Leave	21.0%	340,524	281,532
Other Liabilities	18.6%	172,398	145,321
Total Liabilities	8.7%	\$ 1,651,251	\$ 1,518,489
Net Position	4.2%	1,484,521	1,424,191
Total Liabilities and Net Position	6.6%	<u>\$ 3,135,772</u>	<u>\$ 2,942,680</u>
Total Earned Revenue	7.9%	\$ 3,657,051	\$ 3,388,671
Total Program Cost	4.2%	(3,622,969)	(3,478,168)
Net Income/(Cost) from Operations	138.1%	\$ 34,082	\$ (89,497)
Budgetary Resources Available for Spending	9.7%	\$ 4,257,572	\$ 3,880,416
Total Collections, Net	235.0%	\$ (265,205)	\$ (79,169)
Federal Personnel	2.2%	12,928	12,652
On-Time Payments to Vendors	-%	99%	99%

## PERFORMANCE HIGHLIGHTS

Performance Measures	FY 2020 Target	FY 2020 Actual	Performance Results*
Patent Average First Action Pendency (months)	15.0**	14.8	Met
Patent Average Total Pendency (months)	23.7	23.3	Met
Trademark Average First Action Pendency (months)	2.5-3.5	3.0	Met
Trademark Average Total Pendency (months)	12	9.5	Met
Trademark First Action Compliance Rate	95.5%	95.7%	Met
Trademark Final Compliance Rate	97.0%	98.1%	Met
Exceptional Office Action	50.0%	51.0%	Met
Trademark Applications Processed Electronically	88.0%	88.7%	Met
“Percentage of prioritized countries for which intellectual property (IP) country teams have made progress on at least 3 of the 4 performance criteria: a. Institutional improvements of IP office administration for advancing IP rights; b. Institutional improvements of IP enforcement entities; c. Improvements in IP laws and regulations; d. Establishment of government-to-government cooperative mechanisms”	66%	100%	Met
“Number of people, including Foreign Government Officials and U.S. Stakeholders, trained on best practices to protect and enforce IP”	5,000	10,688	Met

\* The performance result of a given measure is either met (100% or greater of target), or not met (below 95% of target). Time based goals are met when the results are less than the target.

\*\*The USPTO continued striving toward a more aggressive target of less than 15 months versus the FY 2021 President’s Budget target of 16.1 months.

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# MESSAGE

U.S. PATENT AND TRADEMARK OFFICE

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



Andrei Iancu

Dr. Martin Luther King Jr. once said, “The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge.” The past year has presented its share of challenges for all of us, as a nation and as an agency. I am proud to say that, through it all, our diverse and talented nationwide workforce has stood strong—determined to carry on our historic mission, which examiners have performed since 1790—*without pause and without fail*.

Our thoughts are with all those affected by the global COVID-19 pandemic. While continuity of operations remained a key priority for the agency in 2020, there was no greater priority than the health and safety of our employees and the public who interacts with us. On March 23, in response to the pandemic, the USPTO quickly and seamlessly transitioned to mandatory telework. Even now, the vast majority of our employees continue to work from home. At the same time, we set up several new programs and initiatives, including temporary relief for Patent and Trademark applicants affected by the pandemic, and actually *improved* the quality and efficiency of our Patent and Trademark examination, thanks, in large part, to the incredible dedication of our nearly 13,000 employees.

In advance of the shift to telework, the USPTO mandated telework training for all employees who were not previously telework-ready to make sure everyone could telework full time. This included employees who had been with the agency for decades but who had until now worked in the office full-time as well as employees still in training, and even externs. The USPTO also made sure everyone had the equipment and support they needed to telework efficiently: The agency deployed some 1,000 SOHO (small office and home office) routers, 2,000 monitors, and 3,000 printers to its employees. Additionally, to accommodate the more than two-fold increase in the number of virtual meetings, staff in the Office of the Chief Information Officer (OCIO) dramatically increased the capacity of USPTO teleworking and virtual-meeting software and bandwidth. This excellent work allowed the USPTO to continue operations with essentially no decrease in productivity because of COVID-19. Applicants might not have even noticed the shift to telework. The two USPTO Boards—the Patent Trial and Appeal Board (PTAB) and

## MISSION-FOCUSED STRATEGIC GOALS

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

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

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

**MISSION SUPPORT GOAL:** Deliver Organizational Excellence



the Trademark Trial and Appeal Board (TTAB)—were also forced to move to remote hearings, and they have done so with remarkable efficiency. Since the agency's shift to mandatory telework, the Boards have conducted more than 300 remote hearings.

At the same time, the USPTO—along with its international counterparts—worked to mitigate COVID-19's effect on the innovation community. The USPTO and European Patent Office pledged that “at a time when the dissemination of knowledge is crucial, we will persevere in developing the tools that can help scientists all over the world.” Through various programs, the USPTO has done precisely that. With the authority provided by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the USPTO temporarily extended deadlines for filing many Patent and Trademark documents and paying certain fees. The USPTO also instituted a number of initiatives to promote research related to COVID-19. The COVID-19 Prioritized Examination Program lets small and micro entities accelerate prosecution, at no charge, for inventions that are subject to FDA approval for use in treating COVID-19. For applications in this program, the USPTO hopes to issue final decisions within six months of filing so long as applicants are prompt in responding to office actions. To support research related to COVID-19, the USPTO also launched the Patents 4 Partnerships website, which provides a repository of patents and applications related to COVID-19 and creates a platform for connecting patentees and potential licensees. We hope these programs will help the world develop a vaccine or find a cure more quickly.

During the year, the USPTO also launched one of its most important initiatives, aimed at expanding invention and entrepreneurship in the United States: the National Council for Expanding American Innovation (NCEAI). The NCEAI is composed of high-level leaders from the federal government, industry, academia, and professional and nonprofit organizations, as well as venture capitalists and independent inventors, who are committed to increasing the opportunities for all Americans to participate in innovation. A top priority of the NCEAI is to help the USPTO develop a long-term, comprehensive national strategy to build a more diverse and inclusive innovation ecosystem by increasing participation demographically, geographically, and economically.

## THE USPTO MISSION

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

Since the founding of this great nation, innovation has been the driving force of our economy and our most defining trait as a people. America's continued economic prosperity and technological leadership depend on a strong and inclusive innovation ecosystem. The USPTO is committed to ensuring that all Americans have the opportunity to innovate, start new companies, succeed in established companies, and ultimately achieve the American Dream.

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## Patents

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Patents continued our focus on improving the quality of patent examination, and reduced its time for patent examination. Under the leadership of Andrew Hirshfeld, who was reappointed as Commissioner for Patents in July 2020, the USPTO is now issuing final decisions—either allowing a patent or issuing a final rejection—on average within 23.3 months—faster than last year's 23.8 months and significantly faster than in recent years. While some of this increase in productivity is due to USPTO employees taking less vacation as a result of COVID-19, our examiners' exceptional resilience and diligence have been the most critical factors.

To enhance patent quality, Patents has started introducing a new patent search system that provides examiners with increased access to prior art. The search system can also integrate with an artificial intelligence-based tool to help examiners find more relevant prior art. Patents took additional steps to support the quality of patent examination through a number of programs that help train examiners. Patents is preparing to implement an updated performance appraisal plan for examiners that provides a roadmap for enhanced patent quality, including an increased focus on search and the clarity of the written prosecution record. FY 2020 marked the beginning of updates that more closely align the time allotted for the examination of patent applications with the technology described in the application and its specific attributes. The implementation of these updates will be finalized in FY 2021, along with a new process for assigning applications to examiners that better matches their expertise with the technologies disclosed in the patent application.

Finally, the USPTO is collaborating with dozens of intellectual property (IP) offices around the world to accelerate the prosecution of patent applications that are cross-filed in multiple countries.

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## Trademarks

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Under the leadership of the new Commissioner for Trademarks, David Gooder, who joined the agency in February 2020, the Trademarks organization also had an impressive year with several new milestones, despite the challenges of a global pandemic. Entirely electronic processing of trademark applications rose to 88.7%, and is leading to more efficient processing, fewer errors, and more cost-effective transactions for USPTO customers. The gains made in efficiency throughout the application cycle enabled Trademarks to successfully exceed pendency and quality

targets for the 15th consecutive year—this as trademark applications increased by 9.6% and as COVID-19 forced a dramatic shift in agency operations.

Trademarks also advanced a number of initiatives to mitigate suspicious filings, fraudulent filings and specimens, and counterfeit products. The Trademark organization launched a joint anti-counterfeiting campaign with the National Crime Prevention Council (NCPC) focused on educating consumers and stakeholders throughout the IP community about the threats of non-genuine products; it continued efforts to improve the integrity of the register through post-registration audits to validate marks in use and it implemented a new U.S. counsel rule that requires U.S.-based representation for applicants, registrants, or parties to a trademark proceeding before the USPTO. The rule took effect in August 2019, and analysis this fiscal year shows that it has already positively impacted the filing behavior of foreign applicants, registrants, and parties before the Trademark Trial and Appeal Board (TTAB).

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## Patent Trial and Appeal Board

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While adapting to the pandemic, the PTAB not only continued to meet all statutory due-date requirements of the America Invents Act (AIA), it also reduced the pendency of ex parte appeals so that they are now decided, on average, within 13.4 months of docketing. Only five years ago, such appeals took about 36 months to decide.

The PTAB is taking many steps to strengthen its information technology (IT) infrastructure by moving to a single integrated IT system, known as PTAB Center. This will provide employees with a single unified interface for managing cases and decisions across all of the PTAB's jurisdictions, and it will provide external customers with a simple user interface to file petitions and papers. The PTAB is also in the process of increasing the accessibility of its hearings that are held in the USPTO's Regional Offices.

During FY 2020, the PTAB also implemented a number of processes to improve the transparency and predictability of its proceedings. These included a new pilot program for addressing motions to amend in AIA trials. It proposed rulemaking to ensure a more consistent approach to questions relating to the institution of AIA trials and proposed rulemaking to allocate the burdens of persuasion for motions to amend. It initiated a Fast-Track Appeals Pilot Program that allows applicants to expedite ex parte appeals for a minimal fee. It launched the Legal Experience and Advancement Program (LEAP), which fosters development of the next generation of IP practitioners by incentivizing law firms and the companies they represent to give new attorneys argument time. And the PTAB continues to assess and develop plans to address the impact of the *Arthrex, Inc. v. Smith & Nephew, Inc.* decision, which is now before the Supreme Court.



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## Trademark Trial and Appeal Board

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The TTAB began the fiscal year with a large inventory of resource-intensive trial cases that were awaiting decision. Despite the complications created by mandatory/maximum telework, the TTAB reduced the average time to issuance of decisions in appeals and trial cases, and it has halved the number of trial cases awaiting decisions.

The TTAB remains committed to the USPTO strategic plan's goal of streamlining processes and procedures where appropriate and developing with stakeholders more efficient trial processes that will avoid over-litigation of issues and ensure the integrity of the trademark register. In FY 2020, it concluded a two-year expedited cancellation proceeding pilot program, which focused on encouraging more efficient approaches for resolving cancellation cases asserting claims that registered marks were never used or had been abandoned. To encourage early settlement discussions and use of the Board's Accelerated Case Resolution (ACR) processes, the TTAB attorneys and judges engaged in active case management and conferencing with parties involved in such cancellation cases. The TTAB successfully identified 205 cancellation cases as eligible for the pilot. Of these, 134 were resolved without need of a final decision on the merits. In addition, the TTAB began developing a new pre-trial conference pilot program for both opposition and cancellation cases that will focus on encouraging parties to engage in more efficient trial processes, in particular the broader use of stipulations, more extensive pre-trial disclosures, and narrowing issues for trial.

The TTAB also continued its long-running commitment to issuance of precedential decisions, which provide guidance to the trademark bar. In FY 2020, it issued 43 decisions on procedural and substantive matters and completed its annual update of the TTAB Manual of Procedure in a timely fashion.

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## Policy and International Affairs

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The Office of Policy and International Affairs (OPIA) continued to streamline and enhance the efficiency of the global patent system. Worksharing arrangements with foreign IP offices continued to be an effective tool for this system. The USPTO and Mexico's IP office extended their bilateral Patent Prosecution Highway (PPH) agreement and, in January 2020, they signed a memorandum of understanding laying the groundwork for a next-generation worksharing framework and furthering commitments made in the United States-Mexico-Canada Agreement (USMCA). Based on the success of a bilateral PPH with the USPTO, the Chilean IP office became the third Latin American office to join the Global PPH in July 2020.

The USPTO also continued to develop and provide domestic and international in-person and virtual programs to improve IP systems in countries around the world. Participants included U.S. and foreign officials with IP-related responsibilities, including judges, prosecutors, Patent and Trademark examiners, and IP office administrators, as well as U.S. stakeholders. In all, the USPTO worked with over 4,800 foreign government officials representing 121 countries and

intergovernmental organizations. The USPTO worked throughout FY 2020 to improve IP protection and enforcement for U.S. stakeholders globally through our network of overseas IP attachés and U.S.-based IP specialists. These efforts included many outreach programs throughout the year.

Through the Office of Governmental Affairs, the USPTO also continued briefing and providing assistance to members of Congress and their staffs. In FY 2020, Commissioner for Patents Andrew Hirshfeld testified at a Senate Judiciary IP Subcommittee hearing on patent eligibility and quality. In addition, former Commissioner for Trademarks Mary Boney Denison submitted written testimony on the agency's efforts to combat fraudulent trademark filings at a subsequent hearing convened by the same subcommittee.

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## Information Technology

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While the OCIO was ensuring that USPTO employees could quickly and efficiently switch to mandatory telework, it also made the agency's IT systems more robust. The USPTO's alternate data center site in Boyers, Pennsylvania, now functions as a failover site for the USPTO's two most critical applications: Docket and Application Viewer (DAV) and Official Correspondence (OC). The alternative data center can run remotely even if the Alexandria data center goes dark. Specifically, the OCIO improved disaster recovery capabilities by configuring and replicating Tier-1 databases between the Alexandria and Boyers data centers, replacing failed power distribution units and successfully completing the Hot Aisle Containment project in the Production Alexandria Data Center. The agency performed a successful failover and failback test of two applications (DAV and OC) in July 2020. The test proves that the USPTO now has the capability to switch the operation of these two key patent applications between the alternate site in Boyers and the main data center in Alexandria. The switch over and switch back demonstrate the agency's enhanced business continuity and disaster recovery capability.

The OCIO also took major strides in incorporating artificial intelligence (AI) and machine learning (ML) into patent search and classification. The USPTO launched a new prototype patent search system that allows examiners to automatically retrieve prior art documents, review those documents efficiently, leverage suggested search areas to ensure complete search, and use "explainable AI" to help examiners understand results. The prototype also captures feedback automatically from examiners as they search to improve the ML models, and it is scalable to keep pace with exponentially growing collections of prior art. The prototype was released to a subset of almost 600 examiners across all technology areas for assessment and refinement, with a series of planned expansions to the entire patent examination corps. USPTO subject matter experts developed an auto-classification system that uses ML and AI to assign Cooperative Patent Classification (CPC) symbols on patent documents and identifies whether CPC symbols are associated with specific claimed subject matter. This will help ensure consistency of classification practices.

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## Financial Management

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The COVID-19 pandemic brought significant uncertainty to both the USPTO and its stakeholders. To help ease the strains that many individuals and companies were experiencing in the spring and summer of 2020, the USPTO used its authority under the CARES Act to allow applicants to delay certain Patent and Trademark filings and to delay paying certain fees. Beyond the CARES Act, the USPTO listened to feedback from stakeholder groups regarding the timing of proposed fee adjustments that had been under development since before the pandemic. Based on this feedback, the agency deliberately delayed adjusting fees until early signs of an economic recovery emerged.

In the early weeks of the pandemic, the USPTO also took proactive steps to manage the significant uncertainty that emerged in its demand and revenue forecasts. For example, the USPTO slowed down hiring to better align capacity with the expected work, and it deferred spending on certain IT upgrades. Teams across the agency also developed budget-contingency plans with additional cost-saving measures that could be implemented later in the year if the financial forecast continued to deteriorate. These actions allowed the USPTO to close FY 2020 with sufficient operating reserves to mitigate financial uncertainty and risk heading into FY 2021.

We are confident that the USPTO's financial and performance data are complete, reliable, accurate, and consistent. The USPTO, for the 28th consecutive year, earned an unmodified audit opinion on its annual financial statements. The independent auditors did not identify any material weaknesses or instances of noncompliance with the laws and regulations for the FY 2020 financial reporting period.

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## Conclusion

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In 2020, the world had to confront the worst pandemic in 100 years. As the world continues to grapple with this pandemic, technology will be at the center of any solution. Researchers are racing to develop vaccines, doctors and pharmaceutical companies are experimenting with drug treatments, and technology companies are figuring out how to repurpose existing factories and supply chains to build ventilators, masks, testing equipment, and other lifesaving necessities. In the meantime, many companies and agencies, including the USPTO, have had to lean heavily on technology to do remotely what they used to do in person. None of this technology would be possible without the indelible spirit and perseverance of American inventors and entrepreneurs. They, and the public whose quality of life they improve through their countless innovations, are who our agency has served for over two centuries and will continue to serve, with great pride and passion, for years to come—no matter what challenges or obstacles the future may bring.



Andrei Iancu

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

November 6, 2020



# INTRODUCTION

U.S. PATENT AND TRADEMARK OFFICE

## ABOUT THIS REPORT

The U.S. Patent and Trademark Office (USPTO) Performance and Accountability Report (PAR) provides information on the USPTO's programs and the results of the agency's programmatic and financial performance for fiscal year (FY) 2020. This report demonstrates to Congress, the administration, and to the public the USPTO's efforts to promote transparency and accountability over the resources entrusted to the agency. This report is available on the USPTO's website and satisfies the reporting requirements contained in the following legislation:

- [Title 35 U.S. Code \(U.S.C.\) § 13](#);
- [Federal Managers' Financial Integrity Act \(FMFIA\) of 1982](#);
- [Chief Financial Officers Act of 1990](#);
- [Government Management Reform Act of 1994](#);
- [Federal Financial Management Improvement Act \(FFMIA\) of 1996](#);
- [Reports Consolidation Act of 2000](#);
- [Accountability of Tax Dollars Act of 2002](#);
- [Government Performance and Results Act \(GPRA\) Modernization Act of 2010](#);
- [Leahy-Smith America Invents Act \(AIA\) of 2011](#);
- [Study of Underrepresented Classes Chasing Engineering and Science Success \(SUCCESS\) Act of 2018](#);
- [Payment Integrity Information Act of 2019](#)

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

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### Contributors

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

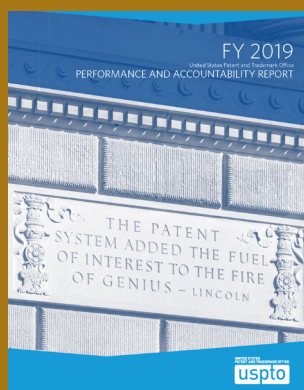


## Certificate of Excellence in Accountability Reporting

The Association of Government Accountants (AGA) awarded the USPTO the Certificate of Excellence in Accountability Reporting (CEAR)<sup>®</sup> for its FY 2019 PAR. The USPTO also earned the first Best in Class award for Proactive Financial Management Support for Mission Continuity and Accountability. This award recognized the USPTO's achievements in the following areas:

- Spearheaded key initiatives that enabled/improved mission delivery and accountability
- Proactively provided strategic, professional, financial management leadership
- Enabled uninterrupted customer service despite a historic 35-day government-wide appropriation funding lapse
- Proactively guided effective financial strategies and resources stewardship to support service continuity
- Strategically and proactively managed/conserved operating reserves and spending
- Deferred spending and incrementally funded key requirements
- Directed best value and right-sizing strategies for information technology investments for optimal mission delivery and accountability
- Delivered consistent, timely, high-quality agency financial and performance reporting excellence for improved accountability (CEAR Awards 2002-2019)
- Issued Performance and Accountability Reports (PARs) for optimal financial and performance accountability and citizen/taxpayer insight

The CEAR<sup>®</sup> program was established in collaboration with the Chief Financial Officers Council and the U.S. Office of Management and Budget to improve accountability by streamlining reporting and improving the effectiveness of such reports so they clearly show what an agency accomplished with taxpayer dollars and the challenges that remain.



The USPTO's 2019 PAR cover and AGA's Certificates of Excellence in Accountability Reporting

# YOUR GUIDE TO USING THIS REPORT

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

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## Management's Discussion and Analysis Section

This section provides an overview of the USPTO's organization, mission, and strategic framework. A summary of significant case law developments, the agency's FY 2020 programs, and financial performance are provided along with management's assessment of the USPTO's challenges and its assurances on the USPTO's internal controls.

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## Performance Information Section

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

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## Financial Section

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

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## Other Information Section

This section provides the top management challenges facing the USPTO, as identified by the Inspector General (IG): a summary table of financial statement audit and management assurances, information on the agency's efforts to eliminate improper payments, information on the agency's real property portfolio, matters related to the Federal Civil Penalties Inflation Adjustment Act of 1990, other administrative updates, and reporting requirements under USPTO legislation (the Nature of Training Provided to the USPTO Examiners and FY 2020 Workload Tables).

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## Glossary of Acronyms and Abbreviations

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

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## URL Index

For those using a paper version of the USPTO FY 2020 PAR, you can find the underlined text items in the URL Index on page 238. It provides full web addresses for all hyperlinks included in this PAR narrative.





# MANAGEMENT'S DISCUSSION AND ANALYSIS

U.S. PATENT AND TRADEMARK OFFICE

## MISSION AND ORGANIZATION OF THE USPTO

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

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

In today's challenging and competitive global economy, the USPTO's role in protecting America's IP remains critical to American competitiveness and economic success internationally. The potential value of IP protection in the United States is evident by demand for the USPTO's Patent- and Trademark-related products and services. In the past 20 years, patent application filings from domestic and foreign entities have more than doubled. In the same time frame, the number of trademark application filings from U.S. residents has almost doubled, whereas filings from foreign entities have nearly tripled. As an agency of the U.S. Department of Commerce, the USPTO supports the Department's mission to create conditions conducive to economic growth by promoting innovation, entrepreneurship, competitiveness, and stewardship. The USPTO supports the Department of Commerce's goal of accelerating

American leadership through strengthening IP protection and U.S. economic and national security.

### Our Organization

As shown in Figure 1, the Under Secretary of Commerce for Intellectual Property and Director of the USPTO leads the agency. The Patent Public Advisory Committee (PPAC) and the Trademark Public Advisory Committee (TPAC) advise the Under Secretary. The USPTO comprises two primary business lines, the Patents Business Line and the Trademarks Business Line. The Office of Policy and International Affairs (OPIA) spearheads the USPTO's policy and international work. The USPTO also has several other supporting units that include information technology (IT); human resources; financial, legal and administrative services; equal employment opportunity; and communications.

Headquartered in Alexandria, Virginia, the USPTO has four Regional Offices, as seen in Figure 2:

- The Texas Regional Office in Dallas, Texas;
- The Rocky Mountain Regional Office in Denver, Colorado;
- The Elijah J. McCoy Midwest Regional Office in Detroit, Michigan;
- The Silicon Valley Regional Office in San Jose, California.

Additionally, in the first quarter of FY 2020, the USPTO created the Eastern Regional Outreach Office based in the Alexandria, Virginia, headquarters.

The USPTO is a distinctive government agency. In 1991, under the Omnibus Budget Reconciliation Act (OBRA) of 1990, the USPTO became fully supported by user fees to fund its operations. In 1999, the American Inventors Protection Act (AIPA) established the USPTO as an agency with performance-based attributes. For example, the USPTO has a clear mission statement, measurable services, a performance measurement system that provides customers with our performance expectations, and known funding sources. In 2011, the AIA provided



FIGURE 1: UNITED STATES PATENT AND TRADEMARK OFFICE

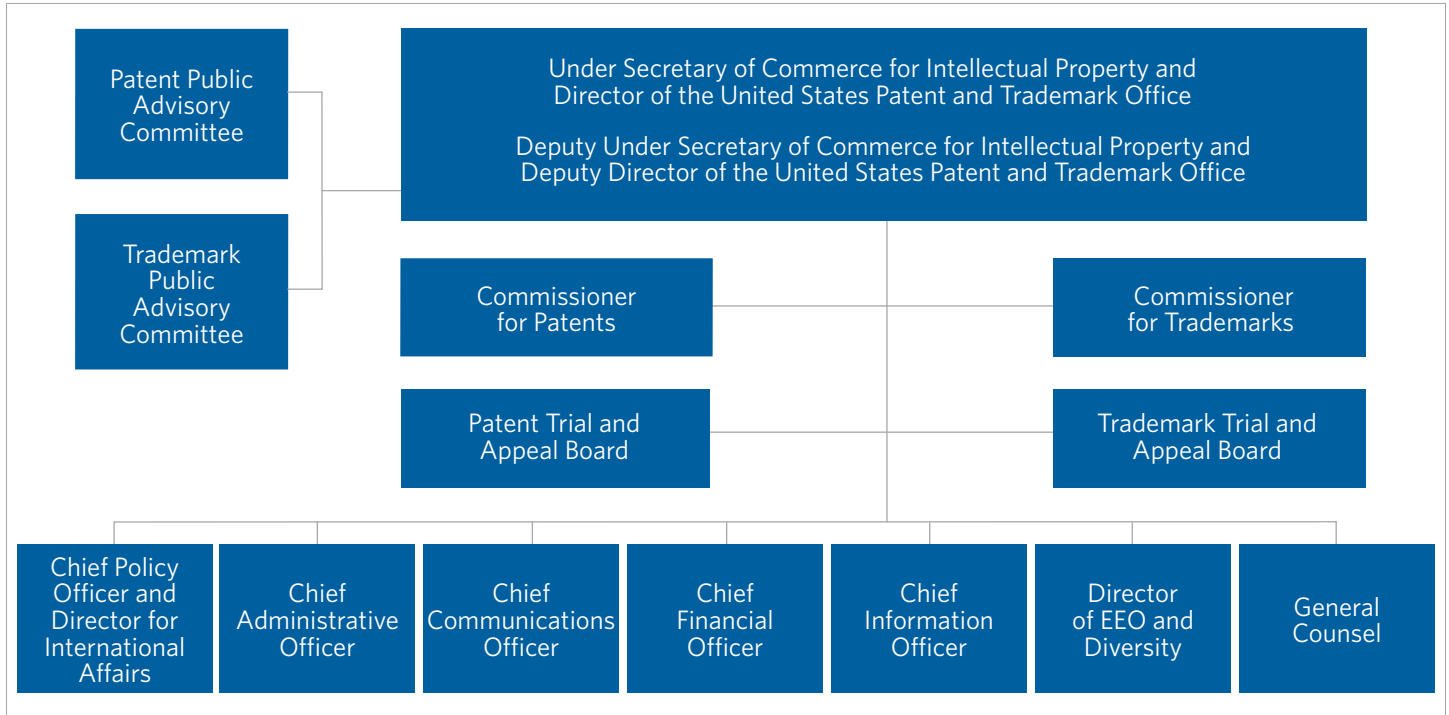
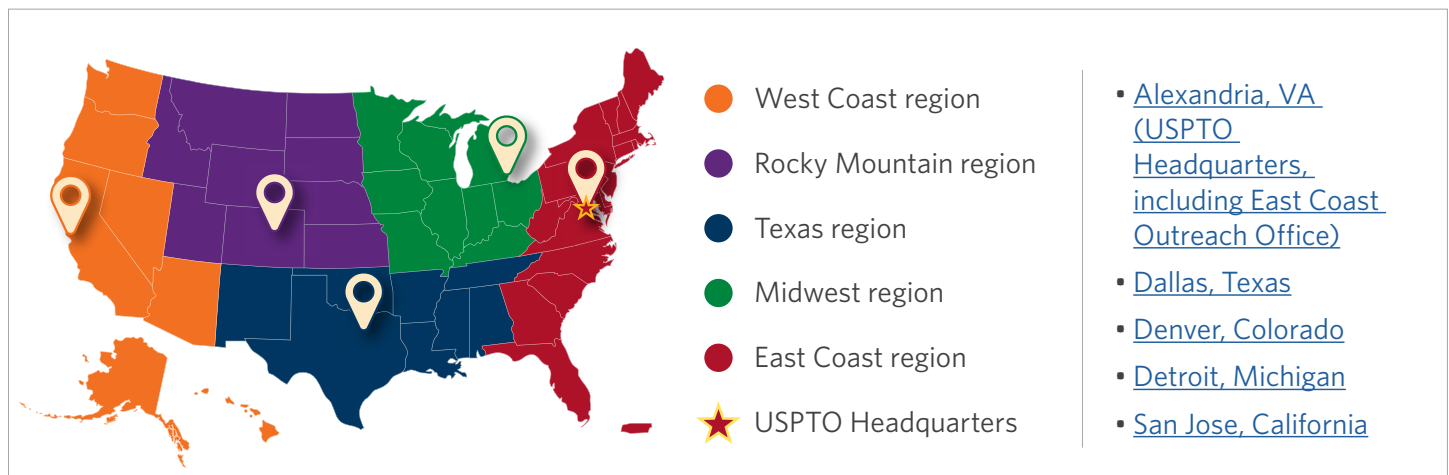


FIGURE 2: MAP OF THE USPTO HEADQUARTERS AND REGIONAL OFFICES



temporary fee-setting authority essential to the USPTO’s sustainable funding model.

With the enactment of the SUCCESS Act in 2018, the USPTO needed to study, report, and provide legislative recommendations to increase entrepreneurship and the number of patents applied for and obtained by women, minorities, and veterans (and by small businesses owned by

women, minorities, and veterans). It also amended the AIA to extend the USPTO’s fee-setting authority until 2026.

The 21st Century Improving Digital Experiences Act of 2018 and the Evidence-Based Policymaking Act of 2018 emphasized acquiring and using customer feedback to shape agency operations, improve program data and information accessibility, and improve digital customer



experiences. In addition, in 2018, the Patent and Trademark organizations within the USPTO were both designated as separate High-Impact Service Providers (HISP) of federal services due to the scale and impact of their public-facing services. Therefore, they must conduct a capacity assessment to track their maturity, identify areas for growth, collect feedback in line with government-wide measures, and outline specific actions that are directly aimed at improving critical moments in their customers' journeys.

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### Patents Organization

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

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### Trademarks Organization

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The Trademarks organization registers marks (i.e., trademarks, service marks, certification marks, collective marks, and collective membership marks) that meet the requirements of the Trademark Act of 1946, as amended. It also provides notice to the public and businesses of the trademark rights claimed in pending applications and existing registrations. The core practice of the Trademarks organization is examining applications for trademark registration. As part of this process, examining attorneys make determinations as to registrability under the provisions of the Trademark Act:

- Searching electronic databases for pending or registered marks that are confusingly similar to those in a subject application;
- Preparing letters and communicating findings to applicants, approving applications to be published for opposition;
- Examining statements of use in claims filed under the Intent-to-Use provisions of section 1(b) of the Trademark Act.

The organization also considers and approves lawful maintenance documents and renewals of trademark registrations. Moreover, the organization participates in policy development for examination, international trademark cooperation, and trademark-focused educational and stakeholder outreach.

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### Policy and International Affairs

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The OPIA supports the Under Secretary and Director's Office in fulfilling the USPTO's statutory mandate to advise the administration (through the Secretary of Commerce) and federal agencies on all IP policy issues, to conduct programs and studies on IP, and to work with IP offices and intergovernmental organizations worldwide. OPIA's work includes advising the Secretary of Commerce and the administration on a full range of IP policy matters:

- Providing educational programs on IP;
- Leading negotiations on behalf of the United States at the World Intellectual Property Organization (WIPO);
- Providing expert assistance in negotiating the IP provisions of international trade agreements and advising on their implementation;
- Managing the IP Attaché Program, through which IP experts are placed in cities throughout the world to promote high-quality IP protection;
- Engaging with Congress and other federal agencies on IP legislation;
- Performing and supporting empirical studies of the economic impacts of IP and innovation.

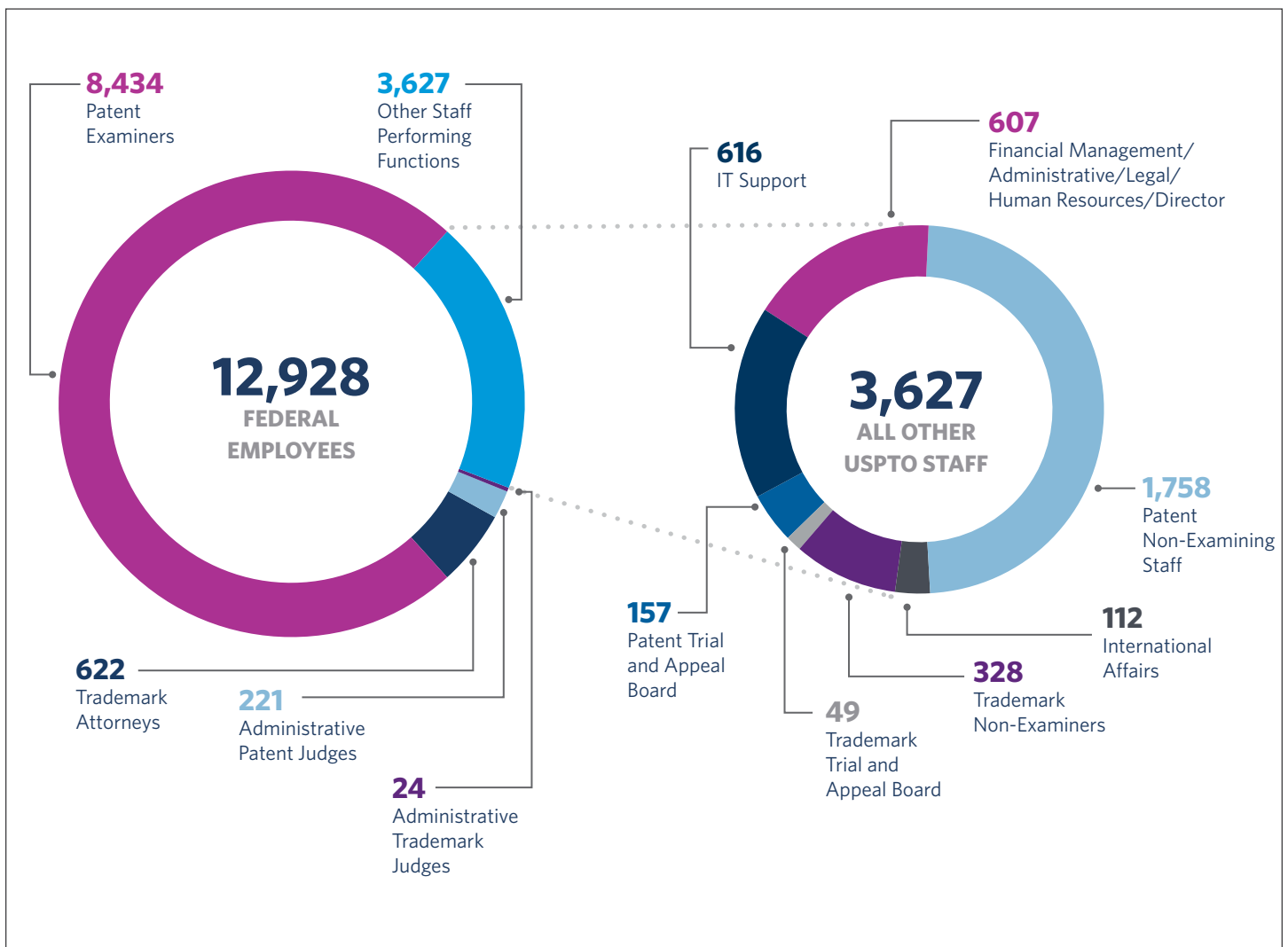
## Our People

At the end of FY 2020, the USPTO workforce (Figure 3) was comprised of 12,928 federal employees, including:

- 8,434 patent examiners ;
- 622 trademark examining attorneys;
- 221 Administrative Patent Judges (APJs);
- 24 Administrative Trademark Judges (ATJs);
- 3,627 other staff performing functions in areas including, but not limited to, Patent and Trademark

Trial and Appeal Boards, international affairs, congressional relations, IT, financial management, administrative support, legal affairs, human resources, and the Under Secretary and Director’s Office.

FIGURE 3: USPTO STAFFING



## SIGNIFICANT CASE LAW DEVELOPMENTS

### Recent Decisions

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

The USPTO worked with the United States Solicitor General’s Office on several important IP cases at the U.S. Supreme Court and the U.S. Court of Appeals for the Federal Circuit in FY 2020. The two cases most directly affecting USPTO interests as an administrative agency were *Thryv v. Click-to-Call* and *Arthrex, Inc. v. Smith & Nephew, Inc.*

*Thryv* concerned the courts’ authority to review USPTO decisions related to the institution of inter partes review (IPR), specifically, whether 35 U.S.C. § 314(d)’s prohibition against the judicial review of agency institution decisions applies to agency determinations concerning section 315(b), which provides that an IPR may not be granted against a patent where the petition requesting the IPR was filed more than one year after the petitioner was served with a complaint alleging infringement of the patent in question. Agreeing with the USPTO, the Supreme Court held that section 315(b) time-bar determinations count as decisions on the institution of an IPR and, therefore, are nonappealable under the statute. The decision in *Thryv* thus reaffirms the USPTO’s interpretation of section 314(d) and Congress’s intent that the agency has a great deal of discretion in determining whether to institute IPR proceedings. Following *Thryv*, the Federal Circuit has since dismissed several other cases involving institution questions.

The USPTO also worked with the Solicitor General’s Office to petition the Supreme Court to review the Federal Circuit’s holding in *Arthrex* that the PTAB’s APJs are unconstitutionally appointed principal officers. The petition argues that the APJs are inferior officers whose appointment Congress vested in the head of the Department of Commerce, rather than principal officers who must be appointed by the President with the Senate’s advice and consent under article II of the U.S. Constitution. The USPTO has also filed an omnibus “hold” petition in dozens of other cases that the Federal Circuit remanded to the USPTO on the basis of *Arthrex*. The Supreme Court granted the USPTO’s petition on October 13, 2020.

The USPTO was also a party in the *Booking.com* case, which concerned whether the addition by an online business of a generic top-level domain suffix (“.com”) to an otherwise generic term (a “generic.com” term) can create a registrable trademark. More specifically, Booking.com, a travel company that maintains a website at the same domain name, sought federal registration of marks including the term “Booking.com” in connection with online travel-related reservation services. The USPTO refused registration because “Booking.com” is a generic name for that class of services. Booking.com sought judicial review, arguing that “Booking.com”—unlike the term “booking” standing alone—is not generic. The Supreme Court disagreed with the agency’s interpretation, holding that there is no bright line rule that the addition of “.com” to a generic word necessarily results in a combination that is generic and ineligible for registration. The USPTO must examine whether available evidence shows that consumers would perceive a given “generic.com” term as a class of services (making it generic) or as capable of distinguishing the applicant’s services from those of others (making it eligible). In light of the Supreme Court’s decision, the USPTO issued Examination Guide 3-20 entitled “Generic.com Terms After *USPTO v. Booking.com*.” This examination guide addresses the procedures for examining trademark applications for “generic.com terms.” The guidance set forth in the examination guide supersedes any previous USPTO guidance on this topic to the extent there are any conflicts.

# PERFORMANCE HIGHLIGHTS

## Introduction to Performance

The USPTO issued its 2018–2022 Strategic Plan in 2018 (see Table 1). The plan outlines the framework that enables the USPTO to respond to domestic and international customers' demands for vital and timely IP products and services and builds on our current organizational effectiveness and efficiency.

Highlights include:

- Issuing reliable IP rights;
- Aligning Patent and Trademark examination capacity with current and projected workloads;
- Modernizing IT;
- Enhancing the customer experience;

- Promoting a mission-oriented and quality-focused culture among our employees;
- Protecting IP rights abroad;
- Monitoring and helping address dynamic IP issues in Congress and in the Courts;
- Maintaining a sustainable funding model; and
- Developing IP policy.

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

## THE USPTO MISSION

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

## THE USPTO VISION

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

TABLE 1: 2018–2022 STRATEGIC PLAN

Strategic Goals with Resources Invested	Objectives
<p><b>Goal I:</b>  <b>Optimize Patent Quality and Timeliness</b>                      Obligations: \$3,105.0 million                      Total Program Cost: \$3,199.4 million</p>	<p>Optimize Patent Application Pendency                      Issue Highly Reliable Patents                      Foster Innovation Through Business Effectiveness                      Enhance Operations of the PTAB</p>
<p><b>Goal II:</b>  <b>Optimize Trademark Quality and Timeliness</b>                      Obligations: \$344.3 million                      Total Program Cost: \$360.5 million</p>	<p>Optimize Trademark Application Pendency                      Issue High-Quality Trademarks                      Foster Business Effectiveness                      Enhance Operations of the TTAB</p>
<p><b>Goal III:</b>  <b>Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Enforcement, and Protection Worldwide</b>                      Obligations: \$66.2 million                      Total Program Cost: \$63.1 million</p>	<p>Provide Leadership and Education on Domestic Intellectual Property Policy and Awareness                      Provide Leadership and Education on International Intellectual Property Policy and Awareness</p>
<p><b>MISSION SUPPORT GOAL:</b>  <b>Achieve Organizational Excellence*</b></p>	<p>Enhance Human Capital Management and Foster Employee Engagement                      Optimize Speed, Quality, and Cost-Effectiveness of IT Delivery to Achieve Business Value                      Ensure Financial Sustainability to Facilitate Effective USPTO Operations                      Enhance the USPTO's Interaction with Internal and External Stakeholders and the Public at Large</p>

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



## Strategic Performance Framework

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

The USPTO’s strategic goals align with the U.S. Department of Commerce’s strategic goals and objectives. These priorities support the U.S. Department of Commerce’s strategic objective to “strengthen intellectual property protection.” “They protect IP both in the United States and abroad by providing vital and significant rights, encouraging the continued development of innovation, and enforcing the Nation’s

trade laws and security laws,” thus ensuring that foreign governments comply with IP-related international agreements. For FY 2020, there were 10 Strategic Plan key performance outcome measures, all designed to monitor progress as the USPTO implements initiatives to achieve its strategic goals. We developed annual performance targets for each measurable outcome. Supporting measures are metrics that support or facilitate progress on the key performance measures, and many are viewable online in the [USPTO’s Data Visualization Center](#). In FY 2020, the USPTO met or exceeded its targets for 10 out of 10 key performance metrics. A summary of the key performance measurement results are provided in Tables 2 and 3. The goals and objectives for these performance commitments are in the strategic framework presented in Table 1. A summary of strategic goal results are in Table 3.

TABLE 2: **SUMMARY OF FY 2020 KEY PERFORMANCE INDICATOR RESULTS**

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

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

TABLE 3: SUMMARY OF KEY STRATEGIC GOAL RESULTS FOR FY 2015–2020

Strategic Goals Key Performance Measures	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Target	FY 2020 Actual
<b>GOAL I: Optimize Patent Quality and Timeliness</b>							
Average First Action Pendency (months)	17.3	16.2	16.3	15.8	14.7	15.0*	14.8
Average Total Pendency (months)	26.6	25.3	24.2	23.8	23.8	23.7	23.3
<b>GOAL II: Optimize Trademark Quality and Timeliness</b>							
Average First Action Pendency (months)	2.9	3.1	2.7	3.4	2.6	2.5-3.5	3.0
Average Total Pendency (months)	10.1	9.8	9.5	9.6	9.3	12.0	9.5
First Action Compliance Rate	96.7%	97.1%	97.3%	96.9%	96.4%	95.5%	95.7%
Final Compliance Rate	97.6%	97.8%	98.3%	97.9%	97.4%	97.0%	98.1%
Exceptional Office Action	48.3%	45.4%	45.0%	48.0%	54.5%	50.0%	51.0%
Applications Processed Electronically	82.2%	84.8%	86.5%	87.9%	88.4%	88.0%	88.7%
<b>GOAL III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Enforcement, and Protection Worldwide</b>							
Percentage of prioritized countries for which IP country teams have made progress on at least three of the four performance criteria: <ul style="list-style-type: none"> <li>▪ Institutional improvements of IP office administration for advancing IP rights,</li> <li>▪ Institutional improvements of IP enforcement entities,</li> <li>▪ Improvements in IP laws and regulations, and</li> <li>▪ Establishment of government-to-government cooperative mechanisms.</li> </ul>	100.0%	100.0%	100.0%	100.0%	100.0%**	66.0%	100.0%
Number of people, including foreign government officials and U.S. stakeholders, trained on best practices to protect and enforce IP	5,283	4,975	4,134	7,242	9,854	5,000	10,688

\* The USPTO continued striving towards a more aggressive target of less than 15 months versus the FY 2021 President's Budget target of 16.1 months.

\*\* Updated to reflect 100% of goal achieved in FY 2019.

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

## Summary of Strategic Goal Results

Figure 4 highlights the FY 2020 actual performance results for the USPTO’s key performance measures against established goal objectives and performance targets. For those measures retained from prior fiscal

years, the table also includes actual performance results for the past five fiscal years. For the latest updated status of these and other performance measures, please visit the USPTO’s Data Visualization Center. Complete performance data is in the Performance Information Section.

FIGURE 4: 2020 PERFORMANCE RESULTS BY STRATEGIC GOAL



## MANAGEMENT CHALLENGES AND WHAT'S AHEAD

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### Stable and Sustainable Funding

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The USPTO is a performance-based, production-oriented, revenue-generating entity (i.e., funded through user fees with zero dollars received in taxpayer funding), with budgetary requirements derived from demand-driven workloads. These four pillars of the USPTO's operating model are inextricably linked. A change in any one of these pillars—agency performance targets, production capacity, funding availability, or demand for the USPTO's services—can produce a ripple effect that can potentially impact the other three. Stable and sustainable funding continues to serve as the cornerstone for accomplishing the USPTO's mission.

The USPTO's fees are set at rates expected to recover the aggregate cost of services provided, based on point-in-time estimates of future demand and budgetary requirements. If the USPTO's actual experience varies from the assumptions it makes when setting fee rates—e.g., budgetary requirements increase due to unanticipated needs or implementation of unplanned mandates, or if changes in the economic, legal, or business environments alter customer practices or demand for specific USPTO services—then the agency's operating costs and revenues can become misaligned. The USPTO maintains operating reserves that are minimally sufficient to manage revenue volatility or temporary funding. Over the longer term, the USPTO must regularly assess and update its fee structure as a regular part of its business operations to ensure that the fees it collects support sound public policy and generate sufficient income to finance effective and efficient agency operations.

As the USPTO evolves, it is looking to secure sustainable funding and continue optimizing the management of its financial resources. In addition to budget and revenue management, this includes efforts to review and streamline how the agency delivers services, both internally and to the public. For mission-enabling IT services, the USPTO continues to transform its delivery model, including revisions to policies, processes, roles, responsibilities, and expectations. The transformation aims to deliver better business value to support the USPTO mission. Likewise, the USPTO will continue improving acquisition processes and strategies to ensure that the agency promotes competition and effectively manages vendor performance to obtain the best value from its contracted work products. The agency's contracting workforce will work with its internal customers to plan for and forecast their acquisition needs earlier in the fiscal year and leverage new automated planning tools. These improvements will be beneficial throughout the USPTO, especially for IT goods and services that comprise most of the agency's contracting activity.

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### Reliance on Information Technology

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



Although the USPTO strives for continuous improvement and optimization of all IT systems, there are instances in which the agency faced challenges. The USPTO has had to continue relying on legacy systems and infrastructure that have not always kept pace with technology and security advancements. This reliance on legacy IT is a significant risk that the USPTO must actively manage to enable the nationwide workforce “24/7/365” operational capability, improve IT support for examination and revenue collection capabilities, and provide IT disaster recovery capabilities to sustain the business.

The USPTO continues its multi-year efforts to modernize its business systems and supporting IT infrastructure to keep pace with emerging business needs, security, and technology standards that will ultimately allow us to retire aging legacy solutions. Modern IT solutions will enable more frequent, successful, and reliable IT deployments and enhance the understanding of the interactions between IT and business functions.

The USPTO will continue to enhance its IT capabilities for both Patent and Trademark business areas and maintain legacy systems until they can be retired. Recent enhancements include implementing core electronic examination tools for document management and searching; improving interactions for filing, searching, payment, and communication; and making it easier and more secure to conduct business with the USPTO.

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## Legal Challenges

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The USPTO faced legal challenges during FY 2020 that will continue to affect its operations in the next fiscal year and that may raise similar difficulties in the trademark realm. In *Arthrex*, the Federal Circuit held that the PTAB’s APJs were performing the duties of “principal officers” but had not been appointed by the President with the Senate’s advice and consent under the Appointments Clause of article II of the U.S. Constitution. To cure this alleged defect in the APJs’ appointments, the Federal Circuit stripped the APJs’ “for-cause” removal protections from the USPTO’s governing statute, and thus rendered the APJs appropriately appointed “inferior officers” as of the date the *Arthrex* decision issued. Under the *Arthrex* holding, all appeals from PTAB decisions issuing before the *Arthrex* decision where the patentee raised an Appointments Clause challenge would be vacated and remanded for a new hearing by a different panel of APJs. The Federal Circuit also extended the relief of vacatur and remand before a different panel of APJs in *ex parte* appeals where the applicant raised an Appointments Clause challenge in its opening brief to the Federal Circuit. See *In re Boloro Global Ltd.*

Related to *Arthrex*, the USPTO is also facing challenges to the appointments of the ATJs at the USPTO’s TTAB. Like APJs at the PTAB, the ATJs oversee appeals from examiner decisions and adversarial proceedings—e.g., oppositions and cancellation proceedings—that are subject to appeal before an article III court. See, e.g., *Piano Factory Group, Inc. v. Schiedmayer Celesta GmbH*; *Solar-Somohano v. Coca-Cola Company*. Consequently, the USPTO has sought Supreme Court review of the Federal Circuit’s decision in *Arthrex*—as well as in dozens of cases remanded pursuant to *Arthrex*—and asserted its position that the PTAB’s APJs have always been inferior officers whose appointment Congress permissibly vested in the Secretary of Commerce.

## SYSTEMS AND CONTROLS

### Management Assurances

On the basis of the USPTO's comprehensive internal control program during FY 2020, the USPTO can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations, reporting, and compliance with applicable laws and regulations, as of September 30, 2020, was operating effectively. Accordingly, I am pleased to certify with reasonable assurance that our agency's systems of internal control, taken as a whole, comply with section 2 of the Federal Managers' Financial Integrity Act of 1982. Our agency also is in substantial compliance with applicable federal accounting standards and the U.S. Standard General Ledger at the transaction level and with federal financial system requirements. Accordingly, our agency fully complies with section 4 of the Federal Managers' Financial Integrity Act of 1982, with no material non-conformances.

In addition, the USPTO conducted its assessment of the effectiveness of our agency's internal control over reporting, which includes safeguarding of assets and compliance with applicable laws and regulations, in accordance with OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control. Based on the results of this evaluation, the USPTO provides reasonable assurance that its internal control over reporting, as of June 30, 2020, was operating effectively, and no material weaknesses were found in the design or operation of the internal control over reporting. In addition, no material weaknesses related to internal control over reporting were identified between July 1, 2020, and September 30, 2020.



**Andrei Iancu**

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

*October 2, 2020*

#### Federal Managers' Financial Integrity Act

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

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

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

### Federal Financial Management Improvement Act (FFMIA)

The FFMIA requires federal agencies to report on their substantial compliance with federal financial management system requirements, federal accounting standards, and the U.S. Standard General Ledger at the transaction level. In accordance with OMB Circular A-123, Appendix D, substantial compliance is achieved when an agency's financial management systems routinely provide reliable and timely financial information for managing day-to-day operations as well as to produce reliable financial statements, maintain effective internal control, and comply with legal and regulatory requirements. The USPTO complied substantially with the FFMIA for FY 2020.

## Other Compliance with Laws and Regulations

### Federal Information Security Management Act

The USPTO remains vigilant in reviewing administrative controls over information systems and is always seeking methods of improving our security program. During FY 2020, the USPTO continued its dedicated efforts in support of compliance with Federal Information Security Management Act (FISMA) standards and improvement of our security program. The USPTO IT Security Program includes a strategy for continuous monitoring that conducts credentialed compliance and vulnerability scans on servers, network devices, databases, and web applications on a quarterly basis. Monthly analysis is being performed to ensure that operating systems have been configured in accordance with their security baseline and appropriate software patch levels. Additionally, the IT Security Program has integrated

artifacts to support the Security Impact Analysis within the systems development lifecycle that allow assessment of testing requirements for systems undergoing new developments, enhancements, or maintenance. This proactive approach to security within the development process has successfully assessed changes and enabled security compliance for systems as they are being developed or updated.

The Chief Information Security Officer and the OCIO staff worked together to successfully meet the compliance requirements of FISMA, while also meeting OMB reporting requirements. All USPTO systems achieved a 100% FISMA compliance reporting level for FY 2020, with no deficiencies identified that are considered to be the result of any material weaknesses in internal control. As a result, the USPTO was able to maintain its continuous monitoring and provide an accurate summary of information consistent with OMB requirements for year-end reporting.

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

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

### **Improper Payments Elimination and Recovery Act**

We continue to maintain internal control procedures that help monitor disbursement of federal funds for valid obligations. The USPTO continues to assess improper payment risks covering all programs and activities, as required by *OMB Circular A-123, Appendix C, Requirements for Effective Measurement and Remediation of Improper Payments*. These improper payment risk assessments include assessments of the control and procurement environments, and are now in the continuous process stage of being updated annually. Additional details can be found in the Other Information section of this report (see page 175).

### **Prompt Payment Act**

The Prompt Payment Act requires federal agencies to report on their efforts to make timely payments to vendors, including interest penalties for late payments. In FY 2020, the USPTO did not pay interest penalties on 99.2% of the 6,935 vendor invoices processed, representing payments of approximately \$847.2 million. Of the 56 invoices that were not processed in a timely manner, the USPTO was required to pay interest penalties on all 56 invoices. The USPTO paid \$5 in interest penalties for every million dollars disbursed in FY 2020, with the total of interest penalties amounting to \$4,600. Virtually all recurring payments were processed by electronic funds transfer, in accordance with the electronic funds transfer provisions of the Debt Collection Improvement Act of 1996.

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

The USPTO increased the usage for Vendor Portal in FY 2020 by adding 13 new vendors to the vendor portal, an increase of over 400% compared to the two previous years. In addition to processing over \$13 million in payments in FY 2020, the Vendor Portal users also used the system to get contract status, submit contract deliverables, receive direct solicitations, and submit offers.

### **Debt Collection Improvement Act**

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

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

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

The budget, financial spending, and award data that are required to comply with the DATA Act are currently housed in a single source system at the USPTO. Most activities required to report the DATA Act information at the USPTO entail extracting, validating, and reconciling the data prior to submission to the Treasury. With minimal operational business process changes, the USPTO continues to use existing system resources to comply with the reporting requirements. For all periods required during FY 2020, the USPTO reported financial and payment data in accordance with DATA Act requirements and data standards established by the Department of Treasury and OMB.



## Other Systems And Control Considerations

### Financial Management Systems Strategy

In FY 2020, the USPTO realigned IT into four product lines and 30 products for capital planning and investment control. The Enterprise Business Product Line includes three products that support the overall USPTO financial management function: Financial Management Product; Fee Management Product; and Planning, Budgeting, and Governance Product. In addition, the overall USPTO financial management function is supported by a fourth product in the Enterprise Business Product Line: Data and Analytics Product.

The Financial Management Product leverages several commercial-off-the-shelf (COTS) components, including a core financial and acquisition tool (Momentum), supplemental acquisition tools (Aeon), and a travel tool (Concur). This product supports award acquisition management, payroll management, travel management, accounting management, and funds management. While most of the activities have been automated for well over 20 years, many of the acquisition capabilities were automated in the past few years. In FY 2021, there will be even more of a focus on the interaction between the USPTO and its vendor community.

The Fee Management Product is a custom development and integrates with Momentum, which maintains the USPTO revenue subsidiary ledger. The services provided by this product include: maintenance fee management, stored payment account management, pricing management, order management, and funds management. In FY 2019, the USPTO completed replacement of its legacy fee management product. In FY 2021 and FY 2022, the focus will change to providing additional external customer functionality (e.g., online refund requests and general deposit account authorizations), as well as further integration with internal USPTO examiner systems to streamline currently manual processes.

The Planning, Budgeting, and Governance Product leverages COTS components, including budgeting tools (Cognos Planning and Hyperion), a fee forecasting tool (Alteryx), a cost accounting tool (Cost Perform), and accounting reference data management (Oracle APEX). This product supports planning, forecasting, budgeting, and performance management. Central budget formulation and compensation projection was deployed in FY 2019 and enhanced in FY 2020. Central budget execution moved from Cognos Planning to Hyperion in FY 2020. IT budget formulation and execution will follow closely in FY 2021 so that Cognos Planning can be retired. From there, Hyperion will be expanded to serve the decentralized budget and performance management needs of each USPTO business unit. In addition, Alteryx will be expanded to include workload forecasting for a fully automated USPTO business model. Also, to further provide data needed to refine the business model, the USPTO realignment by product assists in reporting budget and costs by the Technology Business Management (TBM) framework.

In addition to the source databases supporting each COTS component mentioned above, a COTS content repository (Cassandra and DataStax) is available to store unstructured data such as scanned check images from the Fee Management Product and vendor submissions from the Financial Management Product. This content repository is currently part of the Data and Analytics Product but will eventually become part of a larger consolidated USPTO content repository.

The Data and Analytics Product includes both structured data in the Enterprise Data Warehouse (EDW) and unstructured data in the Big Data Reservoir. To date, the financial management function has mainly leveraged the Enterprise Data Warehouse (EDW). The EDW user community uses business intelligence tools (Business Objects and Tableau), and system administrators use an extract, transform, and load tool (SAP Data Services). The USPTO is undergoing a culture shift to view data as an asset. The financial management community's attention to the benefits of the Data and Analytics Product will grow in the coming years, as will the product.

# FINANCIAL DISCUSSION AND ANALYSIS

## Financial Highlights

The USPTO operates solely on user fees, much like a private-sector business, in that it provides IP products and services that are paid for by fees from customers of those products and services. Similar to many private sector businesses in FY 2020, the COVID-19 global pandemic and related economic downturn caused the USPTO fee collections to decline somewhat initially as the macro economy slowed, but also showed some signs of improvement as parts of the larger U.S. economy recovered during the summer. The USPTO first saw a decline in trademark activity and fees, then later in patent activity and fees. By the end of FY 2020, the USPTO began to see trademark fees recover, but there continues to be uncertainty around patent fee collections. The USPTO's strong financial management, including maintaining operating reserves and contingency planning for spending adjustments, enabled the agency to operate with minimal disruption despite the revenue volatility.

In addition to these macro-economic influences, a final rule published in the Federal Register on August 3, 2020 ([Setting and Adjusting Patent Fees During Fiscal Year 2020](#)), also affected the USPTO's financial outcomes for FY 2020. This rulemaking raised most patent-related fees, effective October 2, 2020. As a result, the USPTO received a surge of patent fee collections in the final days of FY 2020, particularly patent maintenance fees, as customers sought to pay fees ahead of the fee increase. This increase in fee collections offsets the effect of the economic trends in the USPTO's FY 2020 year-end results; however, this surge is predicted to be matched by a subsequent dip in patent-related fee collections in the first and second quarters of FY 2021. As such, these fees

do not represent a demand-driven increase in revenue, but merely the timing of when the USPTO received these fee payments. These FY 2020 collections will be used to sustain regular operations in FY 2021.

The USPTO received an unmodified (clean) audit opinion from the independent public accounting firm of KPMG LLP on its FY 2020 financial statements, provided in the Financial Section of this report. This is the 28th consecutive year that the USPTO has received a clean opinion. Our unmodified audit opinion provides independent assurance to the public that the information in the USPTO financial statements is fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America. In addition, KPMG LLP reported no material weaknesses in the USPTO's internal controls, and no instances of non-compliance with laws and regulations affecting the financial statements. KPMG LLP continues to report a significant deficiency related to IT security (page 164). A copy of the audit can be found in the Other Information section for the Summary of Financial Statement Audit and Management Assurances.

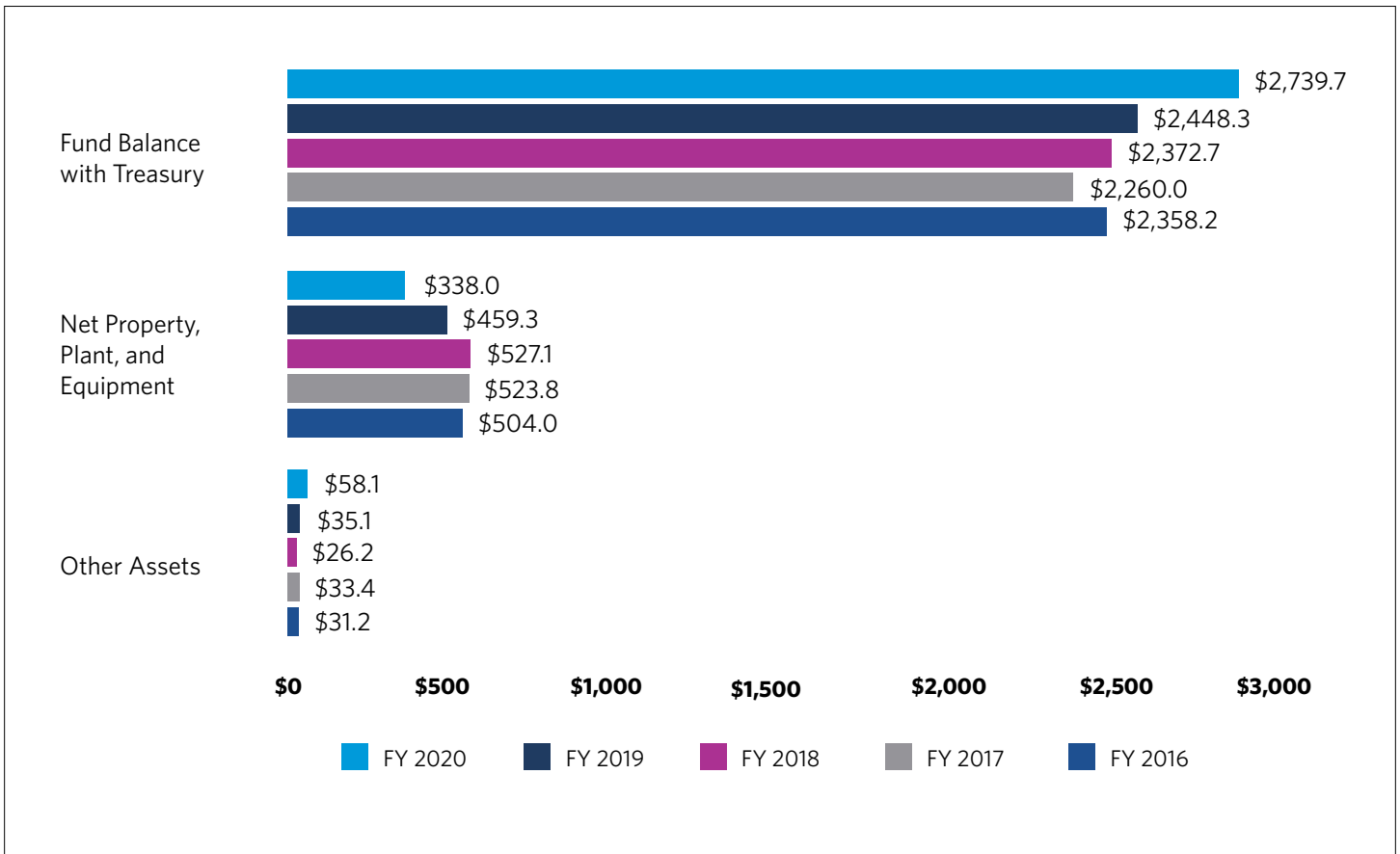
The summary of financial highlights presented in this section provides an analysis of the information that appears in the USPTO's FY 2020 financial statements (amounts may vary slightly due to rounding). The USPTO financial management process ensures that management financial decision-making information is dependable, internal controls over financial reporting are effective, and compliance with laws and regulations is maintained. These highlights and the issuance of these financial statements is a component of the USPTO's objective to continually improve the accuracy and usefulness of its financial management information.

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

At the end of FY 2020, the USPTO’s Balance Sheet (see page 127) presents total assets of \$3,135.8 million, total liabilities of \$1,651.3 million, and a net position of \$1,484.5 million.

Total assets increased during FY 2020. Overall, there has been an increase of 8.4% over the last four years, resulting largely from the increase in fee collections from customers (explained in more detail on page 37). The following graph shows the changes in assets during this period.

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



Fund Balance with Treasury is the single largest asset on the Balance Sheet and represents 87.4% of total assets at the end of FY 2020. A little over 40% of the Fund Balance with Treasury represents fees the USPTO has collected, but has not been authorized to spend through the annual appropriation process, including temporarily unavailable fees of \$937.8 million and unavailable special fund receipts under OBRA of \$233.5 million, which total \$1,171.3 million in unavailable fees. These funds require Congressional appropriation before they will be available for the USPTO's use. The Fund Balance with Treasury is also comprised of unexpended obligated funds of \$667.8 million, other funds held on deposit for customers of \$156.0 million, and appropriated but unobligated funds carried over from one year to the next (operating reserve) of \$744.6 million. The operating reserve includes \$266 million of patent fees paid in advance of the patent fee increase effective on October 2, 2020; these fee payments will be used to finance agency requirements in the subsequent fiscal year.

The operating reserves are available for use without further Congressional appropriation and are maintained to permit the USPTO to plan for long-term financial stability, as well as temporary changes in our cash flow. As such, the operating reserves are not tied to a specific event and enable the USPTO to address fluctuations in revenues much like we experienced in FY 2020, unexpected demands on resources, or planned investments. In addition, the operating reserves are used to manage cash flow at the beginning of the fiscal year to ensure the agency has adequate resources to sustain operations. Total operating requirements exceed fee collections early in the year, when the USPTO must incur a number of large expenses related to payroll and large contracts. The operating reserves provide sufficient resources to continue operations until the collection of fees builds over the subsequent months.

During FY 2020, in response to revenue uncertainty due to the economic volatility associated with the COVID-19 pandemic, the USPTO reduced agency spending plans. The USPTO delayed implementation of planned investments to deliver a full suite of IT applications to the Trademarks business unit; this is discussed in more detail on page 81. In addition, the agency deferred hiring and

reduced certain other expenses. These budget adjustments also ensured that the agency entered FY 2021 with sufficient reserves to mitigate lingering economic uncertainty.

As required by 35 U.S.C. § 42(c)(3), the USPTO maintains and tracks two distinct operating reserve balances—one for Patents operations and one for Trademarks operations. Both the Patent and Trademark operating reserve balances were maintained above the minimum planning level of \$300 million and \$75 million, respectively.

The Patents operating reserve increased from \$408.0 million (1.6 months of operating expenses) at the end of FY 2019 to \$612.5 million (2.5 months of operating expenses) at the end of FY 2020, representing an increase of \$204.5 million, or 50.1%. This significant increase was the result of higher fee collections, largely due to an estimated \$266 million in maintenance fees paid ahead of a patent fee increase that became effective on October 2, 2020. As noted above, these fee payments do not represent a demand-driven increase in revenue; rather, they are a shift in the timing of collections that otherwise would have occurred in FY 2021. In addition, as a result of economic uncertainty caused by the onset of the COVID-19 pandemic, the USPTO reduced its Patents spending plans in the second half of FY 2020 to mitigate the downward pressures being exerted on the Patents operating reserve. These reductions included deferring hiring and specific non-urgent, non-compensation spending. The USPTO had planned to spend more on patents operations than it did in FY 2019, and, therefore, with the reductions to plan, patent-related obligations increased by only \$163.9 million from FY 2019 to FY 2020. The steps taken to reduce the spending plan helped to ensure that the USPTO closed the year with Patents reserve balances above minimum levels to manage its cash flow in FY 2021.

The Trademarks operating reserve increased slightly, from \$130.7 million (5.0 months of operating expenses) at the end of FY 2019 to \$132.1 million (5.0 months of operating expenses) at the end of FY 2020, representing an increase of \$1.4 million, or 1.1%. This slight increase in the reserve balance was substantially more than the net draw down of \$59.0 million that had been planned for



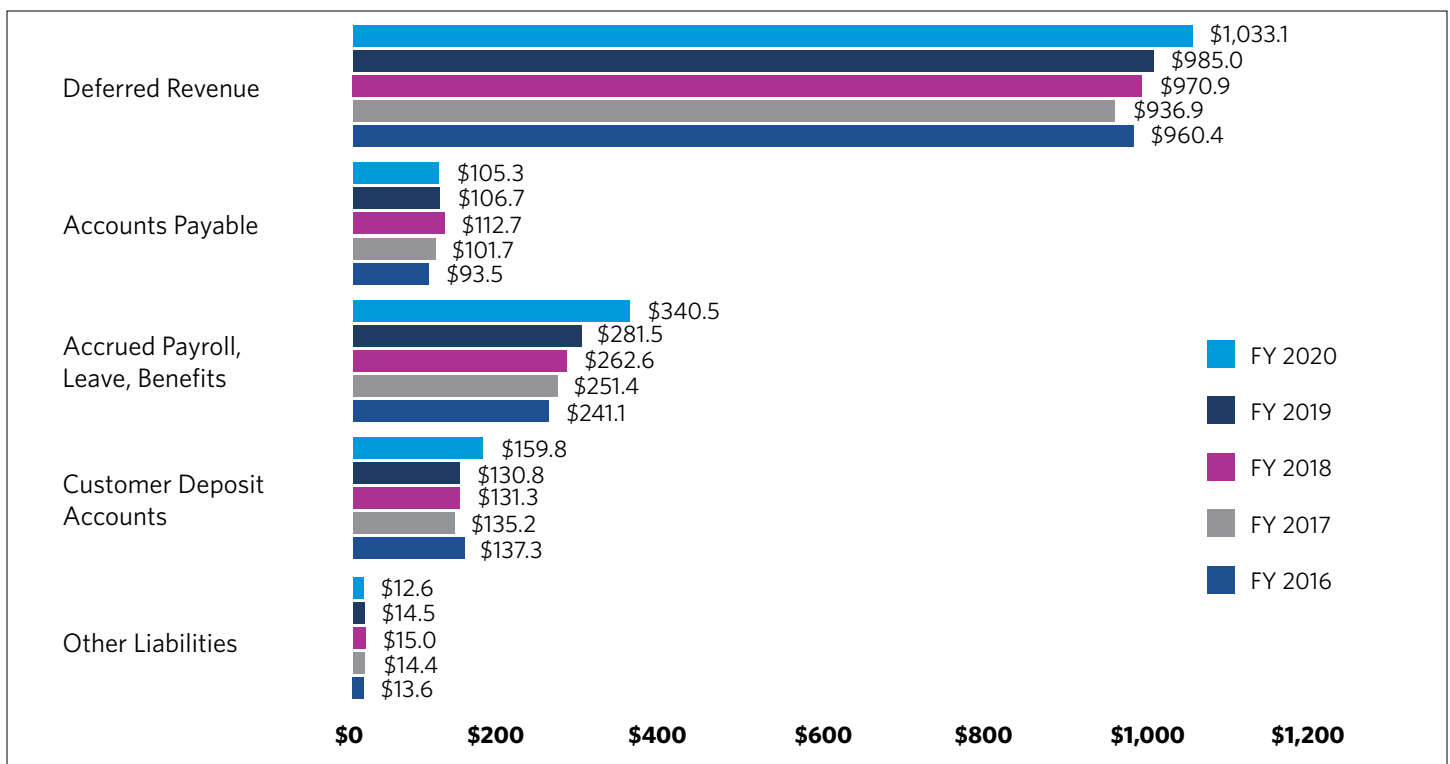
FY 2020 (as reported in the FY 2021 Budget), owing to concerted efforts to reduce spending and maintain the operating reserve at an acceptable level sufficient to mitigate the considerable uncertainty in the trademark revenue outlook. As the pandemic unfolded, the USPTO made a conscious decision to reduce trademark spending plans for the year, including reducing trademark-related IT spending by over \$30 million. As a result, while trademark-related spending increased from FY 2019 to FY 2020, this growth was substantially less than planned. Despite considerable variability throughout the third and fourth quarters, trademark fee collections increased sharply by \$12.5 million from FY 2019 to FY 2020 and within 3.1% of the projections published in the FY 2021 Budget.

During FY 2020, consistent with its strategic plan, the USPTO continued some investments in IT modernization where advisable, as is evidenced by the \$27.7 million increase in the acquisition value of the other major asset —property, plant, and equipment—over the past year. Due to the recognition of depreciation and amortization program costs, the net balance of this asset has

decreased by \$166.0 million during the past four years, while the acquisition values of property, plant, and equipment have increased by \$346.5 million. The USPTO continues to modernize our IT products by employing solutions that offer improved reliability, stronger cybersecurity protection, and an enhanced user experience. Continuing to make these investments will lead to future increases in IT hardware, software, and software in development acquisition values. This was evidenced by an increase of \$322.0 million from FY 2016 through FY 2020 for IT hardware, software, and software in development, with FY 2020 contributing \$34.5 million of that increase. During the past four years, IT modernization efforts included system and software development activities in support of the Patents, Trademarks, Enterprise Business, and Enterprise Infrastructure product lines.

Total liabilities increased from \$1,518.5 million at the end of FY 2019 to \$1,651.3 million at the end of FY 2020, representing an increase of \$132.8 million, or 8.7%. The following graph shows the composition of liabilities during the past five years.

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



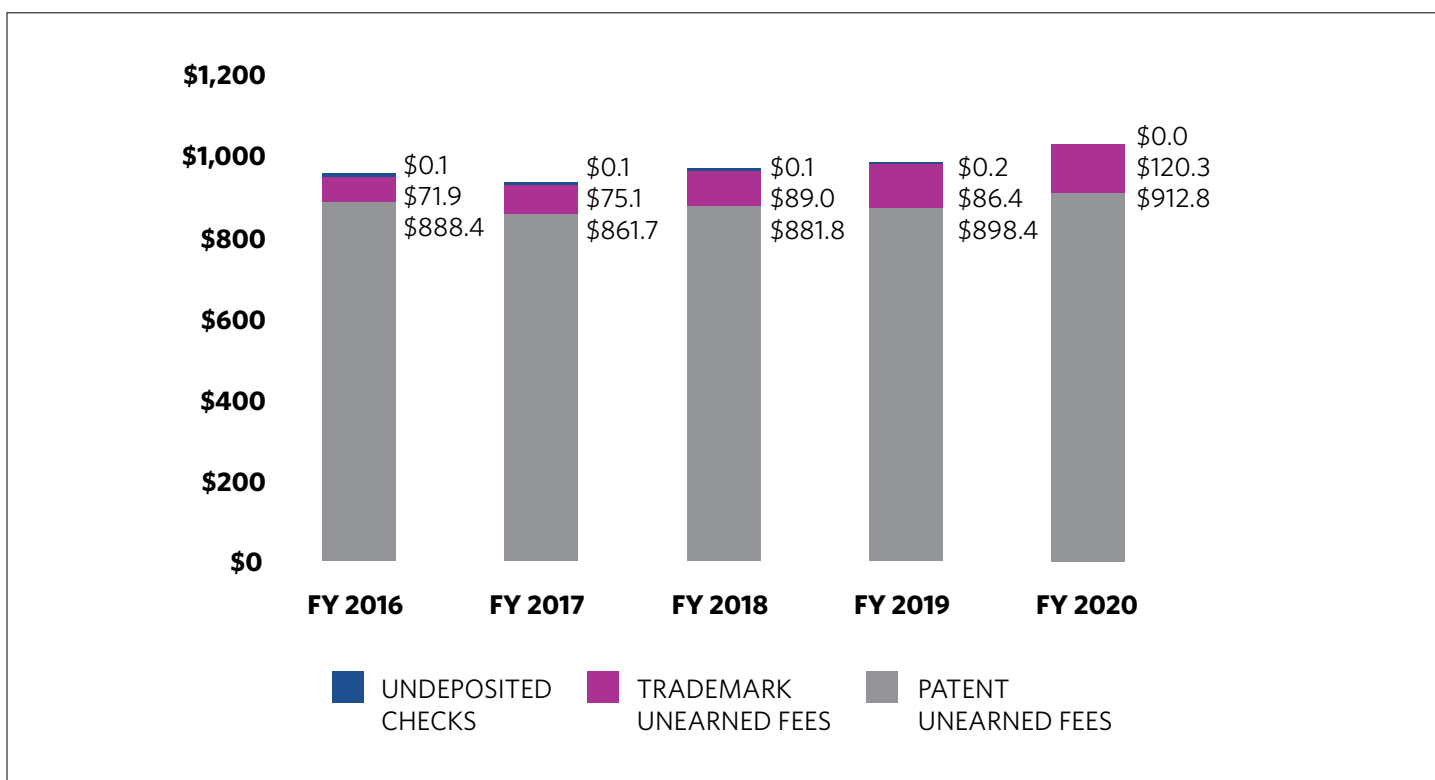
The USPTO's accrued payroll, leave, and benefits accounted for the largest change over the past year. FY 2020 resulted in an increase to the accrued payroll, leave, and benefits liability of \$59.0 million, or 21.0% from FY 2019. This is directly attributable to an increase in the amount of outstanding annual leave that has been earned by employees. As a result of the COVID-19 pandemic and the nationwide travel and business restrictions that were put in place to combat the pandemic, employees have taken less annual leave, and the balance has accordingly increased.

The USPTO's deferred revenue (i.e., fees collected for services that have not yet been provided) is the largest liability on the Balance Sheet. The liability for deferred

revenue is estimated by analyzing the process for completing each fee service provided. The percent incomplete based on the inventory of pending work and completion status is applied to fee collections to estimate the amount for deferred revenue liability.

FY 2020 resulted in an increase to the deferred revenue liability of \$48.1 million, or 4.9% from FY 2019. The deferred revenue liability includes unearned Patent and Trademark fees, as well as an immaterial amount of undeposited checks. The unearned patent fees represented 88.4% of this liability for FY 2020. The following graph depicts the composition of the deferred revenue liability during each of the past five years.

**DEFERRED REVENUE** (dollars in millions)



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

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

<b>Filings and Pendencies</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Patent UPR Filings (including Designs and RCEs) <sup>1</sup>	650,411	650,350	647,572	666,843	653,311 <sup>2</sup>
<i>Percentage Change in Patent Filings</i>	5.2%	0.0%	(0.4)%	3.0%	(2.0)%
Average Patent First Action Pendency (months)	16.2	16.3	15.8	14.7	14.8
<i>Percentage Change in Average Patent First Action Pendency</i>	(6.4)%	0.6%	(3.1)%	(7.0)%	0.7%
Average Total Patent Pendency (months)	25.3	24.2	23.8	23.8	23.3
<i>Percentage Change in Total Patent Pendency</i>	(4.9)%	(4.3)%	(1.7)%	0.0%	(2.1)%
Trademark Filings	530,270	594,107	638,847	673,233	738,112
<i>Percentage Change in Trademark Filings</i>	5.2%	12.0%	7.5%	5.4%	9.6%
Average Trademark First Action Pendency (months)	3.1	2.7	3.4	2.6	3.0
<i>Percentage Change in Average Trademark First Action Pendency</i>	6.9%	(12.9)%	25.9%	(23.5)%	15.4%
Total Trademark Average Pendency (months)	9.8	9.5	9.6	9.3	9.5
<i>Percentage Change in Total Trademark Average Pendency</i>	(3.0)%	(3.1)%	1.1%	(3.1)%	2.2%

<sup>1</sup> Includes utility, plant, reissue, and design filings, as well as requests for continued examination (RCE). For the purposes of the deferred revenue calculation, serialized (new) patent filings and RCEs are consistently treated as filings, thus the presentation of a single number in the table.

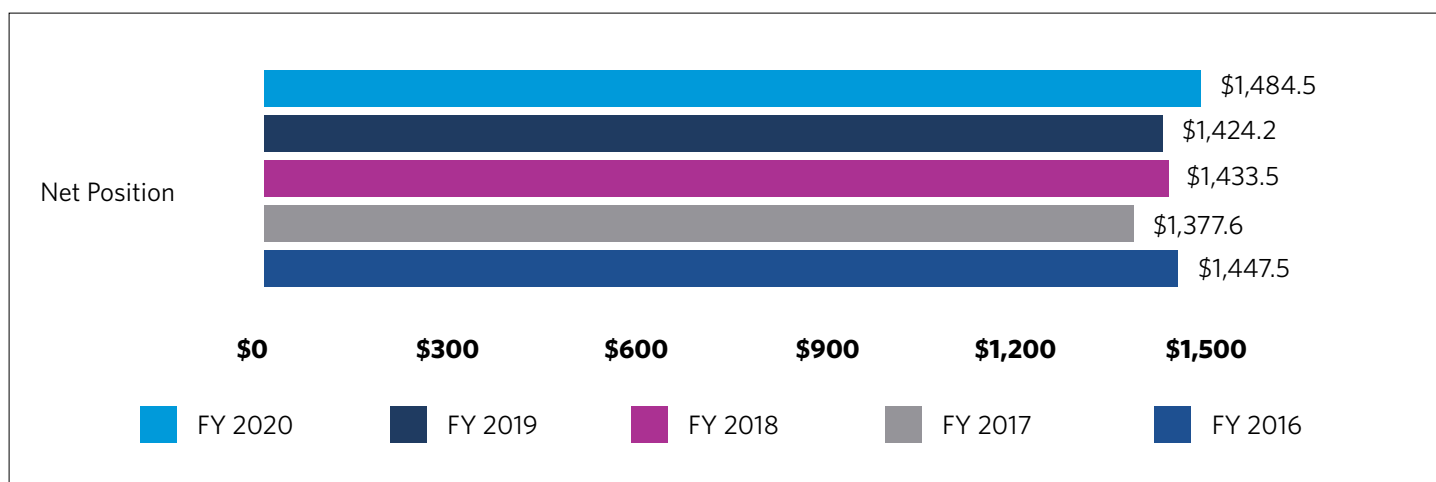
<sup>2</sup> Preliminary data.

In FY 2020, with only a 0.1 month increase in first action pendency, unearned patent fees only increased 1.6%. Based on recent estimates that begin to incorporate the pandemic's impact on future demand, the number of patent applications filed is expected to decline slightly in FY 2021 and then gradually increase through FY 2024, with first action pendency decreasing to 12.8 months and total pendency to 22.7 months by FY 2024. The pendency decreases will result in patent deferred revenue decreases, which will be offset by fee increases in FY 2021 and the out years.

The deferred revenue associated with the trademark process increased in FY 2020. Trademark deferred revenue increased by \$33.9 million, or 39.2%, from FY 2019, with an overall 67.3% increase over the past four years. The FY 2020 increase was consistent with an

increase in trademark application filings of 9.6%, trademark first action pendency increasing to 3.0 months, and total trademark average pendency increasing to 11.1 months. Recent estimates that begin to incorporate the pandemic's impact on future demand project the pendencies to remain constant in the upcoming years. Planned trademark fee increases in FY 2021 will impact deferred revenue beginning in FY 2021.

The Statement of Changes in Net Position (see page 129) presents the changes in the financial position of the USPTO due to results of operations (discussed in the next section). The movement in net position is primarily the result of the net income or net cost for the year. The change in the net position during the past five years is presented in the following graph.

**NET POSITION** (dollars in millions)

**Statement of Net Cost**

The Statement of Net Cost (see page 128) presents the USPTO's results of operations by the following responsibility segments—Patent; Trademark; and Intellectual Property Policy, Protection, and Enforcement Worldwide (IP PP&E). The following table presents the

USPTO's total results of operations for the past five fiscal years. In FY 2020, the USPTO generated a net income of \$34.1 million. The net income increased due to an increase in earned fee collections, offset by a smaller increase in personnel services and benefits.

Net Income/(Cost) (dollars in millions)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Earned Revenue	\$ 3,133.4	\$ 3,105.3	\$ 3,309.4	\$ 3,388.7	\$ 3,657.1
Program Cost	(3,119.6)	(3,193.4)	(3,321.5)	(3,478.2)	(3,623.0)
Net Income/(Cost)	\$ 13.8	\$ (88.1)	\$ (12.1)	\$ (89.5)	\$ 34.1

The Statement of Net Cost compares earned fees to costs incurred during a specific period of time. It is not necessarily an indicator of net income or net cost over the life of a patent or trademark. Net income or net cost for the fiscal year is dependent upon work that has been completed over the various phases of the production life cycle. The net income calculation is based on earned fees during the fiscal year being reported, regardless of when those fees were collected. Maintenance fees play a large part in whether a total net income or net cost is recognized, as these fees are considered earned immediately. Maintenance fees collected in FY 2020 are a reflection of the number of patents issued 3.5, 7.5, and 11.5 years ago that customers have elected to renew, rather than a reflection of patents issued in FY 2020.

Trademark renewal fees are the reflection of trademarks registered between nine and 10 years ago, 19 and 20 years ago, 29 and 30 years ago, etc. These fees can have a significant impact on matching costs and revenue for the purpose of the Statement of Net Cost.

The CARES Act was signed into law on March 27, 2020. This \$2 trillion relief package included provisions for the USPTO Director to waive or delay deadlines for certain documents or fees, but did not provide the agency additional funding to implement the provisions. The USPTO made adjustments to spending plans so as to finance the resulting costs within existing resources levels, all of which impacted the net cost of operations during FY 2020.

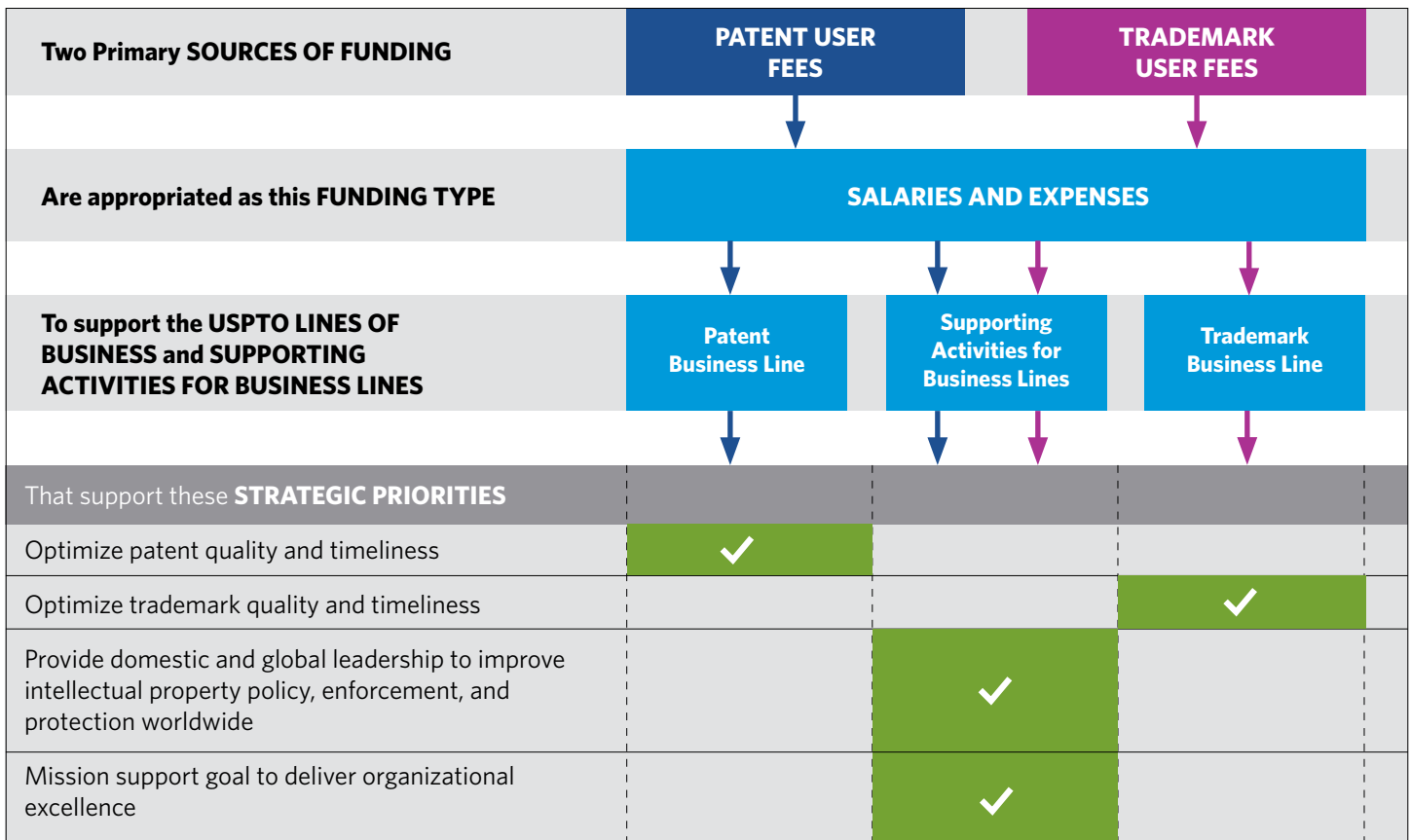


**Earned Revenue**

The USPTO’s earned revenue is derived from the fees collected for Patent and Trademark products and services. Fee collections are recognized as earned revenue when the activities to complete the work associated with the fee are completed.

The graphic below shows the USPTO funding resources and how they are used to deliver on the mission of the USPTO, thereby recognizing earned revenue.

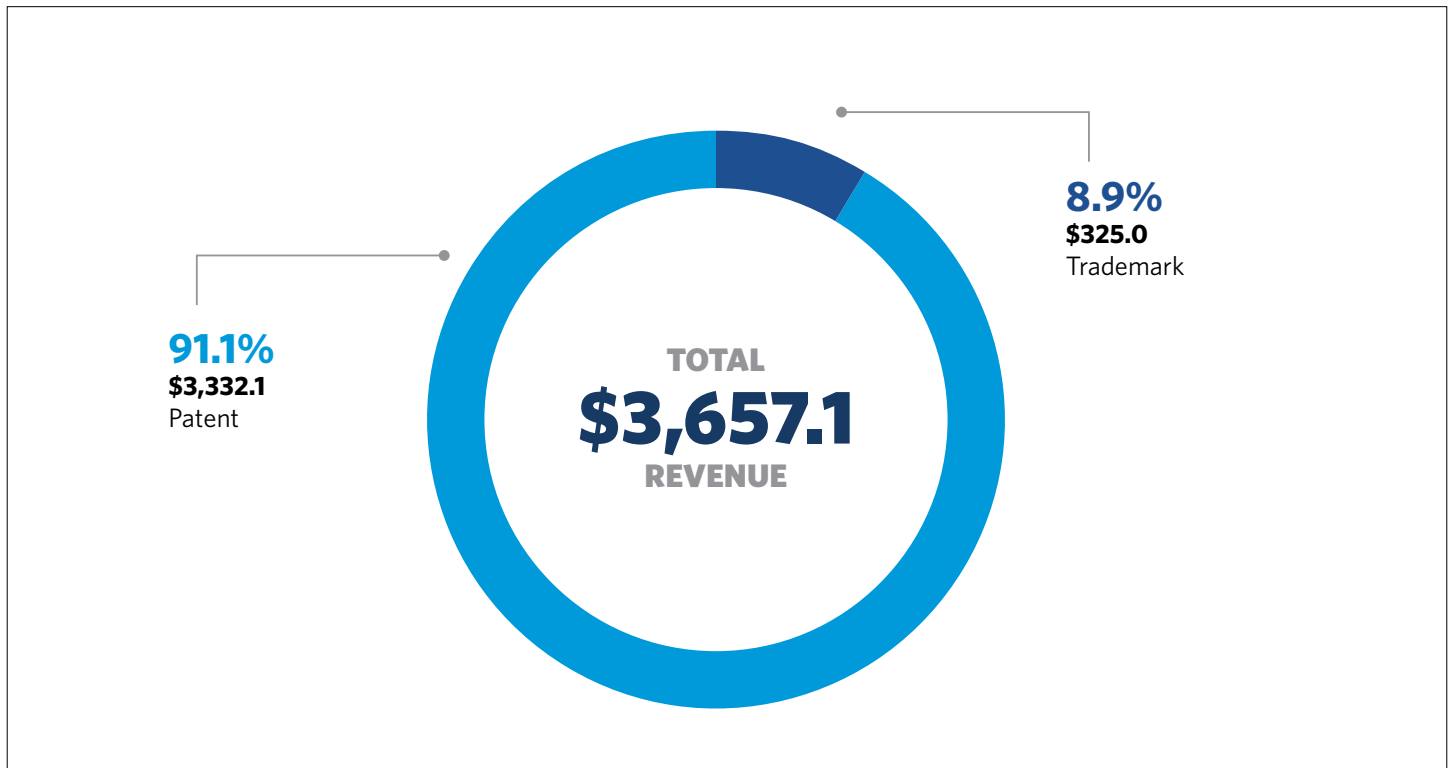
**USPTO RESOURCES AND HOW THEY ARE USED**



Earned revenue totaled \$3,657.1 million for FY 2020, an increase of \$268.4 million, or 7.9%, over FY 2019 earned revenue of \$3,388.7 million. Of revenue earned during FY 2020, \$789.0 million related to fee collections that were deferred for revenue recognition in prior fiscal years;

\$1,663.3 million related to maintenance fees collected during FY 2020, which were considered earned immediately; \$1,201.9 million related to work performed for fees collected during FY 2020; and \$2.9 million were other reimbursable amounts.

**FY 2020 Earned Revenue** (dollars in millions)



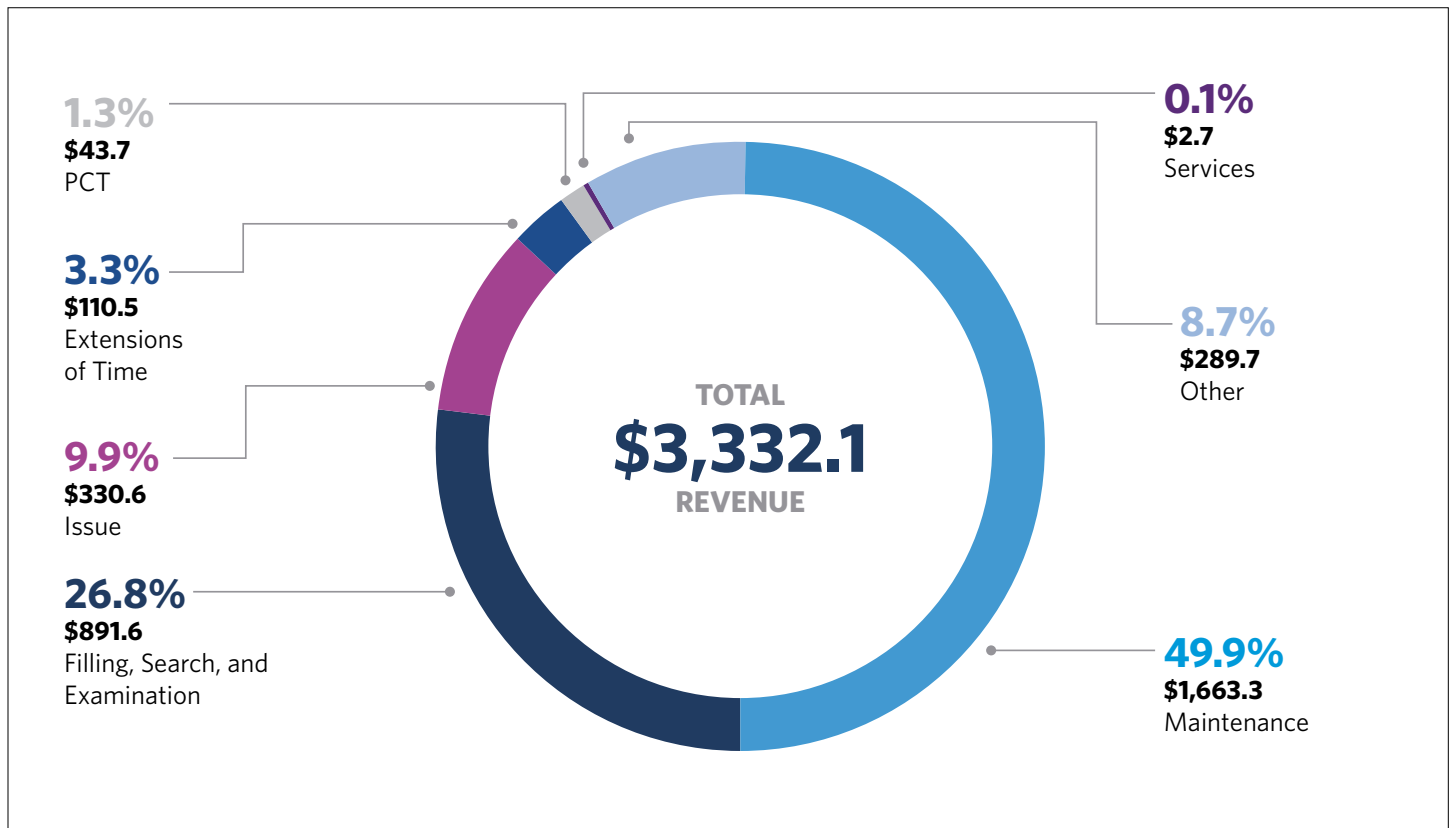
**Patent**

During FY 2020, serialized (new) patent filings grew slightly, while total filings were down, due primarily to a decrease in RCEs of 10.6%. These relatively small decreases and the resultant decrease in patent deferred revenue would have resulted in a small increase in earned revenue; however, the increase in patent fee rates, effective October 2, 2020, caused fee payers to pay early and increased total fee collections, which resulted in an increase in earned revenue. While the fee increase itself was not effective until October 2, 2020 (i.e., FY 2021), many customers who were eligible opted to pay

maintenance fees before the fee increase took effect, resulting in \$266 million in patent maintenance fee collections in late FY 2020 and a resultant increase in earned revenue, as these fees are considered earned immediately.

Traditionally, the major components of earned revenue derived from patent operations are maintenance fees; initial application fees for filing, search, and examination; and issue fees. These fees account for approximately 86.6% of total patent income. The following chart depicts the share of patent revenue comprised by the most significant patent fee types.

**FY 2020 PATENT EARNED REVENUE BY FEE TYPE** (dollars in millions)



Under the CARES Act, the USPTO offered customers the option to delay the timing of fee payment, as well as the option to delay certain deadlines. The targeted patent fee relief was initiated on March 31, 2020, and subsequently scaled down after May 31, 2020, to certain fees for small and micro entities only. The patent relief ended on September 30, 2020. There were negligible costs to offering this option; the impact of the deferred fee payments was approximately \$2-3 million for patents. The fees were recouped when the relief ended, thereby offsetting the impact.

Patent maintenance fees are the largest source of earned revenue by fee type. During FY 2020, maintenance fee collections increased \$317.7 million, or 23.6%, from FY 2019, due to the payments made prior to the October 2, 2020, fee increase noted previously.

In order to maintain exclusive rights, a patent holder must pay maintenance fees at three separate stages: 3.5, 7.5, and 11.5 years from the date a patent is issued. Failure to pay these fees results in the lapse of patent protection, and the rights provided by a patent are no longer enforceable. Maintenance fees can be paid during the "window period," the six-month period preceding each due date. It is this window period that enables certain customers to pay these fees ahead of fee rate changes. Additionally, a maintenance fee can be paid, with a surcharge, during the "grace period," the six-month period immediately following each due date. If a

maintenance fee has not been paid in a timely manner and the owner of the patent wants to have the patent rights reinstated, a petition and proper fees are required. Maintenance fees are recognized immediately as earned revenue, and fluctuations in both the timing of renewal payments and the rates of renewal may have a significant impact on the total earned revenue of the USPTO. The table below shows the renewal rates for all three stages of maintenance fees based on the year the patent was issued.

Maintenance fee payments are needed to fund operations (the revenue from renewals helps to recoup costs incurred during the initial patent process); therefore, the USPTO closely monitors payment behaviors (both rates of renewal and timing of payment) to forecast maintenance fee revenue. The payment window for some patents issued in 2016 (first stage), 2012 (second stage), and 2008 (third stage) has not yet closed. Using the data available at the end of FY 2020, first stage patent renewal rate shows, a minor downward trend, and thus far, the yearly renewal rate is 0.9% below the previous year. When looking at the second stage patent renewal rate thus far, the yearly renewal rate is 0.8% below the previous year. Finally, when looking at the third stage patent renewal rates, thus far, the yearly renewal rate is 1.9% below the previous year. The decision to renew a patent is influenced by many factors including, but not limited to, Federal court decisions, IP budgets, the perceived value of the patent, the USPTO's fee rates, and the economy.

Patent Renewal Rates Issue Calendar Year	First Stage	Second Stage	Third Stage
2000	85.6%	68.6%	51.1%
2001	86.2%	68.0%	50.3%
2002	87.5%	67.4%	47.7%
2003	88.6%	69.4%	48.0%
2004	88.7%	70.7%	47.4%
2005	87.5%	69.3%	46.0%
2006	86.0%	67.4%	44.3%
2007	87.4%	67.5%	44.3%
2008	88.1%	66.9%	42.4%*
2009	87.3%	66.5%	
2010	86.5%	66.0%	
2011	85.7%	64.9%	
2012	85.7%	64.1%*	
2013	86.1%		
2014	86.4%		
2015	86.4%		
2016*	85.5%*		

Note: The First Stage refers to maintenance fees due 3.5 years from the date a patent is issued and through to the end of the fourth year after the initial patent is issued, the Second Stage refers to maintenance fees due 7.5 years from the date a patent is issued and through to the end of the eighth year after the initial patent is issued, and the Third Stage refers to maintenance fees due 11.5 years from the date a patent is issued and through to the end of the 12th year after the initial patent is issued. For example, 85.5% of the patents issued in 2016 paid the first stage maintenance fee.

\* Preliminary data. The data in this table is through September 30, 2020. The first stage payment window for some patents issued in 2016, second stage renewals for patents issued in 2012, and third stage renewals for patents issued in 2008 does not close until December 31, 2020. The full calendar year data for 2016, 2012, and 2008 will be available in the FY 2021 PAR. Past year's data has been revised from prior year reports.

Application fee revenue earned upon filing decreased slightly from \$95.2 million in FY 2019 to \$94.8 million in FY 2020 (decrease of 0.4%), with the number of serialized (new) application filings increasing from 447,992 to 450,910 over the same period (increase of 0.7%). At the same time, total filings (i.e., including RCE filings) decreased from 666,816 to 653,311 (decrease of 2.0%) during this same period. This is in line with the proactive steps the agency has taken to reduce the need for RCE, which decreased from 173,280 to 154,962

(decrease of 10.6%). Recent estimates that begin to incorporate the pandemic's effect on demand indicate that patent application filings may decline slightly in FY 2021 and then may gradually increase in FY 2022 through FY 2024, which will contribute to continued budgetary resources, as well as earned fee revenue. As of the writing of this report, the contours of the economic recovery are still taking shape, and the USPTO's out-year forecasts have a wide margin of uncertainty.



Earned issue fee revenue increased from \$325.6 million in FY 2019 to \$330.6 million in FY 2020 (increase of 1.5%), with the number of patents issued increasing from 370,423 to 399,055 over the same period (increase of 7.7%). The increase in earned issue fee revenue is in line with an increase in the patent allowance rate. Historically, while the number of patents issued in a given year may rise or fall, the general trend has been an increase, which may result in increases in maintenance fees in future years.

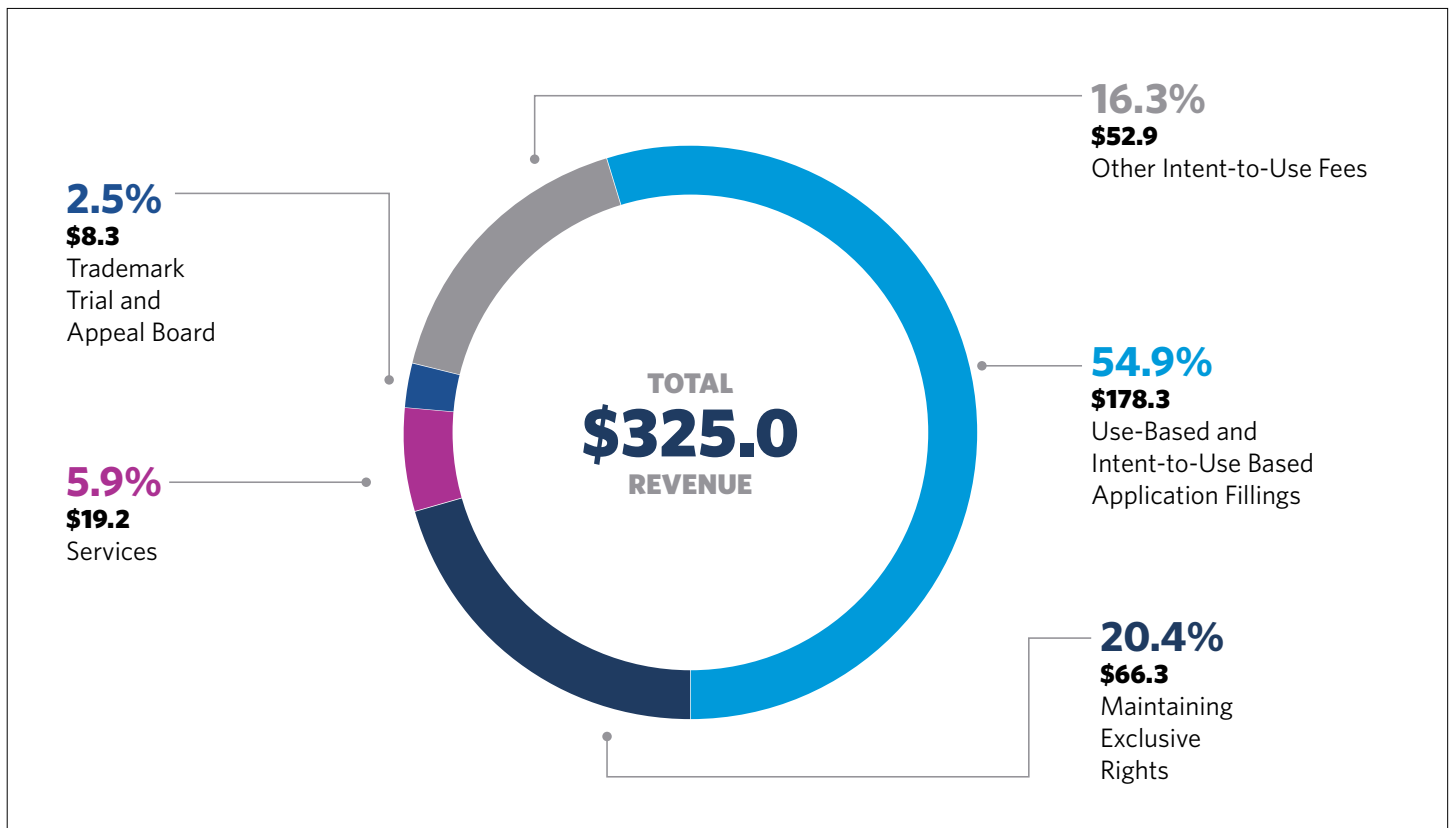
**Trademark**

During FY 2020, trademark earned revenue decreased. The number of trademark applications increased by 9.6% over the prior year. However, the increase in trademark deferred revenue of \$33.9 million (and resultant decrease in earned revenue) was greater than the offsetting increase in application filings, which contributed to an overall decrease in revenue earned.

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

Under the CARES Act, the USPTO offered trademark customers the option to delay the timing of fee payment, as well as the option to delay certain deadlines. The USPTO did not receive an appropriation from Congress to support this relief; it was financed through actions the agency took to manage its cash flow in the second half of the year. The cost of offering this option was negligible—the deferral of fee payments was approximately \$2-3 million for trademarks—and the fees were recouped when the relief ended, thereby offsetting the impact. The targeted trademark fee relief expired May 31, 2020.

**FY 2020 TRADEMARK EARNED REVENUE BY FEE TYPE** (dollars in millions)



Earned revenue for trademark filings decreased from \$189.5 million in FY 2019 to \$178.3 million in FY 2020, with the number of trademarks registered increasing slightly from 396,836 to 400,298 over the same period, a decrease of 5.9% and a slight increase of 0.9%, respectively. While the number of trademark application filings declined sharply in the third quarter, the USPTO experienced a dramatic rebound in filings in the fourth quarter that may continue into FY 2021 (as of the time of this report). With the rebound in filings, pendency grew, as did deferred revenue. It is expected that more normal historical growth rates will resume in FY 2022 and beyond.

Trademark registrations are a recurring source of revenue. To some extent, renewal fees recoup costs incurred during the initial examination process (though the Trademark business line is less dependent on renewal fees than the Patent business line is on maintenance fees). As shown below, the renewal rates for trademarks have declined slightly over the last several years. In general, fewer post-registration maintenance filings are made by pro se and foreign registrants, which comprise a growing share of new applicants. Based on recent pre-pandemic trends, the overall percentage of registrations being maintained is decreasing. Even accounting for these decreases, however, renewals remain a source of continued earned revenue.

Trademark Renewal Rates*	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020 <sup>1</sup>
Renewals	32.1%	31.1%	30.6%	30.1%	26.3%

\* Note: the renewals occur every 10th year for registered trademarks. For example, in FY 2020, 26.3% of the trademarks registered ten years ago were renewed.

<sup>1</sup>Preliminary data.

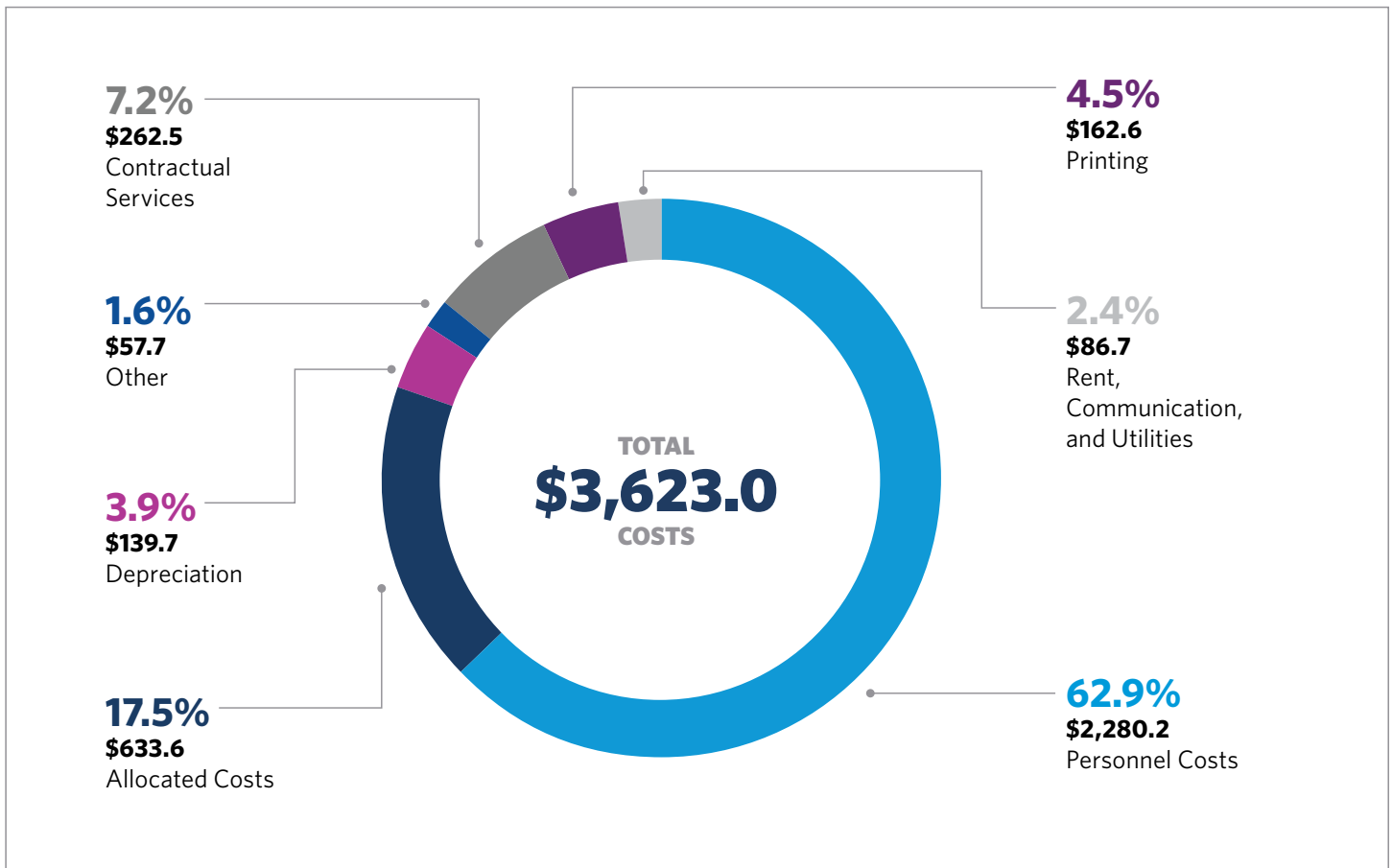
**Program Costs**

Program costs totaled \$3,623.0 million for the year ended September 30, 2020, an increase of \$144.8 million, or 4.2%, over FY 2019 program costs of \$3,478.2 million. The USPTO's most significant program cost is personnel services and benefits, which comprise approximately 67.9% of the USPTO's total program costs. Any significant change or fluctuation in staffing or pay rate directly impacts the change in total program costs from year to year. Total direct and allocated personnel services and benefits costs for the year ended September 30, 2020, were \$2,461.0 million, an increase of \$136.8 million, or 5.9%, over FY 2019 personnel

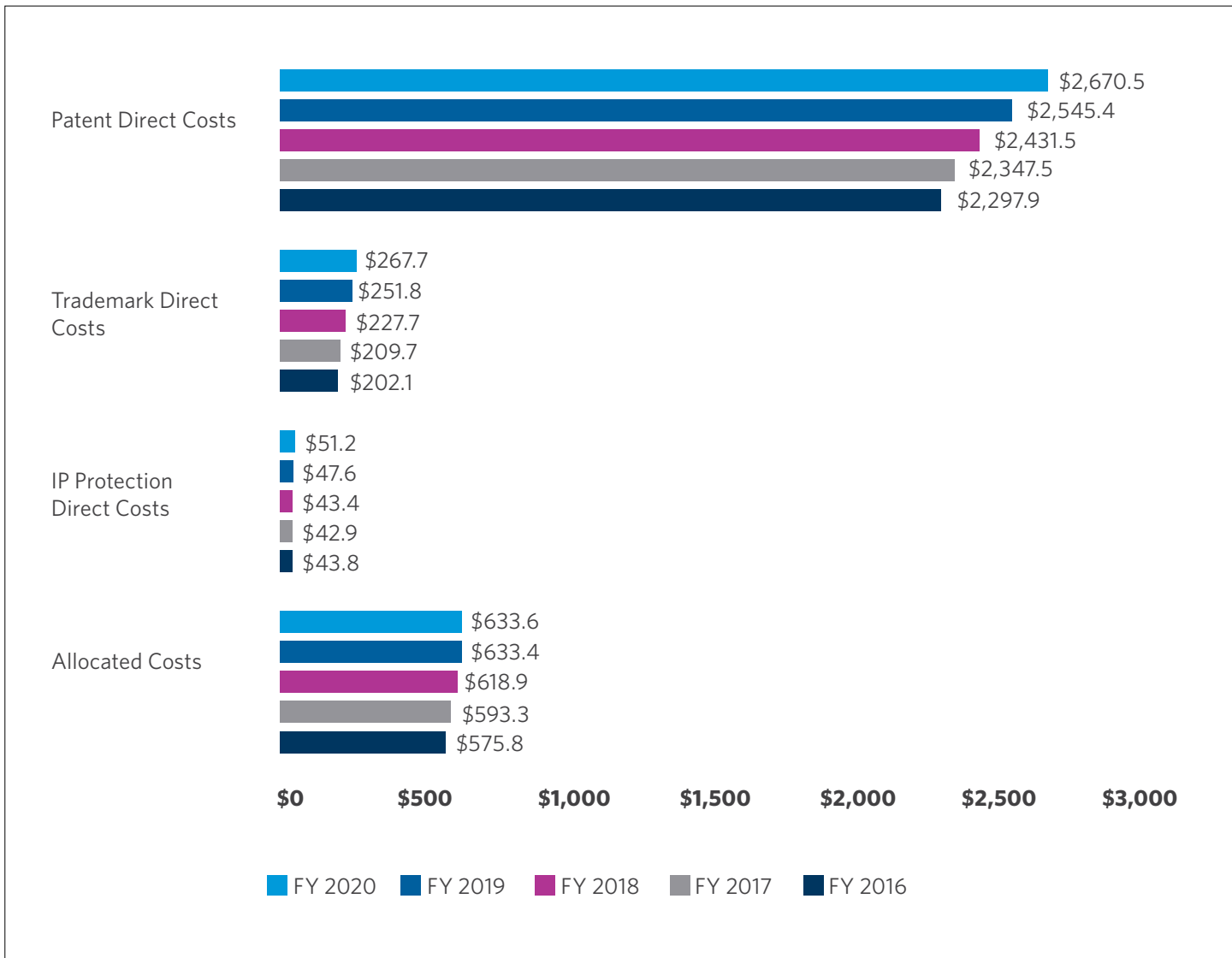
services and benefits costs of \$2,324.2 million. This change primarily reflects an increase in payroll compensation and benefit costs resulting from salary increases (e.g., congressionally mandated pay raise), as well as an increase in personnel, from 12,652 at the end of FY 2019 to 12,928 at the end of FY 2020.

In setting its annual spending plans, the USPTO maximizes resources directed to its mission areas. For FY 2020, costs directly attributable to the Patent, Trademark, and IP protection business areas represent 82.5% of total USPTO costs. The remaining costs, representing support costs, are allocated to the business areas using activity-based cost accounting.

**FY 2020 USPTO PROGRAM COSTS** (dollars in millions)



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



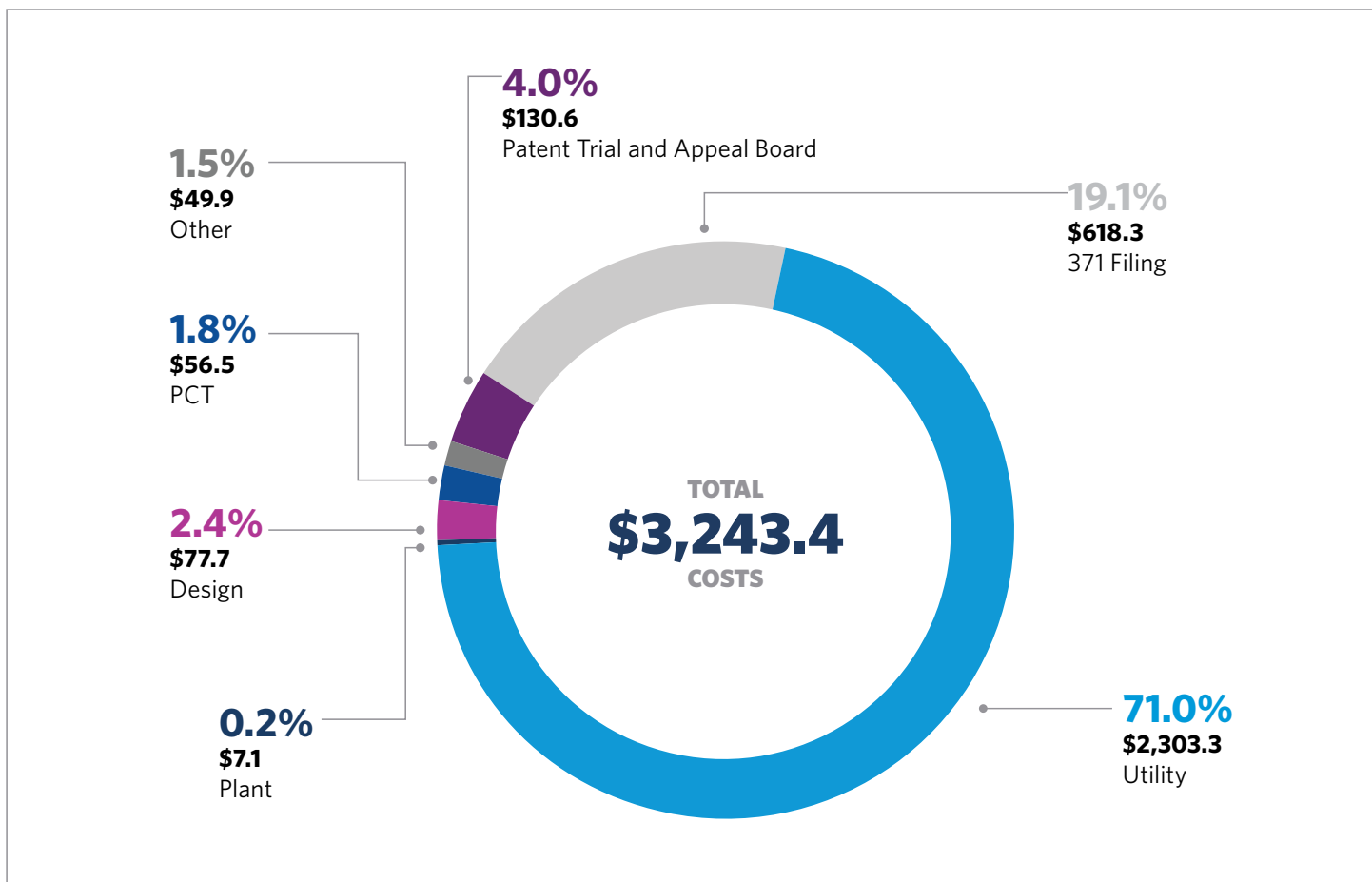
**Patent**

Total costs for the Patent program increased \$404.6 million, or 14.5%, from FY 2016 through FY 2020. The Patent organization's most significant direct program costs relate to personnel services, which account for 63.3% of the increase in the total direct cost of Patent operations during the past four years. Patent personnel costs for the year ended September 30, 2020, were \$2,045.1 million, an increase of \$115.7 million, or 6.0%, over FY 2019 personnel costs of \$1,929.4 million. This change primarily reflects an increase in payroll compensation and benefit costs resulting from salary increases, as well as a slight net increase of 223 personnel, from 9,969 at the end of FY 2019 to 10,192 at the end of FY 2020. Direct Patent contractual services

costs were \$222.7 million, an increase of \$18.1 million, or 8.8%, over FY 2019 contractual service costs of \$204.6 million. This change is primarily reflective of IT contractual cost increases for operations and maintenance support for the suite of IT products in the Patent Product Line, to include Patent Exam Center, PTAB Center, and Patent Business and Content Management Services.

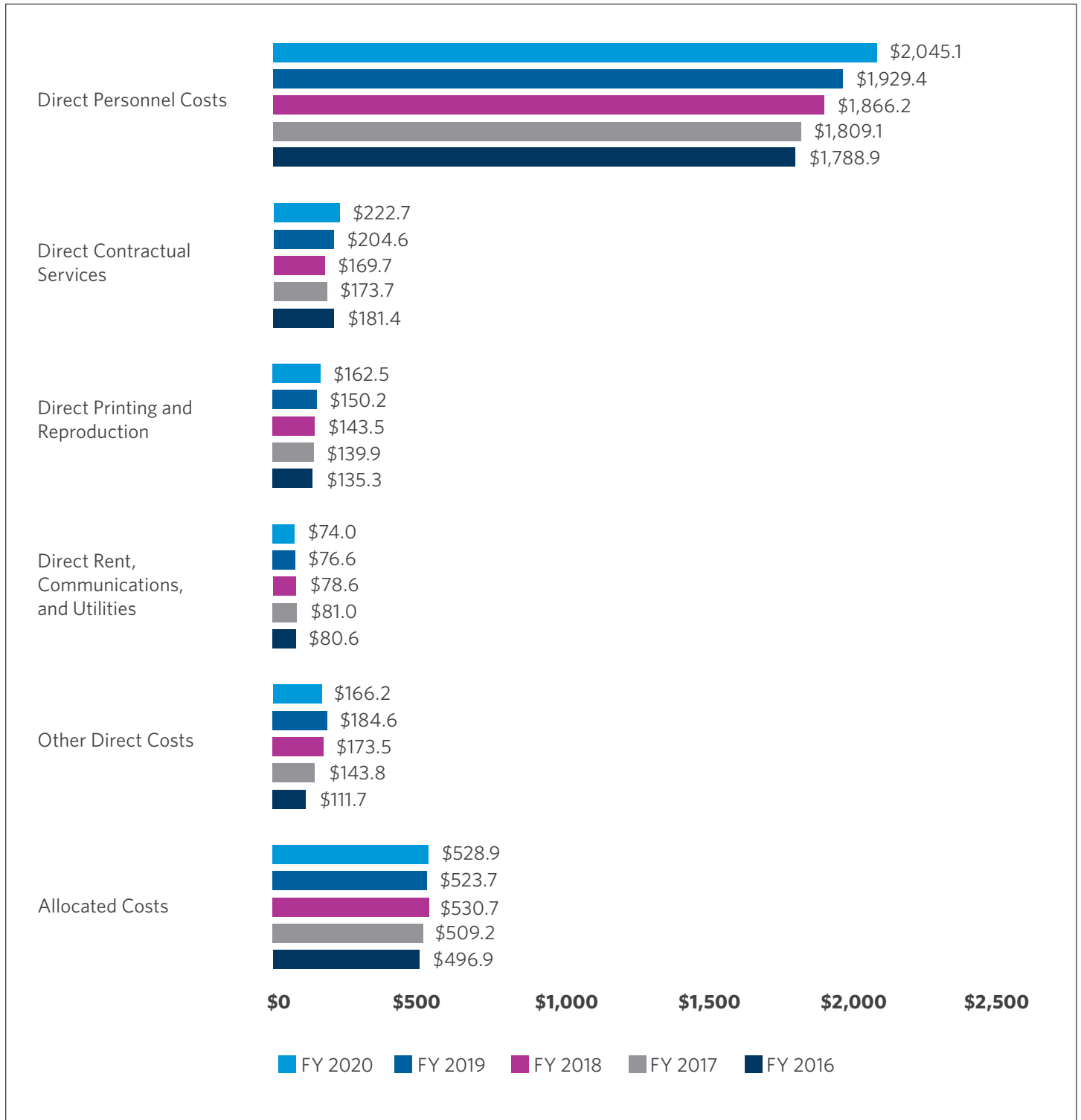
Patent costs were predominantly spread over two patent products: utility patents and 371 filings (international applications). The cost percentages presented are based on direct and indirect costs allocated to patent operations.

**FY 2020 PATENT COSTS BY PRODUCT** (dollars in millions)





**PATENT COSTS** (dollars in millions)



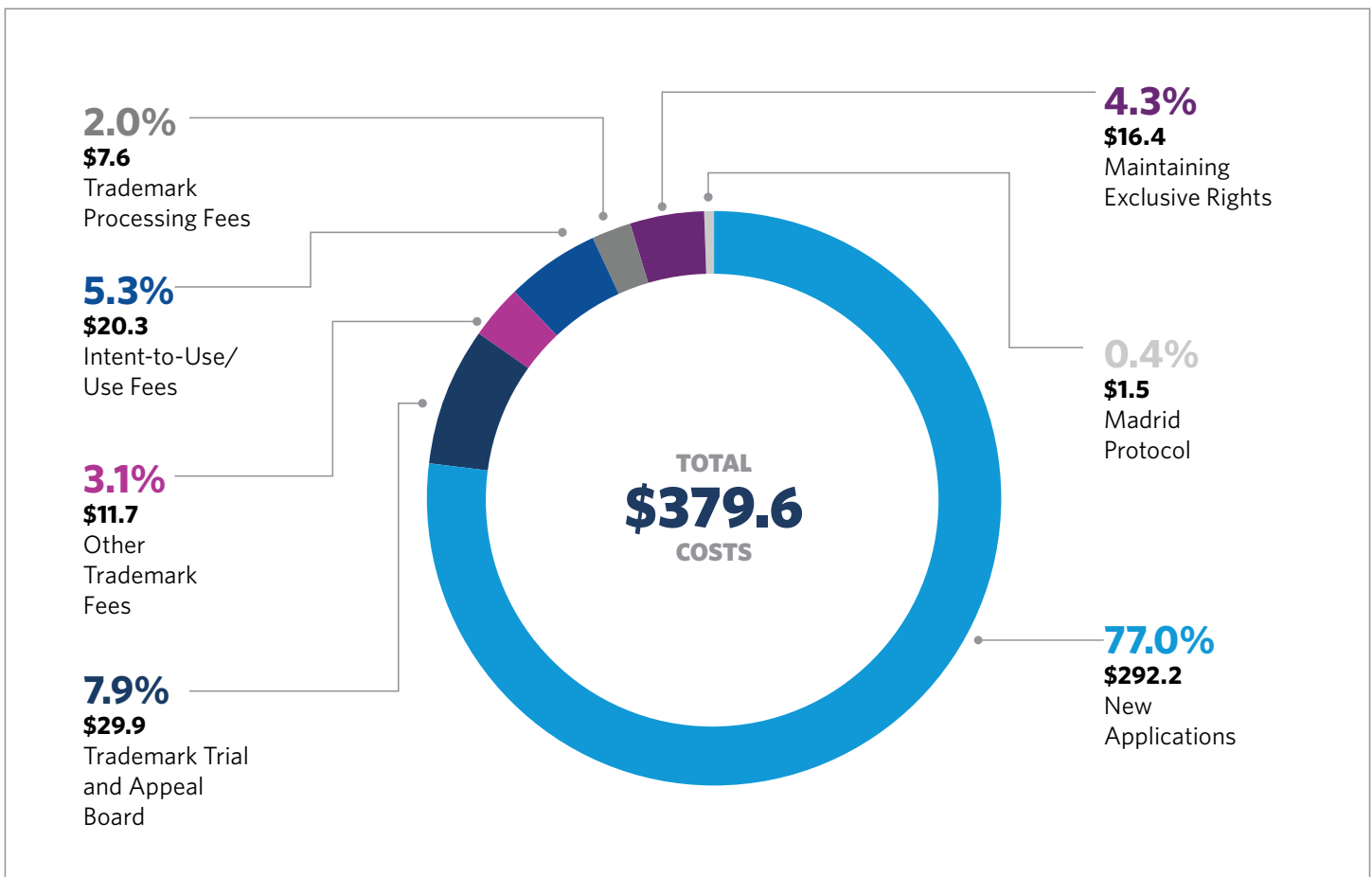
**Trademark**

Total costs for the Trademark program increased \$89.0 million, 32.8%, from FY 2016 through FY 2020. The Trademark organization's most significant direct program costs relate to personnel services and account for 61.8% of the increase in the total direct cost of Trademark operations during the past four years. Trademark personnel costs for the year ended September 30, 2020, were \$203.9 million, an increase of \$10.6 million, or 5.5%, over FY 2019 personnel costs of \$193.3 million. This change primarily reflects an increase in payroll compensation and benefit costs resulting from salary increases, as well as a slight net decrease of 44 personnel, from 994 at the end of FY 2019 to 950 at the end of FY 2020. Trademark contractual services costs

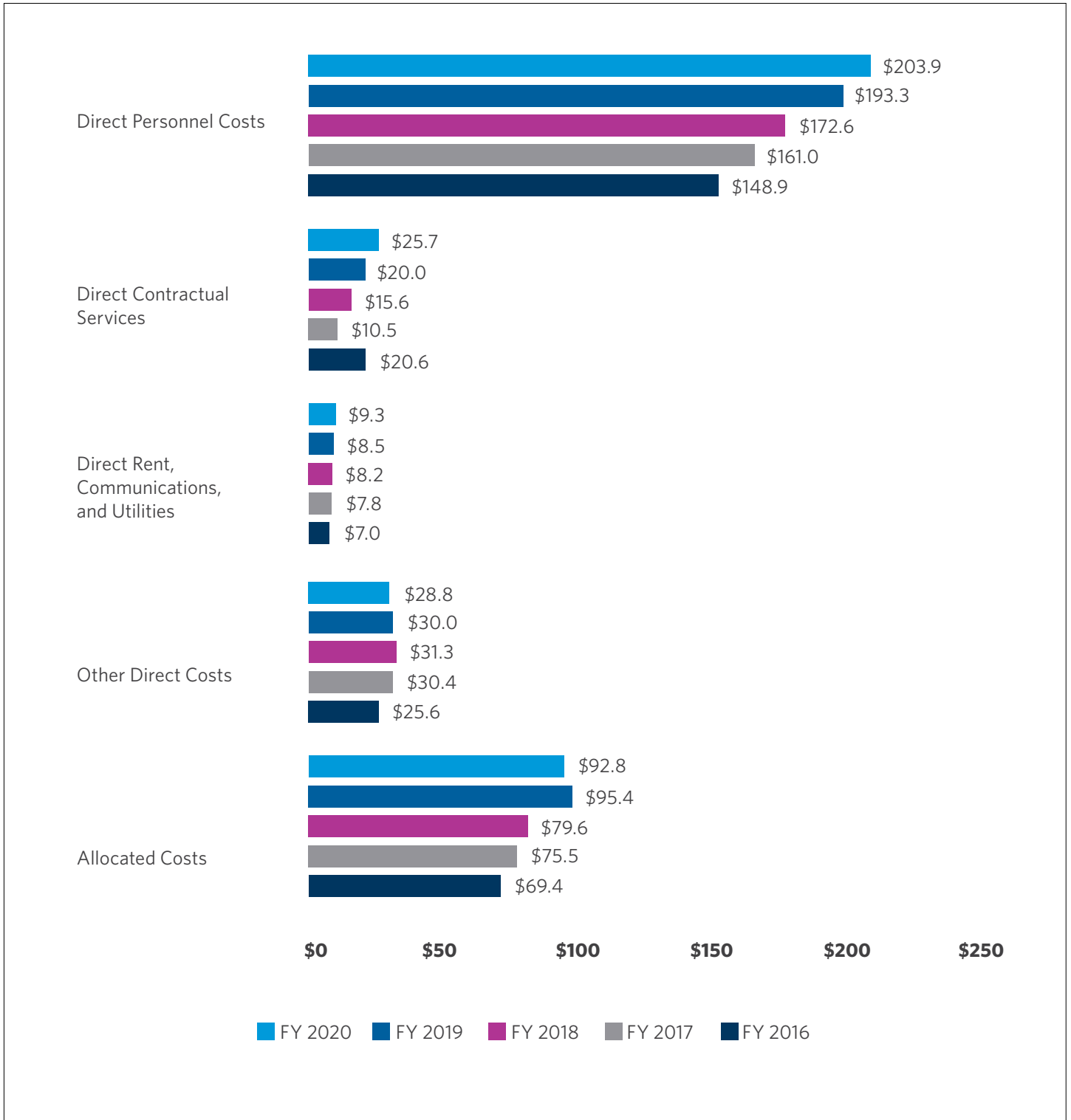
accounted for the second largest increase for Trademark operation costs for the year ended September 30, 2020. Direct Trademark contractual services costs were \$25.7 million, an increase of \$5.7 million, or 28.5%, over FY 2019 contractual service costs of \$20.0 million. This change is primarily reflective of IT contractual cost increases related to operations and maintenance support for several Trademarks IT products, including Trademark Exam Center, Trademark Data and Analytics, Trademark Exam International, and Trademark Center.

The overall cost percentages presented below are based on both direct costs and indirect costs allocated to trademark operations.

**FY 2020 TRADEMARK COSTS BY PRODUCT** (dollars in millions)



**TRADEMARK COSTS** (dollars in millions)

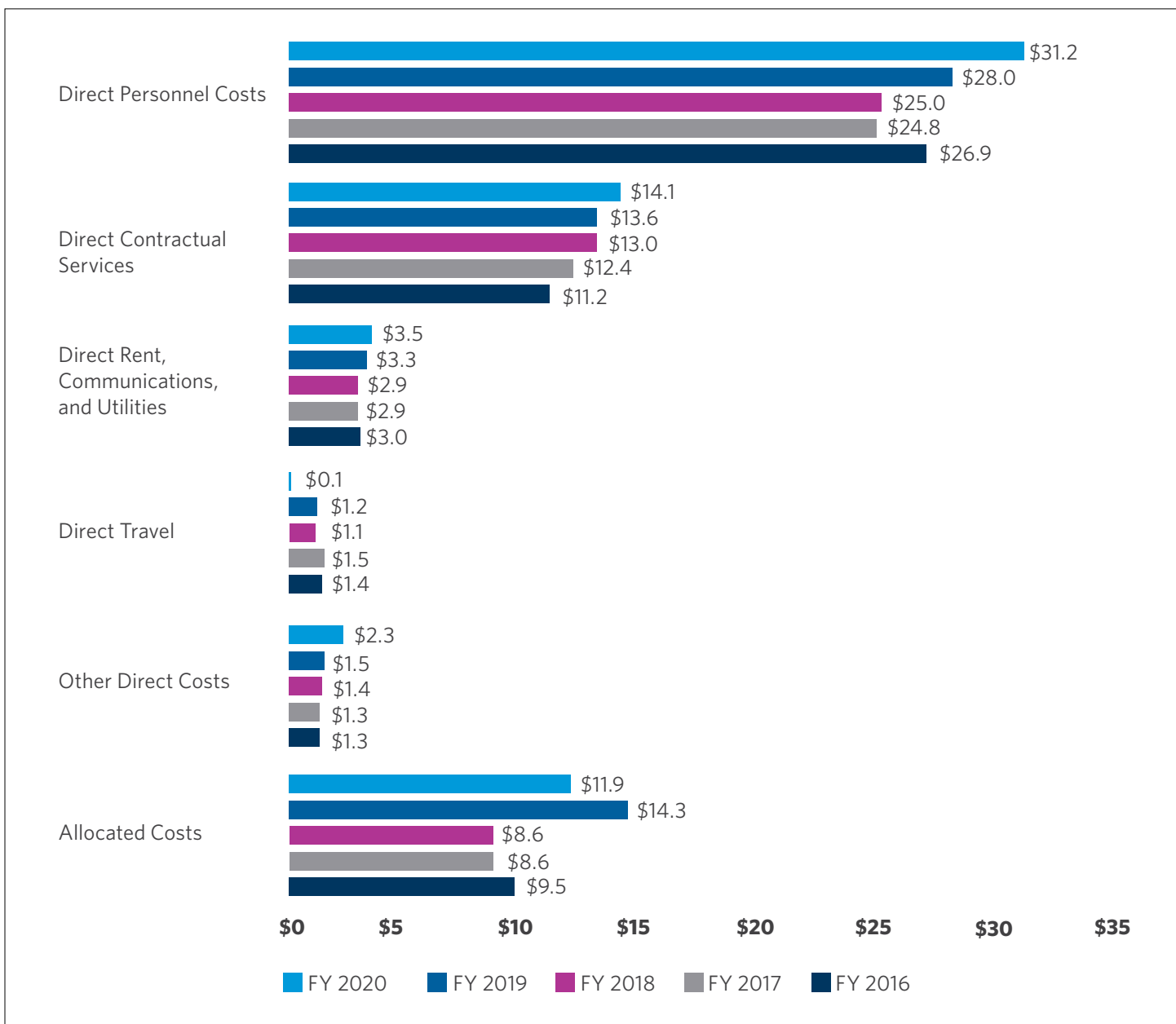


**Intellectual Property Policy, Protection, and Enforcement Worldwide**

Total costs for the IP Protection program increased \$9.8 million, or 18.5%, from FY 2016 through FY 2020. The most significant direct program costs for IP Protection in FY 2020 relate to personnel services and account for

49.4% of the total cost for IP Protection operations. For the year ended September 30, 2020, the costs for policy, protection, and enforcement of IP worldwide increased from \$61.9 million at the end of FY 2019 to \$63.1 million, an increase of \$1.2 million, or 1.9%. These costs were incurred in line with the activities discussed on pages 89 to 100.

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

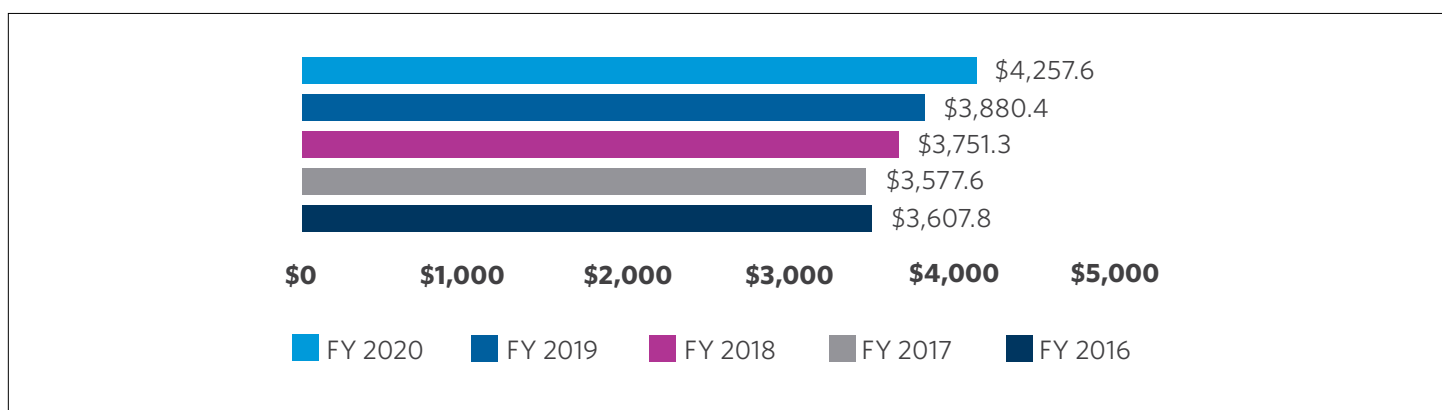


### Statement of Budgetary Resources

During FY 2020, total budgetary resources available for spending was 9.7% greater than the amount available in the preceding year, with an 18.0% increase over the past four fiscal years. The change in budgetary resources available for use is depicted by the graph below. The amount of budgetary resources in any given year is directly related to the demand for the USPTO’s services

as manifested in the number of applications filed and IP rights renewed and the availability of agency operating reserves. The operating reserves allow the USPTO to plan for long-term financial stability and temporary changes in our cash flow. In FY 2020, budgetary resources increased largely due to increases in trademark application filings and patent maintenance fee collections.

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



The USPTO was provided appropriation authority to spend anticipated fee collections in FY 2020 for an amount up to \$3,450.7 million. In FY 2020, the USPTO collected fees in excess of the anticipated fee collections appropriated; Patent and Trademark fee collections amounted to \$3,682.6 million (see Sources of Funds chart that follows). Prior to 2012, when the USPTO was not appropriated the authority to spend all fees collected, the excess was recognized as temporarily unavailable fee collections. The AIA established a statutory provision allowing the USPTO to deposit in the Patent and Trademark Fee Reserve Fund (PTFRF) fees collected in excess of the appropriated levels for each fiscal year. The USPTO deposited \$215.5 million in patent fee collections and \$16.4 million in trademark fee collections in the PTFRF at the end of FY 2020. The FY 2020 appropriation provided the authorization for the USPTO to spend those fees without further appropriation, subject to reprogramming requirements, and those fees are available without fiscal limitation until expended.

New patent fees, previously anticipated to go into effect July 10, 2020, instead took effect on October 2, 2020. The USPTO made a decision to defer issuance of the final patent fee rule until the economy began to show signs of recovery. The patent fee rule is estimated to bring in nearly \$300 million annually; the nearly three-month delay reduced potential patent fee collections by up to \$75 million. However, after the release of the patent fee rule, many customers paid fees early and at the lower rate in advance of the effective date. As a result, the USPTO collected \$266 million in patent user fees, \$215.5 million of which were in excess of the FY 2020 appropriation authority—mostly maintenance fees—that were deposited in the PTFRF. These fees paid in advance of new fee rates going into effect increased budgetary resources in FY 2020 that are required to pay for normal operating expenses in FY 2021.

Similar to the patent fee adjustment, the USPTO made a conscious decision to defer issuance of a trademark fee notice of proposed rulemaking until the economy and



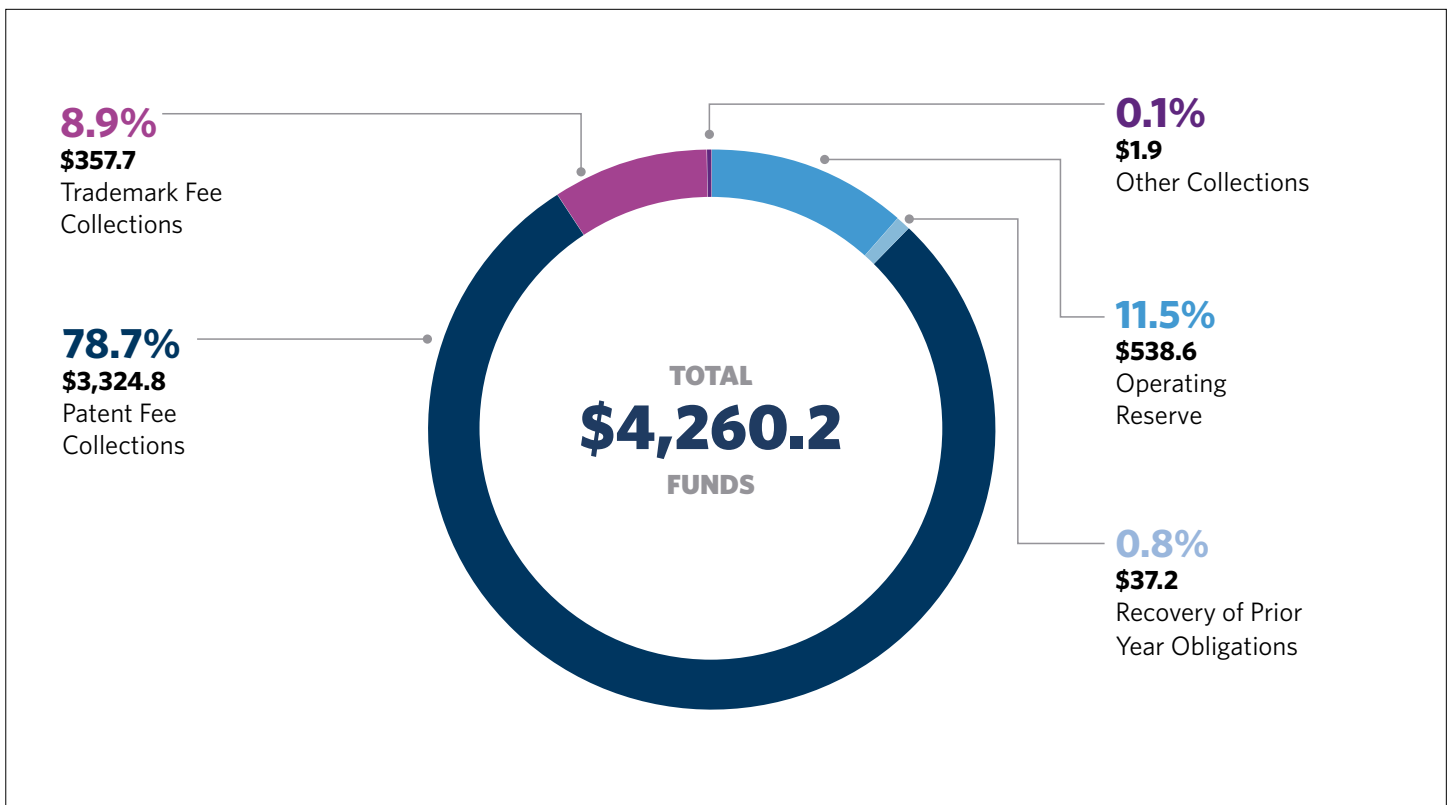
trademark activity began showing signs of recovery. New trademark fees previously anticipated to go into effect in August 2020 are now under review. The trademark fee rule was previously estimated to bring in at least \$77 million annually; the delay reduced potential FY 2020 trademark fee collections by approximately \$6 million. However, trademark filings recovered more quickly than expected during the summer months, and trademark fee collections exceeded expectations, resulting in the previously cited PTFRF deposit, also increasing budgetary resources.

During FY 2020, in response to revenue uncertainty due to the economic volatility associated with the COVID-19 pandemic and the downward pressures being exerted on

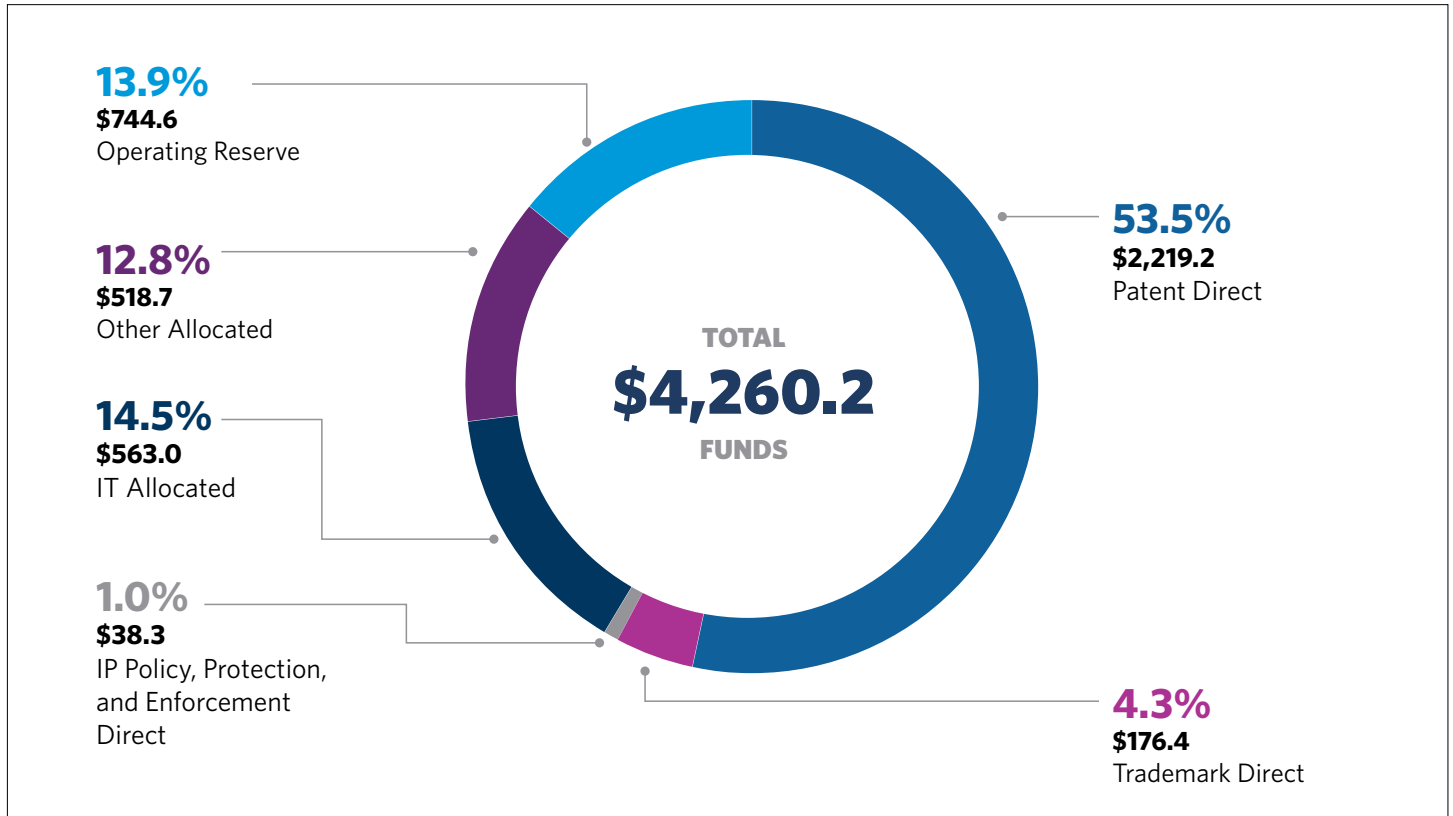
the Patent and Trademark operating reserves, the USPTO reduced agency spending plans, which ensured that the agency entered FY 2021 with sufficient reserves to mitigate lingering economic uncertainty. The USPTO delayed implementation of planned investments to deliver a full suite of IT applications to the Trademark business unit. In addition, the agency deferred hiring and reduced certain other expenses.

The following charts present the budgetary resources made available to the USPTO in FY 2020, and the use of such funds representing FY 2020 total obligations incurred and the operating reserve, as reflected on the Statement of Budgetary Resources.

**FY 2020 SOURCES OF FUNDS** (dollars in millions)



**FY 2020 USES OF FUNDS** (dollars in millions)



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

Temporarily Unavailable Fee Collections (dollars in millions)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Fiscal year fee collections	\$ 3,063.2	\$ 3,078.9	\$ 3,337.4	\$ 3,398.7	\$ 3,682.6
Fiscal year collections appropriated	(3,063.2)	(3,078.9)	(3,337.4)	(3,398.7)	(3,682.6)
Fiscal year unavailable collections	\$ -	\$ -	\$ -	\$ -	\$ -
Prior year collections unavailable	937.8	937.8	937.8	937.8	937.8
Subtotal	\$ 937.8	\$ 937.8	\$ 937.8	\$ 937.8	\$ 937.8
Special fund unavailable receipts	233.5	233.5	233.5	233.5	233.5
Cumulative temporarily unavailable fee collections	\$ 1,171.3	\$ 1,171.3	\$ 1,171.3	\$ 1,171.3	\$ 1,171.3

Since FY 2013, the USPTO has not collected any fees that were designated as temporarily unavailable. As a result, the USPTO maintained a \$937.8 million balance of temporarily unavailable fee collections during FY 2020 (shown above as "Prior year collections unavailable"). In addition to the temporarily unavailable balances, collections of \$233.5 million are unavailable, in accordance with the OBRA of 1990, and deposited in a special fund receipt account at the U.S. Department of the Treasury (Treasury). These cumulative unavailable fee collections remain in the USPTO's general fund account at Treasury until appropriated for use by Congress. These amounts are not reflected in the USPTO's Statement of Budgetary Resources but are included on the Balance Sheet as part of the agency's Fund Balance with Treasury.

### **Limitation on Financial Statements**

The principal financial statements included in this report have been prepared by USPTO management to report the financial position and results of operations of the USPTO, pursuant to the requirements of 31 U.S.C. §

3515(b). While the statements have been prepared from the books and records of the USPTO in accordance with Generally Accepted Accounting Principles (GAAP) for federal entities and the formats prescribed in OMB Circular A-136 (revised), the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the understanding that they are for a component of the U.S. government, a sovereign entity.

### **Management Responsibilities**

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





# PERFORMANCE INFORMATION

Unaudited. Please see the accompanying auditors' report.

U.S. PATENT AND TRADEMARK OFFICE

# INTRODUCTION TO THE USPTO'S PERFORMANCE GOALS AND RESULTS

## Introduction to the USPTO's Performance Goals and Results

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

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

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

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

## CARES Act Response

Congress responded to the global COVID-19 pandemic by passing the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which provided \$2 trillion to individuals, businesses, and government organizations. In addition to this monetary relief, the CARES Act contained an express grant of authority to the USPTO to provide further relief to USPTO customers.

Less than a week after the President signed the CARES Act into law, the USPTO put its granted authority into action. To support USPTO customers who were delayed by the COVID-19 pandemic, the USPTO temporarily extended deadlines for filing many Patent and Trademark documents and paying certain fees. Examples of deadlines that were extended include filing deadlines for responses to certain Patent and Trademark office actions and patent maintenance fee deadlines for small or micro entities. The USPTO also permitted parties appearing before the PTAB or TTAB to request extensions of time for delays due to COVID-19. Recognizing the continuing hardships imposed by the pandemic, the USPTO further extended certain filing deadlines and fee deadlines in subsequent updates under the CARES Act authority.

## Performance Audits and Evaluations

The Office of Inspector General (OIG) and the Government Accountability Office (GAO) completed and issued three final audit reports in FY 2020 for the USPTO. The OIG issued nine recommendations and the GAO issued one recommendation in these reports for USPTO corrective actions to mitigate the audit findings. The USPTO concurred with all recommendations and began to take or has taken steps to address the recommendations.



The first report, *Deficiencies in USPTO's Backup and Restoration Process Could Delay Recovery of Critical Applications in the Event of a System Failure and Adversely Affect Its Mission*, Final Report No. OIG-20-030-A ([www.oig.doc.gov/OIGPublications/OIG-20-030-A.pdf](http://www.oig.doc.gov/OIGPublications/OIG-20-030-A.pdf)), found that the USPTO has no assurance that it can restore critical applications in the event of a system failure, and the USPTO's continued delay in updating legacy systems rendered a \$4 million-per-year alternate processing site inadequate and impractical. The OIG issued five recommendations to mitigate these findings.

The USPTO's planned corrective actions are: (1) define the following recovery objectives for Patent Capture and Application Processing System (PCAPS) to be included in the PCAPS Contingency Plans: (a) Maximum Tolerable Downtime, (b) Recovery Time Objective (c) Recovery Point Objective; (2) update the PCAPS Contingency Plans to establish a documented process for functional testing based on simulations of actual system disruption or failure; (3) ensure that a current alerting process for backup failures is in place and working properly; (4) issue a Request for Quotes (RFQ) for data center relocation and modernization, and (5) establish a plan to replace or retire legacy PCAPS systems and software applications.

The second report, *USPTO Needs to Improve Its Small Business Contracting Practices* ([www.oig.doc.gov/Pages/USPTO-Needs-to-Improve-Its-Small-Business-Contracting-Practices.aspx](http://www.oig.doc.gov/Pages/USPTO-Needs-to-Improve-Its-Small-Business-Contracting-Practices.aspx)), found that the USPTO did not: 1) meet its small business utilization goals, 2) provide small businesses with adequate contract award opportunities, and 3) take appropriate actions to meet small business contracting goals. The OIG issued four recommendations to mitigate these findings.

In response, the USPTO planned corrective actions are: (1) rescind Procurement Memorandum (PM) 2018-02, Small Business Set-Aside Review Process, and replace it with a PM titled "Small Business Program Policy and Procedures"; the PM outlines how to do a business size

determination; outline proper documentation and include documentation verification in the contract file; and utilize the Small Business Administration's Dynamic Small Business Search; (2) rescind PM 2018-02, Small Business Set-Aside Review Process, and replace it with a PM titled "Small Business Program Policy and Procedures"; the PM will incorporate instructions on routing the CD 570, Small Business Coordination Form, through the USPTO's eAcquisition System and will outline the proper documentation to be included in the contract file; (3) provide annual training on market research and the utilization of the USPTO's Small Business Database and the Small Business Administration's Dynamic Small Business Search; (4) create an internal Procurement Plan data collection instrument to collect all data elements required by the Forecasting and Advanced Acquisition Planning System (FAAPS).

The third report, *Intellectual Property: Additional Agency Actions Can Improve Assistance to Small Businesses and Inventors* ([www.gao.gov/products/GAO-20-556](http://www.gao.gov/products/GAO-20-556)), found that although the Small Business Administration (SBA) coordinates with the USPTO through targeted efforts to provide IP training to small businesses, it has not fully implemented some statutory requirements that can further enhance this coordination. While SBA and the Small Business Development Centers (SBDCs) coordinate with the USPTO programs at the local level to train small businesses on intellectual property protection this coordination is inconsistent. The GAO issued four recommendations, with one directed to the USPTO, to mitigate these findings.

In response to the GAO recommendation, the USPTO developed a post-presentation survey, approved through the OMB clearance process, to collect information to help evaluate our outreach efforts and overall effectiveness. The survey focuses first on the net promoter ratio metric that is used for our balanced scorecard, which tracks with our strategic plan goals.

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## Performance Data Verification and Validation

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Per the GPRA Modernization Act of 2010 requirements, the USPTO is committed to ensuring that the performance information it reports is complete, accurate, and consistent. The USPTO developed a strategy to validate and verify the quality, reliability, and credibility of USPTO performance results as discussed below.

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

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

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

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## Commissioners' Performance for FY 2020

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The AIPA, title VI, subtitle G, the Patent and Trademark Office Efficiency Act, requires establishing an annual performance agreement between the Commissioner for Patents and the Commissioner for Trademarks, respectively, and the Secretary of Commerce. The Commissioners for Patent and Trademark each have FY 2020 performance agreements with the Secretary of Commerce that outline the measurable organizational goals and objectives for which they are responsible. They may be awarded a bonus (of up to 50% of their base salary, so long as it does not to exceed the aggregate salary limitation which is equivalent to the Vice President's salary) based on a performance evaluation defined in the agreement. The results achieved in FY 2020 are documented in this report in the performance information for Strategic Goals I and II. FY 2020 bonus information was not available when this report was published and that information will be in next year's PAR. For FY 2019, the Commissioner for Patents received a bonus of 27.3% of the base salary. The Commissioner for Trademarks received a bonus of 20.8% of the base salary.

# PATENTS:

## STRATEGIC GOAL I

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### What is a Patent?

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A patent is an IP right granted by the government of the United States of America to an inventor “to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States” for a limited time in exchange for public disclosure of the invention. There are three types of patents: utility, design, and plant.

- Utility patents may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof.
- Design patents may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture.
- Plant patents may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant.

For a detailed look at the patent application examination process, please visit our [website](#).

# STRATEGIC GOAL I:

## Optimize Patent Quality and Timeliness

The USPTO is dedicated to its mission to deliver “high-quality and timely examination of patent applications” per laws, regulations, and practices and consistent with the goals and objectives in the USPTO 2018–2022 Strategic Plan. This goal and its key performance measures directly support the Department of Commerce’s *Strategic Objective 1.3: Strengthen Intellectual Property Protection*. For more information, please visit the [Commerce Performance Data Pro](#) website.

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

The USPTO established a pendency goal in FY 2020 that 90% of both total performance (i.e., mailed actions) and total inventory (i.e., remaining inventory) would be within statutory timeframes set by 35 U.S.C. § 154(b)—also

referred to as Patent Term Adjustment (PTA) compliance—by the end of FY 2025. The statutory timeframes are 14 months from the filing date of an application to the mailing date of a first office action; 4 months to respond to an amendment, which includes an RCE; 4 months to act on a decision from the PTAB; 4 months to issue a patent after payment of the issue fee; and 36 months from the filing date of an application to the issue date of a patent. Concurrently, while maintaining this level of PTA compliance, the previously attained patent average first action pendency of less than 15 months, and less than 24 months for average total pendency, remained a priority. In tandem, our efforts toward the short term average pendency goals and long term PTA compliance goals are significant in the success of optimizing patent application pendency and increasing the predictability of the patent application process for our stakeholders.

For FY 2020, total PTA compliance for all mailed actions was 83.2%, and total PTA compliance for all remaining inventory was 87.8%. FY 2020 PTA compliance for each PTA category is represented in Table 4.

TABLE 4: PATENT TERM ADJUSTMENT (PTA) PERFORMANCE DATA

PTA Category	PTA Compliance-Mailed Actions	PTA Compliance-Remaining Inventory
Issue an office action within 14 months after application filing	43.4%	73.5%
Respond to an amendment within four months	96.9%	97.4%
Respond to an RCE filing within four months	84.4%	84.6%
Act on the application within four months after a decision from the PTAB	96.5%	99.8%
Patent granted within four months after payment of the issue fee	98.7%	98.7%
Issue a patent within 36 months of the filing date	85.1%	94.2%
<b>Total PTA Compliance</b>	<b>83.2%</b>	<b>87.8%</b>

Patent average first action pendency was 14.8 months at the end of FY 2020, and average total pendency was 23.3 months. Average first action pendency measures the time from when an application is filed until it receives an initial determination of patentability by the patent

examiner. Average total pendency measures the time from filing until an application is either issued as a patent or abandoned. This data for first action and total pendency is noted in Tables 5 and 6, respectively.

TABLE 5: PATENT AVERAGE FIRST ACTION PENDENCY (MONTHS)

Fiscal Year	Target	Actual
2015	16.4	17.3
2016	14.8	16.2
2017	14.8	16.3
2018	15.4	15.8
2019	14.9	14.7
2020	15.0*	14.8*

**Target met.**

\*The USPTO continued striving toward a more aggressive target of less than 15 months versus the FY 2021 President’s Budget target of 16.1 months.

**Trend:** The trend line indicates that the performance trend is positive, with some variability of the direction of the trend line in predicting future results. Additional discussion for this measure can be found on page 60.

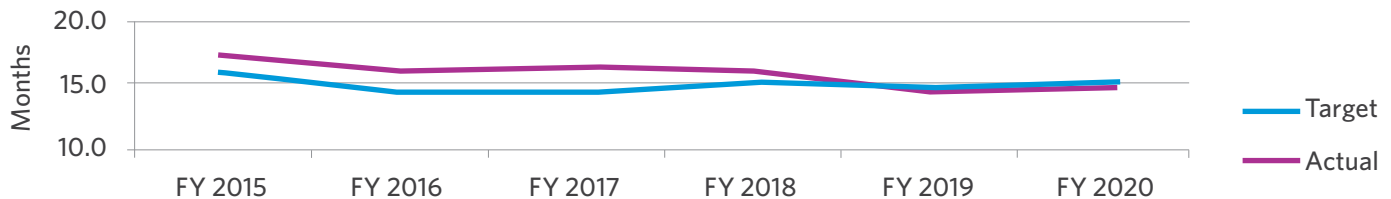
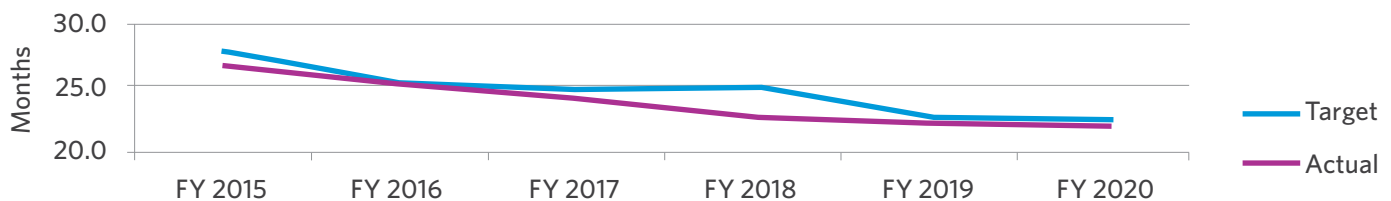


TABLE 6: PATENT AVERAGE TOTAL PENDENCY (MONTHS)

Fiscal Year	Target	Actual
2015	27.7	26.6
2016	25.4	25.3
2017	24.8	24.2
2018	25.0	23.8
2019	23.9	23.8
2020	23.7	23.3

**Target met.**

**Trend:** The trend line indicates that the performance trend is positive, with little variability of the direction of the trend line in predicting future results. Additional discussion for this measure can be found on page 60.



The USPTO's dedicated employees continued to make improvements in managing the inventory of unexamined patent applications. The USPTO saw a 0.7% increase in serialized filings, resulting in a utility, plant, and reissue patent application inventory of 576,103 at the end of FY 2020. The RCE inventory decreased to 16,346.

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## OBJECTIVE 1: Optimize Patent Application Pendency

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During this unprecedented and challenging fiscal year, the USPTO continued to press forward, doing our part to support each other, to serve the public, and to promote U.S. commerce. The efforts of our employees offered reassurance to our stakeholders and the public and enabled innovators and inventors to make progress with their work. Like many other government agencies and private businesses, the USPTO transitioned to an almost entirely virtual operating model on March 23, 2020, with the vast majority of employees and contractors working full-time from home. Patent examiner production remained relatively steady, and in some areas, production increased during mandatory/maximum teleworking. The USPTO remained open for business, albeit virtually, supporting our stakeholders and the public more broadly.

### Optimize Pendency and Examination Timeframes

The USPTO continued to focus on meeting the Department of Commerce's Strategic Objective 1.2: *Advance Innovation by accelerating and improving the reliability of patent processing*. The USPTO achieved 14.8 months for average first action pendency and 23.3 months for average total pendency. The focus on PTA compliance in FY 2020 improved the predictability of patent application processing for our stakeholders, ensuring that 83.2% of all mailed actions and 87.8% of the remaining application inventory were within PTA compliance.

Our success is the direct result of the efforts of our employees, at all levels, to drastically improve analyses, streamline processes, and clarify approaches that benefit currently filed patent applications, as well as future patent applications. These efforts continued to emphasize a first-in-first-out management of examiner dockets at the patent examining level, which required complex data analysis to better prioritize applications without sacrificing quality, while increasing efficiencies to accelerate the overall patent examination process at the application-processing level.

### Align Production Capacity with Incoming Workload

The Patent organization reviewed pendency to align production capacity with incoming workload. Every year, analysis is performed to determine the areas of high pendency, and new patent examiner hires are placed in these areas. In addition, work from areas of high pendency is routinely redistributed to areas of low pendency where there are overlaps in technology expertise. In FY 2020, the Patent organization configured a system to support the new application assignment process that will be implemented next fiscal year. This new application assignment process will further assist in normalizing pendency throughout the examining corps, as discussed in the "Refine Production Standards to Achieve Patent Quality Expectations and Goals" portion of this report.

Table 7 shows how the USPTO evaluates the efficiency of the patent examination process, as measured by the relative cost-effectiveness of the entire patent examination process over time, or the efficiency with which the organization applies its resources to production. Actual results are based on total patent-related expenses USPTO-wide compared with patent production.



TABLE 7: MEASURE: TOTAL COST PER PATENT PRODUCTION UNIT

Fiscal Year	Target	Actual
2015	\$4,646	\$4,086
2016	\$4,687	\$4,198
2017	\$4,607	\$4,312
2018	\$4,786	\$4,593
2019	\$5,142	\$4,633
2020	\$5,253	\$5,003
2021	\$5,798	

Target met.

### Leverage Value Obtained from International Work Products

The USPTO continued to be a global leader in developing worksharing programs that result in efficiencies for patent applicants and patent examiners. The agency also continued to optimize its PPH and PCT programs, which have increased efficiencies and decreased costs for applicants filing in multiple offices. The USPTO also continued its stewardship of the Global Dossier, which provides a single point of access to related applications filed in multiple patent offices at no cost to users. Additionally, the USPTO continued to pilot innovative, collaborative search programs to enhance predictability and reliability of IP rights worldwide.

### Identify and Offer Additional Prosecution Options

The USPTO continued to evaluate programs designed to advance the progress of a patent application and to provide applicant assistance, including programs such as Track One for Prioritized Examination, Quick Path Information Disclosure Statement (QPIDS), the After Final Consideration Pilot 2.0 (AFCP 2.0), and Patents 4 Patients (the Cancer Immunotherapy Pilot Program). In May 2020, the USPTO announced a pilot program to provide a prioritized examination of patent applications filed by small and micro entities covering a product or process related to COVID-19. The goal of the program is to provide final disposition within 12 months, on average, from the date prioritized status was granted for applications directed to a product or process that is subject to an applicable FDA approval for COVID-19 use.

For more information on this program, please see the [USPTO press release](#) regarding the COVID-19 Prioritized Examination Pilot Program for small and micro entities.

## OBJECTIVE 2: Issue Highly Reliable Patents

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

At the beginning of FY 2020, the USPTO implemented the first phase of updates that improved the examination process and better aligned it with the USPTO's goals of providing predictable and reliable patents rights to stakeholders. The first phase of updates offered an increase to the base or minimum time patent examiners are allotted to examine each application, as well as additional time for applications that contain particular attributes above a specified threshold, including the overall number of claims, the length of the specification, and the number of pages in any filed Information Disclosure Statements.

After successfully implementing the first phase of updates, the USPTO prepared for the second phase of updates, anticipated for FY 2021. These future updates will further revise the time allotted for examining patent applications, routing applications to patent examiners, and evaluating patent examiner performance via the

examiner's performance appraisal plan. Throughout FY 2020, efforts leading to the full implementation of these updates included developing IT tools, conducting training, and establishing a communication infrastructure to ensure preparedness for the upcoming changes among patent examiners and internal stakeholders.

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

The new application routing process will more effectively match each application's unique technological profile with the specific work experience of a patent examiner, thereby enhancing the process of assigning applications to patent examiners with the requisite expertise and experience.

The updated examiner performance appraisal plan establishes a roadmap for enhanced patent quality by providing patent examiners with a list of exemplary practices in the areas of search, clarity of the written prosecution record, and principles of compact prosecution. For example, this roadmap provides a greater emphasis on search by highlighting the importance of searching the inventive concept as disclosed in an application to identify the best prior art in the case at the earliest possible time in prosecution.

For more information on these updates, please visit [examiner performance appraisal](#) website.

### **Develop Artificial Intelligence Programs for Patents at the USPTO**

Prior art refers to the references and documents that may be used to determine novelty and/or non-obviousness of claimed subject matter in a patent application. To help address the ever expanding amount of prior art, the USPTO continued to improve patent



Commissioner for Patents Drew Hirshfeld gives a statement before the Senate Committee on the Judiciary, Subcommittee on Intellectual Property in a hearing titled, "Promoting the Useful Arts: How can Congress prevent the issuance of poor quality patents?" (Photo by Jay Premack/USPTO)

examiners' ability to access prior art through the deployment of advanced technology solutions. The USPTO is committed to building AI and ML solutions into its IT systems and incorporating these new capabilities into patent examining processes. This is accomplished through comprehensive technology development programs, exhaustive market research, and rigorous testing on proof-of-concept tools in order to identify world-class AI capabilities and verify value to patent use cases. Significant progress was made in FY 2020 in the key patent use cases of search and classification.

The USPTO successfully launched a new patent search system prototype that uses sophisticated AI capabilities to assist patent examiners with performing a complete patent search. This system is a cloud-based integration that provides a "one-stop shop" to enable patent examiners to leverage the AI capabilities to access prior art. These capabilities allow patent examiners to automatically retrieve prior art documents, review those documents more efficiently than with traditional search tools, leverage suggested search areas to ensure complete search, and use "explainable AI" to help patent examiners understand results. Explainable AI allows patent examiners to understand, appropriately trust, and effectively manage the AI learning performance. This system also captures feedback automatically from patent examiners as they search to improve the ML models and is scalable to keep pace with the exponentially growing collections of prior art. This new patent search system was released to a subset of almost 600 patent examiners across all technology areas for assessment and refinement, with planned expansions to the entire patent examination corps. To date, the testing of the infrastructure, integration points with Patent End-to-End (PE2E), and critical core functionality was highly successful and well received by patent examiners.

For the patent classification use case, the USPTO developed an auto-classification system that uses ML and AI to assign CPC symbols on patent documents and identifies whether CPC symbols are associated with the specific claimed subject matter. This system will provide greater control and consistency of classification practices, thereby supporting patent search and international harmonization. Similar to the new patent search system, the auto-classification system employs

"explainable AI", which shows patent examiners relevant portions of patent documents related to each CPC symbol and captures feedback on the accuracy of symbols to improve the ML models. The auto-classification system was released to a subset of 150 patent examiners with specialized patent classification expertise across the entire CPC scheme for assessment and refinement. Analysis of the CPC symbols auto-classified with this system continue to demonstrate improvements as the AI models are updated by examiner feedback.

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

The USPTO provided many resources for patent examiners to assist with prior art searches. These included not only the new patent search system described earlier but also experts who were available to help with search strategies based on technology and classification. Currently, patent examiners have access to approximately 167 million documents and 39 million more foreign documents and full English translation documents. In FY 2021, patent search access will expand to about 75 million more foreign full image and complete English translation documents.

In FY 2020, the Post Grant Outcomes Program was updated to require patent examiners to consider documents from proceedings in related applications, particularly for claims in a pending related application with similar scope or similar claim elements to an earlier filed related application or patent involved in a PTAB proceeding. The Post Grant Outcomes Program aims to provide patent examiners with the most useful post grant information from various sources, such as AIA trial proceedings before the PTAB. This program improves the consistency of patentability determinations in related pending patent applications by notifying patent examiners when they have an application related to a patent challenged in an AIA trial proceeding, streamlining access to the contents of the AIA trial proceedings, and determining and disseminating best practices for evaluating those proceedings.

The Post Grant Outcomes program update also included

training modules provided to patent examiners upon notification of a pending application on their docket related to an earlier filed related patent undergoing PTAB proceedings in IPR, Covered Business Methods (CBM), and Post Grant Reviews (PGR). Since its launch, over 2,461 cases have been identified as a part of this program.

For more information on the Post Grant Outcomes Program, please visit the [Post Grant Outcomes](#) website.

### **Provide Clear and Effective Patent Examination Guidance: Subject Matter Eligibility**

In October 2019, the USPTO issued an update to its [“2019 Revised Patent Subject Matter.”](#) This was due to the USPTO’s continuing effort to increase the certainty and predictability of the patent eligibility analysis and to clarify the analysis to guide patent examiners and the public in finding the appropriate lines to draw with respect to patent eligible subject matter. This update responded to public feedback received on the 2019 guidance. This update also responded to stakeholder questions about how the USPTO’s subject matter eligibility guidance is supported by judicial precedent, for instance by discussing which judicial decisions support each of the three types of enumerated abstract ideas set forth in the 2019 guidance.

In October 2019, the USPTO also issued four examples in the data processing and life sciences, demonstrating how USPTO personnel would apply the 2019 guidance to specific fact patterns, and a number of other helpful tools to be used in conjunction with the guidance. Technology Centers (TCs) utilize these examples as the basis for training their patent examiners on how to perform the eligibility analysis.

For more information about these updates, please visit the USPTO’s [Subject Matter Eligibility](#).

In addition, the USPTO published a report in April 2020, [“Adjusting to Alice: USPTO patent examination outcomes after Alice Corp v. CLS Bank International,”](#) detailing how the 2019 guidance has brought greater predictability and certainty to the determination of patent eligibility. This report discusses a study by the USPTO’s Office of the Chief Economist that found that the 2019 guidance has resulted in a 25% decrease in the likelihood of *Alice-*

affected technologies receiving a first office action with a rejection for patent-ineligible subject matter. The report also found that uncertainty about determinations of patent subject matter eligibility for the relevant technologies decreased by a remarkable 44% as compared to the previous year. Thus, as confirmed by the report, the USPTO’s 2019 guidance has marked a significant step in moving beyond the recent years of confusion and unpredictability on subject matter eligibility.

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

The USPTO is committed to continually providing training for patent examiners at all levels since this is critical to producing reliable and predictable IP rights. The USPTO continued to provide patent examiners with technical and legal training through its Refresher Training Program and Master Class Program. These courses are designed to keep patent examiners current on or expand their knowledge, skills, and abilities related to procedures, legal matters, communication, and automation that are ever evolving in their fields of specialty.

As noted in the Patent Training section later in this report, the USPTO continued to provide training for external stakeholders, including via online sessions, such as Virtual Instructor Led Training (vILT). This program focuses on recent updates to examination practice and procedure for more experienced practitioners. The courses are derived from the same guidance the USPTO provides its patent examiners. Since these sessions are online, the USPTO has been able to continue offering these trainings even during the period in which the USPTO was on mandatory/maximum telework due to COVID-19.

The USPTO continually collaborated with its stakeholders to provide technical training for patent examiners to enhance their subject matter expertise. For example, the Patent Examiner Technical Training Program (PETTP) provided a forum for industry and academia experts to voluntarily provide technical training to patent examiners. These presenters cover technological advances in state of the art, emerging trends and recent innovations in their respective fields.



## OBJECTIVE 3: Foster Innovation Through Business Effectiveness



Quarterly meeting of the Patent Public Advisory Committee in the USPTO's Clara Barton Auditorium. (Photo by Jay Premack/USPTO)

### Increase Our Focus on the Patents Customer

The USPTO is committed to being a customer-oriented agency that applies customer and user feedback to continuously improve its processes, products, tools, and communications in order to deliver outstanding experiences. We aspire to deliver consistent, clear, and intuitive customer experiences that contribute to the achievement of the USPTO's mission of fostering innovation.

TABLE 8: **MEASURES: PATENT CORRECTNESS INDICATORS**

Statute	Goal	Actual
35 U.S.C. § 101 (including utility and eligibility) - Ensures the patent application contains a new and useful invention.	>97%	97.7%
35 U.S.C. § 102 (prior art compliance) - Ensures the patent application is a novel invention in view of the appropriate prior art.	>95%	94.3%
35 U.S.C. § 103 (prior art compliance) - Ensures the patent application is not an obvious invention in view of the appropriate prior art.	>93%	88.9%
35 U.S.C. § 112 (35 U.S.C. § 112(a), (b), including (a)/(b) rejections related to 35 U.S.C. § 112(f)) - Ensures the patent application adequately satisfies multiple invention disclosure requirements.	>93%	90.6%

The USPTO's prior and ongoing efforts in this area improve the consistency of the application of patent regulations, increase the efficiency and effectiveness of the search for patent examination, provide a supportive patent pathway to independent inventors and small business owners, and encourage a greater exchange of ideas and partnership with industry.

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

The USPTO continued to evaluate patent quality by measuring and assessing its work products. Review quality assurance specialists from the Office of Patent Quality Assurance (OPQA) reviewed a random sample of employee work products for compliance with title 35 of the U.S.C. and the relevant case law at the time of the patentability determination. The feedback and data obtained from these reviews allow the USPTO to identify quality trends earlier in the examination process and address any corrective measures, such as training. The review form used by the review quality assurance specialists was updated in FY 2020, facilitating more granular data collection of quality issues to better assist in conducting root cause analyses.

In FY 2020, OPQA completed 12,000 reviews. Table 8 shows the results in the correctness of office actions that the USPTO achieved during FY 2020. An office action is a written notification to the applicant, and a few examples are non-final rejections, final rejections, and notices of allowability.

The new review form also allows reviewers in OPQA to better capture an examiner's use of best practices, including expanding reviewers' ability to designate high-quality examiner work products as warranting an "accolade." The accolades program effectively brings positive feedback to patent examiners by recognizing specific, praiseworthy work and providing readily deliverable feedback via their supervisor. The program recognizes work that goes beyond the requirements of patent examination, as found in the Manual of Patent Examining Procedure (MPEP), and praises the use of identified best practices, particularly clear writing styles, and excellent customer service. Approximately 12% of all work products reviewed in FY 2020 received an accolade.

The USPTO also captured external perceptions of USPTO quality through semi-annual surveys. In each survey cycle, the external survey was sent to approximately 3,000 randomly selected, frequent-filing customers and was used to help validate the USPTO's internal quality data. The survey focuses on the extent to which the respondents feel that the patent examiners adhere to rules and procedures; the correctness, clarity, and consistency of rejections made; and overall examination quality.

The survey showed stakeholder satisfaction with overall examination quality continued to rise, with more than 11 stakeholders citing quality as Good or Excellent for every stakeholder that reported quality as Poor or Very Poor in the most recent survey. This ratio is the highest recorded level since the survey's inception in 2006. The office saw a spike in satisfied customers following the patent eligibility guidance issued in January 2019, and since then, customers have been more likely to report that quality has improved. Satisfaction with 35 U.S.C. § 103 rejections continues to be the most vital driver of overall quality perceptions.

The USPTO continued the OPQA Feedback on Search Pilot Program to provide feedback to patent examiners on searching prior art, with the first phase conducted in FY 2019. Quality reviewers from OPQA performed searches in a random sample of applications and provided the patent examiner a feedback report, including the reviewer's strategy plus feedback related to the patent examiner's search. The patent examiner and the reviewer also had an opportunity to discuss their

strategies in a meeting. Approximately 200 patent examiner-reviewer meetings were held over the course of the pilot. Both reviewers and patent examiners who participated in a collaborative meeting voiced appreciation for the opportunity to discuss search strategies and provided examples of gained/shared best practices. In a post pilot survey of patent examiners conducted in FY 2020, 77% of respondents noted that they would like to receive OPQA search feedback reports as part of the regular reviews conducted by OPQA, and 66% of respondents were interested in having the opportunity to meet with the reviewer and discuss search strategies in the future.

Based on this feedback, OPQA implemented the second phase of this pilot in late FY 2020, focused on supplementing select OPQA random reviews with additional feedback through the inclusion of a search immersion report. The search immersion report is similar to the previous form, with the addition of a comprehensive record of the reviewer's search utilizing a new OPQA search recordation form. The new form followed the process of developing and performing a thorough prior art search. The search immersion report is sent to the patent examiner via their manager to ensure review. OPQA also continued to explore the most effective way to include an opportunity for patent examiners to meet with reviewers to discuss search strategies and other relevant topics.

### **Retain and Leverage Nationwide Talent**

In FY 2020, the USPTO hired 500 new patent examiners. All new patent examiners must attend the Patent Training Academy's (PTA) year-long training program. During the training, patent examiners receive an in-depth introduction to U.S. legal statutes and patent examination rules, technical subjects, and soft skills needed to succeed as a patent examiner. Because of the closure of USPTO offices due to COVID-19, the PTA moved all of its training programs to a virtual environment. The PTA successfully replicated the typical PTA curriculum in the virtual environment, and metrics show that patent examiners trained in this way are as successful as patent examiners trained as part of the PTA's in-person curriculum.



## Provide Pro Se Assistance

Another important initiative is to assist small businesses and under-resourced inventors who wish to file patent applications without the assistance of a registered patent attorney or agent (also known as pro se filing). The USPTO recognizes that the cost of legal assistance is prohibitive for many applicants, particularly independent inventors and small businesses. Accordingly, the USPTO maintains the Pro Se Assistance Program to help these inventors meet their goals of protecting their valuable IP. The Pro Se Assistance Program helps make the patent system more transparent and reduces obstacles for underrepresented patent applicants through targeted efforts via walk-in meetings, one-on-one assistance, telephone, email, and educational programs. The program offers phone, email, in-person (unscheduled and scheduled), and video conferencing (virtual assistance) to customers at the pre-filing stage. The office operates five days per week (Monday through Friday, 8:30 a.m. to 5:00 p.m. ET).

During FY 2020, Pro Se Assistance received 6,936 phone inquiries, 798 email inquiries, 101 in-person visits (scheduled and unscheduled), and 11 virtual assistance appointments with the use of libraries that partnered with PRTCs. The USPTO's Pro Se Art Unit continued to provide dedicated educational and practical resources to small businesses, independent inventors, and under-resourced inventors. In FY 2020, examiners granted patents in over 1,175 applications in the Pro Se Art Unit. Through education and enhanced customer service, the Pro Se Art Unit helped increase patent protection accessibility, with over 35% of all Pro Se applications examined by the Pro Se Art Unit resulting in a patent grant.

Patent examiners in the Pro Se Art Unit worked with underrepresented applicants on thousands of applications to help make the patent system more transparent and understandable. By collaborating proactively with underrepresented applicants, from filing through final disposition of a patent application (e.g., abandoned, allowed, or on appeal), the USPTO hopes to

identify, streamline, and ameliorate procedural obstacles for first-time filers. Over 6,600 pro se applications were assigned to the Pro Se Art Unit as of the end of FY 2020.

Best practices continued to be shared internally with patent examiners in "Working with Pro Se Applicants" refresher training and externally through articles, webinars, surveys, and Pro Se Basics Training Series.

Education and assistance to independent inventors was virtual via the [Quick Clinic Videos](#) and videos of [past Inventor Info Chats](#). The Patent Virtual One-on-One Assistance Program provides assistance via Webex video conferences (meetings), telephone conversations, and the virtual Patent Application Toolkits. More detailed information is available online, on the [Pro Se Assistance Program](#) website.

Furthermore, the Pro Se Assistance Center provided an additional 368 virtual (one-on-one) appointments (not partnered with a PTRC), based on the mandatory teleworking environment.

## Engage Through Customer Partnership Meetings

The USPTO continued to enhance customer partnerships to provide an informal conduit for all stakeholders to share insights and experiences that improve patent prosecution in specific technology areas. Though these events commonly occur in person on the USPTO campus, the USPTO held virtual customer partnership events in FY 2020 during the mandatory/maximum telework period due to COVID-19, allowing our external stakeholders' invaluable engagement opportunities to continue.

The USPTO hosted Customer Partnership Meetings this year across multiple TCs, including those focused on biotechnology/chemical/pharmaceutical (TC 1600) and semiconductor and other electrical arts (TC 2800). This increased interactivity between the USPTO and external stakeholders in specific technology areas aims to enhance relationships and improve future prosecution-related issues. More detailed information is available online, on the [Customer Partnership Meetings](#) website.

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## OBJECTIVE 4: Enhance Operations of the Patent Trial and Appeal Board

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

During this unprecedented and challenging time, the PTAB continued its mission without interruption and made several improvements to its processes and proceedings to enhance consistency, transparency, and certainty for ex parte appeals and AIA trials.

The PTAB has continued to implement changes to its practice in response to stakeholder feedback. Such changes have included:

- A new pilot program (established March 15, 2019) and notice of proposed rulemaking (published October 21, 2019) concerning motions to amend;
- Updates to the Trial Practice Guide (consolidated in November 2019 and republished in full);
- Notice of proposed rulemaking relating to the institution of AIA trials (published May 27, 2020); and
- Designating numerous PTAB decisions as precedential and informative, including decisions relating to factors considered at the institution of AIA trials.



The Federal Circuit Bar Association Global Fellows meet with PTAB judges, including Chief Judge Scott Boalick. The educational series promotes a higher level of international IP practice among the next generation of leaders through an intensive learning program taught by leading judges and practitioners focusing on both policy issues and practical lessons on the operation of the patent systems in Europe and the U.S. (Photo by Jay Premack/USPTO)

TABLE 9: PTAB TIMELINESS OF DECISION TO INSTITUTE

Fiscal Year	Target	Actual
2015	3.0	2.7
2016	3.0	2.6
2017	3.0	2.5
2018	3.0	2.6
2019	3.0	2.7
2020	3.0	2.6

Target met.

TABLE 10: PTAB TIMELINESS OF AIA TRIAL PROCEEDINGS

Fiscal Year	Target	Actual
2015	12.0	11.3
2016	12.0	11.7
2017	12.0	11.7
2018	12.0	11.8
2019	12.0	11.7
2020	12.0	11.7

Target met.

TABLE 11: PTAB PENDENCY OF DECIDED APPEALS FROM APPEAL NUMBER ASSIGNMENT DATE (AVERAGE NUMBER OF MONTHS)

Fiscal Year	Target	Actual
2015	-	29.8
2016	26.0	25.5
2017	23.5	17.8
2018	16.9	15.1
2019	16.5	14.8
2020	14.5	13.4

Target met.

The PTAB also internally implemented a new Style Guide to enhance uniformity and consistency of decisions. Additionally, the PTAB managed the impact of the Federal Circuit decision in *Arthrex, Inc. v. Smith & Nephew, Inc.* by issuing a general order holding approximately 100 applicable cases on remand from the Federal Circuit or on rehearing in administrative abeyance pending action by the Supreme Court.

The PTAB transitioned from in-person hearings to entirely remote hearings in light of mandatory/maximum telework due to the COVID-19 response. The PTAB continued to meet all statutory due date requirements for AIA trials while reducing the average pendency of ex parte appeals to its lowest level in years. From March 16 to September 30, 2020, the PTAB conducted 430 ex parte appeal hearings, 256 AIA trial hearings, and 15 reexamination hearings. During this same time period, the PTAB granted and facilitated public access to 148 hearings, upon request. Additionally, pursuant to the CARES Act, the PTAB processed 107 extensions of time for parties to take various actions in both ex parte appeals and AIA trial proceedings.

As previously mentioned, the PTAB successfully met all statutory deadlines for AIA trials. The PTAB also continued to work through its oldest appeals to reduce its average appeal pendency from approximately 30 months in 2015 to the current 13.4 months. The PTAB had a goal at the end of fiscal year 2020 of 14.5 months, which was met, as can be seen in the tables above (Tables 9, 10, and 11), and has a long-term pendency goal of 12 months.

Additionally, the PTAB launched a Fast-Track Appeals Pilot Program to provide appellants the option to expedite the Board's review of ex parte appeals, while limiting the volume in order to encourage participation but not compromise the PTAB's ability to deliver on its other goals, such as the average pendency of ex parte appeals. The PTAB continues to collect public input and to carefully evaluate its proceedings to identify additional improvements.

Under its new standard operating procedure (SOP 2), in FY 2020, the PTAB designated eight precedential decisions and 16 informative decisions on various topics, ranging from discretionary denial of an institution, to live testimony at oral hearings, to submission of new evidence at the rehearing stage.

### **Enhance PTAB Operations to Support PTAB Proceedings**

The PTAB has made significant progress in IT improvements and upgrades while adopting the agency's "agile" IT New Ways Of Working. The PTAB is converting from the previous multi-system PTAB End-to-End (E2E) IT system to a single integrated IT system, known as PTAB Center. The PTAB made this change to provide PTAB internal users with an improved and unified interface for performing case management and decision making across all of the PTAB's jurisdictions. When complete, this change will provide external customers with a straightforward user interface to file petitions and other papers, and otherwise conduct business with the PTAB. PTAB Center will improve analytics and dashboard capabilities and, importantly, provide PTAB management with a comprehensive and reliable data source for enhanced reporting to internal and external stakeholders. The PTAB continues to receive internal and external feedback and will continue to adjust and evolve based on agency and customer needs.

The PTAB also has provided more opportunities for the public to access a proceeding. For example, the PTAB now permits the public to request to listen to live hearings. In another example, the PTAB updated its hearing orders to give parties the option of requesting remote hearing attendance from any regional office. Upon granting such a request, counsel may appear at a hearing at one USPTO location, such as USPTO headquarters, whereas in-house counsel or the client may watch simultaneously from the approved regional office location.



# TRADEMARKS: STRATEGIC GOAL II

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## Trademark Organization

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The essential function of the Trademark organization is to register marks that meet the requirements of the Trademark Act of 1946, as amended. Trademarks, service marks, certification marks (a type of trademark that is used to show consumers that particular goods and/or services, or their providers, have met certain standards), collective marks, and collective membership marks a mark adopted by a “collective” (i.e., an association, union, cooperative, fraternal organization, or other group). A collective membership mark may be a letter or letters, a word or words, a design alone, a name or nickname, or other matter that identifies the collective group. While certification marks may be used by anyone who complies with the standards defined by the owner of the particular certification mark, collective trademarks may be used only by particular members of the organization (collective) that owns them. The trademark register provides notice to the public and businesses of the trademark rights claimed in pending applications and existing registrations. In order to carry out this essential function, the core practices of the Trademark organization are: a) examining applications for trademark registration, and b) processing filings made to maintain registrations.

As part of these processes, examining attorneys make determinations as to registrability under the provisions of the Trademark Act. This practice includes searching electronic databases for pending or registered marks that are confusingly similar to the mark in a subject application, preparing letters and communicating findings to applicants, approving applications to be published for opposition, and examining statements of use in applications filed under the Intent-to-Use provisions of section 1(b) of the Trademark Act. The organization also looks at and approves lawful maintenance documents and renewals of trademark registrations. Moreover, the organization participates in policy development for examination, international trademark office cooperation, and trademark-focused educational and stakeholder outreach.

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## New Trademark Leadership

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In February, U.S. Secretary of Commerce Wilbur Ross named David S. Gooder to be the new Commissioner for Trademarks. He joined the USPTO with more than 25 years of prior experience in IP, brand protection, rights clearance, and licensing for global brands. He has been an officer and served two terms on the Board of Directors for the International Trademark Association (INTA) and served as Chairman of the INTA Foundation. Gooder received his Juris Doctor from the University of Arizona James E. Rogers College of Law and is admitted to the State Bar of California.



David Gooder is sworn in as Commissioner for Trademarks at the USPTO by Andrei Iancu, Under Secretary of Commerce for Intellectual Property and Director of the USPTO. Dillon Gooder holds the Bible for his father during the oath of office. (Photo by Jay Premack/USPTO)

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## What is a Trademark or Service Mark?

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A trademark or service mark is a word, name, symbol, logo, design, or any combination thereof that distinguishes the goods and services of one seller or provider from those of others and indicates the source of the goods and services. Federal registration of a mark is not required but carries several advantages, including notice to the public of the registrant's claim of ownership of the mark, legal presumption of ownership nationwide, and a presumption of the exclusive right to use the mark on or in connection with the goods and services identified in the registration.

A registered trademark may be recorded with the U.S. Customs and Border Protection (CBP). The CBP can obtain and seize imported goods that violate a registered trademark owner's IP rights in the United States. More detailed information is available online, on the [Trademark Basics](#) website.



## STRATEGIC GOAL II:

### Optimize Trademark Quality and Timeliness

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#### OBJECTIVE 1: Optimize Trademark Application Pendency

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Trademark operations are guided by the strategic goal to optimize trademark quality and timeliness. The USPTO implements U.S. trademark laws and regulations for the mutual benefit of consumers and businesses, in accordance with the USPTO's 2018-2022 Strategic Plan.

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

On newly filed applications, first actions have been rendered in fewer than 3.5 months dating back to 2007, and trademarks have been registered in less than 12 months, on average. These pendency rates are optimal for stakeholders and the USPTO. Again the USPTO met trademark pendency goals, even as the USPTO received 738,112 trademark application classes this year, eclipsing last year's record total.

#### Achieve Optimal Pendencies for Applications

First action pendency measures the time between when USPTO receives a trademark application and when it makes a decision on that filing. First action pendency was 3.0 months in FY 2020, within the optimum target range of 2.5-3.5 months.

The USPTO averaged 9.5 months for total trademark pendency, the average number of months from the date of filing to a notice of abandonment, a notice of allowance, or registration. The USPTO has an extended history of sustained optimal trademark pendency (see Tables 12 and 13), an essential indicator for stakeholders, as these milestones often impact business decisions.

TABLE 12: TRADEMARK AVERAGE FIRST ACTION PENDANCY (MONTHS)

Fiscal Year	Target	Actual
2015	2.5 to 3.5	2.9
2016	2.5 to 3.5	3.1
2017	2.5 to 3.5	2.7
2018	2.5 to 3.5	3.4
2019	2.5 to 3.5	2.6
2020	2.5 to 3.5	3.0
2021	2.5 to 3.5	

Target met.

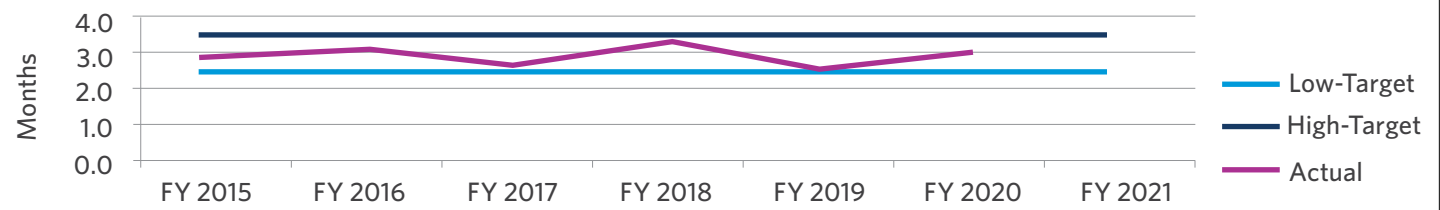
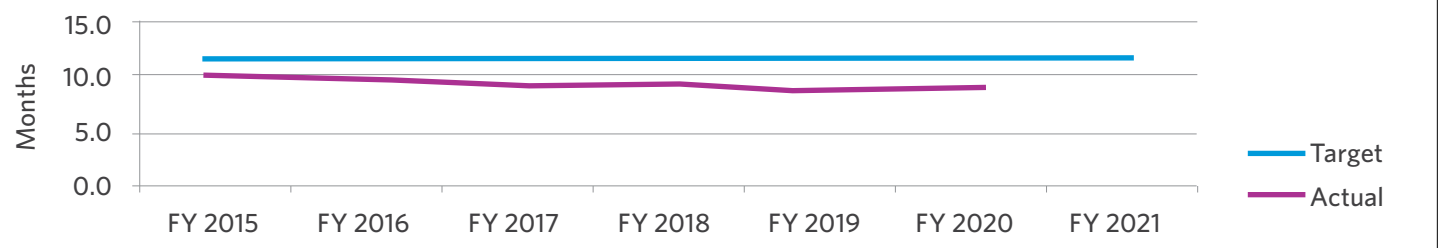


TABLE 13: TRADEMARK AVERAGE TOTAL PENDANCY (MONTHS)

Fiscal Year	Target	Actual
2015	12.0	10.1
2016	12.0	9.8
2017	12.0	9.5
2018	12.0	9.6
2019	12.0	9.3
2020	12.0	9.5
2021	12.0	

Target met.

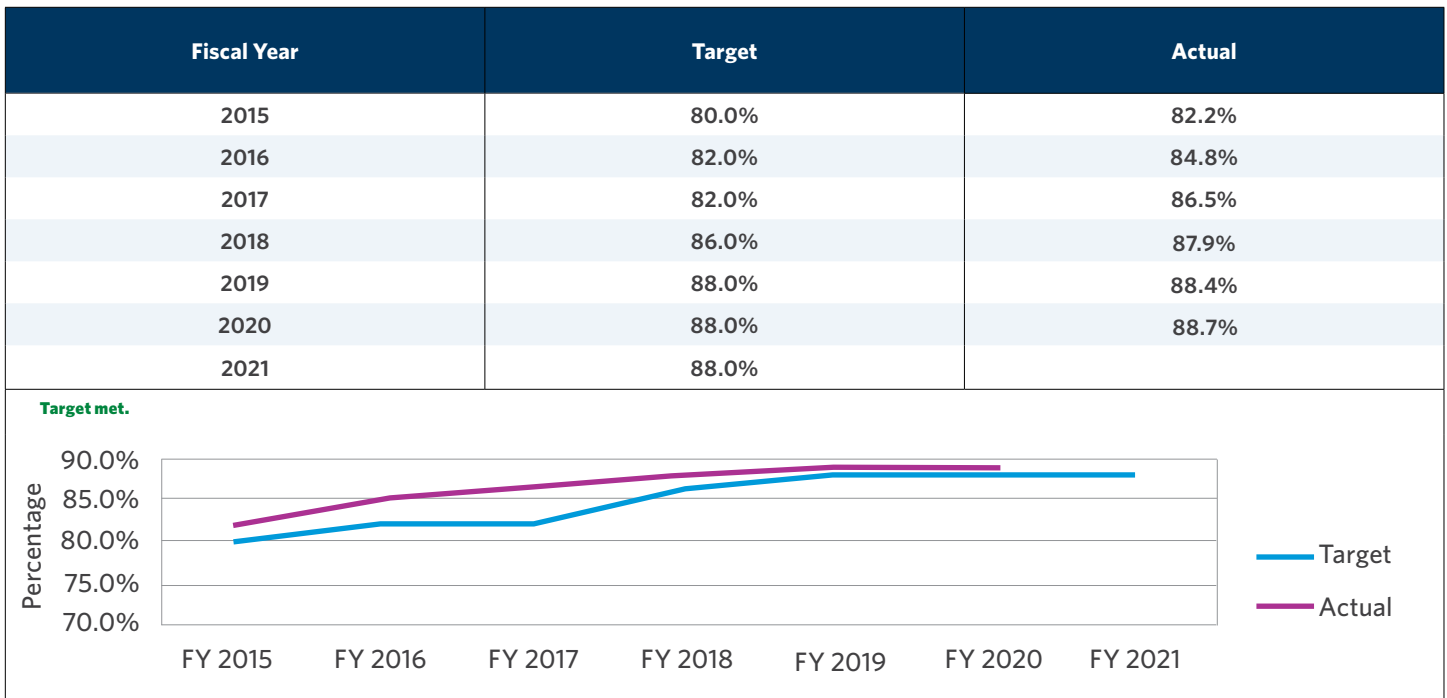


**Improve Economy and Efficiency of Electronic Processing**

As shown in Table 14, the USPTO increased electronic processing of trademark applications throughout the entire prosecution cycle to 88.7% in FY 2020. Complete

end-to-end electronic processing of applications improved administrative efficiency through electronic file management, reduced processing errors, and optimized workflows.

TABLE 14: **MEASURE: TRADEMARK APPLICATION PROCESSED ELECTRONICALLY**



*Federal Register*, 83 Fed. Reg. 24701, the rule mandating electronic filing (MEF) of trademark applications and submissions associated with trademark applications and registrations, became effective February 15, 2020. Trademark applicants and registrants are now required to:

- File all trademark applications and documents online, using our Trademark Electronic Application System (TEAS);

- Provide and maintain an accurate email and domicile address for the applicant/registrant; and
- Provide and maintain an accurate email and postal address for the attorney, if one was appointed.

The MEF requirement eliminates the subsidization of much higher paper filing costs by applicants who file electronically, which facilitates more equitable filing rates. The USPTO will continue to engage with the public to identify ways to streamline processes, increase financial efficiency, and improve the overall customer experience.

## OBJECTIVE 2: Issue High-quality Trademarks

Trademark examination quality is predicated on first and final Office actions meeting certain standards both legally and procedurally. Quality reviews are completed on first Office actions and the examining attorney’s final action approval or denial of registration of a given mark (see Tables 15 and 16). The first action compliance rate is

the total number of first actions without substantive decision-making errors made, substantive decision-making errors missed, and/or substandard refusals under section 2 of the Trademark Act divided by the total number of first actions reviewed. The final compliance rate is the total number of cases without substantive decision-making errors divided by the total number of reviewed final actions and cases approved for publication. First and final action compliance rates, which measure trademark quality, were 95.7% and 98.1%, respectively, for the year.

TABLE 15: **MEASURE: TRADEMARK FIRST ACTION COMPLIANCE RATE**

Fiscal Year	Target	Actual
2015	95.5%	96.7%
2016	95.5%	97.1%
2017	95.5%	97.3%
2018	95.5%	96.9%
2019	95.5%	96.4%
2020	95.5%	95.7%
2021	95.5%	

Target met.

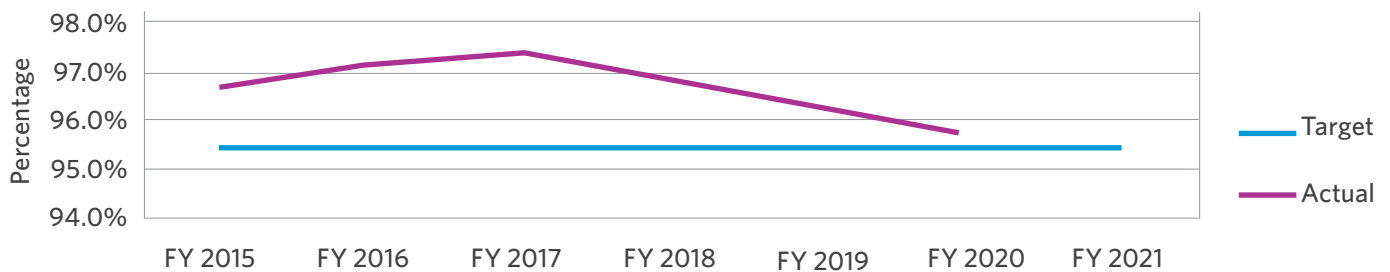
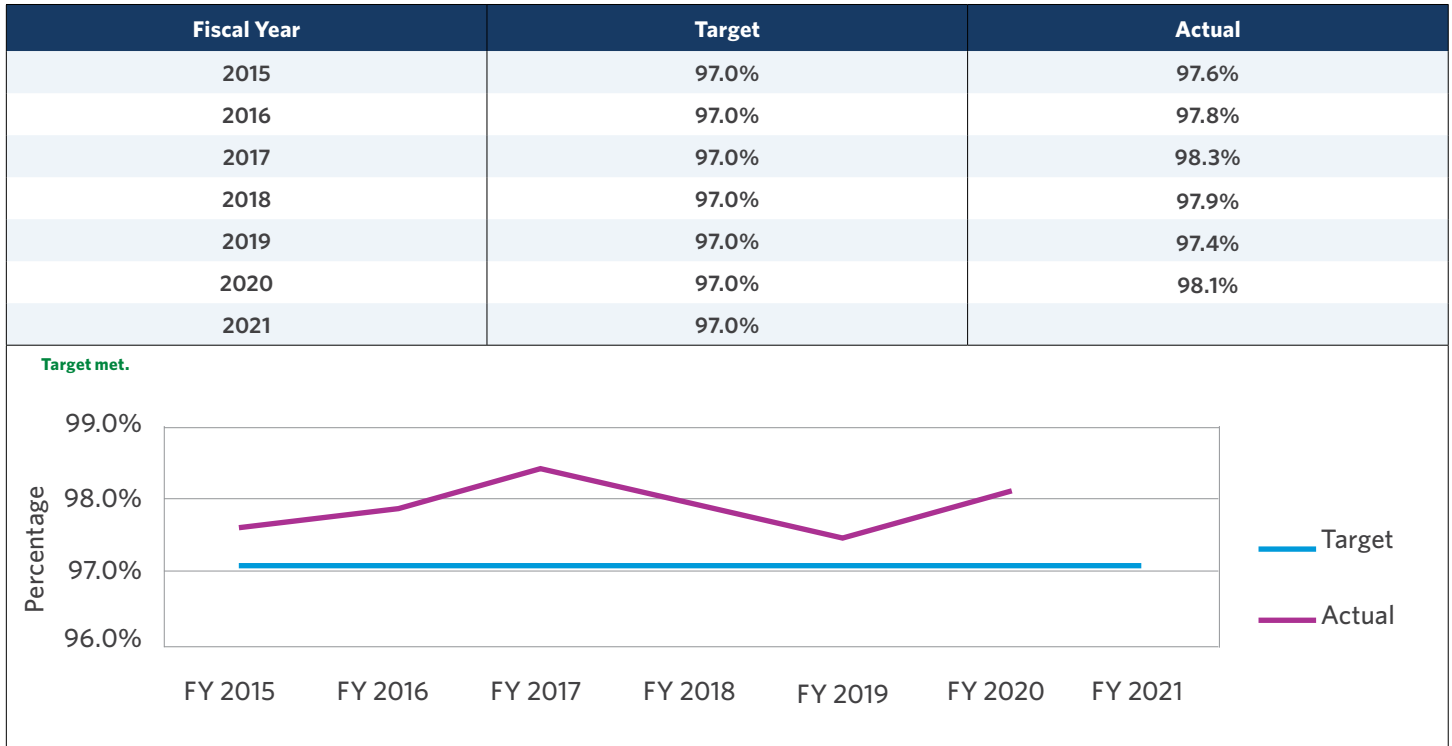


TABLE 16: **MEASURE: TRADEMARK FINAL COMPLIANCE RATE**



Quality measurement considers the application’s adherence to registrability standards and the comprehensive excellence of the office action itself, including research, writing, legal decision-making, and evidence. The Trademarks business unit routinely achieves its quality targets and has been able to sustain this level of high performance by standardizing training and feedback, promoting electronic filing and processing, (which helps avoid manual data entry errors), increasing the use of online tools and enhanced processes, and adopting more rigorous, customer-centric measures.

The three trademark quality targets were all met again in FY 2020, validating the effectiveness of the organization’s specialized training, online tools, and enhanced communication.

Exceptional Office Actions, our most comprehensive quality measure, exceeded the annual target of 50% (see Table 17). The table below illustrates the USPTO’s Exceptional Office Action rates, which is reflective of its commitment to ongoing excellence in searching, developing supporting evidence, writing office actions, and communicating decisions. This success rate further demonstrates the USPTO’s holistic approach to quality and is calculated by the number of cases in which (a) there are no decision-making errors, (b) the search is sufficient, and (c) the writing and evidence for every issue raised is rated as excellent, divided by the total number of first actions reviewed. The USPTO continues to concentrate on trademark quality by developing guidelines specific to quality review findings. The target is reviewed annually and is periodically adjusted to reflect



application volume, changes in the law, the effect of hiring additional examining attorneys, and implementing new procedures or processes.

The USPTO continues its multifaceted training program for its trademark examining attorneys and support staff. New examining attorneys are trained in the classroom first and then work with a mentor for an extended period. In light of events this year, new examining attorneys were trained primarily in a virtual fashion. Experienced examining attorneys are provided with continuing training and resources to support their performance. This training includes in-house legal training by the USPTO’s Office of Trademark Quality Review and Training, ongoing trademark case law updates, and examination guidelines provided by the Legal Policy Office. The USPTO provides continuing legal education by outside lawyers and stakeholders on relevant industry topics and offers continued training on best practices for using IT when conducting research and best procedures to minimize errors.

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

Table 18 shows how the USPTO evaluates the efficiency of the trademark examination process, as measured by the average cost of a trademark disposal compared with trademark direct and indirect costs. This efficiency measure is calculated by dividing total expenses associated with the examination and processing of trademarks (including associated overhead and allocated expenses), as well as multiyear investments in IT by outputs or office disposals. Actual results are based on total trademark-related expenses office-wide, compared with office disposals (e.g., abandoned and registered applications, etc.).

TABLE 17: **MEASURE: EXCEPTIONAL OFFICE ACTION**

Fiscal Year	Target	Actual
2015	36.0%	48.3%
2016	40.0%	45.4%
2017	40.0%	45.0%
2018	45.0%	48.0%
2019	46.0%	54.5%
2020	50.0%	51.0%
2021	40.0%	

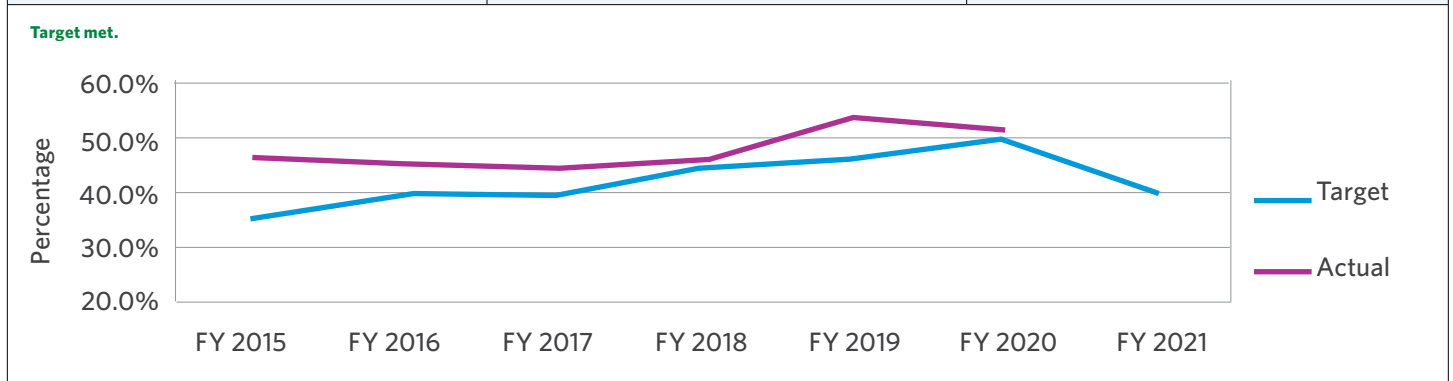


TABLE 18: **MEASURE: TOTAL COST PER TRADEMARK OFFICE DISPOSAL**

Fiscal Year	Target	Actual
2015	\$673	\$667
2016	\$590	\$600
2017	\$561	\$586
2018	\$540	\$576
2019	\$539	\$600
2020	\$691	\$586
2021	\$729	

### OBJECTIVE 3: Foster Business Effectiveness



American Intellectual Property Law Association (AIPLA) President Sheldon Klein honors Mary Denison, outgoing Commissioner for Trademarks, with an award for her service at the AIPLA Annual Meeting. (Photo by Jay Premack/USPTO)

#### Deliver Information Technology Solutions to Enhance Operations

The USPTO experienced uncertain revenues resulting from the pandemic-related economic downturn in FY 2020. Consequently, the agency deferred some planned spending to address the revenue uncertainty and preserve the operating reserve, including deferring planned investments to deliver a full suite of IT applications to the Trademark organization. The USPTO funded the operation and maintenance of legacy

Trademark IT systems to sustain business operations. The USPTO only dedicated minimal resources toward modernization and enhancements, which deferred progress of AI and ML development and integration this year.

Despite the implementation of these necessary financial contingencies, the USPTO still managed to enhance business operations, improve the effectiveness of our Trademark IT development process, successfully establish a primary and secondary deployment environment that has reduced system downtime during deployments, and achieve other significant milestones in FY 2020. One such milestone was making IT system changes to accommodate the relief offered to trademark applicants and registrants as provided for in the CARES Act of 2020.

Further, the USPTO updated trademark IT systems to support the transition to MEF of trademark applications, implemented in February 2020. This furthered the USPTO's goal of complete (end-to-end) electronic processing of trademark applications and registrations while also achieving more cost-effective operations overall. MEF—as part of a broader collection of actions taken the last few years to reduce suspicious filings and streamline operations—was implemented through two major milestones. First, trademark filers are now required to establish a user name and password through MyUSPTO, the personalized homepage and gateway for customers to conduct their USPTO business. The USPTO also updated system components and forms to accommodate the MEF requirement.

The USPTO continues to assess its financial outlook for FY 2021 and beyond, to mitigate any remaining revenue risk. The agency will make careful decisions on when and how to resume certain Trademark IT initiatives given available funding, including those using AI and ML.

### Use Business Intelligence and Data Analytics to Guide Decisions

To further support effectiveness in operations and optimization of trademark quality and timeliness, the Trademarks business unit continued its investment in trademark business intelligence and data analytics in FY 2020. Reliance on data-driven analytics is a cornerstone of the USPTO Strategic Plan. The Trademark organization spearheaded several efforts this past year and collaborated with stakeholders throughout the USPTO to advance this goal.

Earlier this year, the Trademark organization delivered a dashboard that enables management to better monitor, take immediate evidence-based action on, and report on its quality-related key performance indicators: first action compliance, first action excellence (or exceptional office action), and final compliance. In July, the Trademark organization released a dashboard that provides unprecedented, objective insight on TTAB operations, including: appeals, oppositions, cancellations, tendencies, and workforce planning to help the organization better manage increasing volumes and make more informed choices.

Additional notable achievements this year include:

- Detecting and mitigating various threats to the integrity of the trademark application process;
- Providing ongoing insight on the impact of the U.S. Counsel Rule to Trademark management and advisory partners through detailed analyses, visualizations, and projections; and
- Leading a series of ad hoc analyses to support the Trademark Commissioner's office, Regional Offices, and stakeholders through the Trademark community to deliver objective information for management and other interested parties.

These accomplishments in FY 2020 build upon a broader portfolio that improves operations for the Trademark community. The USPTO expects to expand its trademarks analytic capabilities in FY 2021, which includes the steady integration of AI to enhance predictive capabilities in the near term to more proactively meet the growing need for reliable, actionable data and information.

### Protect the Integrity of the Register

To help strengthen the integrity of the Trademark Register, in FY 2020, the USPTO prioritized and continued to make progress in mitigating potentially fraudulent and bad faith trademark application filings. Fraudulent/bad faith trademark application and registration maintenance filings contribute to trademark cluttering (i.e., trademarks on the register that are not in use).

The majority of trademark filings are legitimate, but some are submitted with fake or altered specimens of use and false claims of use in interstate commerce within the U.S. and commerce between the U.S. and a foreign country (a prerequisite to obtaining a registration). In other instances, applications that appear to be pro se (i.e., prepared and filed without the assistance of an attorney) are actually filed by unauthorized individuals from the filing country preparing the filings for the filers. A large percentage of these applicants choose the most economical filing option, but these applications prepared without the assistance of qualified counsel can be expensive for the USPTO to examine. Collectively, these filings and the associated actions they require pose not only a financial and reputational risk to the organization, but to the integrity of the register. In response, the USPTO has taken a number of regulatory, operational, and administrative actions to address these threats, as follows.

- **U.S. Counsel Rule:** In FY 2020, we observed early results of the *Requirement of U.S. Licensed Attorney for Foreign Trademark Applicants and Registrants* that became effective on August 3, 2019. The rule requires applicants, registrants, or parties to a trademark proceeding not domiciled within the United States or its territories to be represented, in all trademark matters before the USPTO, by U.S.

counsel. The attorney of record is required to confirm that he or she is in good standing and licensed to practice law in the United States. Our analysis demonstrates a number of positive impacts on filing behavior. Notably, it showed that the rule has resulted in greater compliance of filers without domicile in the United States obtaining U.S. counsel. For applications filed just prior to the rule, more than 40% of all first office actions for foreign domiciled applicants included examining attorney instructions related to U.S. counsel deficiencies. By the end of the fiscal year, only about three percent referenced these deficiencies, which indicates that applicants are understanding and meeting the rule's domestic counsel requirements. During the same period, first action instructions related to digitally altered or mockup specimens—categories commonly associated with suspicious filings—decreased dramatically, from a peak of 26% of applications down to less than five percent. The USPTO also found that foreign pro se filings, which accounted for a large portion of previously deficient applications, decreased as well. The new rule promises to be instrumental in ensuring the accuracy of submissions to the USPTO and helping enforce non-U.S. domiciled applicant compliance with U.S. statutory and regulatory requirements.

- **Show Cause Orders:** Since December 2019, the Commissioner for Trademarks has regularly issued Show Cause orders to applicants believed to be circumventing the U.S. Counsel rule, requesting information as to why the applicants should not be sanctioned under 37 CFR § 11.18(c). The USPTO has issued 341 Show Cause orders concerning false attorney designations and false signatures in applications and registrations covering 504 distinct applications/registrations. Show Cause sanction options include: striking the offending paper, reducing the weight given to the offending paper, precluding the applicant from submitting or presenting additional documents, or terminating the proceedings in connection with the application.
- **Proof-of-Use Audits:** To preserve a trademark registration, between years five and six after the date of registration and every 10 years after the

date of registration, a registrant must file a maintenance document certifying that the mark is currently being used on all goods and services listed in the registration or delete goods and services that are currently not in use at the time of filing. The registrant must also provide a specimen of use for each class of goods or services in the registration. The USPTO randomly selects maintenance documents for audit and requests additional Proof-of-Use for two additional goods or services in each class. If the registrant responds without providing the requested information, then Proof-of-Use for all goods and services in the registration must be submitted. Of the 5,133 registrations audited in fiscal year 2020, approximately 46% of owners have either deleted at least one good or service or the registration has been cancelled.

- **Refusals of Registrations:** Examining attorneys now issue a refusal to register when a specimen is suspicious, along with an inquiry requesting additional information regarding use. Last year, the USPTO updated its guidance to examining attorneys regarding reviews of specimens of use that appear to have been digitally altered or mocked up. This guidance is reviewed annually.
- **Secure Login:** The USPTO implemented identification authentication and the requirement for all applicants filing a trademark document to log in through MyUSPTO.gov.
- **Specimen Database:** The USPTO continues to build out the specimen database to better detect when the same image has been used by multiple applicants for different marks. The database utilizes a combination of rapid image matching, AI-assisted filtering, and other methodologies to compare and contrast incoming specimens, either individually or in bulk, against other specimens. Progress was slowed due to delays related to the COVID-19 pandemic and planned staffing adjustments. Despite those challenges, by early calendar year 2021, the database is expected to include 10 full years of specimens.

- **Post-Registration Proceedings:** The TTAB completed a pilot program to identify procedures to accelerate disposition of cases claiming non-use or abandonment of a registered mark.
- **Plain English Declaration:** In the declaration, an applicant or registrant makes a series of sworn statements regarding ownership and use of the mark on the listed goods and services. The USPTO has revised the declaration to make it more readable and understandable and to require that boxes be checked by the signatory to make the declaration easier for the declarant to read and confirm.

Cumulatively, these actions represent an affirmative strategy for the USPTO's commitment to protecting trademarks. Threats to the integrity of the register have received congressional attention as well. On December 3, 2019, the U.S. Senate Committee on the Judiciary, Subcommittee on Intellectual Property hosted a hearing, titled "Fraudulent Trademarks: How They Undermine the Trademark System and Harm American Consumers and Businesses," that featured expert testimony from a range of experts in the intellectual property community. Former Trademark Commissioner Mary Boney Denison submitted a statement for the record on behalf of the USPTO.

More detailed information on this hearing, or the Commissioner's statement, is available online, on the [U.S. Senate Committee on the Judiciary's](#) website.

### Improve the Customer Experience

The Trademarks business unit continued to execute a trademark customer experience initiative to provide consistent, clear, and intuitive services to trademark customers. In FY 2020, Trademarks redesigned the Trademarks landing page within the USPTO's website based on customer survey research, customer profiles, and "top task" data analytics. The USPTO also built a representative customer volunteer list to enable the co-creation of content and services. This allowed the Office to conduct moderated usability testing with a representative sampling of trademark customers to

evaluate how well the landing page performed. These results are directly informing future website enhancements, including an improved search engine, design/layout improvements, and quality information.

The Trademarks business unit met all requirements associated with the Customer Experience Cross-Agency Priority Goal 4, established in the President's Management Agenda and OMB's requirements in Circular A-11, Section 280, including conducting a customer experience maturity self-assessment and developing a trademark customer experience action plan. Trademarks also collected customer sentiment data and reported specific data sets in dashboards to OMB. To improve transparency, the USPTO published the "Agency Information Collection Activities; Generic Clearance Improving Customer Experience (OMB Circular A-11, Section 280 Implementation)" to the Federal Register to allow future survey data to be publicly accessible once clearance is complete.

### Conduct Trademarks Education and Outreach Activities

Counterfeiting harms the IP rights of trademark owners but also poses potentially severe bodily harm to consumers due to defective products, product components or toxic/harmful ingredients. The USPTO is working with the National Crime Prevention Council (NCPC) to raise awareness about counterfeit goods and merchandise. In June, the USPTO launched the Go For Real virtual anti-counterfeiting campaign to help educate teens, tweens, and parents about the dangers of counterfeit goods and how to identify them. The Go for Real campaign reaches audiences across the globe through various mediums, including social media and online advertising; interactive web content; radio ads; and handouts, posters, and other print material. This campaign addresses recommendations for government agencies to launch a national consumer awareness campaign, contained in a January 2020 report from the Department of Homeland Security (DHS) ordered by President Trump last year. More detailed information may be found online, on the [Go For Real](#) website.



The USPTO also uses education and outreach to counter scam solicitations designed to mislead applicants and registrants by charging fees for unnecessary services. The USPTO has very limited legal authority to remedy these actions but has established the following measures to mitigate customers' impact:

- A [webpage](#) that details some commonly known solicitation scams;
- A dedicated mailbox to report solicitations to the USPTO—TMScams@uspto.gov;
- Warnings to filers in Office actions and at registration; and
- Discussion at events with bar groups and business owners.

More generally, the USPTO engages with small businesses around the country with information about trademark basics, enforcement measures, and tools for protecting and enforcing trademark rights. These educational programs and materials target groups generally not acquainted with trademark information, such as non-trademark attorneys, the small business community, the entrepreneurial community, and students.

The USPTO's outreach strategy also includes relationships with colleges and universities, entrepreneurship clubs, and similar groups to present lectures on trademarks and the importance of a strong mark that is federally registrable and legally protectable.

### **Offer Trademark Legal Services Through Law School Clinics**

The Law School Clinic Certification Program continued to provide a positive impact on the IP community in FY 2020. The program, which benefits law school participants and business owners alike, supports Patent and Trademark applicants by providing pro bono services, including filing applications and obtaining trademark protection.

This year, 52 participating law schools prosecuted 612 trademark applications. Despite switching to completely virtual instruction during the spring due to the pandemic, law schools kept pace with prior filing activity.

The USPTO's selection committee selects schools based on their solid IP curricula, pro bono services to the public, and community networking and outreach. The program enables law students enrolled in participating schools to process Patent and Trademark applications before the USPTO under the close guidance of an approved faculty supervisor. The number of participating schools is expected to increase as the open enrollment period has been reopened on a rolling basis through May 2021.

For a more in-depth discussion on pro bono services and the Law School Clinic Certification Program, see Mission Support Goal, Objective 4, "Enhance Internal and External Relations," on page 118.

### **Partner with Global Peers and Stakeholders**

The Trademark organization works in close cooperation with our international partners to exchange ideas to meet the challenges and capitalize on opportunities that impact the trademark community. A virtual TM5 user meeting was held in June. The TM5 comprises of the world's five largest trademark offices: the China National Intellectual Property Administration (CNIPA), the European Union Intellectual Property Office (EUIPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), and the USPTO. The agenda included updates on 15 cooperative projects, such as combatting bad faith filings, common status descriptors, ID list, non-traditional marks, image searching, anti-counterfeiting, and misleading (fraudulent) solicitations.

The USPTO also participated in the 8th TM5 Annual Meeting in Japan, Maihama, Urayasu City, Chiba Prefecture hosted by the JPO from December 9-11, 2019. The meeting centered on two key priorities, bad-faith filings and the rising number of trademark filings. The TM5 updated its "Case Examples of Bad-Faith Trademark Filings" by including five additional examples from each TM5 office, and 93 samples from 40 countries and regions collected with the support of the International Trademark Association (INTA). The second significant accomplishment of the meeting was formal discussions to improve IT systems to facilitate more efficient trademark examination amid a global increase in applications.

For further information on international cooperation, see Strategic Goal III, Objective 2, “Provide Leadership and Education on International Intellectual Property Policy and Awareness,” on page 95.

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## **OBJECTIVE 4:**

### **Enhance Operations of the Trademark Trial and Appeal Board**

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In FY 2020, the TTAB continued to evaluate and monitor its programs, filing levels, overall pendency, and human capital to enhance its operations.

One focal point for the TTAB is its commitment to streamlining processes where appropriate. In FY 2020, the TTAB completed its two-year expedited cancellation proceeding pilot. The pilot program began in 2018 and involved early identification of Petitions to Cancel registrations based on abandonment and non-use claims for potential participation in this program. Once identified, these cases became the subject of review by TTAB judges and attorneys to determine whether they could be expedited through the TTAB’s ACR processes.

The program successfully identified 205 cases eligible for the program, and 114 conferences were held with the parties to the cases. The parties in more than 20 cases agreed early on to use ACR, while many others decided to consider the use of ACR later in the cancellation proceeding. Of the 205 eligible cases, 134 concluded before final decision readiness, generally because the parties settled the matter. The TTAB is assessing the data received from the pilot and expects to make recommendations in FY 2021. Recommendations from the pilot could support any future deployment by the USPTO of a permanent option for an expedited cancellation proceeding or an expungement proceeding, both of which would focus on registrations for marks believed no longer to be in use.

In February 2020, an updated standard protective order (SPO), which protects against the disclosure to the public of proprietary and confidential information of a party to TTAB proceedings, became applicable for all TTAB proceedings, except those in which the parties have entered into a stipulated protective agreement approved by the Board. The updated SPO results from more than two years of TTAB and stakeholder discussion and engagement, which focused on whether to allow in-house counsel access to materials designated “Confidential—For Attorneys’ Eyes Only” (Trade Secret/Commercially Sensitive). Stakeholder input on the issue was evenly divided. As a result, there are no substantive changes in the SPO provisions on this issue from the SPO previously in effect. The new SPO, however, has been amended per suggestions to enhance readability and clarity.

The TTAB is currently developing the contours for a new pilot program that will encourage parties to engage in more efficient trial processes and discourage over-litigation of issues. The program will highlight discussion of narrowing issues for trial, broader use of stipulations, more extensive pre-trial disclosures, and focusing parties on efficient presentation of evidence to further enhance TTAB operations.

Throughout the fiscal year, the Board continued its commitment to the transparent reporting of data and performance measures and continues to report out statistics and trends quarterly on its webpage, through regularly scheduled TPAC meetings and other stakeholder events. In the three fiscal years from FY 2017 through FY 2019, the number of opposition trial cases being commenced rose more than 18%, and cancellation trial case rose more than 31%, while appeals being commenced were up by almost seven percent. As these newly commenced cases worked their way through appeal and trial processes, FY 2019 saw a 14.5% increase in the number of all types of cases requiring disposition on the merits, and 30% were trial cases. As a result, the Board spent much of FY 2020 processing the high number of cases requiring decision and working to return the inventory to a more typical balance wherein only

20-25% of cases waiting for decision were trial cases. Despite that, the impacts of the COVID-19 pandemic on office operations, and the business environment more broadly, TTAB pendency measures for both ex parte appeals from examining attorney refusals to register marks and inter partes trial cases trended down during FY 2020. In accordance with the CARES Act of 2020, the TTAB received 165 extensions of time and notices of oppositions and 37 appeals seeking benefits offered by the Act and handled those filings in our standard business course.

To fill vacancies due to employee attrition, the TTAB added two new ATJs and three new Interlocutory Attorneys in FY 2020.

Despite the disruptions, the TTAB maintained its commitment to promote a better understanding of the nuances of its processes and procedures. The TTAB continues to fulfill its commitment to developing the law by issuing precedential opinions and orders. The TTAB met its goal for the year by issuing more than 40 precedential decisions in FY 2020 on various substantive and procedural matters. In June 2020, the TTAB published in both a searchable format and in a PDF its annual revision of the Trademark Board Manual of Procedure (TBMP). The Board revised the manual to incorporate changes to the trademark rules outlined in applicable sections of the CFR to require foreign-domiciled applicants, registrants, and parties to a proceeding to be represented by a U.S. licensed attorney, and to mandate electronic filing of documents for the Trademark Examining Operation.

Many outreach events were postponed or canceled in 2020, but the TTAB maintained its commitment to engagement with its stakeholders and customers by participating in various public outreach opportunities in person, when possible, or by video conference when necessary. Multiple ATJs, including the Chief and Deputy Chief Administrative Trademark Judge participated in various outreach events throughout the country and abroad, including the PTAB/TTAB “Stadium Tour” event at Northwestern University School of Law in Chicago, IL;

an ABA Forum for the Entertainment & Sports Industries annual conference in Las Vegas, NV; the AIPLA annual meeting in Washington, D.C.; the Federal Circuit Symposium by the law review of the American University School of Law, also in Washington, D.C.; a USPTO Roundtable with the Colorado Bar Association IP Section and the Colorado-IP Inn of Court in Denver, CO; and the Austin IPLA Annual Meeting in Phoenix, AZ, to name a few. Since March 2020, engagement and outreach events and TTAB oral arguments in appeal and trial cases all moved online. Of particular note, the TTAB heard arguments in both appeal and trial cases in conjunction with a USPTO Texas Regional Office “Trademark Bootcamp” program that attracted hundreds of virtual participants.

In support of the TTAB’s initiative to enhance its legacy IT systems and to prepare for the next generation of systems, in July 2020, the TTAB released enhancements to both its internal workflow system, TTABIS, and to the external-facing Electronic System for Trademark Trial and Appeals (ESTTA). These releases provided updates to coincide with the new requirements in Trademarks for the use of U.S. Counsel, provided other enhancements for our internal users, and helped stabilize these systems’ platforms.

In FY 2020, the TTAB completed an 18-month realignment and cross-training pilot of its organizational structure. The pilot’s purpose was to support enhancements of operations in the TTAB by promoting cross-training of staff, effective use of resources, and succession planning, and to provide back-up support for many tasks that previously were the exclusive responsibility of particular individuals. The TTAB has experienced positive change under this new structure, including increased knowledge sharing, streamlined work processes, and both intra-team and inter-team collaboration; enhanced and transparent communication, internally and externally; increased focus on implementing strategy and IT improvement initiatives that enhance quality and optimize performance; and more nimble adaptation to changing needs within the USPTO.

# INTELLECTUAL PROPERTY: STRATEGIC GOAL III

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## **What Is the Role of the USPTO in Intellectual Property Policy ?**

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

## STRATEGIC GOAL III:

### Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Enforcement, and Protection Worldwide

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

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#### OBJECTIVE 1:

### Provide Leadership and Education on Domestic Intellectual Property Policy and Awareness

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The USPTO works to meet Objective 1 by playing a leadership role in domestic and international IP initiatives and policy development for the administration and by engaging with Congress and federal agencies on legislative efforts to improve the IP system. In addition to providing policy formulation, the USPTO conducts various educational and training programs on IP, encourages and undertakes empirical studies on IP and innovation's economic impact, and improves access to IP-related data.

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

Throughout FY 2020, USPTO officials provided policy formulation and guidance by organizing numerous briefings for congressional staff and by conducting public meetings to solicit stakeholder views on a range of IP policy matters, including patent-eligible subject matter, trade secrets protection, and steps to address fraudulent trademark applications. Significant initiatives are detailed below.

#### Drive Artificial Intelligence

The USPTO expects AI to produce a new wave of innovation and creativity, posing novel challenges and opportunities for IP policy. The USPTO has engaged in the AI-IP policy discussion through a variety of undertakings:

- A published study that identified the AI trends across companies, technologies, and locations;
- Active participation in the IP5 New Emerging Technologies and Artificial Intelligence Task Force;
- The issuance of two Federal Register Notices inviting comments on IP issues related to AI, with comments summarized in a forthcoming report;
- The publication of a page on the USPTO's website with information on the agency's AI initiatives and other AI-related information; and
- Providing IP expertise to the National Science and Technology Council's subcommittee on ML and AI.

#### COVID-19 Response Resource Center

The USPTO launched the online COVID-19 Response Resource Center to provide stakeholders and other interested parties with improved access to USPTO initiatives, programs, and other helpful IP-related information regarding the COVID-19 outbreak. The resource center is a centralized destination for accessing information and assistance. It allows users to easily learn about various USPTO initiatives to aid the public

throughout the ongoing crisis, including the “Patents 4 Partnerships” marketplace platform and the Prioritized Examination Pilot Program to accelerate the evaluation of Patent and Trademark applications directed to technologies related to COVID-19. The resource center also includes information on the USPTO’s Pro Bono Program, voluntary early patent application publication, resources for inventors and small businesses, trademark counterfeiting and consumer fraud, and international COVID-19 developments.

### Launch Patents 4 Partnerships Marketplace Platform

*“Patents 4 Partnerships is a meeting place that enables patent owners who want to license their IP rights to connect with the individuals and businesses who can turn those rights into solutions for our health and wellbeing.”*

—USPTO Director Andrei Iancu

This year’s key deliverable was the rapid development of the “Patents 4 Partnerships” platform—flourishing from idea to full public production in 10 days. Patents 4 Partnerships is an online platform created by the USPTO in FY 2020 to bring together parties who have technologies available for voluntary licensing with those interested in, and who have the ability to, commercialize the technologies. It provides a centralized and easily accessible place to list U.S. patents and patent application publications, and offers potential licensees a database of available technologies searchable by an extensive range of parameters.

Patents 4 Partnerships’ initial release focuses on listing technologies related to the prevention, diagnosis, and treatment of COVID-19, including personal protective equipment, disinfectants, ventilators, testing equipment, and other related technologies. The platform enables businesses to easily search for COVID-19 IP information to facilitate the arrival of critical inventions to the market to meet this crisis’s challenges.

### Issue Policy Statement on Remedies for Standard Essential Patents

In December 2019, the USPTO, the National Institute of Standards and Technology, and the Department of Justice issued a policy [statement](#) regarding remedies for standard-essential patents (SEPs). The patent holder has agreed to license its patents on fair, reasonable, and nondiscriminatory (FRAND) terms. The statement clarifies that SEPs should be treated no differently than any other patent so that all remedies are available depending on the facts of a case.

### Collaborate on Internet Policy Task Force

In partnership with the National Telecommunications and Information Administration (NTIA), the USPTO in FY 2020 followed up on recommendations made in the Department of Commerce Internet Policy Task Force’s green paper, “Copyright Policy, Creativity, and Innovation in the Digital Economy,” by organizing the Fourth Annual Public Meeting on developing the digital marketplace for copyrighted works.

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

Throughout FY 2020, the USPTO continued to engage Congress, other U.S. government agencies, state and local elected officials, and stakeholders to discuss and promote effective and balanced IP-related legislation, policies, administrative actions, and programs. This engagement included matters involving the USPTO’s authority to extend Patent and Trademark-related deadlines in response to COVID-19, information related to the USPTO’s anticipated fee revenues during the COVID-19 outbreak, technical assistance on legislation to address inaccurate and fraudulent trademark applications and registrations, technical assistance on legislation regarding the PTAB’s constitutionality, technical assistance regarding drug pricing proposals that impacted the patent system, cooperative educational efforts with the SBA, and USPTO operational matters related to the agency’s telework programs.



In FY 2020, Director Andrei Iancu engaged in discussions with members of Congress and stakeholders about many of these issues, highlighted the agency's priorities, and strengthened communications and relationships. The USPTO's efforts led to the enactment of express authority to grant relief to USPTO customers regarding legal deadlines, including the ability to defer temporarily certain fee payments, during the COVID-19 outbreak, pursuant to the CARES Act.

### **Improve the Accuracy of the U.S. Trademark Register**

Foreign applicants for U.S. trademarks have been increasingly filing inaccurate, and possibly fraudulent, documents with the USPTO, often with unauthorized foreign practitioners' assistance. In FY 2020, the USPTO continued efforts to stem these behaviors. The USPTO provided technical assistance to House Judiciary Committee staff on proposed legislative initiatives to respond to improper behavior by trademark customers and improve the U.S. Register's accuracy, including participating in congressional roundtable discussions with stakeholders and responding to questions from congressional staff.

### **Collaborate on E-Commerce Platforms and the Sale of Counterfeit Goods**

During FY 2020, the USPTO participated in preparing [a report published by the Department of Homeland Security](#) on combating trafficking in counterfeit and pirated goods. The report was issued pursuant to a [Presidential Memo](#) issued in April 2019 that tasked an interagency working group with identifying appropriate administrative, statutory, regulatory, and other actions for adoption by the U.S. government, as well as private-sector best practices, in the fight against the threat of counterfeiting.

### **Attend Congressional Hearings**

On October 30, 2019, Commissioner for Patents Andrew Hirshfeld delivered testimony before the Senate Judiciary IP Subcommittee on the USPTO's efforts to ensure high-quality patents' timely issuance. In addition, on December 3, 2019, former Commissioner for Trademarks Mary Boney Denison submitted written testimony to the same Subcommittee on the USPTO's steps to combat inaccurate and potentially fraudulent trademark filings.

### **Release SUCCESS Act Report**

On October 31, 2019, the USPTO transmitted a report on patent activity by women, minorities, and veterans to Congress. Written in cooperation with the U.S. Small Business Administration in response to the SUCCESS Act of 2018 (Pub. L. No. 115-273), it reported on the results of three public hearings held in 2019 and an extensive data and literature review. The report found that there was a need for additional information to determine the participation rates of these underrepresented groups in the patent system, and provided a series of recommendations for new legislation and several new USPTO initiatives to improve the availability of such data.

### **Conduct Briefings and Congressional Staff Events**

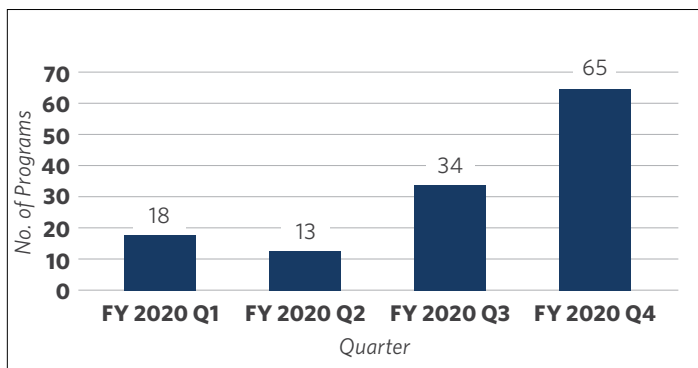
The USPTO briefed congressional staff on budgetary, operational, and IP policy issues, including efforts focused on agency fee collections, implementation of CARES Act provisions to provide relief to customers, expanding participation of underrepresented groups in the patent system, prescription drug prices and patents, employee telework programs, post-issuance patent review proceedings, the constitutional authority of PTAB judges, and trademark decluttering initiatives. They also provided information and technical assistance as Congress considered amending section 101 of the Patent Act.

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

The USPTO provides IP educational programming to improve IP laws and their administration around the world and enhance IP awareness and technical capacity. In FY 2020, the USPTO conducted 130 training programs through its Global Intellectual Property Academy (GIPA), serving over 10,688 individuals (see Figures 5 and 6), in addition to programs co-produced with the USPTO’s Regional Offices. Approximately 40% of all attendees were stakeholders representing domestic small and medium-sized enterprises, IP practitioners, and IP owners and users. Approximately 60% were patent, trademark, and copyright officials; prosecutors; police; customs officials; and policymakers from the United States and 121 other countries.

GIPA provides IP training for U.S. government officials at the federal, state, and local levels. Programs in FY 2020, conducted in-person and virtually, included a decades-long partnership with the U.S. Department of State’s Foreign Service Institute to train U.S. foreign service officers, an ongoing effort with the National Association

**FIGURE 5: EDUCATIONAL PROGRAMS CONDUCTED BY GIPA, BY QUARTER, FY 2020**

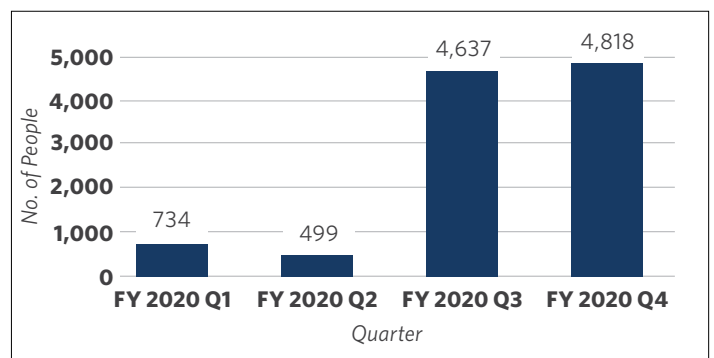


of Attorneys General to train U.S. state attorneys general, and intermediate and advanced-level training on all areas of IP for U.S. federal government officials.

The USPTO also continued its support of STOPfakes.gov, the U.S. government’s one-stop shop for tools and resources on the protection and enforcement of IP rights. Among its contributions in FY 2020 was the writing and publication of the “China IPR Toolkit,” a comprehensive guide for U.S. stakeholders doing business in China.

GIPA’s recent domestic IP outreach has focused on the importance of IP protection and enforcement to U.S. companies doing business abroad. One specific initiative, the China IP Road Show series, has focused on educating U.S. businesses of all sizes on how to better protect and enforce their IP in China. From 2017 to mid-2020, GIPA and the OPIA China Team conducted China IP Road Shows in 29 cities and 6 related webinars on China IP topics. Other programs included a February 2020 IP enforcement program organized in cooperation with the USPTO’s Texas Regional Office and a series of copyright webinars organized in cooperation with the USPTO’s Silicon Valley and other Regional Offices.

**FIGURE 6: NUMBER OF PEOPLE, INCLUDING FOREIGN GOVERNMENT OFFICIALS AND U.S. STAKEHOLDERS, TRAINED ON BEST PRACTICES TO PROTECT AND ENFORCE INTELLECTUAL PROPERTY**



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

In addition to conducting live, in-person programs, the USPTO continued to utilize technology to make its training programs more efficient and expand its reach. In FY 2020, GIPA presented 100 programs with a distance-learning or remote engagement component, up 525 % from previous years. GIPA's established capacity for e-learning supported a successful pivot to all-remote delivery of its programs in mid-FY 2020. This included developing the technological capability to run virtual international meetings with simultaneous interpretation.

GIPA also continued a three-year periodic webinar initiative to provide IP education to awardees of the Small Business Administration's Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs, expanding the popular series to SBIR applicants and the general public.

In FY 2020, GIPA also continued its decade-long commitment to producing and maintaining in-depth, on-demand content through distance learning on the USPTO website and its YouTube playlist. These modules are available in five languages and cover six different areas of IP protection. In addition, self-study materials—including recordings of events, training slides, and IP toolkits—were updated for asynchronous learning. New modules and micro-learning videos include an updated "Introduction to Patent Protection" video and a short video on the protection of trade secrets. This on-demand content collectively has drawn more than 148,600 unique views.

### Provide Input to Ongoing Court Considerations on Key Intellectual Property Issues

The Supreme Court decided two significant copyright cases in FY 2020 and granted a writ of certiorari in a third: *Allen v. Cooper*, *Georgia v. Public.Resource.Org*, and *Google v. Oracle*. The USPTO provided technical, legal, and policy advice in Department of Commerce and interagency discussions on all three cases, as well as input in connection with cases pending or decided in the lower courts.

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

The USPTO's work on developing IP policy is supported by empirical studies, including on the economic impacts of IP and innovation, conducted through the Office of the Chief Economist (OCE).

In FY 2020, the OCE published four datasets, an academic journal article, and two reports, including: [Adjusting to Alice](#) and [Progress and Potential 2020 update on U.S. women inventor-patentees](#).

The OCE also continued ongoing efforts to improve the availability and quality of IP data, and released four datasets covering a broad scope of IP-related information. All are available to the public on the USPTO's website.

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## OBJECTIVE 2: Provide Leadership and Education on International Intellectual Property Policy and Awareness

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The USPTO advances this objective in many settings and through a variety of undertakings. It helps lead efforts to improve IP systems in other countries and provides technical expertise in negotiating and implementing international agreements that will enhance IP protection and enforcement.

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

Throughout FY 2020, the USPTO provided policy advice and technical expertise on domestic and international IP matters to multiple federal agencies, including the Office of the United States Trade Representative (USTR), the Office of the U.S. Intellectual Property Enforcement Coordinator (IPEC), the Department of State, and other bureaus of the Department of Commerce.

The USPTO advised the USTR to negotiate trade agreements on Trade Policy Reviews undertaken at the World Trade Organization (WTO) and on the proposed accessions of six countries to the WTO. The USPTO also assisted the USTR in preparing its annual review of global developments on trade and IP, the Special 301 Report. This report identifies U.S. trading partners that have not provided appropriate IP protection and enforcement, or market access, for U.S. rights holders. The USPTO also assisted the USTR in preparing its annual Notorious Markets List, which highlights online and physical marketplaces that reportedly engage in and facilitate substantial piracy and counterfeiting.

In FY 2020, the USPTO provided technical advice to the USTR on its Section 301 investigation, “China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation”; helped with a case that the United States filed against China at the World Trade Organization on “Certain Measures Concerning the Protection of Intellectual Property Rights”; and provided assistance in the preparation of sections of the USTR’s National Trade Estimate Report relating to IP. The USPTO also provided advice to the State Department with regard to the negotiation of revisions needed to renew the U.S.-China Science and Technology Agreement.

The USPTO serves as the IP advisor to the Department of Commerce’s NTIA, representing the U.S. government in the Governmental Advisory Committee of the Internet Corporation for Assigned Names and Numbers (ICANN). ICANN manages the internet domain name system, including WHOIS, a database of records containing registration information about registered domain names. Law enforcement, IP, and cybersecurity researchers use WHOIS to track down fraud, abuse, and infringement. In FY 2020, the USPTO focused on several internet-related priority issues for IP stakeholders, the most critical of which involves ensuring continued access to WHOIS domain name registrant contact information. The USPTO was also instrumental in evaluating the treatment of geographic terms in generic top-level domains and tools for protecting against cybersquatting.

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

In FY 2020, the USPTO continued to provide expert technical advice on IP protection and enforcement in connection with ongoing negotiations of trade agreements and to monitor the implementation of existing agreements.

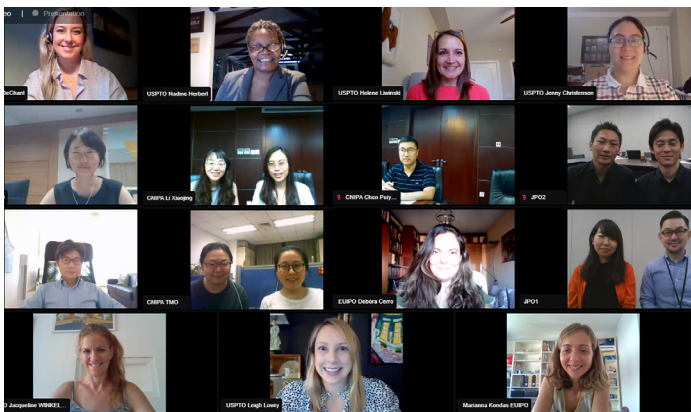
USPTO staff served as technical advisors to the USTR in the negotiation of the United States-Mexico-Canada Agreement (USMCA), which entered into force on July 1, 2020. The agreement will support mutually beneficial trade, leading to freer markets, fairer trade, and robust economic growth in North America. Its IP chapter establishes a high standard for up-to-date protection and IP enforcement, with improved IP standards and greater transparency.

The USPTO also assisted the Department of Commerce and USTR in examining trade agreement compliance and abuse. The USPTO advised the USTR on IP issues relating to the World Trade Organization, including 11 Trade Policy Reviews, during FY 2020. At the USTR’s request, the USPTO assisted in trade negotiations with China. The USPTO also participated in exploratory discussions with the United Kingdom as part of the U.S.-UK Trade and Investment Working Group, providing technical advice to the USTR and participating in negotiations regarding a free trade agreement with the UK.

Other international engagements included: participating in discussions on potential free trade agreements with Japan and the Philippines, providing IP expertise to the State Department in negotiations of the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters, and advising the State Department on numerous IP issues that arose in the Organization for Economic Cooperation and Development (OECD).

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

The USPTO represents the U.S. government in IP discussions in intergovernmental organizations, such as WIPO, and with forums of the world's largest IP offices (the IP5 for patents, TM5 for trademarks, and ID5 for industrial design—each involving the relevant offices of the United States, China, Europe, Korea, and Japan). Beginning in mid-FY 2020, these meetings were virtual. In August 2020, the USPTO hosted the online midterm meeting of the ID5 and presided over the TM5's online midterm meeting. A TM5 working-level meeting was conducted in September 2020, also in virtual form.



On September 2, 2020, the TM5 opened its two-day virtual midterm meeting. The TM5 is a forum of the world's five largest trademark offices. The 2020 midterm meeting was hosted by the USPTO and organized by the USPTO's Office of Policy and International Affairs. (USPTO photo)

The USPTO's efforts in these forums are focused on furthering U.S. IP policy, enhancing the international framework administered by WIPO, and improving IP systems around the world. A major event in FY 2020 was the selection in May 2020 of Daren Tang, the Chief Executive of the Intellectual Property Office of Singapore, to be the new Director General of WIPO, to assume office in October 2020. The USPTO also participated in negotiations at other international forums, such as the UN Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction.

## Administer WIPO Patent Cooperation Treaty Applications

The United States is a member of the WIPO-administered PCT, which enables inventors to apply for patent protection in multiple countries via a single international patent application. In FY 2020, the USPTO continued to lead the United States' participation in a successful PCT program through which patent examiners from the IP5 collaborate on corresponding PCT applications pending at their respective offices. The program helps U.S. rights holders by facilitating more comprehensive reviews of their PCT patent applications.

## Lead WIPO Standing Committee on Copyright and Related Rights

In FY 2020, the USPTO led the administration's participation in the WIPO Standing Committee on Copyright and Related Rights. This work focused on a proposed treaty for the protection of broadcasting organizations' rights in the internet environment, as well as ongoing discussions regarding copyright limitations and exceptions for libraries and archives, educational and research institutions, and persons with disabilities.

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

In FY 2020, the USPTO helped facilitate new members' accession to the International Union for the Protection of New Varieties of Plants (UPOV) and provided educational programs for UPOV members.

## Advance International Dialogue on Geographical Indications

In FY 2020, the USPTO advanced the U.S. position on geographical indications (GIs)—that is, place names, signs, or symbols that consumers associate with a particular good that only comes from a particular place—by reviving discussions at WIPO and advancing a more balanced approach to GI examination systems. This balance is needed to mitigate the potentially harmful effects of revisions to WIPO's Lisbon System for the International Registration of Appellations of Origin.



More generally, the USPTO continues to explore options for a system at WIPO that would better protect the GI-related interests of all U.S. stakeholders, and to assist the USTR in pursuing trade agreements with appropriate GI provisions.

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

The ongoing effort to enhance the global patent system’s efficiency focuses on worksharing among patent offices. Today’s primary worksharing mechanism is the PPH framework, which allows an applicant who receives a positive ruling on a patent application from one participating office to request accelerated prosecution of corresponding applications in other participating offices. This can facilitate patent grants at less expense in multiple jurisdictions, and allows the offices to leverage each other’s work.

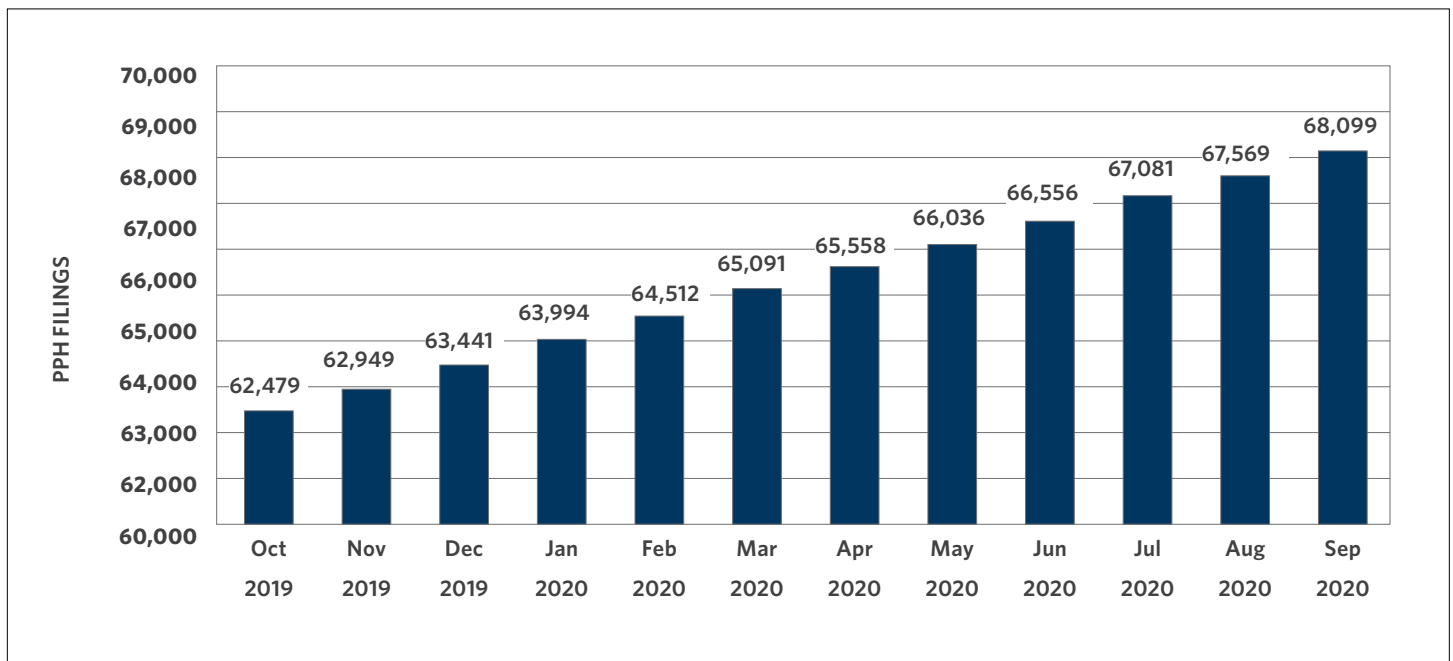
The PPH framework continues to be embraced worldwide. As of September 30, 2020, a cumulative total

of 68,099 applications with petitions had been filed under the PPH, with 60,221 applications granted. Figure 7 shows the USPTO’s cumulative PPH filings for FY 2020.

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

On January 28, 2020, the USPTO and the Mexican Institute of Industrial Property (IMPI) agreed to launch a new worksharing arrangement that will accelerate the process of obtaining a patent in Mexico for businesses and individuals already in possession of a corresponding U.S. patent. This arrangement builds on the existing PPH model and aligns with the USMCA, which includes a provision on increased cooperation among the three North American patent offices to facilitate the sharing and use of search and examination work.

FIGURE 7: **CUMULATIVE PATENT PROSECUTION HIGHWAY (PPH) FILINGS IN FY 2020**





### Engage with International Partners at the IP5

The five IP5 offices continued to work collaboratively to harmonize patent examination practices, including emerging technology innovations. Notably, the offices maintained cooperation amid the global health crisis by conducting virtual meetings and sharing information about the measures taken by each of them in response to the crisis to support and assist stakeholders.

### Improve Efficiency and Cooperation in the Global Industrial Design System

The USPTO's efforts in FY 2020 to improve the global industrial design system included: leading the discussion at WIPO regarding new technological designs, including designs for graphical user interfaces (GUIs), icons for electronic displays, and designs for typefaces and type fonts; continuing collaborative work on a range of projects with the ID5 partners, such as the development of recommended practices for design filing, 3D printing, and remedies for infringement; and launching the first in a series of industrial design programs at the Intellectual Property Experts Group of the 2020 meetings of the regional economic forum, the Asia Pacific Economic Cooperation (APEC).

### Improve Efficiency and Cooperation in the Global Trademark System

Progress towards improving the global trademark system in FY 2020 included: continued expansion of a harmonized pick-list of descriptions of trademark goods and services used in trademark offices around the world, and the translation of new entries into multiple languages; advancement of a TM5 project to combat fraudulent and misleading solicitations to trademark owners; and development of a new project to exchange operational information among trademark offices, particularly in response to unforeseen disruptions.

### Engage with Asia-Pacific Economic Cooperation (APEC) Economies

The USPTO conducted a survey of the treatment of illicit streaming devices (ISDs) in APEC economies as the first step in creating an informational baseline in the APEC region and the development of harmonized guidelines and best practices for policy makers and law enforcement agencies.



On January 29, 2020, in Mexico City, Secretary of Commerce Wilbur Ross, USPTO Director Andrei Iancu (right) joined his Mexican counterpart, IMPI Director General Juan Lozano Tovar (left), to sign a Memorandum of Understanding on Technical and Strategic Collaboration. The memorandum facilitates discussions between the offices on a new patent worksharing model. (IMPI photo)

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

In FY 2020, the USPTO continued to provide capacity-building programs through GIPA to help improve IP systems in key countries and regions, including through expanded virtual training. Some programs were developed in collaboration with other U.S. government agencies, including the Department of Commerce’s Commercial Law Development Program, the Department of Justice, and the Department of Homeland Security.

The programs addressed a full range of IP matters, including enforcement of IP rights at national borders, internet piracy, health and safety threats from counterfeit goods, trade secrets protection and enforcement, copyright policy, and Patent and Trademark examination. Participants included officials with IP-related responsibilities, such as judges, prosecutors, health officials, customs officers, Patent and Trademark examiners, and IP office administrators.

In FY 2020, the USPTO trained over 10,675 participants, including over 4,800 foreign government officials representing 121 countries and intergovernmental organizations (see Figure 8). A complete list of all countries represented at GIPA trainings in FY 2020 is available online at the [USPTO Data Visualization Center](#).

**FIGURE 8: CUMULATIVE NUMBER OF COUNTRIES TRAINED BY GIPA BY QUARTER**

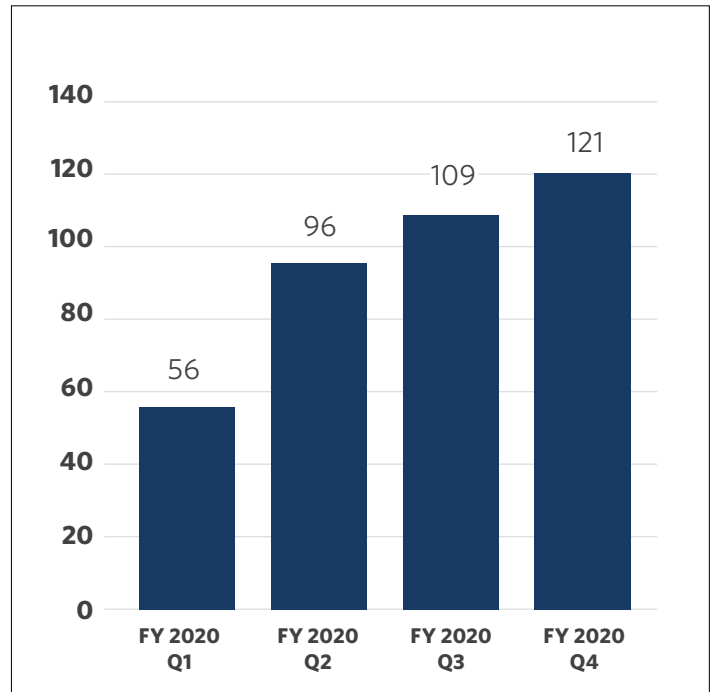


Table 19 shows the total number of people, including foreign government officials and U.S. stakeholders, trained through GIPA in FY 2020. This is the seventh year in which this measure has directly aligned with the USPTO’s performance progress under Strategic Goal III.

**TABLE 19: NUMBER OF PEOPLE, INCLUDING FOREIGN GOVERNMENT OFFICIALS AND U.S. STAKEHOLDERS, TRAINED ON BEST PRACTICES TO PROTECT AND ENFORCE INTELLECTUAL PROPERTY**

Fiscal Year	Target	Actual
2015	6,300	5,283
2016	5,000	4,975
2017	5,000	4,134
2018	5,000	7,242
2019	4,500	9,854
2020	5,000	10,688
2021	5,000	

Target met.

Note: Measure updated in FY 2018 to include U.S. stakeholder education, to reflect administration priorities.

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

The USPTO worked throughout FY 2020 to improve IP protection and enforcement for U.S. stakeholders in countries of interest. The USPTO utilizes its experts to work with the IP attachés in their respective regions to advance U.S. stakeholder interests and to enhance knowledge of local conditions that can inform U.S. IP policy consideration.

### Enhance IP Attaché Program

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

The program works to improve IP systems internationally and consists of 13 IP attachés (with additional support from IP specialists and staff) posted to U.S. embassies, consulates, and missions throughout the world. The IP attachés serve as diplomats who advocate to improve IP policies, laws, and regulations abroad to benefit U.S. businesses, entrepreneurs, and other stakeholders. The IP attachés also train foreign officials on effective IP enforcement; monitor economic, legal, and legislative developments in their regions that might affect U.S. companies' IP interests; and conduct public awareness programs to educate the public on IP and its value.

In FY 2020, the USPTO worked to enhance interactions between the attachés and U.S. stakeholders through meetings with various rights holder groups, including the American Intellectual Property Law Association, the International Anti-Counterfeiting Coalition, and the International Trademark Association. The IP Attaché Program assisted 4,234 U.S. stakeholders, conducted 2,077 meetings with foreign government officials, conducted 64 training programs for 2,877 participants, conducted 68 public awareness programs for 6,768 participants, submitted 519 weekly activity reports, and reported 46 identifiable successes. (These figures



USPTO Deputy Director Laura Peter (center) hears reports from the USPTO's IP attachés during their annual series of industry and government consultations in the Washington, D.C., area in December 2019. (USPTO photo)

overlap with metrics reported by GIPA on page 100.) The attachés also continued to lead the USPTO's successful implementation of action plans in prioritized countries, as shown in Table 20. During the COVID-19 outbreak, IP attachés continued to work in their home offices, helping U.S. stakeholders with IP interests around the world.

Also in FY 2020, the USPTO continued its work to enhance the effectiveness of the IP attachés, including deployment of attachés to Guangzhou, Shanghai, New Delhi, Mexico City, and Kyiv, and by selecting new attachés for deployment to Brussels, Rio de Janeiro, and Lima. Recruitment was started for a new IP attaché position in Johannesburg, South Africa, the first such posting in Sub-Saharan Africa.

### Engage with Chinese Officials

In FY 2020, the USPTO met virtually with officials from China's National Intellectual Property Administration (CNIPA) to discuss the work plan between the two agencies, including programs to facilitate implementation of the commitments China made under the Phase One U.S.-China trade agreement. The USPTO also held technical discussions with Chinese government officials with IP responsibilities. These included officials from CNIPA, the State Administration for Market Regulation, the Ministry of Public Security, the Ministry of Commerce, the Ministry of Finance, the Supreme People's Court, the Supreme People's Procuratorate, the Guangdong IP office, the Department of Science and Technology of Ningxia Hui Autonomous Region, and the Shanghai Free Trade Zone Administration.

The USPTO continued to monitor changes to Chinese IP-related laws and regulations and provided comments on regulations on standardizing trademark applications, administrative enforcement of patents, and new plant varieties to ensure they provided effective protection to U.S. rights holders. In FY 2020, at the completion of the Phase One U.S.-China Economic and Trade Agreement, the USPTO worked with the USTR and other U.S. government agencies to provide comments on numerous

Chinese draft laws, regulations, and guidance documents regarding trade secret protection, the enforcement of IP on e-commerce platforms, and examination of pharmaceutical patents.

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

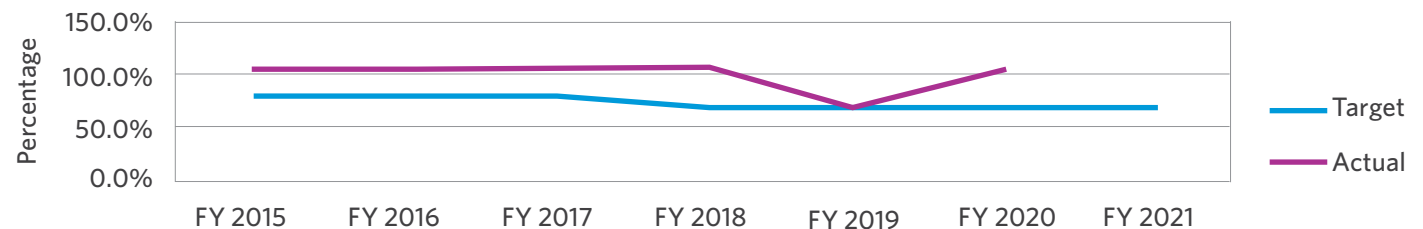
TABLE 20: **PERCENTAGE OF PRIORITIZED COUNTRIES FOR WHICH INTELLECTUAL PROPERTY COUNTRY TEAMS HAVE MADE PROGRESS ON AT LEAST THREE OF THE FOUR PERFORMANCE CRITERIA**

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

Fiscal Year	Target	Actual
2015	75.0%	100.0%
2016	75.0%	100.0%
2017	75.0%	100.0%
2018	66.0%	100.0%
2019	66.0%	66.0%
2020	66.0%	100.0%
2021	66.0%	

**Target met**

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



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

In FY 2020, the USPTO continued work to evaluate the critical role IP plays in promoting innovation, creativity, and product quality. An article coauthored by the USPTO’s Chief Economist, “The dynamic relationship between investments in brand equity and firm profitability: Evidence using trademark

registrations,” looked at how trademarks contribute to a firm’s financial performance. The article concluded that the impact of trademarks and other brand-related investments on profits is spread over time, and does not reach a peak until 11 years after the initial investment. The article was awarded the Best Paper Prize by the International Journal of the Economics of Business due to the quality its empirical analysis.

# MISSION SUPPORT GOAL

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



# MISSION SUPPORT GOAL:

## Deliver Organizational Excellence

### OBJECTIVE 1:

#### Enhance Human Capital Management and Foster Employee Engagement

##### Optimize the Performance Culture

The USPTO continues to strengthen its performance culture by fostering a results-oriented and feedback-driven workforce through its performance management system. The effectiveness of the performance management system is measured and achieved through the continued promotion of a performance system that: (1) draws distinctions between high- and low- level performer; (2) uses clearly defined standards and expectations at all organizational and individual levels; (3) acknowledges achievements through the use of a transparent and robust reward and recognition system for high-level performers; and (4) links individual performance plans to organizational goals. In addition, supervisors are encouraged to support opportunities for two-way discussions with employees, providing feedback on areas of strength or needs for improvement.

During FY 2020, the USPTO placed heavy emphasis on the mid-year review discussion for improved communication and better collaboration. A Mid-Year Toolkit was created to assist and enhance the mid-year conversation experience for both supervisors and employees. The supervisory toolkit included a conversation guide, competency dictionary, mid-year checklist, and sample discussion prompts.

The Business Unit Workforce Council has made great strides in ensuring consistency of conduct and performance-related matters. The USPTO recognizes that sharing common issues and best practices will improve consistency and transparency in conduct and performance processes. The council studied trend analyses of employee issues within the business units

and developed a pulse survey to measure the level of supervisory intervention and engagement.

During FY 2020, the USPTO worked diligently to implement directives related to performance in Executive Orders and regulations. The agency implemented the requirements of the Executive Orders that could be done without bargaining and is pursuing negotiations over those matters that require bargaining. Labor law and labor relations specialists provided contract interpretation and reliable information to management officials to assist them in making the best decisions on behalf of the agency that ensured an efficient and effective performance management system.

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

The USPTO excels at attracting, hiring, and maintaining a diverse and engaged workforce. By leveraging organizational talent and streamlined processes, the agency has taken innovative approaches to improve both employment seekers and hiring managers' experience. In FY 2020, the USPTO successfully hired 708 mission-critical occupations (e.g., patent examiners, trademark examining attorneys, IT specialists, human resources specialists, contract specialists, and general attorneys). Veteran-hiring percentages were 9.5% for patent examiners and 24% for non-patent examiner hires. Results from hiring manager surveys revealed high satisfaction scores in all areas of the process.

In early FY 2020, the USPTO enhanced its recruitment branding standards via new, targeted messaging and imagery that speak to the USPTO's mission and core organizational values. When the COVID-19 global health crisis struck, the USPTO had to pivot to a fully virtual work environment quickly, and these new recruitment resources enabled the USPTO to adapt to a virtual-only recruiting environment readily. Used in targeted digital campaigns, these materials have enabled the USPTO to continue executing an impactful, compelling, and consistent recruitment approach.



Looking ahead, the agency will continue its use of digital outreach tools that support building awareness among key target groups about the USPTO's mission, employment opportunities, and culture while also increasing the pipeline of talent to bolster our dynamic workforce. Using online platforms such as Glassdoor and Handshake, we are poised to host our own virtual hiring fairs; attend virtual information sessions and career conferences at colleges, universities, and minority-serving institutions; and take part in industry events to help the agency engage with top talent across all disciplines and demographics.

### Increase Social Media

In addition to informing the public about events and activities happening at the USPTO, the agency implements digital recruitment strategies using the agency's social media channels (e.g., LinkedIn, Twitter, Facebook, Instagram, and YouTube) to connect and stay connected with potential job candidates. The agency has exceeded 50,000 followers on the official agency channels on Twitter (November 2019) and Facebook (August 2020). Our YouTube channel passed 10,000 subscribers in June 2019, and as of September 2020, we have over 15,000 subscribers. As of June 2020, the USPTO had over 48,000 followers on LinkedIn—traditionally the most valuable social media channel for recruitment. This represents a 29% increase over the fourth quarter of FY 2019 for LinkedIn followers. Increased insight into executive activities and thought leadership, continued features of “day in the life” content about employee experiences, and other targeted content have resulted in LinkedIn's growth. On the @USPTOjobs account on Twitter, we realized an 11% increase in the number of our followers. The USPTO currently has over 175,000 followers across all our social media channels; this number continues to rise year over year.

### Continue Veteran Hiring Program

In FY 2020, the USPTO launched a [Veterans “Life” page](#) on LinkedIn. The page was designed to advertise the Veteran Employment resources found on USPTO.gov and reinforces the agency's commitment to hiring and nurturing the careers of veterans. Also in FY 2020, the

USPTO participated in the Service Academy Career Conference (SACC) Virtual Career Fair, which provided an opportunity to reach Service Academy graduates across the country in an effort to help meet the USPTO's veteran hiring goals. Building on this new experience and previous virtual career fairs with RecruitMilitary, the USPTO transitioned its veteran recruitment efforts to an online environment after in-person efforts were halted due to the pandemic.

In FY 2020, the USPTO's Veteran Hiring Program (VHP) participated in nine in-person and six virtual recruitment events, including Recruit Military; Hiring Our Heroes; Military Officers Association of America; Military Officer Job Opportunities; Service Academy Career Conference; various events in conjunction with the Fort Belvoir, Quantico, and Fort Myer Bases; Veteran Administration (VA) Veterans Employment; and Operation Warfighter/Wounded Warrior. The VHP team continues to seek innovative outreach and educational opportunities for veterans and to explore new partnerships with various veteran organizations to increase awareness of our non-competitive hiring programs.

### Launch Career Coaching Program

In FY 2020, the USPTO launched its first ever Career Coaching Program available to all USPTO employees. Thirteen supervisors were competitively selected for 60 hours of International Coaching Federation-accredited training as coaches for the program. The USPTO currently has 14 active coaches with 76 clients, providing nearly 332 coaching hours since April 2020. Preliminary evaluations by clients show a high satisfaction with the coaches and the coaching process.

### Collaborate with the USPTO's Affinity Groups

The USPTO is proud to have an incredibly diverse workforce with many employees of various backgrounds and cultures. The USPTO has a network of 30 Voluntary Employee Organizations—18 of which are Affinity Groups, with one group located in the Denver Regional Office. These Voluntary Employee Organizations are formed around a shared common background and/or special interest. Each group is led by a team of employees

who volunteer their time to host cultural, social, and career-development programs and events for their members and for the wider USPTO community. VEO leaders participate in a quarterly Council of Leaders meeting, in which information and resources are shared, and participants have an opportunity to network and exchange ideas.

As part of the VEO program, the Diversity Program Office works collaboratively with Affinity Groups to co-sponsor programs that promote cultural understanding, such as the annual Community Day, the International Food Sample Festival, and the Festival of Shining Lights. In addition, in response to the social unrest and tensions nationwide, the Diversity Program began hosting a series of Lunchtime Listening Sessions, each facilitated by OEEOD Director Bismarck Myrick. The 10, one-hour sessions were designed to empower employees to share their thoughts, feelings, and stories in a safe space; raise awareness and understanding of bias; and brainstorm ways to mitigate bias and become more involved in diversity and inclusion initiatives to build a stronger USPTO community and nation. Groups were limited to 25 participants each to enable a more robust dialogue, and participation was optional.

Initiatives such as the annual wall calendar, which features ways to incorporate diversity into daily activities and special emphasis months, remained in high demand by employees, particularly as the wall calendar focused on the ways in which employees could apply diversity and inclusion principles in their daily actions and activities. Moreover, the USPTO and its Affinity Groups sponsored virtual and in-person special emphasis month events, including flagship events with speakers, dance performances, and more.

In FY 2020, the USPTO's Diversity Program released season two of its *Diversity Download* podcast, an inclusion initiative that explores various topics and aspects of diversity and inclusion through informative, entertaining, and relatable stories and segments to help USPTO employees understand what diversity is and how to build better, stronger relationships with others.

In addition, the Diversity Program—in collaboration with USPTO employees who are also alumni of the University of Puerto Rico and members of the USPTO chapter of the Society of Hispanic Professional Engineers (SHPE)—exhibited at the SHPE Regional Conference Career Expo in early March.

Also, in FY 2020, the Diversity Program launched its Engagement in the Time of Telework Initiative, in collaboration with VEO leaders, to plan and implement a variety of weekly online engagement activities designed to continue building camaraderie and community USPTO-wide. Each week, employees participate in book club meetings, diversity film festival discussions, after-hours online gaming, kids' story time, mid-afternoon coffee chats, and more.

### Enhance Career Opportunities

The USPTO recognizes that robust career development and training programs enhance recruitment and retention efforts and increase employee engagement. In FY 2020, the USPTO continued to leverage several existing training classes designed to offer developmental opportunities. Some of these trainings include mentoring, business writing classes, college fairs, financial literacy, and retirement planning.

The USPTO continues to fund important programs such as the After Work Education (AWE) Program and the Upward Mobility Program (UMP). AWE is a voluntary program available to eligible employees to develop and enhance work skills related to the agency's mission by taking classes at an accredited college or university. AWE has been instrumental in enhancing employees' ability to develop new skills, improve in their performance, take on new and challenging assignments, and, for some, apply and qualify for new positions. In FY 2020, the USPTO hosted a college fair with 22 universities and over 300 participants in attendance. In FY 2020, there were 113 participants in the AWE Program.

Similarly, the UMP, which gives selected individuals the opportunity to receive extensive training, preparation, and experience for a targeted position, has benefited both the USPTO and its employees. In FY 2020, 12 employees were successfully selected for the Program.

Another program that continues to enhance professional and personal growth is the Administrative Professionals Excellence (APEX) Program. This program includes a comprehensive curriculum for technical and administrative support staff employees at the GS-5 through GS-12 levels. The APEX Program provides meaningful learning opportunities, such as a combination of live classroom discussions, core and elective self-paced computer-based training modules, a mid-year review, and completion of a capstone project. In FY 2020, 43 employees from the USPTO, as well as seven employees from three other DOC bureaus, were enrolled in the APEX Program.

**Administer Enterprise-Wide Mentoring Program**

The Enterprise-Wide Mentoring Program is a nine-month formal mentoring partnership that provides resources for employees to work with others to achieve their career development goals. Comprehensive support includes a facilitated matching process, guidance for developing a

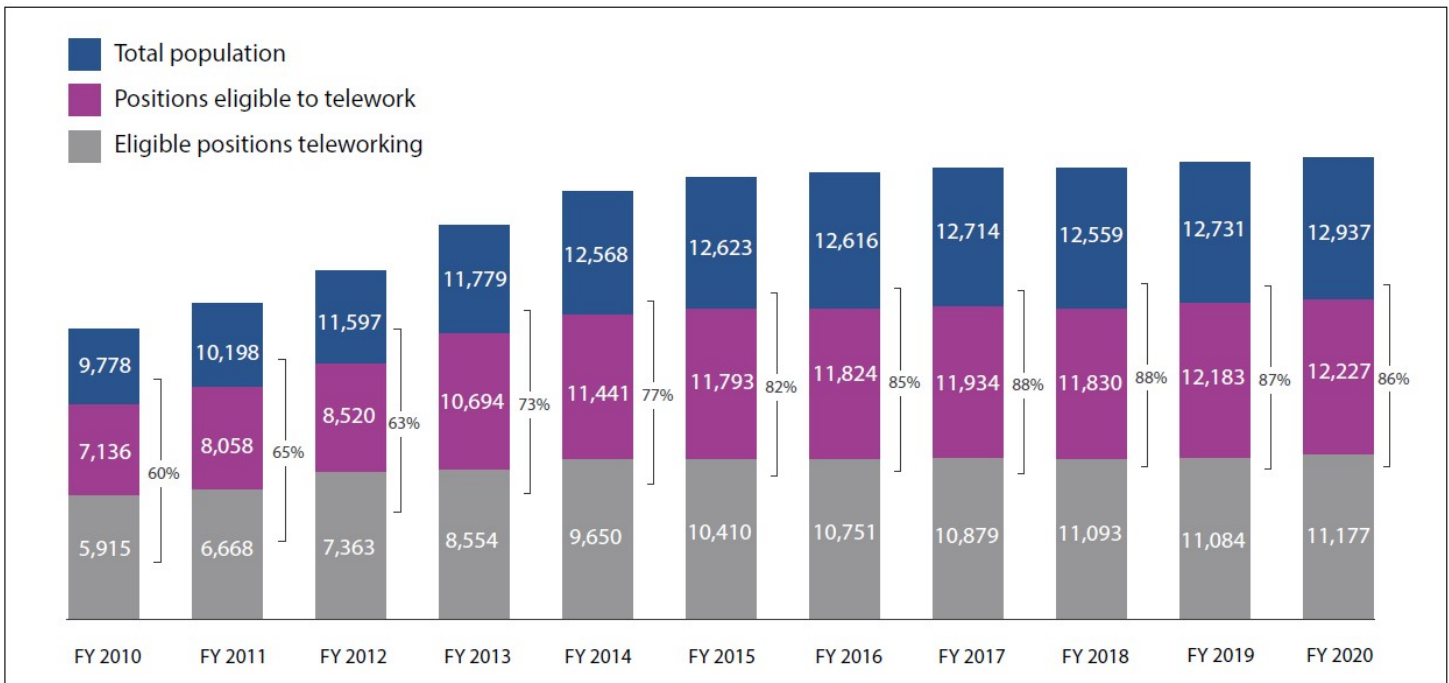
mentorship action plan, and formal training for mentors and mentees. In FY 2020, there were 158 mentoring pairs and 96 situational mentors for a total of 412 participants in this program.

**Continue to Strengthen the USPTO Telework Environment**

We continue to demonstrate our strong commitment to telework, with over 11,177 employees from all business units and the Regional Offices now participating to some extent in the overall USPTO telework program. This objective highlights our commitment to continuous improvement in the telework program, makes management opportunities attractive to our teleworkers, and helps develop our managers’ skills that will enhance their effectiveness managing in a telework environment.

Since its inception 23 years ago with 18 trademark examining attorneys, telework has grown dramatically at the USPTO. Figure 9 shows the total population’s growth,

FIGURE 9: TELEWORK GROWTH



positions eligible to telework, and eligible positions teleworking agency-wide. The graph represents the USPTO telework growth since FY 2010.

Between FY 2019 and FY 2020, the percentage of positions eligible to telework decreased slightly from 95.7% to 94.51%. See Figure 10 for the state-by-state breakout of full-time telework participants in FY 2020. Figure 11 shows the percentage of eligible employees teleworking by organization/business unit in FY 2020.

As part of the Telework Enhancement Act of 2010, the USPTO was granted legislative authority to conduct the federal government’s initial Telework Travel Expenses Test Program. The USPTO Telework Enhancement Act Pilot Program (TEAPP) allows hoteling (or full-time teleworking) employees to elect, voluntarily and for their own convenience, to live greater than 50 miles from USPTO headquarters, thereby changing their official

duty station. These employees waive their right to travel expenses for up to six annual mandatory trips back to Alexandria’s USPTO headquarters. In FY 2020, 2,995 employees were participating in the TEAPP, which is an increase of two percent from FY 2019. The National Defense Authorization Act, signed by President Trump on August 13, 2018, included a three-year extension to the USPTO’s authority to run the TEAPP, which expired in December 2017. Under this extension, the TEAPP is now authorized until December 31, 2020.

A structured telework program provides cost savings by reducing the need for additional office space, enhancing recruitment and retention, fostering greater efficiency in production and management, and providing opportunities for expanded work flexibility and better work-life balance for participating employees. Additionally, during federal inclement weather closures in

FIGURE 10: **FULL-TIME TELEWORKERS BY STATE, FY 2020**

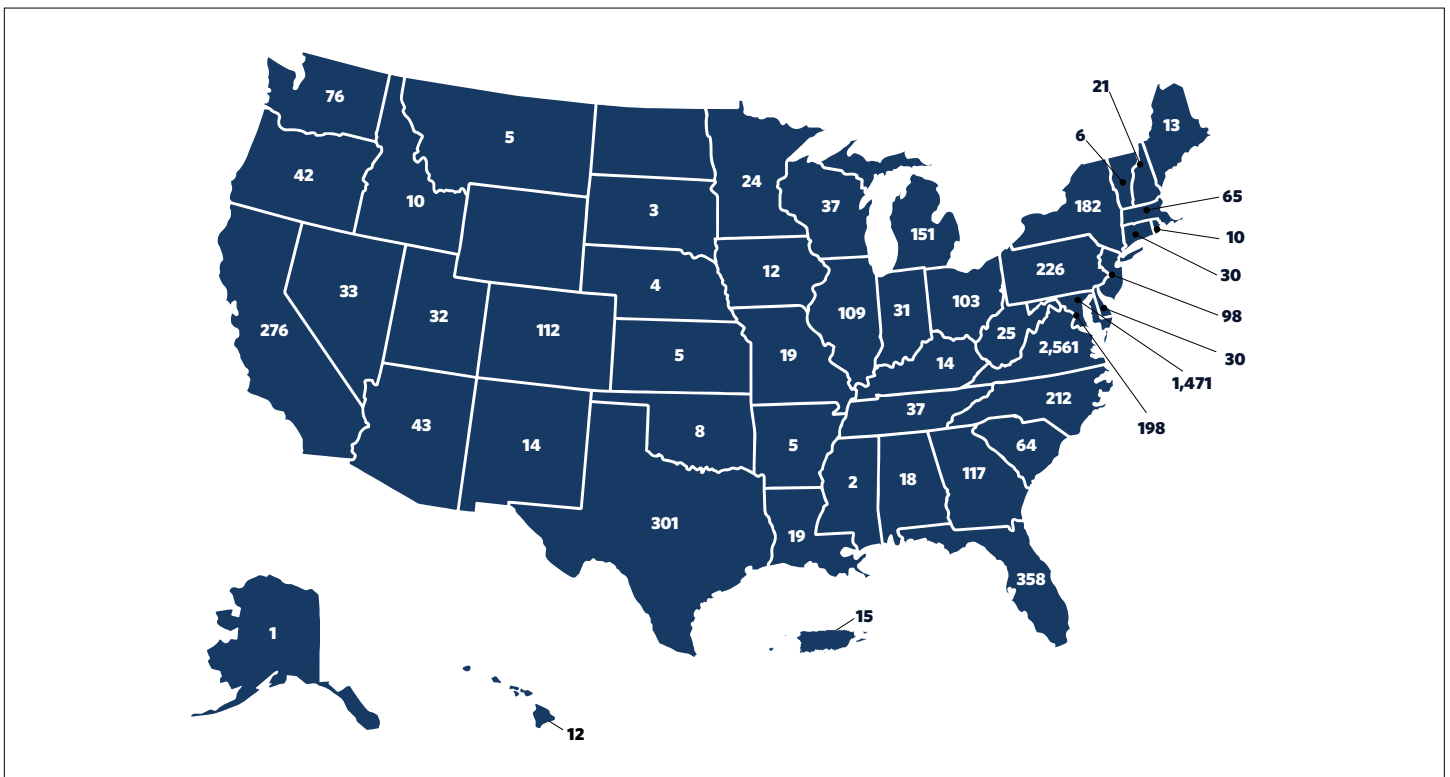
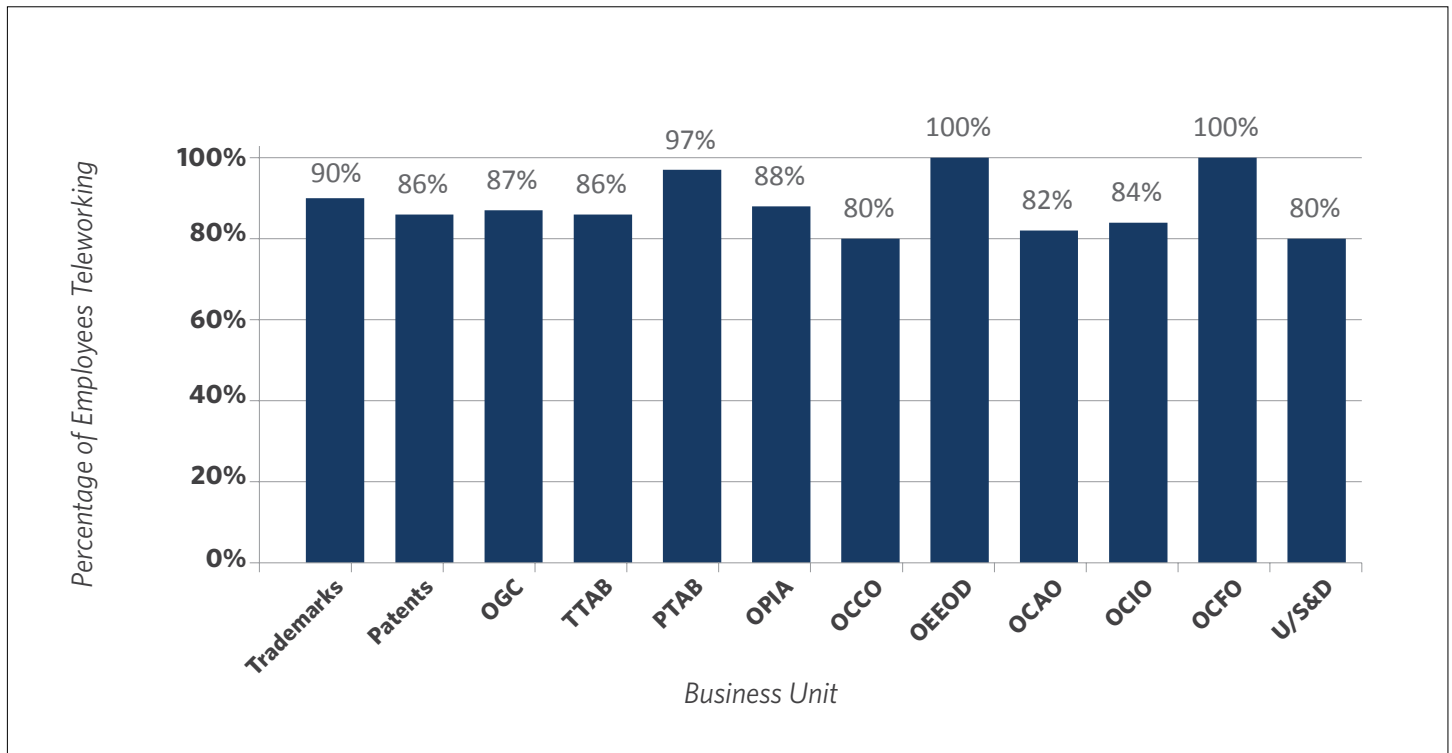


FIGURE 11: **PERCENTAGE OF EMPLOYEES TELEWORKING BY BUSINESS UNIT**

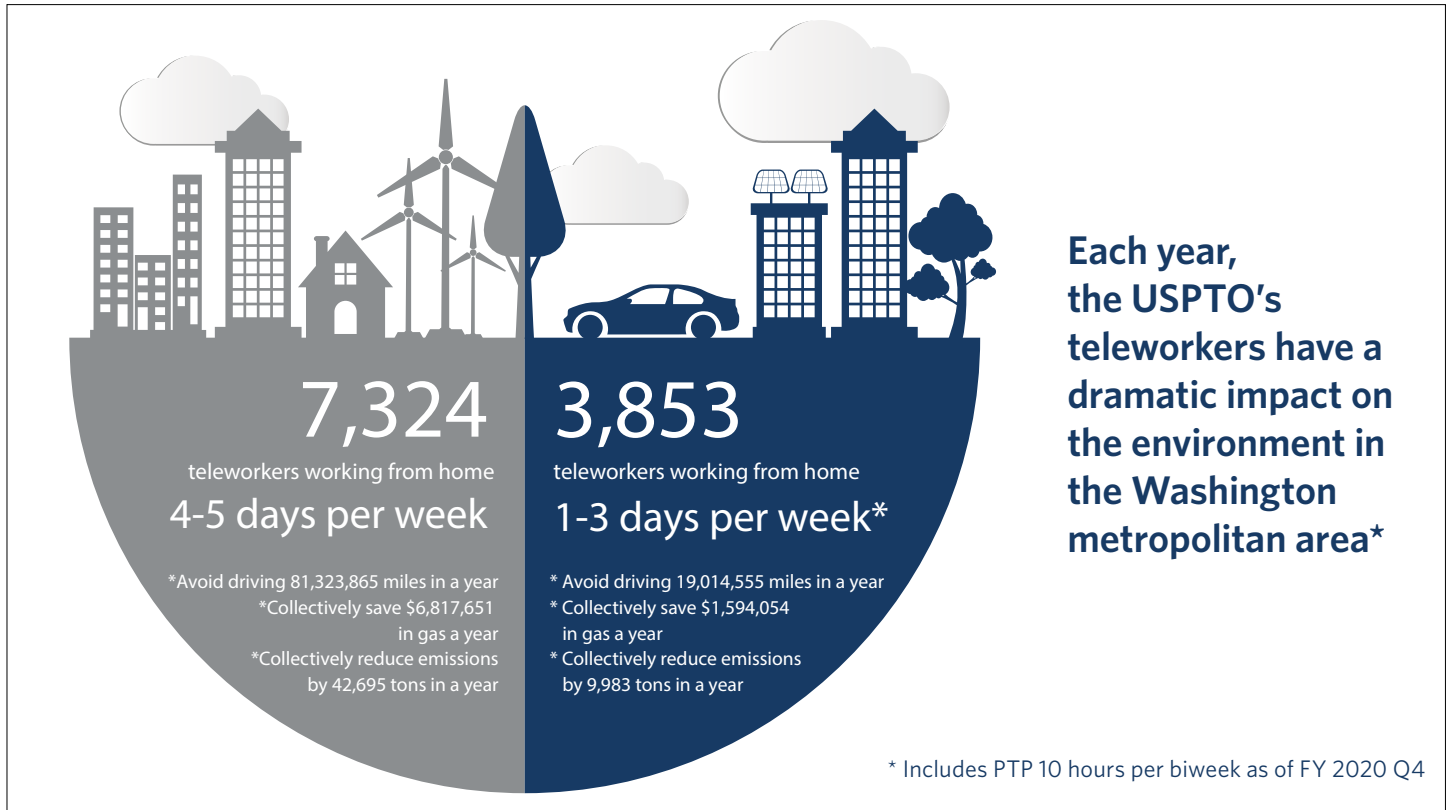
the Washington, D.C., metropolitan area, and nationwide pandemic events, teleworking and hoteling employees remain productive.

Effective March 23, 2020, the USPTO began operating under mandatory/maximum telework. During the mandatory/maximum telework period, the USPTO's top priority was the health and safety of its employees, contractors, and the American public while maintaining services at the highest level for its stakeholders. This transition was seamless since over 90% of employees were already participating in some telework programs. The USPTO telework and flexible work options are among the best in the federal government, and the agency was well-prepared to provide these flexibilities while continuing to serve the needs of its stakeholders during the pandemic.

The USPTO conducted a survey in July 2020, to help evaluate employees' experiences during the period of mandatory/maximum telework and help plan for employees' return to campus. All USPTO employees received the survey, including employees who, at the beginning of the period of mandatory/maximum telework, were newly onboarded, employees who had never teleworked, employees who were in a part-time telework program, employees who were in a hoteling program, and employees who were in a full-time telework program.

In the survey, the USPTO asked employees to describe their experiences with training, equipment, technical support, communications, and working conditions during mandatory/maximum telework. The survey also solicited preferences for returning to the office and gave employees the opportunity to share any personal

FIGURE 12: ENVIRONMENTAL IMPACT OF TELEWORK



Each year, the USPTO's teleworkers have a dramatic impact on the environment in the Washington metropolitan area\*

challenges they may have experienced during the period of mandatory/maximum telework. Overall, transition to telework ratings were positive, and employees expressed high ratings for effectiveness and work accomplished when teleworking.

The USPTO's teleworkers also helped to minimize the USPTO's impact on the environment in the Washington, D.C., metropolitan area: In FY 2020, they spared the environment more than 52,500 tons in estimated CO2 emissions. Figure 12 highlights the environmental impact of telework in FY 2020.

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

In FY 2020, the USPTO continues to ensure that leadership opportunities are marketed to a diverse

population through engaging affinity groups, recruitment search firms, and targeted messaging. Developing and maximizing leadership capabilities and capacities to both internal candidates and current supervisors and leaders was a primary focus this year. The organization leveraged its Leadership Development Program and Leadership Academy to accomplish this goal. Due to the COVID-19 pandemic, beginning in March of FY 2020, all Leadership Development Program (LDP) programs and classes were redesigned and delivered in an all-virtual environment.

**Enhance Leadership Development Program**

The USPTO is committed to educating and growing leaders throughout all levels of the organization. Qualities in the [USPTO Ideal Leader Profile](#) have been incorporated into all components of the USPTO's LDP. The LDP consists of several components, including the new Emerging Leaders Program, the Supervisor Certificate



Program, and the SES-level Apollo Leadership Experience. The LDP provides training to: individual leaders (i.e., non-supervisory employees), aspiring leaders (i.e., employees who may want to become a manager), and mid- and senior-level leaders (i.e., experienced managers, supervisors, and executives). In FY 2020, 625 employees completed leadership development training: 326 employees completed individual and aspiring leader training offered over 18 sessions, and 229 mid- and senior-level leaders completed training offered over nine sessions.

### Launch Emerging Leaders Program

The new Emerging Leaders Program pilot launched in January 2020 with 25 participants. It is a six-month, 40-hour, cohort-based program for employees interested in exploring supervisory roles and who want to develop the leadership skills necessary to become a supervisor in the future. Four of the 10 USPTO Leader Profile Qualities—communication skills, integrity, emotional intelligence, and management expertise—are in the program curriculum via interactive workshops, self-assessments, and elective computer-based courses. Participants work with a mentor and deliver a group capstone project to synthesize key leadership lessons and concepts.

### Conduct Aspiring Managers Meeting

The Aspiring Managers Program (AMP) is a comprehensive program for patent organization employees skillfully designed to give a better understanding of a patent manager's roles and responsibilities. Participants will also gain valuable training in crucial leadership and soft skills identified as a must for the patent manager position. The program combines: training and workshops provided in an interactive organized format, shadowing of managers to provide a real-world view of a "day in the life," and a mentor who will provide personalized advice.

### Continue Supervisor Certificate Program

The Supervisor Certificate Program's interactive curriculum addresses leadership competencies (e.g., managing self, people, and projects), is tailored to the unique needs of new USPTO supervisors, and fulfills the Office of Personnel Management's requirement that all agencies deliver training to new supervisors during the first year of supervisory status. For the USPTO, this consists of 40 hours of training and includes one full day of human capital subjects. In FY 2020, 60 supervisors completed the Supervisor Certificate Program.

### Administer Leadership Academy

The Leadership Academy is based on a leadership development model that was created specifically in the context of the USPTO's culture and environment. The USPTO Ideal Leader Profile serves as the foundation for the Academy's design and curriculum. Through storytelling and hands-on training, participants learned leadership lessons that will have a lasting impact their careers. This experience carefully matched the qualities of the Ideal Leader Profile and delivered an immersive leadership development experience for executive level participants. The Leadership Academy planned to send SES members to the Apollo Leadership Experience at the Johnson Space Center in Houston, Texas, for executive leadership development, but the trip was postponed due to the pandemic. The Ideal Leader Confidence Course for GS15 supervisors is under development, with an expected launch by January 2021.

### Held Leadership Forum

In FY 2020, the USPTO held its biennial Leadership Forum for all 1,236 supervisors, managers, and executives virtually. The 2020 Leadership Forum focused on themes of managing change with agility, mindfulness, and engagement, and provided practical knowledge in an environment that combined learning with collaboration to ensure that leaders have the tools they need to lead the USPTO most effectively. Over four days (August 3-6, 2020), the forum featured four keynote addresses and 52 workshop sessions, including required refresher training on performance management. All participants were required to attend 12 hours of forum training.



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

The USPTO administered our second People Survey (utilizing the Gallup Q12®) in mid-February 2020. With 49% of USPTO employees responding, the agency improved in all areas covered by the survey (see Figure 13). In addition to the larger People Survey, the USPTO also conducted several smaller “pulse surveys” to OCIO, OGC, OCAO, Patents, and PTAB employees. These pulse surveys focused on various topics related to employee engagement, including recognition, development, empowerment, connection to mission, communication preferences, and leadership.

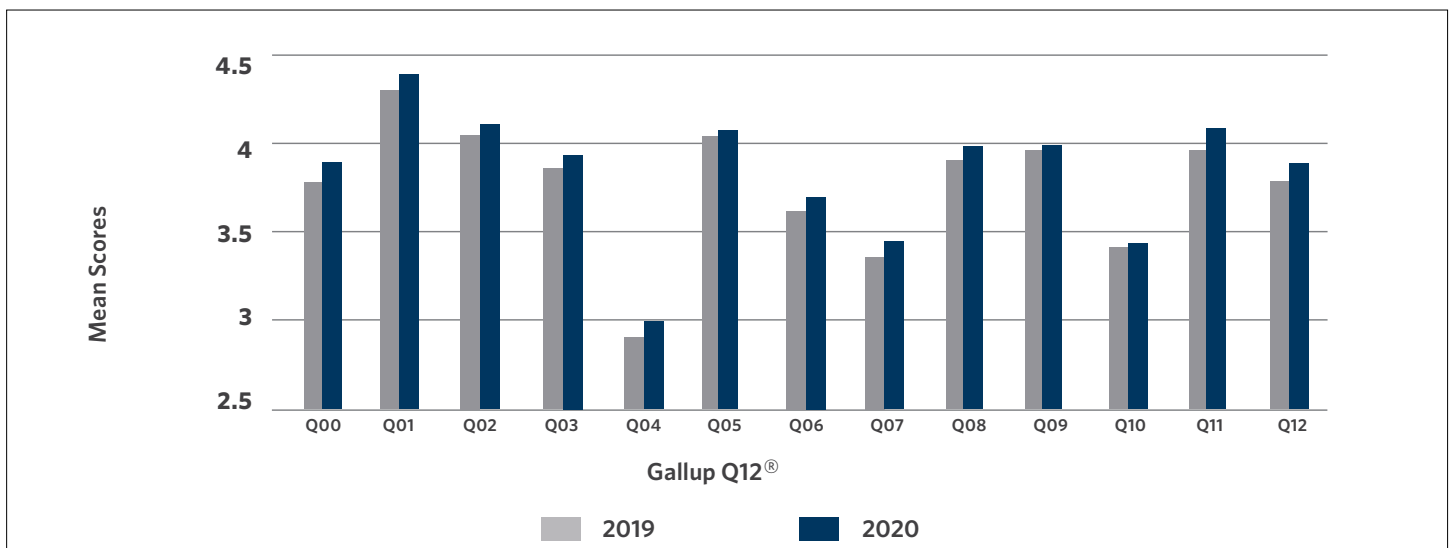
## OBJECTIVE 2: Optimize Speed, Quality, and Cost-effectiveness of Information Technology Delivery to Achieve Business Value

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

### Resiliency

The OCIO improved disaster recovery capabilities by configuring and replicating Tier-1 databases between two geographically separate data centers—the main data center in Alexandria, Virginia, and an alternate site in Boyers, Pennsylvania. The improvement effort replaced failed power distribution units and successfully completed

FIGURE 13: **ENGAGEMENT SCORES ARE UP AT THE USPTO**



the Hot Aisle Containment project in the Alexandria data center. A successful failover and failback test was performed in July 2020 of two applications (Docket and Application Viewer and Official Correspondence). The test proved we have the capability to switch the operation of these two key patent applications between the two sites in Alexandria and Boyers. The switch over and switch back demonstrated the enhanced business continuity and disaster recovery capability.

### Transform Projects to Products

The USPTO began transitioning to a product-based IT delivery model as an element of the multi-year IT Stabilization, Modernization, and New Ways of Working effort. The newly established product catalog encompasses the full scope of the USPTO's IT landscape. In moving away from a project-based IT delivery structure to a product catalog, the USPTO seeks to:

- Allow both the OCIO and its business customers to focus on the full spectrum of IT delivery across the USPTO;
- Link IT delivery to overall USPTO strategies and thematic priorities;
- Better align resource availability, including capacity and funding resources, staff, and contractors;
- Enable decision making at the working level
- Communicate the strategic vision and value proposition of a product;
- Articulate the plan for delivering the strategic vision;
- Communicate specific resource capacity requirements for delivery;
- Highlight risks and interdependencies to enable cross-product planning; and
- Document technical boundaries of the product for clear accountability.

The product catalog has four product lines: Patent Product Line, Trademark Product Line, Enterprise Business Product Line, and Enterprise Infrastructure Product Line. Product lines are collections of products grouped by similarity of services, business value goals, and customers. Customers may include external users (e.g., applicants and IP data users) or internal users (e.g.,

patent examiners, budget analysts, and IT specialists). Each product line comprises products, and each is comprised of both legacy systems that the USPTO is stabilizing, maintaining, and operating and modern solutions planned, in progress, or in production. The USPTO has prepared initial product roadmaps with prioritized "epics" (i.e., desired business outcomes) for each of the nearly 30 products within the four product lines. Descriptions of each product line follow.

**Patent Product Line:** The Patent Product Line encompasses products and product components that both deliver and collect business value. Both internal and external stakeholders access the products in the product line to manage the patent application process through the entire patent lifecycle, including filing, examination, appeals, search, international data exchange, fees, maintenance, and reporting. Some current product components are in containment, being stabilized, or scheduled for retirement once modernized systems are in production.

**Trademark Product Line:** The Trademark Product Line encompasses products and product components that both deliver and collect business value. Both internal and external stakeholders access the products in the product line to manage the Trademark application process through the entire Trademark lifecycle, including filing, examination, appeals, search, international data exchange, fees, maintenance, and reporting. Some current product components are in containment or being stabilized and scheduled for retirement once modernized solutions are in production.

**Enterprise Business Product Line:** The Enterprise Business Product Line encompasses products and product components that both deliver and collect business value throughout the agency. Both internal and external stakeholders access the products in the product line to manage fee collection and refunds; communications and information dissemination; financial management; procurement; budgeting; human resources; time and attendance; property and facility management; legal tools; and management/governance of data, analytics, and associated business intelligence reporting functions. Many of the IT solutions for this product line are configured and customized COTS (commercial off-the-shelf) and GOTS (government off-the-shelf).

### **Enterprise Infrastructure Product Line:**

The Enterprise Infrastructure Product Line encompasses products and product components that focus on delivering value to internal and external customers. The product line includes major infrastructure solutions that underlie the mission product lines (Patent and Trademark) and Enterprise Business. Products in this line cover end-user equipment (e.g., laptops, monitors, etc.), data center, network, storage, compute (e.g., servers), cloud (e.g., private & public), platform (e.g., database & web services), security, disaster recovery and emerging technology. Efforts to support this product line closely align with infrastructure operations, maintenance and recovery.

FY 2020 was the first year of the new governance processes and roles centered on the product catalog. In January, we initiated our annual IT planning effort, drawing in agency executives and leaders in new roles operating at both the product line and product levels. The planning activity's goal was to align IT plans to agency strategic goals and objectives, business value goals and objectives, and capacity, including both people and funding. A new decision-making body, the Annual IT Planning Board, offered final review and approved IT resources' prioritization. The inaugural effort laid the groundwork for a process that the agency will continue to refine in the years ahead. Another new decision-making body in the new product-based governance process is the Quarterly Review Board, which provides quarterly reviews of progress, challenges, and successes of all product lines. These new ways of working fulfill the USPTO's responsibilities under 44 U.S.C. § 3504(h) and the Capital Planning and Investment Control (CPIC) process to select, prioritize, and control investments. The shift from managing projects to managing products will drive some changes for the USPTO's external reporting.

### **Ongoing Cybersecurity Vigilance**

It is critical that USPTO IT is secure to protect the integrity of applications submitted by USPTO customers and to ensure continuity of operations. Like other federal agencies, the USPTO regularly tests to identify cybersecurity risks and establishes Plans of Actions and Milestones (POA&Ms) to address cybersecurity vulnerabilities. Any known security weaknesses

requiring remediation are tracked by using POA&Ms. Vulnerabilities continue to be addressed through the multi-year IT Stabilization, Modernization, and New Ways of Working effort. The USPTO's goal is to decrease the number of POA&Ms by remediating security weaknesses in the systems.

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

### **Enhance Patent End-to-End**

The USPTO made significant progress on patent prosecution tools for patent examiners, patent applicants, and international partners. The USPTO's Docket and Application Viewer (DAV) is a patent examiner's case management tool deployed into production in FY 2015. While the USPTO has made many improvements to DAV since 2015, in FY 2020 the USPTO improved DAV by implementing critical functionality (application attribute credits) for examiners to support phase 1 of the Time, Routing, and Performance Appraisal Plan (TRP) Initiative. Teams also worked continuously to develop and deploy new features and functionalities for DAV to support TRP phase 2 at the beginning of FY 2021. DAV will become the new application docketing tool for patent managers and the new docket management (DM) tool for examiners.

The Office Correspondence (OC) tool is the authoring and workflow tool that integrates with DAV by leveraging notes, references, and copy-paste capabilities. By February 2019, all patent examiners were using OC for the creation of new office actions rather than using the legacy Office Action Correspondence system. During FY 2020, the USPTO implemented critical OC functionality that made it the official production tracking and reporting tool for examiners in support of phase 1 of the TRP Initiative and is in continuous development activities to support TRP phase 2 in FY 2021.

The examiner search tool is a modern, scalable enterprise search tool for patent examiners. Development is taking longer than expected due to the search algorithms' complexity, performance, and scalability. The USPTO continues to make improvements to functionality,

conduct stress testing, take corrective actions to scale for the entire patent corps, and add new foreign collections. In FY 2020, the USPTO completed the migration of Chinese image and text data (over 20 million documents) and made this collection available to patent examiners via Search. Training for patent examiners to move from pilot to full production commenced in FY 2020 and will continue into FY 2021.

The USPTO has also been focusing on improving application filing systems for customers. The USPTO's eCommerce Modernization focused on providing a cohesive login system by using the USPTO's Single Sign On platform and receiving smart text Extensible Markup Language (XML) versions of key patent application documents. Smart text (XML) Document in Extensible Markup language (DOCX) aims to receive directly text-based applications that will dramatically increase automation throughout processing at the USPTO. A beta-testing group was created to use the smart text (XML) submissions process, and the USPTO received critical feedback, which has led to the continued evaluation and enhancement of the system. The use of the Single Sign On platform has successfully grown to approximately 23,000 applicants and over 277,000 sponsorships. The previously non-supported authentication system has been permanently turned off. In FY 2020, the Patent Center beta was opened to all public users, with approximately 3,800 users trained.

The Cooperative Patent Classification (CPC) system maintains a patent classification scheme that is harmonized between the USPTO and the European Patent Office (EPO). CPC was deployed into production in FY 2013 and continues to make strides to automate collaboration between the USPTO and the EPO. Doing so dramatically reduces the time required to execute required revisions to the patent classification scheme. In FY 2019, features were added that allow the EPO and the USPTO to update each other's databases. In addition, foundational work was performed to enable the addition of other international offices. Because of a change in priorities, the USPTO deferred the attainment of full functional parity from FY 2018 to FY 2020 and legacy system retirement to FY 2021.

### Engage Trademark Information Technology

As already noted under Goal 2, Objective 3, during FY 2020, the USPTO experienced many challenges that had significant impacts on Trademarks IT modernization efforts. Due to revenue declines from the pandemic and its effects on the global economy, the USPTO scaled back modernization plans for TMX, the future IT modernization solution for Trademarks, and paused existing efforts to integrate AI and ML into IT solutions. Despite limited progress towards modern IT solutions, Trademarks continued to engage in the ongoing enterprise-wide business transformation efforts to identify resources and redefine roles and processes for IT prioritization, planning, and decision making per the New Ways of Working for IT delivery.

### Enhance Open Data

The Developer Hub, or Open Data Portal, enables IP researchers, businesses, and individuals to easily access IP data via bulk download, targeted search, and Application Program Interfaces (APIs). In FY 2019, work focused on improving the USPTO's APIs to provide the public with better access to the USPTO's data through the cloud-based open data portal. The expansion of the USPTO's "API Catalog" included providing bulk search and download capabilities of patent documents, allowing users to search Trademark images with a Trademark image search feature, adding PTAB decision notification, and securing the underlying developer platform and user-experience enhancements.

This work was further expanded through the USPTO's first production deployment of a public-facing product that uses AI for data extraction to unlock a legacy data set called Enriched Citations in FY 2020. By using AI techniques, the USPTO was able to leapfrog its legacy systems to harmonize office action data with that of other international offices, from several years to a few months to delivery. Using these same techniques, the USPTO released another most sought-after data set in the form of 10 million full-text searchable office actions. An "Office Action" is a written notification to the applicant of the examiner's patentability decision that discloses the reasons for any rejections, objections, or requirements. By doing so, the USPTO provided the public with greater insight into the patent evaluation process, allowing users to view quickly information about



prior art cited in specific patent application office actions.

In the four years Developer Hub has been in production, the volume and breadth of available data has increased substantially, as well as the number of research reports and visualizations. IP data has also increased significantly. To continue to have easy to access open data, Developer Hub was redesigned this year with a more intuitive interface and the USPTO's first chatbot, making the search for data process easier.

### **Improve Modern Analytics Infrastructure**

The BDR (Big Data Reservoir), an Apache Hadoop platform that contains data from multiple data sources, enables data scientists to perform advanced analytics using ML and AI technologies. The USPTO team continues to add its text-based data assets to the BDR, including derived textual information from patent applications, quality reviews, PTAB decisions, and subsequent office actions. With this additional textual information, data scientists can analyze the entire patent prosecution history—from initial filing all the way through post-grant—and provide actionable intelligence both internally and to the public.

In FY 2019, Digital Services and Big Data (DSBD) delivered the first release of the USPTO “big data” infrastructure, supporting the USPTO driving advanced analytics and AI solutions at the USPTO. This continues to mark the first use of ML technology on distributed data storage in production at the USPTO. It has been instrumental in supporting USPTO data-driven strategic goals related to optimizing both Patent and Trademark quality through analytical studies, as well as newly developed advanced analytical services.

With more data added to the BDR and with newer and more powerful software released to support BDR functionality, a wide range of upgrades were completed to bolster the BDR's processing capability this year. As more data was added, faster, larger, and more efficient data storage was added. This not only increased the overall storage size but also resulted in a significant reduction in operating costs. The core software, Hadoop, was upgraded, along with an improved search (Elastic) in FY 2020.

Supporting system applications such as Canvas were also upgraded. This successful upgrade positions the BDR to continue to support rapid development (Patents 4 Partnerships) and applied innovative technology (AI based CPC Auto Class) and provide Trademark Quality and the PTAB with their key business information needs.

### **Advance Analytics Artificial Intelligence (AI)/Machine Learning (ML)**

At the USPTO, modernizing operations by operationalizing ML and AI technologies requires a strong partnership between OCIO and its internal customers. This past year, OCIO worked closely with both the Patent and Trademark business units to develop and deploy AI/ML for search and classification activities. The use of the technologies in both the Patent and Trademark business units holds promise to improve their effectiveness in providing customers with timely/high-quality products and services.

The DSBD data science team developed an ML service that leveraged an ensemble of these advanced analytical services, including figure searching, semantic searching, keyword/synonym extraction, and auto-classification of documents. This cognitive assistant platform enabled the rapid deployment of advanced analytical tools to augment PE2E and other next generation tools with ML and AI and laid the foundation for the AI tool.

During FY 2020, the USPTO continued to refine the auto-classification capability. CPC Auto Class is an AI-based application that classifies incoming patent applications by established categories with the potential to replace the current manual process substantially. As an AI application, CPC Auto Class continues to learn from each iteration of data ingestion, thereby increasing accuracy.

### **Develop Robotic Process Automation**

The OCIO is developing Robotic Process Automation (RPA) to automate tedious tasks now done manually. The RPA software robots or “bots” perform the keystrokes and mouse clicks previously done by humans for such processes as extracting data from a voluminous spreadsheet and generating a summary report, greatly reducing both time and errors.



The OCIO established governance for RPA, especially important since RPA development is expected to be largely “federated,” that is, developed by business units outside the OCIO. The governance includes a policy and detailed procedures that prescribe that process improvement teams are chartered with key business unit members and the OCIO to facilitate bot development and deployment, agile development using OCIO Continuous Integration and Continuous Delivery (CICD) tools, and use of OCIO-approved RPA tools.

The OCIO also established a Center for RPA Excellence, which participates in the federal RPA Community of Practice, to gain cross-government knowledge and insights. The OCIO also chairs the USPTO RPA Community of Practice and maintains SharePoint sites with links to RPA best practices, ongoing development, and tools.

The RPA teams have so far deployed bots that extract data from a large database and generate updates to summary reports on the OCIO dashboard about the cybersecurity status of USPTO systems. Teams are now developing bots to aid with OCIO policy reviews, financial system operations, software license renewals, and additional cybersecurity reports. The number of RPA bots is forecast to nearly double each year to at least 1,000 by FY 2024.

### Improve Enterprise Infrastructure

The OCIO was challenged to support the USPTO’s rapid transition to mandatory/maximum telework and virtual hearings due to the COVID-19 pandemic. The OCIO responded by supporting more than double the number of internal and external virtual meetings and successfully kept USPTO employees connected despite a 28% increase in Service Desk assistance requests. Equipment that was immediately deployed to employees included: 2,000 additional monitors, 3,000 printers, and 1,000 SOHO routers. During a single two-week period, the OCIO supported 1,000 external and 16,000 internal virtual meetings, with a peak of over 350 simultaneous meetings.

On April 23, 2020, a Virtual Holocaust Remembrance Program presented by the Department of Commerce was

streamed live without issues. The OCIO implemented “split tunneling” to optimize bandwidth and prevent network clogging. In doing so, we were able to increase our live webcast capacity to accommodate over 10,000 simultaneous viewers with dramatically improved quality of cloud Webex meetings while we reduced USPTO bandwidth usage.

The OCIO continued infrastructure modernization efforts by upgrading the PALM Oracle databases from version 11g to 18c and introducing Oracle Global Database Service for production usage to enable highly available databases. The OCIO continues to explore cloud solutions in line with its modernization efforts. The OCIO implemented cloud network and access security guardrails as the foundation of a layered security architecture, and completed a cloud-native Kubernetes proof of concept as a standard enterprise distributed managed container services solution. The OCIO also implemented a hybrid DevOps pipeline solution using cloud-native tooling for cost-effective continuous integration, deployment, and delivery capabilities. The OCIO initiated Language as a Service pilot at least four to six months earlier to address the need for rich interaction between external/international stakeholders and the USPTO’s GIPA, Office of International Patent Classification, and the Office of the Under Secretary.

The OCIO improved its Platform and Middleware capabilities by implementing an in-place upgrade feature for all Platform/Middleware products, including Open JDK. This feature will significantly reduce the turnaround time for delivering the secured quarterly baselines for all the business products. Additionally, the OCIO automated an end-to-end Continuous Integration and Continuous Delivery solution to automate deployments in sequence across all environments without human intervention.

Recent infrastructure cost savings and efficiency gains that have been realized include the Storage Infrastructure Managed Services (SIMS) award in March, which reduced SIMS monthly cost by \$400,000 to \$500,000. Storage reclamation and cost savings efforts since September 2019 have realized a cost avoidance of \$162,000 monthly and \$1.9 million annually. The OCIO also implemented the USPTO’s Print Management System (Pharos) enterprise-wide, as a means to reduce

toner and paper expenses through “smart printing” features (duplex printing, toner usage reduction). The USPTO’s Computer Based Training COTS product will be upgraded to FEDRamp Cloud-approved Adobe Connect, which, when implemented, will eliminate time and effort to maintain the USPTO’s onsite presence and servers as well as eliminate security vulnerabilities in our existing product.

The OCIO continues to provide a modern and secure working environment for USPTO end users to perform their daily tasks. Client-side antivirus protection software was upgraded to continue to protect the USPTO’s laptops and desktops. An “as a Service” Lifecycle Support Model Option for Audio/Video Hardware Infrastructure was defined. A new Enhanced Testing Center (ETC) was unveiled to support the USPTO’s software development and business product user evaluation/acceptance testing. This included designing a physical and virtual workstation leasing process to ensure computers are available to product teams ahead of their development/testing/deployment preparation needs while reducing idle computer resources.

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### **OBJECTIVE 3:**

## **Ensure Financial Stability to Facilitate Effective USPTO Operations**

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The USPTO operates like a private-sector business in that it provides IP products and services that are paid for by fees from customers of those products and services. The agency does not receive taxpayer funding and instead operates based upon fee revenue collections. In many instances, the payments for products and services are received in one fiscal year and delivered in a subsequent year. To address this complexity, the USPTO uses sophisticated multi-year planning and budgeting models to determine funding requirements over a five-year planning horizon. In addition, the agency maintains separate operating reserves for Patent and Trademark. These operating reserves ensure that the agency has a

predictable funding stream even as day-to-day revenues fluctuate and also provide for continuity of operations when major economic changes impact the agency’s funding stream. These operating reserves were critical in FY 2020, enabling the USPTO to operate with minimal disruption despite revenue volatility brought about by the COVID-19 related economic downturn and recovery (see Financial Discussion & Analysis for more information on how COVID-19 affected USPTO’s finances).

Like any entity, costs change over time due to inflation, technology advancements, and overhead, among a long list of factors. To ensure that the agency is recovering the full cost of operations without taxpayer support, the USPTO periodically adjusts its fees to reflect the underlying changes to the overall costs of delivering USPTO products and services. During FY 2020, the USPTO continued work on two fee rulemakings to separately adjust fees for Patent and Trademark services. The USPTO completed a notice of proposed rulemaking (NPRM) to adjust patent fees, premised on input from the Patent Public Advisory Committee, and published a final rule on August 03, 2020. The revised patent fees were effective October 2, 2020. Also during FY 2020, the USPTO published a NPRM to adjust trademark fees, premised on input from the Trademark Public Advisory Committee. The agency was in the process of developing a final rule to adjust trademark fees at the time of this report’s publication. Both fee rules are being implemented later than the summer 2020 implementation described in the FY 2021 Congressional Budget Justification.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law on March 27, 2020. This \$2 trillion relief package included provisions for the USPTO Director to temporarily extend deadlines for filing many patent and trademark documents and for paying certain fees, but did not provide the agency additional funding to implement the provisions. The USPTO evaluated a range of options to implement the CARES Act relief provisions for the agency’s customers, assessed the financial impacts, and financed the resulting costs within existing resources levels. The agency used its operating reserves and made a number of spending adjustments to extend and target relief throughout the remainder of FY 2020.

The USPTO also continued to improve the return on agency spending. One area where we are working to improve our return on spending is how the USPTO manages resources through acquisition services. In FY 2020, we conducted a customer experience assessment that provided us with information about the moments that matter in the acquisition journey. We are also improving the foundation of our procurement operations through enhanced acquisition forecasting and workload planning. The USPTO devised enhancements to its forecasting practices in FY 2020 that are being implemented for FY 2021. These changes will enable the USPTO to identify and leverage innovative and effective buying strategies and provide sufficient lead-time to refine requirements and evaluation plans for individual acquisitions to achieve better contract value and improved contractor performance management.

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## **OBJECTIVE 4: Enhance the USPTO's Interactions with Internal and External Stakeholders and the Public at Large**

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### **Deliver SUCCESS Act Report**

On October 31, 2019, the USPTO transmitted to Congress [a report required by the SUCCESS Act of 2018](#) (Pub. L. No. 115-273). The report looked at publicly available data on the participation rates of women, minorities, and veterans in the patent system, finding that there is limited data available on patenting activity among these underrepresented groups. It made a series of recommendations regarding legislation and initiatives that could help improve data availability, increase awareness among these groups of the importance of IP, and facilitate their participation in the patent system.

### **Release Progress and Potential Update Report**

In July 2020, the USPTO released "Progress and Potential: 2020 Update on U.S. Women Inventor-Patentees," a follow-up to its 2019 report on U.S. women inventors. The new report updated the previous findings based on a review of nearly one million issued patents, or nearly three years of new data. It found that women make up an increasing share of all new entrants to the patent system, rising from about five percent of new inventor-patentees in 1980 to 17% by December 2019.

### **Expand Innovation**

To maximize the nation's potential, it is critically important that all Americans have the opportunity to innovate, seek patent protection for their inventions, and reap the rewards from innovation through entrepreneurship and commercialization. This includes underrepresented groups based on demographic characteristics, geography, and economic conditions. For more information on the USPTO's efforts to broaden the IP ecosystem, please visit the [Expanding Innovation](#) website.

### **Launch National Council for Expanding American Innovation**

In FY 2020, the USPTO launched a major initiative aimed at expanding invention, innovation, and entrepreneurship in the United States. The USPTO formed the National Council for Expanding American Innovation (NCEAI). The NCEAI is composed of high-level leaders from the federal government, industry, academia, and professional and nonprofit organizations, as well as venture capitalists and independent inventors, who are committed to increasing the opportunities for all Americans to participate in innovation. Secretary Ross serves as the Chairman of the NCEAI and is joined in his efforts by Vice-Chair Andrei Iancu, Under Secretary of Commerce for Intellectual Property and Director of the USPTO.

A top priority of the NCEAI is to help the USPTO develop a long-term, comprehensive national strategy to build a more diverse and inclusive innovation ecosystem by encouraging participation demographically, geographically, and economically. The NCEAI will strategize about how to develop a comprehensive, lifelong approach that spurs interest in innovation and

inventing, and then provides for increased access to the innovation ecosystem. By encouraging, empowering, and supporting all future innovators, the NCEAI will be an important catalyst for increasing opportunity and fueling the United States' innovation economy. The USPTO will continually document progress toward these goals through updates such as our "Progress and Potential" report on women inventor-patentees.

On September 14, 2020, the USPTO hosted the inaugural meeting of the NCEAI. This meeting marked the beginning of the USPTO's ambitious initiative to ensure that every American has the opportunity to become an innovator, regardless of their background. During the meeting, council members shared best practices and input that will help the USPTO craft a national strategy for expanding American innovation.

Please visit the [NCEAI website](#) for more information.

*"It is critical that industry, academia, and government work together to strengthen our culture of innovation by encouraging the participation of young people from diverse backgrounds," said U.S. Secretary of Commerce Wilbur Ross. "Through the National Council for Expanding American Innovation, we plan to develop a national strategy for promoting and increasing the participation of underrepresented groups as inventor-patentees, entrepreneurs, and innovation leaders."*

— U.S. Secretary of Commerce Wilbur Ross

### Continue Law School Clinic Certification Program

In FY 2020, the USPTO continued to assist Patent and Trademark applicants by providing pro bono services through its Law School Clinic Certification Program. The Law School Clinic Certification Program allows law school students enrolled in participating clinics to acquire first-hand Patent and Trademark application preparation

and prosecution experience. Under the supervision of an approved faculty clinic supervisor, students provide pro bono representation to individuals and small businesses throughout the country in the prosecution of Patent and Trademark applications before the USPTO.

The students at these clinics work in accordance with guidelines established by the Office of Enrollment and Discipline. The Law School Clinic Certification Program began as a pilot program in 2008 and became permanent on December 16, 2014. At present, 59 law school clinics participate in the Law School Clinic Certification Program. On April 1, 2020, the Law School Clinic Certification Program opened applications to admit additional law schools into the program. Applications will be accepted through May 31, 2021.

Between July 2019 and June 2020, participating law schools reported filing 158 patent applications and 579 trademark applications on behalf of their clients and projected the number of future application filings to be equal to or to surpass the number of filings in prior years. During this same period, participating law schools succeeded in obtaining 67 patents and 440 trademark registrations on behalf of their clients and filed responses in over 252 patent matters and over 652 trademark matters. In total, participating law school clinics undertook representation of approximately 2,206 clients during this period.

### Expand Patent Pro Bono Program

In FY 2020, the USPTO also continued to support the Patent Pro Bono Program, a nationwide network of 21 independently operated not-for-profit regional programs that match volunteer patent practitioners with qualified financially under-resourced inventors and small businesses to provide pro bono patent application preparation, filing, and prosecution services. During the first three quarters of FY 2020, the program helped under-resourced inventors and small businesses file more than 200 patent applications and fielded 1,609 inquiries. In addition, the program matched 240 under-resourced inventors and small businesses with volunteer patent practitioners. Over 1,900 registered patent practitioners are currently available to participate in the Patent Pro Bono Program across the regional programs.

In FY 2020, the Patent Pro Bono Program expanded its coverage to include Puerto Rico and conducted outreach to over 80 IP law associations. The program also held live presentations and webinars with Small Business Development Centers, Women’s Business Centers, the Small Business Administration, and other organizations. In addition, the Patent Pro Bono Program also instituted the collection of demographic data of patent pro bono applicants, including gender, race, ethnicity, and veteran status. This data will help determine the Patent Pro Bono Program’s impact for statistically underrepresented groups of inventors.

The Patent Pro Bono Program also continued its practice of recognizing registered patent practitioners for their pro bono legal contributions to financially under-resourced inventors and small businesses. The USPTO recognized over 80 practitioners who donated at least 50 hours of service in calendar year 2019 to the not-for-profit regional programs. The USPTO also recognized 30 law firms for each firm’s collective contribution of time provided to the program.

### **Patent and Trademark Resource Centers (PTRC)**

The PTRCs are a nationwide network of public, state, and academic libraries designated by the USPTO to disseminate Patent and Trademark information and support the public’s diverse IP needs. The PTRC library staff are information experts trained on how to use search tools to access Patent and Trademark information. The 83 PTRCs directly assist entrepreneurs and small business owners by: (1) aiding them in identifying relevant USPTO resources, (2) aiding them in using the USPTO’s Patent and Trademark search tools and related resources, (3) referring them to relevant offices at the USPTO for additional assistance, and (4) referring them to relevant community and area resources.

Each of the 83 PTRCs is located within a library supported by either a state government, a municipal government, or a university. The USPTO collaborates with these government and university libraries by providing comprehensive training and other support to the staff, whereas the governments and universities collaborate by allocating resources, including staff; physical space for consultations with entrepreneurs;

and access to collections, public meeting space, and other resources.

The USPTO tracks two metrics for the PTRCs: (1) number of individuals assisted, and (2) number of attendees at classes. In FY 2019, the number of individuals assisted was 13,253, and the number of attendees at classes was 18,396. Estimated metrics for the first three quarters of FY 2020 were: (1) 6,391 individuals assisted, and (2) 6,093 attendees at classes.

### **Inventors Assistance Center**

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

Specifically, the IAC answers questions concerning necessary format and formal requirements for a patent application provides assistance with proper completion of patent application forms; provides general information concerning patent examining rules, procedures, and fees; and directs callers to appropriate USPTO personnel or resources, as necessary. The IAC is staffed by approximately 20 contractors and receives approximately 31,500 calls per year.

### **Trademark Assistance Center**

The Trademark Assistance Center (TAC) is the main support center for all trademark customers, from first-time filers to legal professionals and experienced trademark applicants. The TAC is operational Monday through Friday, from 8:30 a.m. to 8:00 p.m. ET. It provides services and resources to small business owners and entrepreneurs across the country. The TAC is staffed with 24 federal government employees: 20 trademark information specialists, three team leads, and one manager.

The TAC serves as the primary touchpoint for entrepreneurs and small businesses to obtain information and assistance regarding the trademark application, registration, and maintenance process.



The TAC serves as an educational resource for those who desire brand protection.

During FY 2020, the TAC assisted over 157,616 customers, of which 74%, or approximately 116,635, were entrepreneurs and small business owners. The TAC answered 128,370 telephone calls, responded to 29,246 emails, and assisted 92 customers who visited the USPTO headquarters in Alexandria, Virginia, for in-person assistance.

The TAC is measured by three key performance indicators:

- Answer 85% of telephone calls within 20 seconds of entering the TAC queue;
- Score a 99% call handle rate; and
- Achieve an 87% customer satisfaction survey score.

In addition to assisting customers through telephone, email, and in-person channels, the TAC also facilitates “Lunch and Learn” webinars for attendees at the USPTO Regional Offices. In FY 2020, a total of 1,365 entrepreneurs and small business owners attended these webinars.

### Office of Education Support Government-Wide Efforts to Promote Science, Technology, Engineering, and Mathematics (STEM)

Ensuring that the innovators, inventors, and entrepreneurs of the future receive a STEM-based education and consistent exposure to STEM activity is critical to our country’s economic prosperity. STEM students will create the founding IP of the USPTO’s future business and forge ahead to become the USPTO’s future workforce. The USPTO fully supports government-wide STEM efforts through both our long-standing partnership with the nonprofit National Inventors Hall of Fame (NIHF), founded in 1973, and our own Office of Education (OE). After beginning the year conducting activities and programming that connected young people to STEM concepts, both NIHF and OE joined the rest of the world in determining how to be effective in a virtual environment.

Camp Invention, NIHF’s summer enrichment program



USPTO Director Andrei Iancu and NIHF Executive Vice President of Selection and Recognition Rini Paiva host the announcement of the 2020 class of inductees at CES in Las Vegas. At right are new inductees Mick Mountz and Raffaello D’Andrea. (Photo by Jeff Isaacs/USPTO)

for children in grades 1-6, provides STEM enrichment to approximately 150,000 children across the country, along with age-appropriate introductions to the USPTO’s workings and the value of IP, through partnerships with local teachers. Given prevailing public health considerations coming into the summer of 2020, NIHF staff quickly revised the program’s operating model and delivery systems to support virtual, at-home STEM learning. The team mailed activity kits to each participating child.

By mid-summer, NIHF had shipped materials to nearly 75,000 young people. Slightly more than half of those kits were free to the student, paid for by school districts or by private donors as part of a scholarship program. The Collegiate Inventors Competition, another joint effort by the USPTO and NIHF, promotes collegiate competition among the country’s finest universities and connects the inventive spirit with entrepreneurship, that is, encouraging students to see the value of their ideas to society and to continue to develop their inventions, patent their work, seek investors, start businesses, and contribute to new economies. Entries to the competition represent disciplines as varied as medical devices, biotechnology, nanotechnology, renewable energy, robotics, and systems engineering. Finalists are determined through two tiers of judging: In the preliminary round, entries are reviewed by expert judges in the applicant’s field of invention or research.

The preliminary round scores help determine the finalists who gather at the USPTO for an immersive judging/feedback experience with NIHF inductees and top officials from the USPTO. The competition is open to faculty and students at over 1,000 colleges and

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

Complementing these efforts, OE develops resources that can be distributed en masse to K-12 educators, classrooms, and other learning environments; provides professional development and training for teachers in invention education, innovation, and IP; and supports educators, administrators, researchers, investigators, and others in developing standards and policies for invention education. The team engages stakeholders to integrate invention education, innovation, and IP into K-20 schools and learning environments nationally.

The COVID-19 pandemic meant that OE could not hold its flagship annual five-day professional development program, the National Summer Teacher Institute (NSTI). This program is designed to introduce IP protection concepts, innovation, entrepreneurship, and STEM to K-12 educators. The material aims to help teachers unleash their students' innovative potential by encouraging them to think and act creatively. Instead, OE focused efforts in 2020 on developing shorter, online modules to deliver related concepts in a new virtual format until NSTI can be reinstated.

Another notable, ongoing collaboration is the USPTO's partnership with FIRST® on its annual Global Innovation Award. This program involves an invention competition that is designed to encourage First Lego League participants to take their invention ideas to the next level. The USPTO works in collaboration with FIRST® to increase student knowledge and 21st-century skills in problem solving and team building and has done so since the program's inception. In the years the USPTO has worked with FIRST®, a number of teams have gone on to apply for, and in some instances obtain, U.S. patents on their invention projects. This year's 10th Annual Global Innovation Award shifted to a virtual format to judge and honor the competitors.

### Create Strategic Partnership and Collaboration with Regional Offices

The USPTO continued to provide information and education through initiatives that helped make the patent system more transparent to all. The USPTO worked toward advancing innovation and broadening the IP ecosystem demographically, geographically, and economically. The USPTO also provided virtual educational tools for understanding the patent system and leveraging IP.

The USPTO Regional Offices support, facilitate, coordinate and lead high-level engagements with community IP stakeholder leaders, and government officials at the local, state, and federal levels on the ground across the country. They are responsible for assisting the USPTO in communicating and carrying out its mission, strategic plan, and goals by providing resources, information, programs, and services that benefit and encourage the growth of our innovation-based economy. In FY 2020, the USPTO expanded its regional outreach capabilities by establishing the Eastern Regional Outreach Office to enhance the delivery of high-quality information, programs, and services across the United States' East Coast. In June of FY 2020, the USPTO also welcomed a new Regional Director to the Silicon Valley Regional Office.

The USPTO is committed to creating strategic partnerships focused on the continuing education of our stakeholders, including IP professionals, through our Regional Offices to assist them in remaining current on emerging IP issues. These issues affect not only their businesses, but also the economy as a whole. These partnerships include communicating and advancing IP policies; delivering IP education across all levels of sophistication, from first-time inventors to skilled patent practitioners; and getting K-12 students excited about STEM careers. Through these efforts, the Regional Office teams help broaden the innovation ecosphere—geographically, demographically, and economically—by providing more individuals with the knowledge and tools to innovate and to protect their innovations. The Regional Office teams, with support from many business units at headquarters, provide IP education for groups from kindergarteners to IP litigators.

The Regional Offices trained and judged law students competing in the USPTO National Patent Application Drafting Competition, and the Regional Office team trained new patent attorneys and patent agents litigating before the PTAB through the Legal Experience and Advancement Program.



The USPTO, in collaboration with the Society of Hispanic Professional Engineers (SHPE) hosts Noche de Ciencias (Night of Science) in the Clara Barton Auditorium. The event draws hundreds of area students and their families. Noche de Ciencias is a national program of SHPE initiated in 2008 to introduce students and families to science and engineering through hands-on activities and exposure to college and career information in STEM. (Photo by Jay Premack/USPTO)

The Regional Office teams communicate policy through active engagement with stakeholders across the country. They function as liaisons for policy matters by participating in events such as PTAB Bar Association events, National Association of Patent Practitioner meetings, American Intellectual Property Law Association meetings, Federal Circuit Bar Association meetings, and state bar association meetings. In addition, all Regional Office teams host policy-related events throughout the year—for example, China IP Road Shows, anti-counterfeiting seminars, STOPFakes programs, and USPTO Design Day—that bring together a broad range of diverse attendees, including stakeholders, patent prosecutors, litigators, inventors, academics, and patent examiners, for public discussion on aspects of IP law. These events highlight the Regional Office teams' commitment to strengthening the public's understanding of IP, including increasing the public's knowledge of how IP, and the products and services that the USPTO offers, support our innovation-based economy.

The Regional Offices also facilitated IP discussions to serve industry-specific and other government stakeholders, like the three-day Workshop on Intellectual Property and Consumer Protection, hosted by the Texas Regional Office in collaboration with the National Association of Attorneys General for state attorneys general across the United States. The Silicon Valley Regional Office collaborated with the Food and Drug Administration to host the inaugural Biotech and Medtech Strategies for Startups Program in South San Francisco, California. The Midwest Regional Office hosted an industry roundtable, which included automobile manufacturers, car-share companies, and suppliers, to identify IP issues in autonomous vehicle technologies.

The Rocky Mountain Office also hosted a set of virtual meetings with government, university, and corporate stakeholders in collaboration with the IP Attaché program in North Dakota and South Dakota. The Eastern Regional Outreach Office collaborated with the Economic Development Center of Florida's Space Coast to host a roundtable of small business owners, startups, and entrepreneurs in the community. These engagements and others, such as the Regional Office teams' participation in regionally located national events like the Consumer Electronics Show (CES) and the Professional Golf Association Show (PGA), provide IP stakeholders with a forum to discuss and share their perspectives on the IP ecosystem.

In FY 2020, all of the Regional Office programming became virtual. This allowed for expanded multi-regional programs reaching more IP stakeholders. For example, the Texas Regional Office hosted an all-day Virtual Trademark Bootcamp, featuring a trademark fundamentals session for small businesses and a "Nuts and Bolts of Trademark Trial and Appeal Board" practice, which included two live oral hearings. The Silicon Valley and Rocky Mountain Offices' Regional Directors collaborated to host the Rocky Mountain IP Institute. The Rocky Mountain Office collaborated with the IPO to participate in and host the "Gender Diversity in Innovation" Panel.



In FY 2020, the Regional Office teams met with and listened to USPTO stakeholders and customers directly through a series of one-on-one meetings. Since October 1, 2019, the Regional Outreach Directors and the Eastern Regional Outreach Director have conducted 162 of these meetings, gaining a better understanding of stakeholder experience with the U.S. IP system and how the USPTO can provide high-quality customer service. In addition, these meetings garnered valuable feedback as to how the USPTO can support a more reliable and predictable legal framework for incentivizing and protecting innovation, while also providing targeted USPTO programs and initiatives.

The feedback generated by these stakeholder meetings contributed to the decision to make several changes to USPTO policies and procedures, including:

- Electronic filing of plant patent applications;
- Prioritized examination for patent applications related to COVID-19;
- Clarification of rules on “wet” signatures; and
- Clarification of rules on claiming small entity status for businesses that work with the federal government.

The Regional Office teams helped to market and amplify key USPTO priorities throughout the year through their discussions with stakeholders, one example of which is the recent SUCCESS Act hearings held in partnership with the Small Business Administration at USPTO headquarters and in the Silicon Valley and Detroit Regional Offices.

### Increase Access to Resources

Outreach activities that deliver IP information and build advocacy for IP value are a critical component of the USPTO strategic plan. The Regional Office teams support activities and efforts focused on delivering IP information by strengthening the public’s understanding of IP through increased access to USPTO resources. As previously stated, FY 2020 saw a significant shift in how the Regional Offices connected with the IP industry. For example, the Regional Offices provided a setting for scientists, engineers, and other technology experts to educate examiners about emerging topics in their fields

of study. Through the Patent Examiner Technical Training Program (PETTP), the Regional Offices hosted various organizations and companies that shared their research with examiners across the country.

The PTAB in the Regional Offices adds a measure of transparency and accessibility to PTAB proceedings. In FY 2020, PTAB APJs participated in both ex parte appeals and AIA trial hearings held in Regional Offices. In addition, the public is invited to view non-confidential PTAB proceedings in the Regional Offices, regardless of where the live hearing takes place.

Each regional office is equipped with several universal public workstations that enable members of the public to work with tools that are nearly identical to those used by patent examiners and trademark examining attorneys. This can save potential applicants time and money by allowing them to perform a brief initial search for their invention or mark. Professional practitioners and searchers can also use the workstations. The Regional Offices also provide hands-on workshops for those who may not be familiar with the USPTO search systems. Given the ongoing pandemic, the Regional Offices are currently closed to the public in accordance with local, state, and federal guidelines.



At the Women’s Entrepreneurship Symposium, USPTO Deputy Director Laura Peter moderates a panel titled “Advancing the Role of Women in IP” featuring Lisa Dunner, Managing Partner at Dunner Law, PLLC and Commissioner, ABA Commission on Women in the Profession; Lisa Jorgensen, Executive Director at the American Intellectual Property Law Association (AIPLA); and Jessica Landacre, Executive Director at the Intellectual Property Owners Association (IPO). (Photo by Jay Premack/USPTO)



# FINANCIAL SECTION

U.S. PATENT AND TRADEMARK OFFICE



## MESSAGE FROM THE CHIEF FINANCIAL OFFICER



Jay Hoffman

The U.S. Patent and Trademark Office (USPTO) takes seriously its responsibility for stewardship of the resources for which it is entrusted and for reporting on budget and performance outcomes. This report is the culmination of our efforts to present the USPTO's financial status and provide transparency and accountability to the American public. It provides a comprehensive view of the financial and performance activities undertaken to advance the agency's IP mission to foster U.S. innovation, competitiveness, and economic growth.

The defining event of FY 2020 was the COVID-19 global pandemic. Like many other government agencies and private businesses, the USPTO transitioned to an almost entirely virtual operating model in March 2020, with the vast majority of employees and contractors working full-time from home. Our strong financial management practices and analytical, problem-solving culture enabled the Office of the Chief Financial Officer (OCFO) to play a pivotal role in supporting the USPTO's mission success during these unprecedented circumstances.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law on March 27, 2020. This \$2 trillion relief package included provisions for the USPTO Director to extend deadlines for paying certain fees and filing certain documents but did not provide the agency additional funding to implement the provisions. The OCFO team collaborated with professionals across the agency to evaluate a range of options to implement the CARES Act relief provisions for USPTO customers, assess the financial impacts, finance the resulting costs within existing resources levels, and update our financial systems to reflect the fee and deadline changes.

The USPTO is a fee funded agency, relying upon fee revenues from our customers to finance daily operations. Similar to many private sector businesses, the USPTO fee revenues declined somewhat in FY 2020 as the macro economy slowed, but also showed signs for improvement in some areas as parts of the larger U.S. economy recovered during the summer. As a result of this fee revenue volatility, the OCFO led efforts to reduce agency spending plans by \$61 million and to develop additional contingencies for further reductions if conditions warranted; these additional contingencies were not implemented. Furthermore, the OCFO developed and implemented several new fee revenue forecast scenarios and revenue tracking reports that were instrumental in the agency's decision-making process. These reports also helped the agency better explain the changing revenue conditions to our stakeholders and congressional oversight.

Prior to the economic downturn, the agency had been working for nearly two years to analyze and adjust Patent and Trademark fees to recover the full costs of USPTO operations and also maintain a judicious operating reserve. These fee setting proposals, one for patent fees and one for trademark fees, were separately informed by our Patent Public Advisory Committee (PPAC) and Trademark Public Advisory Committee (TPAC), as well as public comments via the rulemaking process. In response to stakeholder feedback, the USPTO temporarily paused the fee adjustment processes and delayed implementation of the new fees until the

contours of the economic recovery became clearer. The adjustments to patent fees subsequently went into effect on October 2, 2020, and adjustments to trademark fees are expected to go into effect in FY 2021.

The agency also had a number of other notable financial accomplishments this year, including:

- Maturing the agency's enterprise risk management approach to proactively identify and mitigate mission, operational, and reputational risks;
- Improving the acquisition planning, data, and underlying processes to better support the contracting needs of our internal customers;
- Accelerating planning and execution of work to improve IT general controls;
- Supporting the broader agency transition to agile systems development and operations and embracing an agile approach in delivery of OCFO managed financial systems and services; and
- Receiving an 18th consecutive Certificate of Excellence in Accountability Reporting award from the Association of Government Accountants for the FY 2019 Performance and Accountability Report.

The USPTO was satisfied to receive its 28th consecutive unmodified opinion on the financial statements from the independent auditor. The auditor reported no material weaknesses in the design and operation of the USPTO's system of internal control over financial reporting, and the financial system complies with financial system requirements in the FFMIA and OMB Circular A-123, Appendix D.

The accomplishments in FY 2020 are the result of the efforts of dedicated, hard-working professionals across the USPTO. I appreciate the continued support of the entire agency, with special thanks to the Office of Inspector General and the KPMG audit team, as we continue to work together to sustain financial management excellence at the USPTO.



Jay Hoffman  
Chief Financial Officer  
November 6, 2020

# United States Patent and Trademark Office

## BALANCE SHEETS

As of September 30, 2020 and 2019

(Dollars in Thousands)

	2020	2019
<b>ASSETS</b>		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	\$ 2,739,700	\$ 2,448,264
Accounts Receivable (Note 3)	-	72
Other Assets - Advances and Prepayments (Note 6)	4,050	3,924
Total Intragovernmental	2,743,750	2,452,260
Undeposited Collections (Note 4)	32,368	10,699
Accounts Receivable, Net (Note 3)	508	378
Property, Plant, and Equipment, Net (Note 5)	337,983	459,341
Other Assets—Advances and Prepayments (Note 6)	21,163	20,002
Total Assets (Note 7)	\$ 3,135,772	\$ 2,942,680
<b>LIABILITIES</b>		
Intragovernmental:		
Accounts Payable	\$ 11,415	\$ 11,737
Accrued Payroll and Benefits	25,064	18,691
Accrued Workers' and Unemployment Compensation	1,951	2,005
Customer Deposit Accounts (Note 7)	8,272	6,824
Total Intragovernmental	46,702	39,257
Accounts Payable	93,841	94,928
Accrued Payroll and Benefits	158,154	137,723
Accrued Leave	157,306	125,118
Customer Deposit Accounts (Note 7)	151,532	123,989
Deferred Revenue (Note 9)	1,033,073	984,971
Actuarial FECA Liability (Note 10)	10,343	12,203
Contingent Liability (Note 12)	300	300
Total Liabilities (Note 8)	\$ 1,651,251	\$ 1,518,489
<b>NET POSITION</b>		
Cumulative Results of Operations—		
Funds from Dedicated Collections (Note 14)	\$ 1,484,521	\$ 1,424,191
Total Net Position	\$ 1,484,521	\$ 1,424,191
Total Liabilities and Net Position	\$ 3,135,772	\$ 2,942,680

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

# United States Patent and Trademark Office

## STATEMENTS OF NET COST

For the years ended September 30, 2020 and 2019

(Dollars in Thousands)

	<b>2020</b>	<b>2019</b>
<b>STRATEGIC GOAL 1: Optimize Patent Quality and Timeliness</b>		
Total Program Cost	\$ 3,199,395	\$ 3,069,075
Total Program Earned Revenue	(3,332,096)	(3,042,447)
Net Program (Income)/Cost	(132,701)	26,628
<b>STRATEGIC GOAL 2: Optimize Trademark Quality and Timeliness</b>		
Total Program Cost	360,477	347,213
Total Program Earned Revenue	(324,955)	(346,224)
Net Program Cost	35,522	989
<b>STRATEGIC GOAL 3: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Enforcement, and Protection Worldwide</b>		
Total Program Cost	63,097	61,880
Net (Income)/Cost of Operations (Note 14)	\$ (34,082)	\$ 89,497
<b>TOTAL ENTITY</b>		
Total Program Cost (Notes 15 and 16)	\$ 3,622,969	\$ 3,478,168
Total Earned Revenue	(3,657,051)	(3,388,671)
Net (Income)/Cost of Operations (Note 14)	\$ (34,082)	\$ 89,497

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

# United States Patent and Trademark Office

## STATEMENTS OF CHANGES IN NET POSITION

For the years ended September 30, 2020 and 2019

(Dollars in Thousands)

	<b>2020</b>	<b>2019</b>
	<b>Funds from Dedicated Collections</b>	<b>Funds from Dedicated Collections</b>
<b>CUMULATIVE RESULTS OF OPERATIONS</b>		
Beginning Balances	\$ 1,424,191	\$ 1,433,577
Budgetary Financing Sources:		
Transfers Out Without Reimbursement	(2,000)	(1,500)
Other Financing Sources:		
Imputed Financing	28,248	81,611
Total Financing Sources	26,248	80,111
Net Income/(Cost) of Operations	34,082	(89,497)
Net Change	60,330	(9,386)
Cumulative Results of Operations	\$ 1,484,521	\$ 1,424,191
Net Position, End of Year	\$ 1,484,521	\$ 1,424,191

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



# United States Patent and Trademark Office

## STATEMENTS OF BUDGETARY RESOURCES

For the years ended September 30, 2020 and 2019

(Dollars in Thousands)

	<b>2020</b>	<b>2019</b>
<b>BUDGETARY RESOURCES</b>		
Unobligated Balance, Brought Forward (Note 17)	\$ 538,632	\$ 446,835
Recoveries of Prior Year Obligations	37,523	30,684
Unobligated Balance from Prior Year Budget Authority, Net (discretionary)	576,155	477,519
Spending Authority from Offsetting Collections (discretionary)	3,684,040	3,402,897
Total Budgetary Resources	<u>\$ 4,260,195</u>	<u>\$ 3,880,416</u>
 <b>STATUS OF BUDGETARY RESOURCES</b>		
New Obligations (Note 17)	\$ 3,515,554	\$ 3,341,784
Unobligated Balance, End of Year:		
Apportioned	742,018	538,632
Unapportioned	2,623	-
Total Status of Budgetary Resources	<u>\$ 4,260,195</u>	<u>\$ 3,880,416</u>
 <b>OUTLAYS, NET</b>		
Net Collections (discretionary)	<u>\$ (265,205)</u>	<u>\$ (79,169)</u>

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

# NOTES TO FINANCIAL STATEMENTS POLICIES

As of and for the Years Ended September 30, 2020 and 2019

## NOTE 1: Summary of Significant Accounting Policies

### Basis of Presentation

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

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

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

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

The USPTO is not subject to federal, state, or local income taxes. Accordingly, no provision for income taxes is recorded. Allocation transfers are legal delegations by one department of its authority to obligate budget authority and outlay funds to another department. The USPTO does not receive any allocation transfers.

### Classified Activities

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

### Basis of Accounting

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

## **NOTE 1:** **Summary of Significant Accounting Policies** *(continued)*

### **Funds from Dedicated Collections**

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

### **Fiduciary Activities**

Fiduciary activities are not recognized on the financial statements, but are reported on schedules in the notes to the financial statements. Fiduciary balances are not assets of the federal government. Fiduciary activities are the collection or receipt, and the management, protection, accounting, and disposition by the federal government of cash or other assets in which non-federal individuals or entities have an ownership interest that the federal government must uphold. At the USPTO, fiduciary activities are recorded in the Patent Cooperation Treaty fund and the Madrid Protocol fund. Additional details are provided in Note 19.

### **Use of Estimates**

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

### **Revenue and Other Financing Sources**

*Exchange Revenue:* The USPTO has fee setting authority under section 10 of the Leahy-Smith America Invents Act. Section 10(a) of the Leahy-Smith America Invents Act authorizes the Director of the USPTO to set or adjust by rule all Patent and Trademark fees to recover the aggregate estimated cost to the USPTO. Provided that the fees in the aggregate achieve overall aggregate cost recovery, the Director of USPTO may set individual fees under section 10, at, below, or above their respective cost. Since FY 1992, the USPTO's funding has been primarily through the collection of user fees. Fees that are remitted with initial applications and requests for other services are recorded as exchange revenue when received, with an adjustment to defer revenue for services that have not been performed. Individual fees for Patent maintenance fees and Trademark renewal fees are recorded as exchange revenue when received and help to recoup costs incurred during the initial Patent and Trademark review processes. All amounts remitted by customers without a request for service are recorded as liabilities in customer deposit accounts until services are ordered.

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

*Imputed Financing Sources from Cost Absorbed by Others (and Related Imputed Costs):* In certain cases, operating costs of the USPTO are paid for in full or in part by funds appropriated to other federal entities. For example, Civil Service Retirement System (CSRS) pension benefits for applicable USPTO employees are paid for in part by the U.S. Office of Personnel Management (OPM), and certain legal judgments against the USPTO are paid for in full from the Judgment

## NOTE 1: Summary of Significant Accounting Policies *(continued)*

Fund maintained by Treasury. Also, the cost of collecting fees electronically for the USPTO is paid for in full by Treasury. The USPTO includes applicable Imputed Costs on the *Statements of Net Cost*. In addition, an Imputed Financing Source from Cost Absorbed by Others is recognized on the *Statements of Changes in Net Position*.

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

### Entity/Non-Entity

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

### Fund Balance with Treasury

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

### Accounts Receivable

Accounts receivable balances are established for amounts owed to the USPTO from its employees and governmental entities that do business with the USPTO. This balance in accounts receivable remains as a very small portion of the USPTO's assets, as the USPTO requires payment prior to the provision of goods or services during the course of its goals. Additional details are provided in Note 3.

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

### Advances and Prepayments

The USPTO prepays amounts in anticipation of receiving future benefits. Although a payment has been made, an expense is not recorded until goods have been received or services have been performed. The USPTO has prepayments and advances with non-governmental as well as governmental vendors. Additional details are provided in Note 6.

### Undeposited Collections

The USPTO's undeposited collections balance primarily consists of checks, electronic funds transfer, and credit card payments for deposits that are in transit and have not been credited to the USPTO's Fund Balance with Treasury. The undeposited collections balance also consists of checks for fees that were not processed at the *Balance Sheet* date due to the lag time between receipt and initial review. All such undeposited check amounts are considered to be cash equivalents. Additional details are provided in Note 4.

## NOTE 1: Summary of Significant Accounting Policies *(continued)*

### Property, Plant, and Equipment, Net

The USPTO's capitalization policies are summarized below:

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

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

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

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

### Workers' Compensation

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

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

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

### Unemployment Compensation

USPTO employees who lose their jobs through no fault of their own may receive unemployment compensation benefits under the unemployment insurance program administered by the DOL. The DOL bills each agency quarterly as its claims are paid.



## NOTE 1: Summary of Significant Accounting Policies *(continued)*

### Annual, Sick, and Other Leave

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

### Employee Retirement Systems and Post-Employment Benefits

USPTO employees participate in either the CSRS or the Federal Employees Retirement System (FERS). The FERS was established by the enactment of Pub. L. No. 99-335. Pursuant to this law, the FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees who had five years of federal civilian service prior to 1984 and who are rehired after a break in service of more than one year may elect to join the FERS and Social Security system or be placed in the CSRS offset retirement system. The USPTO's financial statements do not report CSRS or FERS assets, accumulated plan benefits, or liabilities applicable to its employees. The reporting of such amounts is the responsibility of the OPM, who administers the plans. While the USPTO reported no liability for future payments to employees under these programs, the federal government is liable for future payments to employees through the OPM, who administers these programs. The USPTO financial statements recognize a funded expense for the USPTO's share of the costs to the federal government of providing pension, post-retirement health, and post-retirement life insurance benefits to all eligible USPTO employees. In addition to the funded expense, the USPTO financial statements also recognize an imputed cost for the OPM's share of the costs to the federal government of providing pension and post-retirement health benefits to all eligible USPTO employees. The USPTO's appropriation requires full funding of the present costs, as determined by the OPM, of post-retirement benefits for the Federal Employees Health Benefit Program (FEHB), the Federal Employees Group Life Insurance Program (FEGLI), and pensions under the CSRS. While ultimate administration of any post-retirement benefits or retirement system payments will continue to be administered by the OPM, the USPTO is responsible for the payment of the present value associated with these costs calculated using the OPM factors. Any difference between the OPM factors for funding purposes and the OPM factors for reporting purposes is recognized as an imputed cost. Additional details are provided in Note 13.

For the years ended September 30, 2020 and 2019, the USPTO made current year contributions through agency payroll contributions and quarterly supplemental payments to OPM equivalent to approximately 26.1% and 21.8%, respectively, of the employee's basic pay for those employees covered by CSRS, based on OPM cost factors. For the years ended September 30, 2020 and 2019, the USPTO made current year contributions through agency payroll contributions equivalent to approximately 15.7% and 13.4%, respectively, of the employee's basic pay for those employees covered by FERS, based on OPM cost factors. As contribution funding increases, imputed costs will correspondingly decrease.

All employees are eligible to contribute to a Thrift Savings Plan. For those employees participating in the FERS, a Thrift Savings Plan is automatically established, and the USPTO makes a mandatory contribution to this plan equal to one percent of the employees' compensation. In addition, the USPTO makes matching contributions ranging from one to four percent of the employees' compensation for FERS-eligible employees who contribute to their Thrift Savings Plans. No matching contributions are made to the Thrift Savings Plans for employees participating in the CSRS. Employees participating in the FERS are also covered under the Federal Insurance Contributions Act (FICA), for which the USPTO contributes a matching amount to the Social Security Administration.

## NOTE 1: Summary of Significant Accounting Policies *(continued)*

### Deferred Revenue

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

### Net Position

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

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

### Environmental Cleanup

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

## NOTE 2: Fund Balance with Treasury

As of September 30, 2020 and 2019, Fund Balance with Treasury consisted of the following:

<i>(Dollars in Thousands)</i>	<b>2020</b>	<b>2019</b>
<b>Status of Fund Balance with Treasury:</b>		
Obligated Balance Not Yet Disbursed	\$ 667,844	\$ 610,649
Unobligated Balance Available	742,018	538,632
Unobligated Balance Unavailable	2,623	-
Temporarily Not Available Pursuant to Public Law	937,819	937,819
Non-Budgetary Fund Balance with Treasury	389,396	361,164
Total Fund Balance with Treasury	<u>\$ 2,739,700</u>	<u>\$ 2,448,264</u>

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

## NOTE 2: Fund Balance with Treasury *(continued)*

To help smooth the impact of economic downturns on operations and to help mitigate funding uncertainty, the USPTO has reserved a portion of the amount Congress makes available annually through appropriations to the USPTO Salaries and Expense general fund as a designated operating reserve that will be carried over for use in future years. As of September 30, 2020, the total Patent reserve was \$394,929 thousand, and the total Trademark reserve was \$115,206 thousand. As of September 30, 2019, the total Patent reserve was \$383,283 thousand, and the total Trademark reserve was \$126,609 thousand.

As of September 30, 2020, the USPTO collected more fees than appropriated for the fiscal year. As a result, \$231,883 thousand was deposited into the Patent and Trademark Fee Reserve Fund. As of September 30, 2019, the USPTO collected more fees than appropriated for the fiscal year. As a result, \$28,740 thousand was deposited into the Patent and Trademark Fee Reserve Fund. The Leahy-Smith America Invents Act requires the agency to submit a reprogramming request to make the funds available for use.

As of September 30, 2020 and 2019, the Non-Budgetary Fund Balance with Treasury includes unavailable surcharge receipts held in a special fund of \$233,529 thousand for each year presented and non-entity customer deposit accounts held in deposit funds of \$155,867 thousand and \$127,635 thousand, respectively.

From FY 1990 through FY 2011 and prior to the Leahy-Smith America Invents Act, the USPTO was not always appropriated all of the fees and surcharges that were collected from customers. As of September 30, 2020, previously collected and temporarily unavailable fee collections on deposit in the USPTO accounts at Treasury are \$1,171,348 thousand. Of this amount, \$790,086 thousand are previously collected fees for Patent and Trademark services provided to customers, \$233,529 thousand in surcharge collections from customers withheld in accordance with the OBRA of 1990 and deposited in a special fund receipt account at Treasury, and sequestered funds of \$147,733 thousand pursuant to the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. No. 113-6) and remain unavailable.

*(Dollars in Thousands)*

	<b>Patents</b>	<b>Trademarks</b>	<b>Totals</b>
Previously Collected Fees in Excess of Appropriations	\$ 580,443	\$ 209,643	\$ 790,086
Previously Collected Surcharge Fund Receipts	233,529	-	233,529
Previously Collected Fees Not Available	\$ 813,972	\$ 209,643	\$ 1,023,615
Previously Collected Fees Sequestered	134,291	13,442	147,733
Total Unavailable Fees	<u>\$ 948,263</u>	<u>\$ 223,085</u>	<u>\$ 1,171,348</u>

## NOTE 3: Accounts Receivable, Net

As of September 30, 2020, USPTO entity accounts receivable consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Accounts Receivable, Gross</b>	<b>Allowance for Uncollectible Accounts</b>	<b>Accounts Receivable, Net</b>
Intragovernmental	\$ -	\$ -	\$ -
With the Public	\$ 732	\$ (224)	\$ 508

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

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

## NOTE 4: Undeposited Collections

As of September 30, 2020 and 2019, undeposited collections consisted of the following:

<i>(Dollars in Thousands)</i>	<b>2020</b>	<b>2019</b>
Deposits in Transit	\$ 32,346	\$ 10,622
Undeposited Checks	22	77
Total	\$ 32,368	\$ 10,699

As of September 30, 2020 and 2019, undeposited collections included customer deposit accounts held with the public amounting to \$3,937 thousand and \$3,178 thousand, respectively.

## NOTE 5: Property, Plant, and Equipment, Net

As of September 30, 2020, property, plant, and equipment, net, consisted of the following:

(Dollars in Thousands)

<b>Classes of Property, Plant, and Equipment</b>	<b>Useful Life (Years)</b>	<b>Acquisition Value</b>	<b>Accumulated Depreciation/Amortization</b>	<b>Net Book Value</b>
IT Equipment	3-5	\$ 284,890	\$ 235,052	\$ 49,838
Software	3	1,086,288	928,519	157,769
Software in Development	-	62,983	-	62,983
Furniture	7	38,046	16,913	21,133
Equipment	3-8	5,365	4,368	997
Leasehold Improvements	5-20	138,518	93,255	45,263
<b>Total Property, Plant, and Equipment</b>		<b>\$ 1,616,090</b>	<b>\$ 1,278,107</b>	<b>\$ 337,983</b>

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

(Dollars in Thousands)

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

The USPTO does not have any restrictions on the use or convertibility of the property, plant, and equipment balances.



## NOTE 6: Other Assets - Advances and Prepayments

As of September 30, 2020 and 2019, other assets consisted of the following:

<i>(Dollars in Thousands)</i>	<b>2020</b>	<b>2019</b>
Intragovernmental		
Advances and Prepayments	\$ 4,050	\$ 3,924
With the Public		
Advances and Prepayments	\$ 21,163	\$ 20,002
Total	<u>\$ 25,213</u>	<u>\$ 23,926</u>

The largest governmental prepayments include the USPTO deposit accounts held with the U.S. Government Publishing Office to facilitate recurring transactions, the U.S. Postal Service for postage, the Department of Transportation for transit subsidy services, the Library of Congress for library services, and the Department of Commerce for centralized services.

The largest prepayments with the public as of September 30, 2020 and 2019 were predominately \$18,757 thousand and \$17,760 thousand, respectively, for various hardware and software maintenance agreements and \$2,358 thousand and \$2,238 thousand, respectively, for various library and online database subscriptions.

## NOTE 7: Entity and Non-Entity Assets

Non-entity assets are amounts held on deposit for the convenience of the USPTO's customers.

Customers have the option of maintaining a deposit account at the USPTO to facilitate the order process. Customers can draw from their deposit account when they place an order and can replenish their deposit account as desired. Funds maintained in customer deposit accounts are not available for the USPTO's use until an order has been placed. Once an order has been placed, the funds are reclassified to entity funds.

## NOTE 7: Entity and Non-Entity Assets *(continued)*

As of September 30, 2020 and 2019, entity and non-entity assets consisted of the following:

<i>(Dollars in Thousands)</i>	<b>2020</b>	<b>2019</b>
Fund Balance with Treasury:		
Intragovernmental Customer Deposit Accounts	\$ 8,272	\$ 6,824
Customer Deposit Accounts with the Public	147,595	120,811
Total Fund Balance with Treasury	155,867	127,635
Undeposited Collections:		
Customer Deposit Accounts with the Public	3,937	3,178
Total Non-Entity Assets	159,804	130,813
Total Entity Assets	2,975,968	2,811,867
Total Assets	\$ 3,135,772	\$ 2,942,680

## NOTE 8: Liabilities Covered and Not Covered by Budgetary Resources

The USPTO records liabilities for amounts that are likely to be paid as the direct result of events that have already occurred. The USPTO's liabilities covered by budgetary resources are funded by realized budgetary resources. Realized budgetary resources include obligated balances funding existing liabilities and unobligated balances (operating reserve) as of September 30, 2020.

Although future appropriations to fund liabilities not covered by budgetary resources are probable and anticipated, congressional action is needed before budgetary resources can be provided.

As of September 30, 2020 and 2019, liabilities covered and not covered by budgetary resources were as follows:

## NOTE 8: Liabilities Covered and Not Covered by Budgetary Resources *(continued)*

<i>(Dollars in Thousands)</i>	<b>2020</b>	<b>2019</b>
<b>Liabilities Covered by Resources</b>		
Intragovernmental:		
Accounts Payable	\$ 11,415	\$ 11,737
Accrued Payroll and Benefits	25,064	18,691
Accrued Unemployment Compensation	209	68
Total Intragovernmental	<u>36,688</u>	<u>30,496</u>
Accounts Payable	93,409	94,928
Accrued Payroll and Benefits	89,080	72,113
Deferred Revenue	510,134	509,248
Total Liabilities Covered by Resources	<u>\$ 729,311</u>	<u>\$ 706,785</u>
<b>Liabilities Not Covered by Resources</b>		
Intragovernmental:		
Accrued Workers' Compensation	\$ 1,742	\$ 1,937
Total Intragovernmental	<u>1,742</u>	<u>1,937</u>
Accounts Payable	432	-
Accrued Payroll and Benefits	69,074	65,610
Accrued Leave	157,306	125,118
Deferred Revenue	522,939	475,723
Actuarial FECA Liability	10,343	12,203
Contingent Liability	300	300
Total Liabilities Not Covered by Resources	<u>\$ 762,136</u>	<u>\$ 680,891</u>
<b>Liabilities Not Requiring Resources</b>		
Intragovernmental:		
Customer Deposit Accounts	\$ 8,272	\$ 6,824
Total Intragovernmental	<u>8,272</u>	<u>6,824</u>
Customer Deposit Accounts	151,532	123,989
Total Liabilities Not Requiring Resources	<u>\$ 159,804</u>	<u>\$ 130,813</u>
Total Liabilities	<u><u>\$ 1,651,251</u></u>	<u><u>\$ 1,518,489</u></u>

## NOTE 9: Deferred Revenue

As of September 30, 2020, deferred revenue consisted of the following:

<i>(Dollars in Thousands)</i>	<u>Patent</u>	<u>Trademark</u>	<u>Total</u>
Unearned Fees	\$ 912,814	\$ 120,237	\$ 1,033,051
Undeposited Checks	20	2	22
Total Deferred Revenue	<u>\$ 912,834</u>	<u>\$ 120,239</u>	<u>\$ 1,033,073</u>

As of September 30, 2019, deferred revenue consisted of the following:

<i>(Dollars in Thousands)</i>	<u>Patent</u>	<u>Trademark</u>	<u>Total</u>
Unearned Fees	\$ 898,447	\$ 86,447	\$ 984,894
Undeposited Checks	69	8	77
Total Deferred Revenue	<u>\$ 898,516</u>	<u>\$ 86,455</u>	<u>\$ 984,971</u>

## NOTE 10: Actuarial FECA Liability

The FECA actuarial liability is calculated annually, as of September 30th, by the DOL. For FY 2020 and 2019, projected annual payments were discounted to the present value based on averaging the Treasury's Yield Curve for Treasury Nominal Coupon (TNC) issues for the current and prior four years to reflect the average duration in years for income and medical payments, respectively. Interest rate assumptions utilized for discounting were as follows:

2020	2019
<b>For wage benefits:</b>	<b>For wage benefits:</b>
2.41% in year 1, and thereafter	2.61% in year 1, and thereafter
<b>For medical benefits:</b>	<b>For medical benefits:</b>
2.30% in year 1, and thereafter	2.35% in year 1, and thereafter

Based on information provided by the DOL, the U.S. Department of Commerce estimated the USPTO's liability as of September 30, 2020 and 2019, was \$10,343 thousand and \$12,203 thousand, respectively.

## NOTE 11: Leases

### Operating Leases:

The General Services Administration (GSA) negotiates long-term office space leases and levies rent charges, paid by the USPTO, approximate to commercial rental rates. These operating lease agreements for the USPTO's office buildings are cancelable with appropriate notification and expire at various dates between FY 2021 and FY 2035. While most of the USPTO's facilities are rented from GSA, the operating lease in San Jose, California, is a non-GSA lease. During the years ended September 30, 2020 and 2019, the USPTO paid \$91,645 thousand and \$92,351 thousand, respectively, to the GSA for rent. In addition, during the years ended September 30, 2020 and 2019, the USPTO paid \$1,053 thousand and \$1,024 thousand, respectively, to the City of San Jose for rent.

Under existing commitments, the future minimum lease payments, as of September 30, 2020, are as follows:

(Dollars in Thousands)

Fiscal Year	GSA Real Property	Non-Federal Real Property	Total Real Property
2021	\$ 60,946	\$ 12	\$ 60,958
2022	60,879	-	60,879
2023	60,692	-	60,692
2024	54,809	-	54,809
2025	4,605	-	4,605
Thereafter	32,201	-	32,201
Total Future Minimum Lease Payments	\$ 274,132	\$ 12	\$ 274,144

The commitments shown above relate primarily to the operating lease for the USPTO headquarters and Regional Offices.

Lease Location	Lease Initiation	Lease Expiration
San Jose, California	FY 2015	FY 2021
Detroit, Michigan	FY 2012	FY 2022
Alexandria, Virginia	FY 2004	FY 2024
Denver, Colorado	FY 2014	FY 2024
Dallas, Texas	FY 2016	FY 2031
Shirlington, Virginia	FY 2020	FY 2035



## NOTE 12: Commitments and Contingencies

The USPTO is a party to various routine administrative proceedings, legal actions, and claims brought by or against it, including threatened or pending litigation involving labor relations claims, some of which may ultimately result in settlements or decisions against the federal government.

As of September 30, 2020, management expects it is reasonably possible that approximately \$600 thousand may be owed for awards or damages involving labor relations claims. As of September 30, 2019, management expected it was reasonably possible that approximately \$600 thousand may be owed for awards or damages involving labor relations claims.

As of September 30, 2020 and 2019, the USPTO was subject to a suit in which an adverse outcome was probable, and the claim was \$300 thousand for both years.

For the years ended September 30, 2020 and 2019, there were no payments made on behalf of the USPTO from the Judgment Fund.

As of September 30, 2020 and 2019, the USPTO did not have any major long-term commitments.

## NOTE 13: Post-employment Benefits

For the years ended September 30, 2020 and 2019, the post-employment benefit expenses were as follows:

	2020			2019		
	Funded	Imputed	Total	Funded	Imputed	Total
CSRS	\$ 6,304	\$ 1,104	\$ 7,408	\$ 5,889	\$ 2,341	\$ 8,230
FERS	248,869	(3,064)	245,805	204,214	34,319	238,533
FEHB	89,457	203	89,660	66,853	13,814	80,667
FEGLI	272	-	272	260	-	260
FICA	119,075	-	119,075	111,273	-	111,273
Total Cost	<u>\$ 463,977</u>	<u>\$ (1,757)</u>	<u>\$ 462,220</u>	<u>\$ 388,489</u>	<u>\$ 50,474</u>	<u>\$ 438,963</u>

## NOTE 14: Funds from Dedicated Collections

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Funds from dedicated collections are financed by specifically identified revenues, which remain available over time. These specifically identified revenues are required by statute to be used for designated activities, benefits, or purposes, and must be accounted for separately from the government's general revenues. At the USPTO, funds from dedicated collections include the salaries and expenses fund, the fee reserve fund, and the special fund receipts. Non-entity funds, as disclosed in Note 7, are not funds from dedicated collections and are therefore excluded from the below amounts.

The **Salaries and Expenses Fund** contains moneys used for the examining and granting or registering of Patent and Trademark and advising the Secretary of Commerce, the President of the United States, and the Administration on patent, trademark, and copyright protection, and trade-related aspects of IP. This fund is used for the USPTO's goals—granting patents; registering trademarks; and IP policy, enforcement, and protection—that promote the use of IP rights as a means of achieving economic prosperity. These activities give innovators, businesses, and entrepreneurs the protection and encouragement they need to turn their creative ideas into tangible products, and also provide protection for their inventions and trademarks. The USPTO may use moneys from this account only as authorized by Congress via appropriations. As discussed in Note 2 and as of September 30, 2020, the salaries and expenses fund includes the Patent operating reserve of \$394,929 thousand, and the Trademark operating reserve of \$115,206 thousand. As of September 30, 2019, the salaries and expenses fund includes the Patent operating reserve of \$383,283 thousand, and the Trademark operating reserve of \$126,609 thousand.

The **Patent and Trademark Fee Reserve Fund** was created through the Leahy-Smith America Invents Act legislation enacted on September 16, 2011 (Pub. L. No. 112-29), modifying 35 U.S.C. § 42(c). This established a statutory provision allowing the USPTO to collect and deposit in this fund fees collected in excess of the appropriated levels for each fiscal year. Annual appropriations provide the authorization for the USPTO to spend those fees and are available without fiscal limitation until expended. As of September 30, 2020, \$231,883 thousand was deposited in the fee reserve fund. As of September 30, 2019, \$28,740 thousand was deposited in the fee reserve fund.

The **Surcharge Fund** was created through the Patent and Trademark Office Surcharge provision in the Omnibus Budget Reconciliation Act (OBRA) of 1990 (section 10101, Pub. L. No. 101-508). This required that the USPTO impose a surcharge on certain patent fees and set in statute the amounts of money that the USPTO should deposit in a special fund receipt account at Treasury. Due to a lack of congressional reauthorization, this surcharge expired at the end of FY 1998. The USPTO may use moneys from this account only as authorized by Congress, and only as made available by the issuance of a Treasury warrant.

## NOTE 14: Funds from Dedicated Collections *(continued)*

<i>(Dollars in Thousands)</i>	<b>Salaries and Expenses Fund</b>	<b>Fee Reserve Fund</b>	<b>Surcharge Fund</b>	<b>Total Funds from Dedicated Collections</b>
<b>Balance Sheet as of September 30, 2020</b>				
Fund Balance with Treasury	\$ 2,118,421	\$ 231,883	\$ 233,529	\$ 2,583,833
Undeposited Collections	28,431	-	-	28,431
Accounts Receivable, Net	508	-	-	508
Other Assets	363,196	-	-	363,196
Total Assets	<u>\$ 2,510,556</u>	<u>\$ 231,883</u>	<u>\$ 233,529</u>	<u>\$ 2,975,968</u>
Accounts Payable	\$ 105,256	\$ -	\$ -	\$ 105,256
Salaries and Benefits	342,475	-	-	342,475
Deferred Revenue	1,033,073	-	-	1,033,073
Other Liabilities	10,643	-	-	10,643
Total Liabilities	<u>\$ 1,491,447</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,491,447</u>
Cumulative Results of Operations	1,019,109	231,883	233,529	1,484,521
Total Liabilities and Net Position	<u>\$ 2,510,556</u>	<u>\$ 231,883</u>	<u>\$ 233,529</u>	<u>\$ 2,975,968</u>
<b>Statement of Net Cost For the Year Ended September 30, 2020</b>				
Total Program Cost	\$ 3,622,969	\$ -	\$ -	\$ 3,622,969
Less Program Earned Revenue	(3,657,051)	-	-	(3,657,051)
Net Income From Operations	<u>\$ (34,082)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (34,082)</u>
<b>Statement of Changes in Net Position For the Year Ended September 30, 2020</b>				
Net Position, Beginning of Year	\$ 1,161,922	\$ 28,740	\$ 233,529	\$ 1,424,191
Budgetary Financing Sources:				
Transfers (Out)/In Without Reimbursement	(205,143)	203,143	-	(2,000)
Other Financing Sources:				
Imputed Financing	28,248	-	-	28,248
Net Income from Operations	34,082	-	-	34,082
Change in Net Position	<u>(142,813)</u>	<u>203,143</u>	<u>-</u>	<u>60,330</u>
Net Position, End of Year	<u>\$ 1,019,109</u>	<u>\$ 231,883</u>	<u>\$ 233,529</u>	<u>\$ 1,484,521</u>

## NOTE 14: Funds from Dedicated Collections *(continued)*

<i>(Dollars in Thousands)</i>	<b>Salaries and Expenses Fund</b>	<b>Fee Reserve Fund</b>	<b>Surcharge Fund</b>	<b>Total Funds from Dedicated Collections</b>
<b>Balance Sheet as of September 30, 2019</b>				
Fund Balance with Treasury	\$ 2,058,360	\$ 28,740	\$ 233,529	\$ 2,320,629
Undeposited Collections	7,521	-	-	7,521
Accounts Receivable, Net	450	-	-	450
Other Assets	483,267	-	-	483,267
Total Assets	<u>\$ 2,549,598</u>	<u>\$ 28,740</u>	<u>\$ 233,529</u>	<u>\$ 2,811,867</u>
Accounts Payable	\$ 106,665	\$ -	\$ -	\$ 106,665
Salaries and Benefits	283,537	-	-	283,537
Deferred Revenue	984,971	-	-	984,971
Other Liabilities	12,503	-	-	12,503
Total Liabilities	<u>\$ 1,387,676</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,387,676</u>
Cumulative Results of Operations	1,161,922	28,740	233,529	1,424,191
Total Liabilities and Net Position	<u>\$ 2,549,598</u>	<u>\$ 28,740</u>	<u>\$ 233,529</u>	<u>\$ 2,811,867</u>
<b>Statement of Net Cost For the Year Ended September 30, 2019</b>				
Total Program Cost	\$ 3,478,168	\$ -	\$ -	\$ 3,478,168
Less Program Earned Revenue	(3,388,671)	-	-	(3,388,671)
Net Cost of Operations	<u>\$ 89,497</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 89,497</u>
<b>Statement of Changes in Net Position For the Year Ended September 30, 2019</b>				
Net Position, Beginning of Year	\$ 1,200,048	\$ -	\$ 233,529	\$ 1,433,577
Budgetary Financing Sources:				
Transfers (Out)/In Without Reimbursement	(30,240)	28,740	-	(1,500)
Other Financing Sources:				
Imputed Financing	81,611	-	-	81,611
Net Cost of Operations	(89,497)	-	-	(89,497)
Change in Net Position	(38,126)	28,740	-	(9,386)
Net Position, End of Year	<u>\$ 1,161,922</u>	<u>\$ 28,740</u>	<u>\$ 233,529</u>	<u>\$ 1,424,191</u>

## NOTE 15: Program Costs

Program costs consist of both costs related directly to the individual business lines and overall support costs allocated to the business lines. All costs are assigned to specific programs. Total program or operating costs for the years ended September 30, 2020 and 2019, by cost category, were as follows:

(Dollars in Thousands)

	2020		
	Direct	Allocated	Total
Personnel Services and Benefits	\$ 2,280,234	\$ 180,788	\$ 2,461,022
Travel and Transportation	1,361	394	1,755
Rent, Communications, and Utilities	86,747	38,596	125,343
Printing and Reproduction	162,573	199	162,772
Contractual Services	262,462	271,821	534,283
Training	2,954	2,706	5,660
Maintenance and Repairs	3,641	45,922	49,563
Supplies and Materials	43,054	2,216	45,270
Equipment not Capitalized	6,656	23,820	30,476
Insurance Claims and Indemnities	29	55	84
Depreciation, Amortization, and Loss on Asset Dispositions	139,689	67,052	206,741
<b>Total Program Costs</b>	<b>\$ 2,989,400</b>	<b>\$ 633,569</b>	<b>\$ 3,622,969</b>

(Dollars in Thousands)

	2019		
	Direct	Allocated	Total
Personnel Services and Benefits	\$ 2,150,644	\$ 173,526	\$ 2,324,170
Travel and Transportation	3,049	760	3,809
Rent, Communications, and Utilities	88,431	38,498	126,929
Printing and Reproduction	150,245	217	150,462
Contractual Services	238,153	282,964	521,117
Training	2,850	2,914	5,764
Maintenance and Repairs	3,709	43,721	47,430
Supplies and Materials	42,002	1,288	43,290
Equipment not Capitalized	5,373	19,548	24,921
Insurance Claims and Indemnities	84	92	176
Depreciation, Amortization, and Loss on Asset Dispositions	160,271	69,829	230,100
<b>Total Program Costs</b>	<b>\$ 2,844,811</b>	<b>\$ 633,357</b>	<b>\$ 3,478,168</b>

## NOTE 16: Program Costs by Category and Responsibility Segment

The program costs for the years ended September 30, 2020 and 2019, by cost category and business line, were as follows:

<i>(Dollars in Thousands)</i>	2020			
	Patent	Trademark	Intellectual Property Protection	Total
<b>Direct Costs</b>				
Personnel Services and Benefits	\$ 2,045,057	\$ 203,939	\$ 31,238	\$ 2,280,234
Travel and Transportation	616	74	671	1,361
Rent, Communications, and Utilities	73,996	9,285	3,466	86,747
Printing and Reproduction	162,525	44	4	162,573
Contractual Services	222,657	25,736	14,069	262,462
Training	2,631	249	74	2,954
Maintenance and Repairs	2,658	891	92	3,641
Supplies and Materials	40,739	1,561	754	43,054
Equipment not Capitalized	5,535	913	208	6,656
Insurance Claims and Indemnities	29	-	-	29
Depreciation, Amortization, and Loss on Asset Dispositions	114,062	24,996	631	139,689
<b>Subtotal Direct Costs</b>	<b>\$ 2,670,505</b>	<b>\$ 267,688</b>	<b>\$ 51,207</b>	<b>\$ 2,989,400</b>
<b>Allocated Costs</b>				
Automation	\$ 263,928	\$ 47,189	\$ 4,457	\$ 315,574
Resource Management	264,962	45,600	7,433	317,995
<b>Subtotal Allocated Costs</b>	<b>\$ 528,890</b>	<b>\$ 92,789</b>	<b>\$ 11,890</b>	<b>\$ 633,569</b>
<b>Total Program Costs</b>	<b>\$ 3,199,395</b>	<b>\$ 360,477</b>	<b>\$ 63,097</b>	<b>\$ 3,622,969</b>



## NOTE 16: Program Costs by Category and Responsibility Segment (continued)

(Dollars in Thousands)	2019			
	Patent	Trademark	Intellectual Property Protection	Total
<b>Direct Costs</b>				
Personnel Services and Benefits	\$ 1,929,418	\$ 193,256	\$ 27,970	\$ 2,150,644
Travel and Transportation	1,609	196	1,244	3,049
Rent, Communications, and Utilities	76,613	8,515	3,303	88,431
Printing and Reproduction	150,209	30	6	150,245
Contractual Services	204,579	19,991	13,583	238,153
Training	2,633	164	53	2,850
Maintenance and Repairs	2,811	825	73	3,709
Supplies and Materials	40,470	1,086	446	42,002
Equipment not Capitalized	4,495	725	153	5,373
Insurance Claims and Indemnities	84	-	-	84
Depreciation, Amortization, and Loss on Asset Dispositions	132,483	26,970	818	160,271
<b>Subtotal Direct Costs</b>	<b>\$ 2,545,404</b>	<b>\$ 251,758</b>	<b>\$ 47,649</b>	<b>\$ 2,844,811</b>
<b>Allocated Costs</b>				
Automation	\$ 275,292	\$ 46,972	\$ 5,079	\$ 327,343
Resource Management	248,379	48,483	9,152	306,014
<b>Subtotal Allocated Costs</b>	<b>\$ 523,671</b>	<b>\$ 95,455</b>	<b>\$ 14,231</b>	<b>\$ 633,357</b>
<b>Total Program Costs</b>	<b>\$ 3,069,075</b>	<b>\$ 347,213</b>	<b>\$ 61,880</b>	<b>\$ 3,478,168</b>

## NOTE 17: Budgetary Resources

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Total budgetary resources are primarily comprised of congressional authority to spend current year fee collections. The USPTO receives an apportionment of Category A funds from OMB, which apportions budgetary resources by fiscal quarter. The USPTO does not receive any Category B funds, or those exempt from apportionment.

For FY 2020, the USPTO was appropriated up to \$3,450,681 thousand for fees collected during the fiscal year. For the year ended September 30, 2020, the USPTO collected \$232,382 thousand more than the amount apportioned through September 30, 2020 (over-collections of fees of \$231,883 thousand and net over-collections of other budgetary resources of \$499 thousand); excess fee collections of \$231,883 thousand were deposited into the Patent and Trademark Fee Reserve Fund and remain available until expended subject to reprogramming.

For FY 2019, the USPTO was appropriated up to \$3,370,000 thousand for fees collected during the fiscal year. For the year ended September 30, 2019, the USPTO collected \$24,581 thousand more than the amount apportioned through September 30, 2019 (over-collections of fees of \$28,740 thousand and under-collections of other budgetary resources of \$4,159 thousand); excess fee collections of \$28,740 thousand were deposited into the Patent and Trademark Fee Reserve Fund and remain available until expended subject to reprogramming.

Total budgetary resources also include carryover of prior year budgetary resources (operating reserve). Carryover is derived from year-end budgetary resources that have not been obligated. Usage of the fees in the following fiscal year is for compensation and operational requirements on a first-in, first-out basis. For FY 2020, the carryover amount that was brought into the fiscal year from FY 2019 was \$538,632 thousand. For FY 2019, the carryover amount that was brought into the fiscal year from FY 2018 was \$446,835 thousand.

As of September 30, 2020 and 2019, reimbursable obligations incurred were \$3,515,554 thousand and \$3,341,784 thousand, respectively.

### Funding Limitations

Pursuant to the Leahy-Smith America Invents Act (35 U.S.C. § 42(c)), all fees available to the Director under section 31 of the Trademark Act of 1946 are used only for the processing of trademark registrations and for other activities, services, and materials relating to trademarks, as well as to cover a proportionate share of the administrative costs of the USPTO.

Pursuant to the Leahy-Smith America Invents Act (35 U.S.C. § 42(c)), all fees available to the Director under sections 41, 42, and 376 of 35 U.S.C. are used only for the processing of patent applications and for other activities, services, and materials relating to patents, as well as to cover a proportionate share of the administrative costs of the USPTO.

Since FY 1992, the USPTO has not always been appropriated all of the fees that have been collected. The total temporarily unavailable fee collections pursuant to Public Law as of September 30, 2020 are \$1,171,348 thousand. Of this amount, certain USPTO collections of \$233,529 thousand were withheld in accordance with the OBRA of 1990, and deposited in a special fund receipt account at Treasury.

Pursuant to the *Consolidated and Further Continuing Appropriations Act, 2013* (Pub. L. No. 113-6), the USPTO has sequestered funds of \$147,733 thousand (8.6% of fees collected starting March 1, 2013 through the end of the fiscal year). The sequestered funds, while included in the USPTO Salaries and Expenses Fund, are not available for spending without further congressional action.

## NOTE 17: Budgetary Resources *(continued)*

### Undelivered Orders

In addition to the future lease commitments discussed in Note 11, the USPTO is obligated for the purchase of goods and services that have been ordered, but not yet received.

As of September 30, 2020, reimbursable undelivered orders consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Unpaid</b>	<b>Paid</b>	<b>Total</b>
Intragovernmental	\$ 26,763	\$ 4,050	\$ 30,813
With the Public	421,904	21,163	443,067
Total Undelivered Orders	<u>\$ 448,667</u>	<u>\$ 25,213</u>	<u>\$ 473,880</u>

As of September 30, 2019, reimbursable undelivered orders consisted of the following:

<i>(Dollars in Thousands)</i>	<b>Unpaid</b>	<b>Paid</b>	<b>Total</b>
Intragovernmental	\$ 29,578	\$ 3,924	\$ 33,502
With the Public	384,328	20,002	404,330
Total Undelivered Orders	<u>\$ 413,906</u>	<u>\$ 23,926</u>	<u>\$ 437,832</u>

## NOTE 18: Incidental Custodial Collections

Custodial collections represent miscellaneous general fund receipts, such as non-electronic patent filing fees, gains on foreign exchange rates, and employee debt finance charges. Custodial collection activities are considered immaterial and incidental to the mission of the USPTO.

<i>(Dollars in Thousands)</i>	<b>2020</b>	<b>2019</b>
Revenue Activity:		
Sources of Collections:		
Miscellaneous	\$ 321	\$ 331
Total Collections	321	331
Accrual Adjustments	-	-
Total Custodial Revenue	<u>321</u>	<u>331</u>
Disposition of Collections:		
Transferred to Others:		
Treasury	(321)	(331)
(Increase)/Decrease in Amounts Yet to be Transferred	-	-
Net Custodial Activity	<u>\$ -</u>	<u>\$ -</u>

## NOTE 19: Fiduciary Activities

Fiduciary activities are the collection or receipt, and the management, protection, accounting, and disposition by the federal government of cash or other assets in which non-federal individuals or entities have an ownership interest that the federal government must uphold. Fiduciary cash and other assets are not assets of the federal government and accordingly are not recognized on the proprietary financial statements.

The Patent Cooperation Treaty authorized the USPTO to collect patent filing and search fees on behalf of the World Intellectual Property Organization (WIPO), European Patent Office, Korean Intellectual Property Office, Russian Intellectual Property Organization, Australian Patent Office, Israeli Patent Office, Japanese Patent Office, and Intellectual Property Office of Singapore from U.S. citizens requesting an international patent. The Madrid Protocol Implementation Act authorized the USPTO to collect trademark application fees on behalf of the International Bureau of the WIPO from U.S. citizens requesting an international trademark.

*(Dollars in Thousands)*

	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<b>Schedule of Fiduciary Activity For the Year Ended September 30, 2020</b>			
Fiduciary Net Assets, Beginning of Year	\$ 12,912	\$ 2,185	\$ 15,097
Contributions	153,017	34,048	187,065
Disbursements To and on Behalf of Beneficiaries	(151,693)	(33,163)	(184,856)
Increase in Fiduciary Net Assets	1,324	885	2,209
Fiduciary Net Assets, End of Year	<u>\$ 14,236</u>	<u>\$ 3,070</u>	<u>\$ 17,306</u>

*(Dollars in Thousands)*

	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<b>Fiduciary Net Assets as of September 30, 2020</b>			
Cash and Cash Equivalents	\$ 14,236	\$ 3,070	\$ 17,306
Total Fiduciary Net Assets	<u>\$ 14,236</u>	<u>\$ 3,070</u>	<u>\$ 17,306</u>

## NOTE 19: Fiduciary Activities *(continued)*

*(Dollars in Thousands)*

	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<b>Schedule of Fiduciary Activity For the Year Ended September 30, 2019</b>			
Fiduciary Net Assets, Beginning of Year	\$ 13,862	\$ 704	\$ 14,566
Contributions	151,648	29,914	181,562
Disbursements To and on Behalf of Beneficiaries	(152,598)	(28,433)	(181,031)
(Decrease)/Increase in Fiduciary Net Assets	(950)	1,481	531
Fiduciary Net Assets, End of Year	<u>\$ 12,912</u>	<u>\$ 2,185</u>	<u>\$ 15,097</u>

*(Dollars in Thousands)*

	<b>Patent Cooperation Treaty</b>	<b>Madrid Protocol</b>	<b>Total Fiduciary Funds</b>
<b>Fiduciary Net Assets as of September 30, 2020</b>			
Cash and Cash Equivalents	\$ 12,912	\$ 2,185	\$ 15,097
Total Fiduciary Net Assets	<u>\$ 12,912</u>	<u>\$ 2,185</u>	<u>\$ 15,097</u>

## NOTE 20: Budget and Accrual Reconciliation

Most entity transactions are recorded in both budgetary and proprietary accounts. However, because different accounting guidelines are used for budgetary and proprietary accounting, some transactions may appear in only one set of accounts. The reconciliation of net outlays, presented on a budgetary basis, and the net cost, presented on an accrual basis, provides an explanation of the relationship between budgetary and financial accounting information. This reconciliation serves not only to identify costs paid for in the past and those that will be paid in the future, but also to assure integrity between budgetary and financial accounting. The analysis below illustrates this reconciliation by listing the key differences between net cost and net outlays. Net Outlays is composed of Gross Outlays less Offsetting Collections. The second section reverses out items included in Net Cost that are not part of Net Outlays. The third section adds items included in Net Outlays that are not part of Net Cost. Items that do not have a budgetary impact as of the Balance Sheet date, such as the undeposited checks for fees that were not processed, are not included in this reconciliation.

## NOTE 20: Budget and Accrual Reconciliation *(continued)*

For the years ended September 30, 2020 and 2019, the budget and accrual reconciliation is as follows:

	<b>2020</b>		
	<b>Intragovernmental</b>	<b>With the Public</b>	<b>Total</b>
<i>(Dollars in Thousands)</i>			
<b>NET COST/(INCOME) FROM OPERATIONS</b>	\$ 743,684	\$ (777,766)	\$ (34,082)
<b>COMPONENTS OF NET COST THAT ARE NOT PART OF NET OUTLAYS:</b>			
Property, Plant, and Equipment Depreciation	-	(205,944)	(205,944)
Property, Plant, and Equipment Disposal and Revaluation	-	(797)	(797)
Increase/(Decrease) in Assets:			
Accounts Receivable	(72)	130	58
Entity Undeposited Collections	-	20,964	20,964
Other Assets (Advances and Prepayments)	126	1,161	1,287
(Increase)/Decrease in Liabilities:			
Accounts Payable	322	2,405	2,727
Salaries and Benefits	(6,372)	(20,432)	(26,804)
Other Liabilities (Unfunded Leave and FECA)	55	(30,329)	(30,274)
Deferred Revenue	-	(48,156)	(48,156)
Other Financing Sources:			
Federal Employee Retirement Benefit Costs Paid by OPM and Imputed to the Agency	1,757	-	1,757
Other Imputed Financing	(30,005)	-	(30,005)
Total Components of Net Cost That Are Not Part of Net Outlays	(34,189)	(280,998)	(315,187)
<b>COMPONENTS OF NET OUTLAYS THAT ARE NOT PART OF NET COST:</b>			
Acquisition of Capital Assets	4,888	79,176	84,064
Total Components of Net Outlays That Are Not Part of Net Cost	4,888	79,176	84,064
<b>NET OUTLAYS</b>	<u>\$ 714,383</u>	<u>\$ (979,588)</u>	<u>\$ (265,205)</u>



## NOTE 20: Budget and Accrual Reconciliation *(continued)*

	2019		
	Intragovernmental	With the Public	Total
<i>(Dollars in Thousands)</i>			
<b>NET COST/(INCOME) FROM OPERATIONS</b>	\$ 718,752	\$ (629,255)	\$ 89,497
<b>COMPONENTS OF NET COST THAT ARE NOT PART OF NET OUTLAYS:</b>			
Property, Plant, and Equipment Depreciation	-	(227,456)	(227,456)
Property, Plant, and Equipment Disposal and Revaluation	-	(2,644)	(2,644)
Increase/(Decrease) in Assets:			
Accounts Receivable	59	(11)	48
Entity Undeposited Collections	-	645	645
Other Assets (Advances and Prepayments)	1,731	4,762	6,493
(Increase)/Decrease in Liabilities:			
Accounts Payable	(436)	(2,072)	(2,508)
Salaries and Benefits	(2,204)	(9,242)	(11,446)
Other Liabilities (Unfunded Leave and FECA)	58	(7,069)	(7,011)
Deferred Revenue	-	(14,042)	(14,042)
Other Financing Sources:			
Federal Employee Retirement Benefit Costs Paid by OPM and Imputed to the Agency	(50,474)	-	(50,474)
Other Imputed Financing	(31,137)	-	(31,137)
Total Components of Net Cost That Are Not Part of Net Outlays	(82,403)	(257,129)	(339,532)
<b>COMPONENTS OF NET OUTLAYS THAT ARE NOT PART OF NET COST:</b>			
Acquisition of Capital Assets	853	170,013	170,866
Total Components of Net Outlays That Are Not Part of Net Cost	853	170,013	170,866
<b>NET OUTLAYS</b>	\$ 637,202	\$ (716,371)	\$ (79,169)

## NOTE 21: COVID-19 Activity

The USPTO did not receive any budgetary resources under any of the COVID-19 supplemental appropriations acts during FY 2020 to prevent, prepare for, or respond to the COVID-19 pandemic.

## REQUIRED SUPPLEMENTARY INFORMATION

United States Patent and Trademark Office

### COMBINING SCHEDULE OF BUDGETARY RESOURCES BY MAJOR BUDGET ACCOUNT

The following table illustrates the USPTO's FY 2020 budgetary resources by major budget account.

*(Dollars in Thousands)*

	<b>Salaries and Expenses</b>	<b>Patent and Trademark Fee Reserve Fund</b>	<b>Combining Total</b>
<b>BUDGETARY RESOURCES</b>			
Unobligated Balance, Brought Forward	\$ 509,892	\$ 28,740	\$ 538,632
Recoveries of Prior Year Obligations	37,523	-	37,523
Unobligated Balance from Prior Year Budget Authority, Net (discretionary)	547,415	28,740	576,155
Spending Authority from Offsetting Collections (discretionary)	3,480,897	203,143	3,684,040
Total Budgetary Resources	<u>\$ 4,028,312</u>	<u>\$ 231,883</u>	<u>\$ 4,260,195</u>
<b>STATUS OF BUDGETARY RESOURCES</b>			
New Obligations	\$ 3,515,554	\$ -	\$ 3,515,554
Unobligated Balance, End of Year:			
Apportioned	510,135	231,883	742,018
Unapportioned	2,623	-	2,623
Total Status of Budgetary Resources	<u>\$ 4,028,312</u>	<u>\$ 231,883</u>	<u>\$ 4,260,195</u>
<b>OUTLAYS, NET</b>			
Net Collections (discretionary)	<u>\$ (265,205)</u>	<u>\$ -</u>	<u>\$ (265,205)</u>

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## Deferred Maintenance and Repairs

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Deferred maintenance and repairs (DM&R) are maintenance and repairs that were not performed when they should have been, that were scheduled and not performed, or that were delayed for a future period. Maintenance and repairs are activities directed towards keeping Property, Plant, and Equipment (PP&E) in acceptable operating condition. These activities include preventive maintenance, normal repairs, replacement of parts and structural components, and other activities needed to preserve the asset so that it can deliver acceptable performance and achieve its expected life. Maintenance and repairs exclude activities aimed at expanding the capacity of an asset or otherwise upgrading it to serve needs different from, or significantly greater than, those originally intended.

PP&E at the USPTO consist of furniture and fixtures, IT equipment, office and telecommunication equipment, leasehold improvements, and software. It is entity policy to ensure that all PP&E, regardless of recorded value, is maintained, preserved, and managed in a safe and effective manner. The USPTO conducts periodic user feedback meetings to evaluate the effectiveness of training, operations, maintenance, facilities, continuity of operations, and supporting documentation of automated systems. The USPTO prioritizes maintenance and repair projects to sustain its PP&E in good operating condition, including maintaining warranties. Funds are used to replace equipment on a regular cycle in order to keep operations and maintenance costs stable and low. Accordingly, DM&R do not arise for PP&E at the USPTO, and no periodic assessment is performed.

# INDEPENDENT AUDITORS' REPORT

U.S. PATENT AND TRADEMARK OFFICE





UNITED STATES DEPARTMENT OF COMMERCE  
Office of Inspector General  
Washington, D.C. 20230

November 12, 2020

**MEMORANDUM FOR:** Andrei Iancu  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office

A handwritten signature in black ink, appearing to be "RB", written over a horizontal line.

**FROM:** Richard Bachman  
Assistant Inspector General for Audit and Evaluation

**SUBJECT:** *United States Patent and Trademark Office FY 2020  
Financial Statements*  
Final Report No. OIG-21-008-A

I am pleased to provide you with the attached audit report, which presents an unmodified opinion on the United States Patent and Trademark Office's (USPTO's) fiscal year 2020 financial statements. KPMG LLP, an independent public accounting firm, performed the audit in accordance with U.S. generally accepted auditing standards, standards applicable to financial audits contained in *Government Auditing Standards*, and Office of Management and Budget Bulletin No. 19-03, *Audit Requirements for Federal Financial Statements*.

In its audit of USPTO, KPMG

- determined that the financial statements were fairly presented, in all material respects, and in accordance with U.S. generally accepted accounting principles;
- identified a significant deficiency in internal control over financial reporting related to information technology general controls in the areas of access controls and configuration management; and
- identified no instances of reportable noncompliance with applicable laws, regulations, contracts, and grant agreements.

KPMG is solely responsible for the attached audit report and the conclusions expressed in it. We do not express any opinion on USPTO's financial statements, any conclusions about the effectiveness of internal control over financial reporting, or any conclusions on compliance with applicable laws, regulations, contracts, and grant agreements.

This report will appear on our website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

We would like to thank USPTO's staff and management for its cooperation and courtesies extended to KPMG and my office during this audit.

Attachment



KPMG LLP  
Suite 12000  
1801 K Street, NW  
Washington, DC 20006

## Independent Auditors' Report

Inspector General, U.S. Department of Commerce, and  
Under Secretary of Commerce for Intellectual Property and  
Director of the U.S. Patent and Trademark Office:

### Report on the Financial Statements

We have audited the accompanying financial statements of the United States Patent and Trademark Office (USPTO), which comprise the balance sheets as of September 30, 2020 and 2019, and the related statements of net cost, changes in net position, and combined statements of budgetary resources for the years then ended, and the related notes to the financial statements.

#### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with U.S. generally accepted accounting principles; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

#### *Auditors' Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America, in accordance with the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and in accordance with Office of Management and Budget (OMB) Bulletin No. 19-03, *Audit Requirements for Federal Financial Statements*. Those standards and OMB Bulletin No. 19-03 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

#### *Opinion*

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the USPTO as of September 30, 2020 and 2019, and its net costs, changes in net position, and budgetary resources for the years then ended in accordance with U.S. generally accepted accounting principles.





## **Other Matters**

### *Interactive Data*

Management has elected to reference to information on websites or other forms of interactive data outside the Performance and Accountability Report to provide additional information for the users of its financial statements. Such information is not a required part of the basic financial statements or supplementary information required by the Federal Accounting Standards Advisory Board. The information on these websites or the other interactive data has not been subjected to any of our auditing procedures, and accordingly we do not express an opinion or provide any assurance on it.

### *Required Supplementary Information*

U.S. generally accepted accounting principles require that the information in the Management's Discussion and Analysis and Required Supplementary Information sections be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audits of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

## **Other Information**

Our audits were conducted for the purpose of forming an opinion on the basic financial statements as a whole. The Message, Introduction, Performance Information, Message from the Chief Financial Officer, Other Information, Glossary of Acronyms and Abbreviations, and Index of URLs, as listed in the Table of Contents, are presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has not been subjected to the auditing procedures applied in the audits of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

## **Other Reporting Required by Government Auditing Standards**

### *Internal Control over Financial Reporting*

In planning and performing our audit of the financial statements as of and for the year ended September 30, 2020, we considered the USPTO's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the USPTO's internal control. Accordingly, we do not express an opinion on the effectiveness of the USPTO's internal control. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.



Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that have not been identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. We did identify certain deficiencies in internal control, described in Exhibit 1, that we consider to be a significant deficiency.

*Compliance and Other Matters*

As part of obtaining reasonable assurance about whether the USPTO's financial statements as of and for the year ended September 30, 2020 are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 19-03.

*USPTO's Response to Findings*

The USPTO's response to the finding identified in our audit is described in Exhibit 1. The USPTO's response was not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on the response.

*Purpose of the Other Reporting Required by Government Auditing Standards*

The purpose of the communication described in the Other Reporting Required by *Government Auditing Standards* section is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the USPTO's internal control or compliance. Accordingly, this communication is not suitable for any other purpose.

*KPMG LLP*

Washington, District of Columbia  
November 6, 2020

## Exhibit I – Significant Deficiency

### Information Technology General Controls

During fiscal year (FY) 2020, certain deficiencies existed surrounding information technology (IT) general controls associated with a specific USPTO database reporting system, that we considered collectively to be a significant deficiency under the standards issued by the American Institute of Certified Public Accountants. Specifically, we identified the following deficiencies:

- **Access controls:** The objectives of limiting access are to ensure that users have only the access needed to perform their duties, that access to sensitive resources is limited to few individuals, that access is appropriately reviewed and monitored, and that employees are restricted from performing incompatible functions or duties beyond their responsibility. In this area, we identified a deficiency in that management did not implement its password authentication controls for a reporting database server in accordance with USPTO policy.
- **Configuration management:** The objectives of configuration management are to ensure that hardware, software and firmware programs, and program modifications are properly authorized, tested, approved, and maintained; that access to and distribution of programs is carefully controlled; and that integrity of the application controls is maintained. In this area, we identified operating system software underpinning the same reporting database server was no longer supported by the vendor.

The data reported by this system is a key component in operational and financial reporting of USPTO's mission. Accurate reporting of this data is important to both internal and external parties. We note that the above deficiencies impact the system's reported information, and not the source data directly. However, the IT control deficiencies pose a risk to the integrity of the data used by management and others. Management has certain compensating controls to mitigate, but not eliminate, the effect of the observed deficiencies. Further, management stated that proper password controls were implemented on September 21, 2020. We have considered such compensating controls as part of our audit.

The relevant criteria are DOC and USPTO policies and various Federal standards and guidance such as (1) The U.S. Government Accountability Office's (GAO's) *Standards for Internal Control in the Federal Government*, dated September 2014, and (2) NIST SP 800-53 Rev. 4, *Security and Privacy Controls for Federal Information Systems and Organizations*.

#### *Recommendations*

Because of the sensitive nature of IT controls, certain information has been omitted from this report. We provided USPTO's management with a separate limited use report that includes specific information about the control deficiencies, our understanding of the specific causes of the control deficiencies, and our recommendations.

#### **Management's Response**

In general, we agreed with the auditors' findings, conclusions, and recommendations related to improving the USPTO's IT general controls supporting the financial management systems and supporting infrastructure controls. The USPTO is in the process of developing corrective action plans to address the recommendations presented in the separate limited use report.





# OTHER INFORMATION

Unaudited. Please see the accompanying auditors' report.

U.S. PATENT AND TRADEMARK OFFICE

# SUMMARY OF FINANCIAL STATEMENT AUDIT AND MANAGEMENT ASSURANCES

TABLE 1: SUMMARY OF FINANCIAL STATEMENT AUDIT

Audit Opinion	Unmodified				
Restatement	No				
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Ending Balance
NONE	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0

TABLE 2: SUMMARY OF MANAGEMENT ASSURANCES

Effectiveness of Internal Control over Financial Reporting (FMFIA § 2)						
Statement of Assurance	Unmodified					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Effectiveness of Internal Control over Operations (FMFIA § 2)						
Statement of Assurance	Unmodified					
Material Weaknesses	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Conformance with Financial Management System Requirements (FMFIA § 4)						
Statement of Assurance	Systems conform to financial management system requirements					
Non-Conformances	Beginning Balance	New	Resolved	Consolidated	Reassessed	Ending Balance
NONE	0	0	0	0	0	0
Total Non-Conformances	0	0	0	0	0	0
Compliance with Federal Financial Management Improvement Act (FFMIA)						
	Agency			Auditor		
1. System Requirements	No lack of compliance noted			No lack of compliance noted		
2. Accounting Standards	No lack of compliance noted			No lack of compliance noted		
3. USSGL at Transaction Level	No lack of compliance noted			No lack of compliance noted		



# INSPECTOR GENERAL'S TOP MANAGEMENT CHALLENGES FACING THE USPTO

The USPTO is responsible for resolving the fourth Departmental management challenge—Strengthening Confidence in Intellectual Property (IP) Rights. The USPTO is also responsible for continuing to improve its own cybersecurity posture and for preparing its own acquisition workforce to administer and monitor USPTO resources in support of resolving the fifth and seventh Department-wide management challenges.



UNITED STATES DEPARTMENT OF COMMERCE  
Office of Inspector General  
Washington, D.C. 20230

October 15, 2020

## INFORMATION MEMORANDUM FOR SECRETARY ROSS

A handwritten signature in black ink, appearing to read "Peggy E. Gustafson".

**FROM:** Peggy E. Gustafson  
Inspector General

**SUBJECT:** *Top Management and Performance Challenges Facing the Department of Commerce in Fiscal Year 2021*  
Final Report No. OIG-21-003

The Office of Inspector General (OIG) is required by statute<sup>1</sup> to report annually the most serious management and performance challenges facing the U.S. Department of Commerce (the Department). Attached is our final report on the Department's top management and performance challenges for fiscal year 2021.

For each challenge identified within this memorandum, please find brief descriptions of the issues discussed in greater detail in the report.

### **Challenge 1: Establishing a Solid Foundation for 2030 Decennial Research and Testing and Ensuring That the Census Bureau Adequately Vets Candidates for Employment**

- Ensuring an accurate count
- Ensuring that lessons learned from the 2020 Census are an essential part of success in 2030
- Assessing 2020 Census successes and areas needing improvement
- Developing a testing schedule that ensures completion of tests as planned and anticipates funding needs
- Ensuring only candidates suitable for federal government employment are hired

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<sup>1</sup> 31 U.S.C. § 3516(d).



**Challenge 2: Addressing Risks and Progressing Toward a New Architecture for Satellite Systems**

- Meeting launch readiness challenges of next-in-series polar and geostationary satellites
- Making progress toward a next-generation satellite system architecture
- Managing spectrum risks to observations, operations, and communications
- Establishing the Department's role in space traffic management

**Challenge 3: Deploying a Nationwide Public Safety Broadband Network (NPSBN)**

- Ensuring the successful performance of the contract
- Reinvesting capital effectively and efficiently to upgrade and modernize the NPSBN
- Maintaining effective engagement with public safety community

**Challenge 4: Strengthening Confidence in Intellectual Property (IP) Rights**

- Managing IP rights in a changing environment
- Managing impacts related to the coronavirus disease (COVID-19)
- Ensuring new technology delivers quality IP
- Improving management of information technology (IT) operations

**Challenge 5: Continuing to Improve the Department's Cybersecurity Posture**

- Implementing strong security measures to safeguard decennial census data
- Sustaining modernization priority of the Department's legacy systems to strengthen IT security posture
- Securing the First Responder Network Authority to protect public safety
- Consistently implementing the Department's enterprise IT security policies and procedures

**Challenge 6: Refining Processes for Trade Remedies Against Imports That Threaten to Impair National Security**

- Evaluating and improving processes for adjudicating Section 232 exclusion requests

**Challenge 7: Improving Management and Oversight of Contracts and Grants**

- Ensuring effective oversight and monitoring of the Department’s management of emergency and disaster relief funds
- Managing contract and program performance
- Developing and retaining a competent acquisition workforce to support the Department’s mission

In the midst of the COVID-19 pandemic, the Department faces an additional set of oversight challenges to ensuring that Coronavirus Aid, Relief, and Economic Security Act (CARES Act)<sup>2</sup> funds are timely and appropriately spent. On June 18, 2020, we issued a management alert<sup>3</sup> to the Deputy Secretary of Commerce, detailing the most significant challenges to the Economic Development Administration (EDA) and the National Oceanic and Atmospheric Administration (NOAA) Fisheries about their ongoing disaster relief efforts—as well as Department-wide acquisition and grants workforce, award monitoring, and file management challenges. Finally, we noted the Department’s challenge of mitigating the risk of fraud, waste, and abuse created by the significant influx of funds to be distributed quickly. A great sense of urgency has arisen in response to the COVID-19 outbreak. However, as past OIG work responding to stimulus and recovery programs has done, we advise that—in the rush to disseminate stimulus funding—the Department provide the necessary, additional guidance to direct spending more effectively and to track and report more meaningful results.

We remain committed to keeping the Department’s decision-makers informed of problems identified through our audits and investigations so that timely corrective actions can be taken. The final version of the report will be included in the Department’s *Annual Financial Report*, as required by law.<sup>4</sup>

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<sup>2</sup> The CARES Act (Pub. L. No. 116-136) was signed into law on March 27, 2020, to respond to the COVID-19 outbreak and its impact on the economy, public health, state and local governments, individuals, and businesses. This law contains several provisions related to the Department, including appropriations to EDA, NOAA, the National Institute of Standards and Technology, and the Minority Business Development Agency.

<sup>3</sup> U.S. Department of Commerce Office of Inspector General, June 18, 2020. *Management Alert: Top Oversight Challenges Facing the Department of Commerce to Ensuring That Pandemic Funds Are Timely and Appropriately Spent*, OIG-20-031-M. Washington, DC: DOC OIG.

<sup>4</sup> 31 U.S.C. § 3516(d).

We appreciate the cooperation received from the Department, and we look forward to working with you and the Secretarial Officers in the coming months. If you have any questions concerning this report, please contact me at (202) 482-4661.

## OTHER ADMINISTRATIVE UPDATES

### Optimize Workspace to Meet Workforce Needs

#### USPTO Facility and Lease Enhancements

The USPTO is 90% of the way through a multi-year renovation project to enhance the heating, cooling, fire suppression, and electrical systems that serve and protect the data center. The improvements have included a new independent chiller system and backup generator; redesign and reconfiguration of the data center's server configuration; conversion to a pre-action, dry fire suppression system; and general improvements to all the necessary infrastructure, which serve as independent systems separate from the current base building systems.

In an effort to create a more ergonomic work environment, the USPTO launched the Campus Furniture Initiative in early 2018. This program offered personnel at the Alexandria campus and the Detroit regional office a height-adjustable table, storage pedestals, and light emitting diode (LED) task lamps. These workspace options gave employees the ability to enhance their ergonomic capabilities, which can lead to greater productivity, increased stamina, and improved wellness. This project was completed in early FY 2020 and provided over 6,000 height-adjustable tables and 475 height-adjustable workstations for the USPTO workforce.

To create spaces that allow for innovative thinking and collaboration, the USPTO created eight additional collaboration labs in the Knox, Randolph, Remsen, and Jefferson Buildings. Research finds that innovation occurs through less-structured socially-oriented exchanges. Providing flexible spaces that support multiple work styles allows the USPTO to meet the needs of today's workforce.

An agile team floor was created on the third floor of the Jefferson Building to provide space for 20 Agile IT development teams to work and collaborate. The environment features flexible workspaces to support the agile work model.

To ensure that our staff and buildings are more secure, the USPTO awarded a project to construct bollards at

building entrances within the Alexandria Campus. Additionally, security guard desks will be upgraded with a ballistic shield to provide protection for our security officers. Construction started in late FY 2020 and will continue through FY 2021.

The USPTO recarpeted and repainted our leased area within the Randolph Square Building. The USPTO first moved into this space in 2007 and, up until this project, had the original carpet and paint. This project started in October 2019 and took five months to complete. The USPTO was able to leverage a surplus of Tenant Improvement funds to finance this project.

The GSA awarded the Randolph Square lease to the incumbent lessor. The new lease decreased our annual rent from approximately \$6.8 million to \$5.3 million for a savings of \$1.5 million in FY 2020, and approximately \$1 million annually thereafter.

The introduction of Micro Markets in the Jefferson and Knox buildings replaced 36 vending machines, streamlining vending operations with a wider array of food selections and self-checkout (operated by the Blind Industries under the Randolph-Sheppard Act). The installation has produced an estimated 78,800 kilowatt-hours (kWh) per year energy reduction and will reduce energy costs by approximately \$5,500 per year.

The USPTO began taking proactive actions with respect to the COVID-19 virus as early as February 2020, approximately a month before the World Health Organization declared it a pandemic. Those actions included an increase in the frequency of cleaning all high touch areas throughout USPTO spaces such as interior common areas, public areas, restrooms, pantries, service centers, public facing special spaces, doors, and elevator buttons. Hand sanitizer dispensers are available at central building locations. The USPTO also posted CDC guidance, face covering requirements, and safety reminders in strategic locations throughout USPTO spaces that include signage and digital messaging. COVID-19 information is also displayed for employees on the USPTO Weekly available on the intranet site.

#### Energy and Environmental Impact

The USPTO supports the Energy Policy Act of 2005 statutory requirement toward the clean energy goal to

purchase at least 7.5% of total electricity consumption from renewable sources. In FY 2020, the USPTO purchased 7,000 RECs (renewable energy certificates, 1 REC = 1 megawatt-hour (MWh)), representing renewable energy generated on the grid.

The USPTO Alexandria campus reduced energy consumption by 3.8% in FY 2019. The campus earned the Environmental Protection Agency's ENERGY STAR certification in 2019 for the 8th consecutive year. The award was issued to LCOR, the building lessor. In the first six months of FY 2020, electricity use was down by 2,741,000 kWh or -7.8% compared to the same period in FY 2019.

To further improve the facility's energy efficiency, the USPTO completed the installation of LED office lighting in the Madison West and in the Carlyle and Elizabeth townhouses in September 2019. The project replaced existing T-8 lamps with LEDs—a reduction of 51 watts per fixture—and extended lamp life by 20,000 hours. The LED lighting is expected to save approximately 633,650 kWh and \$44,356 annually.

Altogether, these initiatives will save energy, reduce costs, and help to reduce greenhouse gas emissions such as Scope 1 (purchased electricity) and Scope 2 (direct combustion). Greenhouse gas Scope 3 emissions are from business air and ground travel and employee commuting, the largest source of Scope 3 emissions. The USPTO's telework employees contribute significantly to reducing commuting emissions, saving fuel, and reducing local road congestion. As of the second quarter FY 2020, 11,185 or 88% of eligible employees were teleworking agency-wide. The mandatory/maximum telework due to COVID-19 has further reduced Scope 3 emissions.

The USPTO achieved 63% waste diversion in the previous fiscal year, exceeding the annual 50% minimum goal. The USPTO has been able to achieve this goal each year since FY 2010. In addition to recycling bottles, cans, plastic containers, paper, and toner cartridges, the agency also recycles or donates used furniture and electronics for reuse by other agencies or schools. The USPTO also collects unwanted office supplies for redistribution to other USPTO business units through its office supply exchange store, effectively reducing waste and saving unnecessary expense to the agency.

The USPTO's non-recyclable non-hazardous solid waste is transferred to the Eisenhower Avenue energy-from-waste facility, where it is converted to renewable energy, reducing greenhouse gas emissions.

### **Optimize Resources**

The USPTO's Asset Management Program is responsible for tracking nearly 118,000 assets, including laptops, desktop and audio/visual equipment, photocopiers, switches, iPads, printers, routers, servers, and televisions. Due to several technical enhancements and process changes, the workload of USPTO property custodians has been reduced by over 77%, resulting in the redirection of hundreds of hours of effort to other mission needs. Examples of these improvements to the quarterly process of verifying each trackable asset include: (1) increasing the radio frequency identification electronic identification rate to over 80% (in most cases reducing the time required for property custodians to locate assets), (2) reducing the number of property custodians for the USPTO from 807 part-time property custodians to 282, and (3) decreasing the number of inventories for campus assets required per year from four to two.

We are also collaborating with GSA to interface the USPTO asset management tracking system with the GSAXcess system, for the disposal of excess/surplus property. The process will electronically allow the transfer of excess/surplus property from the USPTO asset system to the GSAXcess system.

Property disposed through the GSAXcess system is transferred to other government agencies, donated to schools, sold to the public through auctions, or recycled. The ultimate goal is to promote reuse, thereby preserving the environment, protecting natural resources, and generating revenue. In FY 2019, USPTO recovered \$547,000 through a GSA auction from the sale of surplus items.

### **Workforce Services**

The USPTO is making improvements to its document and graphics delivery strategy by converting its value-added copier service program from buying to leasing to meet the customers' needs in a streamlined and cost-effective

manner. The leasing of copiers will significantly reduce overhead costs, simplify operations, and provide better service.

We consolidated the procurement for TEAPP supplies, enabling us to standardize the processes to take advantage of cost savings such as economies of scale, time savings, discounts from volume purchases, reduction in unit cost, and transaction cost savings from volume delivery. Putting in place a just-in-time fulfillment contractual agreement eliminates inventory and minimizes hours for the operation, saving costs of over \$100,000.

In FY 2020, the USPTO will return two commercially leased automobiles in order to round out its USPTO fleet to include five GSA E85 fuel-efficient, hybrid vehicles.

**Safety and Health**

We have initiated several projects that will further improve the USPTO’s responses to potential security threats. This includes technological enhancements, such as upgrading the emergency radio communication system with modern equipment, which will extend coverage to all the Regional Offices, and upgrades to the USPTO’s security access control system.

In addition, we continue to support initiatives by the National Background Investigations Bureau (NBIB) regarding the investigation of employees by releasing approximately 1,325 investigation actions during the fiscal year. The agency awarded a new five-year security officer contract to Centerra, which started operations on February 15, 2020. There were no issues with the changeover, and the company assumed security operations seamlessly.

Because of COVID-19, the USPTO proactively updated the agency pandemic plan in January 2020 and helped guide the agency successfully in shifting to mandatory/maximum telework for all USPTO employees, controlled and managed access to USPTO facilities, formulated policies for re-opening the agency, and collected and produced daily personnel count reports (for both employees and contractors) in all agency facilities.

The USPTO continued to improve the safe and healthful working environment for its workforce. In preparation for



The USPTO has teamed with INOVA Blood Services of Virginia to collect more than 10,000 units of blood over the recent years, potentially saving many lives in the National Capital Region. The City of Alexandria and the Mayor, the Honorable Justin M. Wilson, formally recognized the USPTO for surpassing this milestone. (USPTO photo)

re-opening our facilities under Phase 1 following the COVID-19 response, we procured equipment for employees including 100,000 face coverings, hand sanitizer products, gloves, disinfectant wipes, and numerous other sanitation products to ensure key USPTO operations were able to continue functioning safely throughout the pandemic and through the phases of re-opening.

The USPTO finalized incorporating safety into the Wellness Council charter to increase safety awareness, involvement, and accountability. Additionally, the Safety Division finalized the Occupational Safety and Health Award Program, which will officially recognize commendable contributions to safety and health programs by individuals, supervisors, groups, activities, and organizations. The new Wellness and Safety Council continued the implementation of the comprehensive Injury and Illness Prevention Program throughout the agency, which includes safety and occupational health training, mishap reporting/prevention, inspection and hazard abatement, and evaluation and analysis. The USPTO continues to assess workspaces for potential hazards and coordinated monthly blood donations through INOVA Blood Services. The USPTO has teamed with INOVA Blood Services of Virginia to collect more than 10,000 units of blood over the recent years, potentially saving many lives in the National Capital Region. The City of Alexandria and the Mayor, the Honorable Justin M. Wilson, formally recognized the USPTO for surpassing this milestone.



## PAYMENT INTEGRITY

The Payment Integrity Information Act of 2019 (PIIA) requires agencies to periodically review all programs and activities and identify those that may be susceptible to significant improper payments, take multiple actions when programs and activities are identified as susceptible to significant improper payments, and annually report information on their improper payments monitoring and minimization efforts. *OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control, Appendix C, Requirements for Effective Measurement and Remediation of Improper Payments*, provides guidance to agencies to comply with PIIA and for agency improper payments efforts. The USPTO has not identified any programs or activities susceptible to significant improper payments or any significant problems with improper payments.

The USPTO recognizes the importance of maintaining adequate internal controls to ensure the accuracy and integrity of payments made by the agency, and the USPTO maintains a strong commitment to continuous improvement in the overall disbursement management process. For FY 2020 and beyond, the USPTO will continue its efforts to ensure the integrity of its disbursements.

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### Risk Assessment

A review of all programs and activities that the USPTO administers is performed annually to assist in identifying, reporting, and/or preventing erroneous or improper payments. This review was completed in FY 2020.

The USPTO annually conducts an assessment of the effectiveness of internal control over financial reporting, in compliance with OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*. Furthermore, every three years, the assessment includes a review of internal controls over disbursement processes. The most recent review performed in FY 2018 indicated that current internal controls over disbursement processes were sound.

The USPTO completes an annual improper payments risk assessment covering all of its programs/activities as required by *OMB Circular A-123, Appendix C*. These improper payments risk assessments of the entity's programs/activities also include assessments of the control and procurement environment. The improper payments program/activity risk assessment has revealed no risk-susceptible programs.

The results of the USPTO assessments revealed no risk-susceptible programs, and demonstrated that, overall, the USPTO has strong internal controls over disbursement processes, the amount of improper payments by the USPTO is immaterial, and the risk of improper payments is low.

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### Statistical Sampling

As the USPTO does not have any programs or activities that are susceptible to significant improper payments, a statistical sampling process has not been conducted to estimate the improper payment rate for USPTO programs and activities.

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### Improper Payments Reporting, Root Causes, and Corrective Actions

During FY 2020, the improper payments for all USPTO programs and activities amounted to \$3.9 million, or 0.1% of total outlays. As the USPTO does not have any programs or activities that are susceptible to significant improper payments, an improper payment reduction outlook, root cause analyses, and corrective actions are not presented for USPTO programs and activities.

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## Accountability

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The USPTO has not identified any significant problems with improper payments. During FY 2020, the improper payments for all USPTO programs and activities did not exceed the statutory thresholds for increased reporting. The USPTO recognizes the importance of maintaining adequate internal controls to ensure proper payments, and its commitment to continuous improvement in disbursement management processes remains very strong. The USPTO's CFO has responsibility for establishing policies and procedures for assessing USPTO and program risks of improper payments, taking actions to reduce improper payments, and reporting the results of the actions to management for oversight and other actions as deemed appropriate. The CFO has designated the Deputy CFO to oversee initiatives related to reducing improper payments within the USPTO.

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## Recaptures of Improper Payments

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### Payment Recapture Audits

The USPTO does not currently conduct recapture audits, as prior recapture audit activity did not yield any meaningful results. As recapture audits were deemed not cost effective for the USPTO, payment recapture rates, disposition of recaptured funds, and aging of outstanding overpayments are not presented for USPTO programs and activities.

### Overpayments Recaptured Outside of Payment Recapture Audits

The following table summarizes the USPTO's overpayments identified, and overpayments verified as recaptured through sources other than payment recapture audits that are reportable in the current fiscal year and that were reported in prior fiscal years. Prior fiscal years' amounts represent amounts reported for

FY 2011 through FY 2019, as FY 2011 was the first fiscal year for this reporting requirement. Amounts recaptured for current year reporting include payment recaptures during FY 2020 of both improper payments reported in FY 2020 and improper payments reported in prior fiscal years.

The USPTO continues to enhance its processes by identifying and implementing additional procedures to prevent and detect improper payments. In FY 2020, the USPTO continued its reporting procedures to senior management and to the Department of Commerce on improper payments and payment recaptures data, identifying the nature and magnitude of any improper payments along with any necessary control enhancements to prevent further occurrences of the types of improper payments identified. The USPTO's analysis of the data reported reflects that improper payments were below 0.2% in FY 2020 and FY 2019. The USPTO has additionally reviewed all financial statement audit comments and results of other payment reviews for indications of breaches of disbursement controls. None of these audit comments or reviews have uncovered any significant problems with improper payments or the internal controls applied to disbursements.

The USPTO has improper payments monitoring and minimization efforts in place, including the identification of improper payments through post-payment reviews and contract closeout reviews. The USPTO seeks to identify overpayments and erroneous payments by reviewing (1) credit memos and refund checks issued by vendors or customers and (2) undelivered electronic payments returned by financial institutions. The USPTO also inquires monthly with business units about whether they, through the contract oversight process, identified any improper payments that occurred. In addition, the USPTO has implemented process improvements to minimize erroneous payments resulting from vendor payment assignments, which have historically been the source of the larger improper payments. A master file is now being kept for all assignments and is available to all payment technicians and approvers. Technicians and approvers are also reminded periodically to monitor assignments.

Overpayments Recaptured Outside of Recapture Audits (Dollars in Millions)						
Source of Overpayments	Current Year (CY)		Prior Years (PY)		Cumulative (CY + PY)	
	Amount Identified for Payment Recapture	Amount Recaptured	Amount Identified for Payment Recapture	Amount Recaptured	Cumulative Amount Identified for Recapture	Cumulative Amount Recaptured
Post-Payment Reviews	\$ 3.18	\$ 3.90	\$ 2.88	\$ 1.86	\$ 6.06	\$ 5.76
Audits and Other Reviews	0.11	0.04	0.20	0.14	0.31	0.17
Reported by Vendors	0.33	0.33	5.16	5.15	5.49	5.48
<b>Total</b>	<b>\$ 3.62</b>	<b>\$ 4.27</b>	<b>\$ 8.24</b>	<b>\$ 7.15</b>	<b>\$ 11.86</b>	<b>\$ 11.41</b>

## Agency Reduction of Improper Payments with the Do Not Pay Initiative

During FY 2013, the USPTO implemented a periodic vendor record eligibility validation process using Do Not Pay Initiative databases to prevent improper payments. This process is ongoing with no significant impact. In addition, the USPTO has incorporated the following PIIA listed Do Not Pay databases into existing business processes and programs:

1. The Death Master File of the Social Security Administration

2. GSA's Excluded Parties List System/System for Award Management

3. OMB Circular A-123, Appendix C, Requirements for Payment Integrity Improvement

The USPTO has implemented a monthly batch process post-payment screening of an applicable subset of payments to identify any improper payments and to take any appropriate recovery or corrective and preventative actions. The USPTO has also implemented continuous monitoring of an applicable subset of active vendor records to ensure that vendors are not subject to payment and procurement restrictions. Results are used to better maintain vendor records to reduce or prevent improper payments and awards. During FY 2020, the validation processes using the Do Not Pay Initiative databases have not resulted in the identification or reduction of any improper payments or awards.

Results of the Do Not Pay Initiative in Preventing Improper Payments (\$ in millions)						
	Number (#) of payments reviewed for possible improper payments	Value (\$) of payments reviewed for possible improper payments	Number (#) of payments stopped	Value (\$) of payments stopped	Number (#) of potential improper payments reviewed and determined accurate	Value (\$) of potential improper payments reviewed and determined accurate
Reviews with the PIIA Specified Databases	18,403	\$791.1	0	\$0	0	\$0
Reviews with Other Databases Not Listed in PIIA	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable

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## Fraud Reduction Report

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The PIIA provides the requirement to improve federal agency financial and administrative controls and procedures to assess and mitigate fraud risks, and to improve federal agencies' development and use of data analytics for the purpose of identifying, preventing, and responding to fraud, including improper payments.

The USPTO considers the risk of fraudulent financial reporting and misappropriation of assets via internal controls and subsequent reviews. Procedures are in place to monitor internal controls on a consistent basis, including approvals, authorizations, verifications, reconciliations, performance reviews, security activities, and the production of records and documentation. Restricted access to financial management systems and account access rights help to reduce the opportunity for fraudulent financial activities. In addition, segregation of duties ensures that roles are separated appropriately to lessen the likelihood of waste, abuse, fraudulent financial reporting, and misappropriation of assets.

Control activities occur at all levels of the organization and are reviewed annually to assess the risk of errors or irregularities due to fraud. The reviews performed for OMB Circular A-123 Appendix A test internal controls over financial reporting related to the reliability of financial statements, including a risk assessment performed at the beginning of the review and a risk-based approach to test financial controls. Throughout the year, variance analyses are performed to identify trends and possible discrepancies that could indicate fraud or waste in order to investigate and correct the identified controls before the potential errors are included in the financial statements.

Within the federal government, payroll, large contracts, and purchase and travel cards have been identified as having an increased risk and vulnerability of fraud. Whistleblower and fraud, waste, and abuse complaints are received and reviewed by the OIG.

The USPTO does not tolerate time and attendance abuse or other types of misconduct and will continue to take appropriate steps to avoid and address any such misconduct. Valuable suggestions received from inside and outside the USPTO have been used to develop new policies and strengthen existing policies to increase time and attendance accountability. The USPTO has recently invested significant time and effort to improve the already extensive workforce measures aimed at preventing time and attendance abuse and to continue the USPTO's focus on accountability. The USPTO has a policy on time and attendance tools, communication, and collaboration. It gives employees clear guidance on time and attendance policies and automated tools that provide transparency to both managers and employees. All USPTO employees receive training on time and attendance requirements, as well as work schedules and leave policies, and will continue to receive similar training on an ongoing basis.

The USPTO has the authority to use any contract type that it deems to be in the best interest of meeting the agency's mission. Although the USPTO is not statutorily required to provide a written justification when using high-risk contract types, as a matter of good business practice the USPTO Office of Procurement (OP) has established the requirement for contracting officers to provide a rationale in the Acquisition File Documentation when a high-risk contract type has been selected. High-risk contract types include noncompetitive contracts, single offer contracts, cost-reimbursement contracts, time-and-material contracts, labor-hour contracts, incentive contracts, and indefinite-delivery contracts. As part of the rationale, contracting officers must establish why it is in the best interest of the USPTO to use the high-risk contract type, the planned risk mitigation for using a high-risk contract vehicle, and what steps are being taken to avoid use of high-risk contract types in the future. The risk mitigation included for in the contract includes various mechanisms for frequent contract surveillance.

The USPTO's OP continuously monitors and updates internal control measures and processes to manage the USPTO's Purchase Card Program, as does the Office of Finance for the USPTO Travel Card Program. This

includes certifying that the appropriate policies and controls are in place and corrective actions have been taken to mitigate the risk of fraud and inappropriate charge card practices. In addition, the Office of Finance collaborated with the Office of Human Resources Employee Relations Division to establish new monthly procedures to monitor, report, and manage travel card delinquencies and potential card misuse.

The USPTO also works to improve the development and use of data analytics for the purpose of identifying, preventing, and responding to fraud. Trademark applications worldwide continue to increase as entrepreneurs and businesses better recognize the value of acquiring and protecting intellectual property. A trademark is an attractive asset, so there is an inherent risk of improper filings that seek to capitalize on that

value. This risk threatens the integrity and quality of the examination and registration processes. Trademarks works diligently to identify, neutralize, and, more importantly, reduce such filings to improve the effectiveness of operations. In FY 2020, the Trademark Special Task Force collaborated with the Trademark Analytics group to identify and mitigate the impact of various threats by leveraging the capabilities of data analytics. The USPTO's capabilities in this field are rapidly increasing, with advanced analytical methodologies and greater data processing capacity. As part of a broader enterprise risk management framework that includes the implementation of mandatory electronic filings in February of this year, these advances will allow Trademarks to continue its progress in addressing improper behavior to ensure the integrity and prestige of the United States Trademark Register.

## REAL PROPERTY

The USPTO has occupancy agreements with the General Services Administration (GSA) for office space that GSA owns or leases on our behalf. Information regarding USPTO GSA-owned or GSA-leased property is available at [www.gsa.gov/tools-overview/buildings-real-estate-etools/inventory-of-gsa-owned-and-leased-properties](http://www.gsa.gov/tools-overview/buildings-real-estate-etools/inventory-of-gsa-owned-and-leased-properties). USPTO location codes are: VA0014, CO0039, TX0057, VA0831, MI2082, VA0033, and VA0815.

In addition, the USPTO has direct leasing authority. USPTO-direct leased real property is reported to GSA once every fiscal year. Persons seeking to use the federal real property public (FRPP) data set should be aware that the data provided through this site may not reflect the current inventories of the executive branch agencies that submit data to FRPP; the data set can be found at [www.gsa.gov/reference/reports/real-property-reports](http://www.gsa.gov/reference/reports/real-property-reports). The real property IDs for USPTO properties are: 00000105, 00000106, and 00000114.

## CIVIL MONETARY PENALTY ADJUSTMENT FOR INFLATION

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, requires agencies to make regular and consistent inflationary

adjustments of civil monetary penalties to maintain their deterrent effect. There were no civil monetary penalties assessed by the USPTO during FY 2020.

## BIENNIAL REVIEW OF USER FEES

The CFOs Act of 1990 requires a biennial review of agency fees, rents, and other charges imposed for services and things of value it provides to specific beneficiaries as opposed to the American public in general. The objective of the review is to identify such activities and to begin charging fees, where permitted by law, and to periodically adjust existing fees to reflect current costs or market value so as to minimize general taxpayer subsidy of specialized services or things of value (e.g., rights or privileges) provided directly to identifiable non-federal beneficiaries. The USPTO is a fully fee funded agency without a subsidy of general taxpayer revenue. The USPTO uses Activity Based Costing (ABC) to calculate the cost of activities performed for each fee and uses this information to evaluate and inform the setting of fees. When appropriate, fees are adjusted to be consistent with legislative requirements to recover the full cost of the goods or services provided to the public.

Consistent with the provisions of the CFO Act, the USPTO will continue to assess fees on at least a biennial basis. On October 2, 2020, the USPTO implemented adjustments to most patent-related fees, as described in the rulemaking (“Setting and Adjusting Patent Fees during Fiscal Year 2020”) published August 3, 2020. This rulemaking effort began with the FY 2017 comprehensive fee review, which incorporated a thorough evaluation of the existing fee schedule, as well as significant research and analysis on potential revisions to the schedule. The

USPTO developed an initial patent fee proposal intended to promote efficiency of operations, better align fees with costs, and ensure adequate revenue to deliver on our goals. The proposal was shared with the PPAC, and on September 6, 2018, a public hearing was conducted to present the proposal and to gather public comments. A notice of proposed rulemaking was published for public comments on July 31, 2019. At each stage, comments from the IP stakeholder community were reviewed and considered as the agency moved forward with patent-related fee adjustments that best serve the U.S. IP system.

At the same time in FY 2019, the USPTO conducted its subsequent biennial fee review. This review resulted in a notice of proposed rulemaking to adjust trademark-related fees published June 19, 2020, for public comment. Through this latest biennial review of trademark fees, it was determined that the existing trademark fee schedule is no longer sufficient, given changing trends in how customers engage with the trademark system. In accordance with the process established by the AIA, on August 28, 2019, the USPTO submitted to the TPAC a proposal to rebalance trademark fees in line with the current IP environment. The TPAC held a public hearing to gather feedback on the USPTO’s proposal on September 23, 2019. Comments from the trademark community were reviewed, considered, and incorporated into the development of the notice of proposed rulemaking.

## THE NATURE OF THE TRAINING PROVIDED TO USPTO PATENT EXAMINERS AND ATTORNEYS

Achieving excellence within the global IP community requires a highly-skilled and expertly trained workforce to provide high-quality and efficient examination of patent applications. It also requires knowledgeable stakeholders who are able to interact with the USPTO effectively. In FY 2020, the Office of Patent Training (OPT) conducted more than 260,000 hours of patent examination training and 56,000 hours of other types of training for patent employees. Given the USPTO’s extensive experience with telework, it is part of OPT’s routine practices to offer an online component for training for teleworking employees.

In view of this experience, OPT was successfully able to transition all training into the virtual environment when the USPTO entered into mandatory/maximum telework due to COVID-19. OPT also trained 8,350 independent inventors and patent practitioners. As with its employee training programs, the USPTO has been able to transition some of its external training programs to the virtual environment to allow external stakeholders to take advantage of the USPTO’s training opportunities even when they are not able to travel to a USPTO facility due to COVID-19.



**PATENT EXAMINER TRAINING**

<p>PROGRAMS FOR EXTERNAL STAKEHOLDERS</p>	<ul style="list-style-type: none"> <li> <b>Stakeholder Training on Examination Practice and Procedure (STEPP):</b> This program provides practitioners and independent inventors a better understanding of the patent examiner’s role in the examination process. It gives the participants an insight into how patent examiners are taught to interpret an applicant’s disclosure, what patent examiners must consider in preparing an office action, and how patent examiners are taught to use the MPEP to make patentability determinations. STEPP courses have historically been in-person trainings led by USPTO trainers and based on material developed for training new patent examiners. This program is very well received by external stakeholders and consistently receives high satisfaction ratings. In FY 2020, the USPTO provided STEPP training courses in New York, New York, in October 2019 and Miami, Florida, in January 2020. OPT is currently working on developing a STEPP course to be held in the virtual environment, and OPT hopes to pilot this course in early FY 2021. The table below shows the STEPP programs provided in FY 2020, including total participants, total hours, and overall satisfaction rating.                     </li> </ul> <table border="1" data-bbox="402 852 1482 1142"> <thead> <tr> <th colspan="6">Stakeholder Training on Examination Practice And Procedure (STEPP)</th> </tr> <tr> <th>Date</th> <th>Topic</th> <th># of Hours</th> <th># of Participants</th> <th>Total # of Hours</th> <th>Satisfaction Rating</th> </tr> </thead> <tbody> <tr> <td>16-18 Oct</td> <td>October 2019 Agent/Attorney, New York</td> <td>23.5</td> <td>51</td> <td>1,198.5</td> <td>97.61%</td> </tr> <tr> <td>28-30 Jan</td> <td>January 2020 Agent/Attorney, Miami</td> <td>23.5</td> <td>51</td> <td>1,198.5</td> <td>97.41%</td> </tr> <tr> <td colspan="4" style="text-align: right;"><b>Cumulative Hours</b></td> <td><b>2,397</b></td> <td></td> </tr> </tbody> </table>	Stakeholder Training on Examination Practice And Procedure (STEPP)						Date	Topic	# of Hours	# of Participants	Total # of Hours	Satisfaction Rating	16-18 Oct	October 2019 Agent/Attorney, New York	23.5	51	1,198.5	97.61%	28-30 Jan	January 2020 Agent/Attorney, Miami	23.5	51	1,198.5	97.41%	<b>Cumulative Hours</b>				<b>2,397</b>	
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	<ul style="list-style-type: none"> <li> <b>Virtual Instructor Led Training (vILT):</b> This program focuses on recent updates to examination practice and procedure for more experienced practitioners. The trainings are derived from the same guidance the USPTO provides its experienced patent examiners, and the online format allows participants to remotely attend without the need to travel to USPTO locations. This format allowed vILT to continue to be offered despite USPTO employees being on mandatory/maximum telework due to COVID-19. In fact, 2,370 stakeholders participated in courses provided in April and June 2020 when the USPTO’s locations were closed to the public. The table below shows the trainings offered in FY 2020 and the total number of participants.                     </li> </ul> <table border="1" data-bbox="397 1488 1482 1730"> <thead> <tr> <th>Training</th> <th>Date</th> <th>Attendees</th> </tr> </thead> <tbody> <tr> <td>Unity of Invention</td> <td>December 2019</td> <td>436</td> </tr> <tr> <td>Examination of Ranges</td> <td>February 2020</td> <td>814</td> </tr> <tr> <td>35 U.S.C. § 103 Obviousness Rejections</td> <td>April 2020</td> <td>1,271</td> </tr> <tr> <td>Double Patenting</td> <td>June 2020</td> <td>1,099</td> </tr> </tbody> </table>	Training	Date	Attendees	Unity of Invention	December 2019	436	Examination of Ranges	February 2020	814	35 U.S.C. § 103 Obviousness Rejections	April 2020	1,271	Double Patenting	June 2020	1,099															
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## PATENT EXAMINER TRAINING

NEW PATENT EXAMINER TRAINING	<ul style="list-style-type: none"> <li> <b>U.S. Patent Training Academy (PTA):</b> This two-phase, year-long examiner training program is mandatory for new patent examiners. During the training, patent examiners receive an in-depth introduction to U.S. legal statutes and rules pertaining to patent examination, technical subjects, and soft skills needed to succeed as a patent examiner. The first phase of this program is a four-month “residency” in PTA. In the second phase, patent examiners work in their TCs and receive just-in-time training throughout the rest of their first year. </li> </ul> <p>In FY 2020, the USPTO hired 500 new patent examiners. Due to the closure of the USPTO’s offices and the move to mandatory telework as a result of COVID-19, PTA moved all of its training programs to a virtual environment. PTA was able to successfully replicate the PTA curriculum in the virtual environment. In early FY 2021, OPT will conduct an in-depth analysis to determine whether there was any impact to the success of patent examiners trained in the virtual environment as compared to patent examiners trained as part of PTA’s in-person curriculum.</p>												
PROGRAMS FOR EXPERIENCED PATENT EXAMINERS	<ul style="list-style-type: none"> <li> <b>Patent Examiner Refresher Training Program:</b> This optional program provides patent examiners with at least one year of patent examining experience the opportunity to register for and take a variety of refresher courses. Refresher courses are designed to keep patent examiners current on the knowledge, skills, and abilities related to procedures, legal matters, communication, and automation that are constantly evolving in their fields of specialty. The table below shows the number of trainings, participants, and hours involved in all trainings conducted as part of the Patent Examiner Refresher Training Program in FY 2020. </li> </ul> <table border="1" data-bbox="407 1209 1211 1304"> <thead> <tr> <th># of Trainings</th> <th># of Participants</th> <th>Total Hours</th> </tr> </thead> <tbody> <tr> <td>230</td> <td>12,970</td> <td>22,001</td> </tr> </tbody> </table> <ul style="list-style-type: none"> <li> <b>Master Class Program:</b> This optional program is for patent examiners with at least one year of patent examining experience who want to delve deeper into specific topics than what is offered as part of the Patent Examiner Refresher Training program. Courses include 1.130 AIA Declarations of Attribution or Prior Public Disclosure, CPC, and Examination of Ranges. The table below shows the number of trainings, participants, and hours involved in all trainings conducted as part of the Master Class Program in of FY 2020. </li> </ul> <table border="1" data-bbox="407 1619 1211 1713"> <thead> <tr> <th># of Trainings</th> <th># of Participants</th> <th>Total Hours</th> </tr> </thead> <tbody> <tr> <td>34</td> <td>1,883</td> <td>2,324</td> </tr> </tbody> </table>	# of Trainings	# of Participants	Total Hours	230	12,970	22,001	# of Trainings	# of Participants	Total Hours	34	1,883	2,324
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## PATENT EXAMINER TRAINING

### PROGRAMS FOR EXPERIENCED PATENT EXAMINERS

- Patent Corps Examination Training:** These mandatory training courses are designed to bring consistency to the application of patent examination policy, practice, and procedures across technologies. Recent courses include Unity of Invention (CBT), Case Law Review: Recent Federal Circuit and Supreme Court Decisions, Introduction to Customer Experience (CX) for Patents Employees, CPC Essentials I-III (CBTs), and After Final and Search Standards training. In FY 2020, the cumulative total number of hours of mandatory training provided was approximately 50,000 hours.
- Patent Quality Chats for Patent Examiners (QChats):** This optional program series provides examiners with the opportunity to interact with subject matter experts in specific fields of technology. The program provides participants with a brief presentation followed by a question and-answer period to allow participants to ask questions about the specific topic being discussed. The table below shows the patent quality chats that were available for examiners in FY 2020, including the total number of participants.

Date	Topic	# of Hours	# of Participants
10/8/2019	The Role of OPQA	1	691
10/9/2019	The Role of OPQA	1	655
11/18/2019	Introduction to PTAB Trials	1	697
11/20/2019	Introduction to PTAB Trials	1	601
2/11/2020	The Precedential Opinion Panel (POP)	1	641
2/12/2020	The Precedential Opinion Panel (POP)	1	569
3/17/2020	Trademark Basics	1	567
3/18/2020	Trademarks Basics	1	311
6/24/2020	Petitions Basics	1	684
6/25/2020	Petitions Basics	1	628
9/15/2020	Precedential and Informative Case Law	1	703
9/16/2020	Precedential and Informative Case Law	1	650

- In-House Patent Law and Evidence Course:** This mandatory training is required for all GS-12 and below patent examiners on authoritative court decisions concerning statutory issues under 35 U.S.C. §§ 101, 102, 103, and 112 and on decisions concerning the handling of evidence during the examination of applications. The table below shows the number of trainings, participants and hours as part of this course in of FY 2020.

	# of Trainings	# of Participants	Total Hours
Patent Law and Evidence	4	141	5,600

## PATENT EXAMINER TRAINING

PROGRAMS FOR  
EXPERIENCED  
PATENT  
EXAMINERS

- Patent Examiner Technical Training Program (PETTP):** The Patent Examiner Technical Training Program is aimed at providing examiners with the opportunity to engage with and learn from experts in their field so that they stay up to date on the latest developments and trends. Scientists, engineers, professors, industrial designers, and other technology experts volunteer to teach patent examiners about their areas of expertise. Volunteers come from dozens of Fortune 500 companies and educational institutions. These presenters cover technological advances, emerging trends, and recent innovations in their respective fields. The table below shows the total number of events, hours, and participants by date. The Office is able to host these trainings in the virtual environment to allow the experts to provide this training from anywhere, including their office or even their own home.

PETTP Program Totals	Q1-Q4
Total # of Events	373
Total Hours of Training	28,823
# of Examiner Participants	19,659
Average Hours per Examiner	3.62

- Site Experience Education:** This unique program provides education in technology at its source. It affords groups of patent examiners the opportunity to visit sites of innovation within the continental United States, where they receive updates on current and emerging technologies and view technology first-hand. This program was affected by travel restrictions due to COVID-19, but the USPTO is currently evaluating and planning options to allow for online technical conferences and virtual tours as alternative options for the program. In fact, the USPTO was able to collaborate with Olympus Corporation to organize a virtual tour and technical lecture with the facilities in Japan, Minneapolis, and Seattle, which will be held in early FY 2021.
- Aspiring Managers Program (AMP):** This cohort-based program combines five types of developmental practices including assessments, classroom training, interactive workshops, shadowing, and mentoring, to assist in developing leadership, interpersonal, and technical skills necessary to become a manager within the Patents organization. This five-month training program for experienced Patent Operations employees with full-signatory authority incorporates all 10 USPTO Leader Profile Qualities within the curriculum to aid in employees' leadership development as they look to establish their career path. Since the implementation of this program in December 2017, four sessions have been completed, with 105 participants, resulting in 24 participants being selected into managerial positions as either Supervisory Patent Examiners or Supervisory Patent Examiner Trainers.
- Non-Duty Hours Legal Studies Program:** This program aims to provide additional legal training to increase the knowledge throughout the Patent organization. It allows the USPTO to reimburse eligible employees for tuition at accredited law schools to increase depth of legal knowledge, as long as the courses taken are mission-related and are needed to earn a Juris Doctorate degree. In FY 2020, there were 44 active participants in this program, with 100% tuition coverage.

## PATENT EXAMINER TRAINING

PROGRAMS FOR EXPERIENCED PATENT EXAMINERS	<ul style="list-style-type: none"> <li>▪ <b>Non-Duty Hours Technical Training Program:</b> This program is voluntary and aims to develop and maintain a highly skilled workforce by enhancing the employees' technical knowledge, skills, and abilities. This program allows the USPTO to reimburse eligible employees for technical courses taken at accredited colleges and universities. In FY 2020, there were 32 active participants in this program.</li> </ul>
PROGRAMS FOR ADMINISTRATIVE STAFF	<ul style="list-style-type: none"> <li>▪ <b>The Patent Administrative Continued Education (PACE):</b> PACE was launched in FY 2019 to provide critical educational opportunities for administrative staff of the USPTO. The program includes a dynamic curriculum that focuses on employee engagement and adult learning opportunities to enhance the personal and professional development of administrative staff. In the PACE program, 10,782 hours of training were provided to 1,587 participants in FY 2020. This program covers a variety of programs, including the Upward Mobility Program.</li> <li>▪ <b>Upward Mobility Program (UMP):</b> The Upward Mobility Program (UMP) provides specific career development opportunities for employees who are in positions or occupational series that offer limited opportunities for advancement. In FY 2020, Patents has 41 active participants enrolled in this program for a total of 1,669 hours of training.</li> </ul>

## TRADEMARK EXAMINING ATTORNEY TRAINING

Trademarks trains newly hired examining attorneys in a classroom setting during their first six to eight weeks at the USPTO. The classroom trainers are from the USPTO's Office of Trademark Quality Review and Training. At the end of classroom training, each examining attorney is integrated into their assigned law office. They are mentored by the senior attorney of that law office, who also has other management responsibilities, and they are paired with an experienced examining attorney. Each existing law office typically receives one to three new attorneys at a time. Law offices consist of about 25 attorneys at various grade levels (GS 11-14), with the majority of the GS-13 and GS-14 attorneys working full-time at home and all of the GS-11s and GS-12s working the majority of time at headquarters. In the past fiscal year, 27 examining attorneys were hired in three groups. The first and second groups were assigned to a new law office made up of all new hires, and the third group was assigned to several existing law offices.

In FY 2020, the Trademark organization used data from analyzed quality review of Trademark work product to prepare content for online e-learning training materials for trademark examining attorneys. Live and webcast training sessions and modules were developed and released that covered the following topics:

- INTA—Cryptocurrency and Block Chain
- Training Unit New Examining Attorney Training
- Nice 11th Edition Training, 2020 Version
- TMEP Update Overview
- Form Paragraph Update Overview
- New Trademark Rules: Mandatory Electronic Filing
- Mandatory Electronic Filing and Specimens of Use Highlights
- SnagIt Training with the Law Librarians
- Google Books Training with the Law Librarian

### Three Examination Guides Released:

- Marks Including Geographic Wording that Does Not Indicate Geographic Origin of Cheeses and Processed Meats
- Mandatory Electronic Filing and Specimen Requirements
- Booking.com

### Five ID/Class Guidelines Released:

- Nice Classification 11th Ed. 2020 Noteworthy Changes
- Nice Classification 11th Ed. 2020 Instructions
- General Remarks and Class Headings
- Class Headings with Explanatory Notes
- Online Search—Nice Alphabetical List of Goods and Services, 11th Ed. Version 2020

### Two ID/Class Bulletins on Various Topics Released

### Three Issues of Reminders Examination Information Released:

- March 2020: 1. Searching Tips for Abbreviations and Phonetics  
2. The Caduceus vs. The Rod of Asclepius
- May 2020: 1. Writing Clear Explanations for Descriptiveness Refusals and Disclaimers  
2. "Organization" and "Nonprofit Organization" are Not Valid Entity Types
- August 2020: 1. Deferring Action When Fees are Insufficient for Multiple Classes  
2. Statements of Use: Select Issues



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This section is required by 35 U.S.C. § 13.

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TABLE 1: **SUMMARY OF PATENT EXAMINING ACTIVITIES (FY 2016–FY 2020)** (Preliminary for FY 2020)<sup>1</sup>

PATENT EXAMINING ACTIVITY	2016	2017	2018	2019	2020
<b>Applications Filed, Total<sup>1,2</sup></b>	<b>650,411</b>	<b>650,350</b>	<b>647,572</b>	<b>666,843</b>	<b>653,311</b>
Utility <sup>3</sup>	607,753	604,298	599,174	619,017	603,764
Serialized <sup>3a</sup>	418,542	419,898	426,983	447,992	450,910
RCE <sup>3b, 3c</sup>	191,463	186,520	174,229	173,280	154,962
Reissue <sup>2</sup>	1,072	1,049	989	1,096	1,064
Plant <sup>2</sup>	1,180	1,071	1,049	1,159	1,044
Design <sup>2</sup>	40,406	43,932	46,360	45,571	47,439
CPA <sup>4</sup>	930	1,210	1,267	1,327	1,198
<b>Provisional Applications Filed<sup>2,5</sup></b>	<b>167,390</b>	<b>166,885</b>	<b>168,427</b>	<b>169,514</b>	<b>174,464</b>
<b>First Actions</b>					
Design	36,550	40,415	41,587	40,098	42,219
Utility, Plant, and Reissue	609,612	611,280	597,509	582,917	578,768
Patent Cooperation Treaty (PCT)/Chapter	20,485	20,353	20,932	21,559	21,903
<b>Patent Application Disposals, Total</b>	<b>681,363</b>	<b>676,002</b>	<b>680,467</b>	<b>682,134</b>	<b>657,948</b>
<b>Allowed Patent Applications, Total</b>	<b>363,022</b>	<b>373,093</b>	<b>368,877</b>	<b>406,678</b>	<b>405,884</b>
Design	30,741	32,705	34,078	35,450	36,350
Utility, Plant, and Reissue	332,281	340,388	334,799	371,228	369,534
<b>Abandoned, Total</b>	<b>318,341</b>	<b>302,452</b>	<b>282,374</b>	<b>275,470</b>	<b>251,029</b>
Design	4,715	5,894	6,197	6,529	5,807
Utility, Plant, and Reissue	313,626	296,558	276,177	268,941	245,222
<b>Statutory Invention Registration Disposals, Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>PCT/Chapter II Examinations Completed</b>	<b>1,234</b>	<b>1,064</b>	<b>929</b>	<b>1,017</b>	<b>1,084</b>
<b>Applications Published<sup>6</sup></b>	<b>397,190</b>	<b>373,153</b>	<b>373,693</b>	<b>394,825</b>	<b>402,457</b>
<b>Patents Issued<sup>2,7</sup></b>	<b>334,107</b>	<b>347,372</b>	<b>339,512</b>	<b>370,423</b>	<b>399,055</b>
Utility	304,568	315,367	306,912	336,846	360,784
Reissue	459	392	500	554	608
Plant	1,250	1,246	1,251	1,193	1,350
Design	27,830	30,367	30,849	31,830	36,313
Pendency Time of Average Patent Application <sup>8</sup>	25.3	24.2	23.8	23.8	23.3
Reexamination Certificates Issued	499	513	1,314	626	709
PCT International Applications Received by the USPTO as Receiving Office	56,339	56,840	55,849	55,692	56,982
National Requirements Received by the USPTO as Designated/Elected office	85,988	90,577	94,359	98,184	101,989
Patents Renewed under Public Law No. 102-204 <sup>9</sup>	430,935	424,574	490,132	479,839	598,020
Patents Expired under Public Law No 102-204 <sup>9</sup>	108,627	99,047	118,709	129,466	133,453

- Represents zero.

<sup>1</sup> FY 2020 filing data are preliminary and will be finalized in the FY 2021 PAR.

<sup>2</sup> FY 2019 application data have been updated with final end-of-year numbers.

<sup>3</sup> Utility patents include chemical, electrical, and mechanical applications.

<sup>3a</sup> Serialized—A newly filed UPR application that has been assigned a serial number.

<sup>3b</sup> RCE—A procedure by which, after the prosecution has been closed by a final rejection, a notice of allowance, etc., the applicant pays a fee and requests that the prosecution of the application be reopened.

<sup>3c</sup> Reissue RCEs are captured under RCE.

<sup>4</sup> CPA—In a design application, a procedure by which the applicant, instead of filing a separate continuation or separate divisional application, renews the prosecution of his/her prior design application.

<sup>5</sup> Provisional applications provided for in Public Law No. 103-465.

<sup>6</sup> Eighteen-month publication of patent applications provided for the American Inventors Protection Act of 1999, Public Law No. 106-113.

<sup>7</sup> Excludes withdrawn numbers. Past years' data may have been revised from prior-year reports.

<sup>8</sup> Average time (in months) between filing and issuance or abandonment of utility, plant, and reissue applications. This average does not include design patents.

<sup>9</sup> The provisions of Public Law No. 102-204 regarding the renewal of patents superceded Public Law No. 96-517 and Public Law No. 97-247.

TABLE 2: PATENT APPLICATIONS FILED BY TYPE (FY 2000-FY 2020) (Preliminary for FY 2020)<sup>1</sup>

Year	Utility <sup>1a</sup>	Serialized <sup>1a, 2</sup>	RCE <sup>3</sup>	Design <sup>1a</sup>	CPA <sup>5</sup>	Plant <sup>1a</sup>	Reissue <sup>1a, 4</sup>	Total <sup>1a</sup>
2000	291,653			18,563		786	805	311,807
2001	324,211			18,636		914	956	344,717
2002	331,580			19,706		1,134	974	353,394
2003	331,729			21,966		785	938	355,418
2004	353,319			23,457		1,212	996	378,984
2005	381,797			25,304		1,288	1,143	409,532
2006	417,453			25,853		1,204	1,103	445,613
2007	439,578			26,693		1,002	1,057	468,330
2008	466,258			28,217		1,331	1,080	496,886
2009	458,901			25,575		988	1,035	486,499
2010	479,332			28,577		1,013	1,138	510,060
2011	504,663			30,247		1,103	1,158	537,171
2012	530,915			32,258		1,181	1,212	565,566
2013	564,007			35,065		1,318	1,074	601,464
2014	579,873			36,254		1,123	1,207	618,457
2015	578,121			37,735		1,119	1,087	618,062
2016	607,753			40,406		1,180	1,072	650,411
2017	604,298			43,932		1,071	1,049	650,350
2018	599,174			46,360		1,049	989	647,572
2019	619,017	447,992	173,280	45,571	1,327	1,159	1,096	666,843
2020	603,764	450,910	154,962	47,439	1,198	1,044	1,064	653,311

<sup>1</sup> FY 2020 data are preliminary and will be finalized in the FY 2021 PAR.

<sup>1a</sup> FY 2019 data have been updated with final year-end-numbers.

<sup>2</sup> Serialized—A newly filed application that has been assigned a serial number.

<sup>3</sup> RCE (Request for Continued Examination)—A procedure by which, after the prosecution has been closed by a final rejection, a notice of allowance, etc., the applicant pays a fee and requests that the prosecution of the application be reopened.

<sup>4</sup> Reissue RCEs are captured under RCE.

<sup>5</sup> CPA (Continued Prosecution Application)—In a design application, a procedure by which the applicant, instead of filing a separate continuation or separate divisional application, renews the prosecution of his/her prior design application.

TABLE 3: PATENT APPLICATIONS PENDING PRIOR TO ALLOWANCE<sup>1</sup> (FY 2000-FY 2020)

Year	Awaiting Action by Examiner <sup>3</sup>	Total Applications Pending <sup>2,3</sup>
1999	243,207	414,837
2000	308,056	485,129
2001	355,779	542,007
2002	433,691	636,530
2003	471,382	674,691
2004	528,685	756,604
2005	611,114	885,002
2006	701,147	1,003,884
2007	760,924	1,112,517
2008	771,529	1,208,076
2009	735,961	1,207,794
2010	726,331	1,163,751
2011	690,967	1,168,928
2012	633,812	1,157,147
2013	616,409	1,148,823
2014	642,949	1,127,701
2015	592,417	1,099,468
2016	579,074	1,070,163
2017	569,088	1,082,661
2018	542,446	1,071,395
2019	600,728	1,011,201
2020	630,873	1,011,827

<sup>1</sup> Includes patent applications pending at end of period indicated, and includes utility, reissue, plant, and design applications. Does not include allowed applications.

<sup>2</sup> Applications under examination, including those in preexamination processing.

<sup>3</sup> FY 2019 data have been updated with final end-of-year numbers.

TABLE 4: PATENT PENDENCY STATISTICS (FY 2020)

Utility, Plant, Reissue Pendency Statistics by Technology Center (in months)	Average First Action Pendency	Total Average Pendency
<b>Total Utility, Plant, and Reissue Pendency</b>	<b>14.8</b>	<b>23.3</b>
Tech Center 1600—Biotechnology and Organic Chemistry	13.3	22.6
Tech Center 1700—Chemical and Materials Engineering	16.8	26.9
Tech Center 2100—Computer Architecture, Software, and Information Security	16.0	26.5
Tech Center 2400—Networks, Multiplexing, Cable, and Security	12.9	23.1
Tech Center 2600—Communications	11.4	19.2
Tech Center 2800—Semiconductor, Electrical, Optical Systems, and Components	13.1	21.1
Tech Center 3600—Transportation, Construction, Agriculture, and Electronic Commerce	16.7	26.4
Tech Center 3700—Mechanical Engineering, Manufacturing, and Products	17.7	28.0

TABLE 5: SUMMARY OF TOTAL PENDING PATENT APPLICATIONS (FY 2020)

Stage of Processing	Utility, Plant, and Reissue Applications	Design Applications	Total Patent Applications
<b>Pending Patent Applications, Total</b>	<b>1,037,219</b>	<b>76,310</b>	<b>1,113,529</b>
<b>In Preexamination Processing, Total</b>	<b>108,743</b>	<b>2,471</b>	<b>111,214</b>
<b>Under Examination, Total</b>	<b>829,924</b>	<b>64,449</b>	<b>894,373</b>
Undocketed	110,871	6,038	116,909
Awaiting First Action by Examiner	356,489	46,261	402,750
<b>Subtotal of pending applications</b>	<b>467,360</b>	<b>54,770</b>	<b>522,130</b>
Request for Continued Examination Awaiting First Action	16,346	-	16,346
Rejected, Awaiting Response by Applicant	252,246	9,896	262,142
Amended, Awaiting Action by Examiner	76,649	2,047	78,696
In Interference	38	-	38
On Appeal, and Other <sup>1</sup>	17,285	207	17,492
<b>In Postexamination Processing, Total</b>	<b>98,552</b>	<b>9,390</b>	<b>107,942</b>
Awaiting Issue Fee	77,526	7,321	84,847
Awaiting Printing <sup>2</sup>	21,026	2,063	23,089
D-10s (Secret Cases in Condition for Allowance) <sup>3</sup>	3,570	6	3,576

- Represents zero.

<sup>1</sup> Includes cases on appeal and undergoing petitions.

<sup>2</sup> Includes withdrawn cases.

<sup>3</sup> Applications classified under U.S.C. § 181 that are otherwise in condition for allowance.

TABLE 6: PATENTS ISSUED (FY 2000-FY 2020)<sup>1</sup>

Year	Utility <sup>2</sup>	Design	Plant	Reissue	Total
2000	164,486	16,718	453	561	182,218
2001	169,571	17,179	563	504	187,817
2002	160,839	15,096	912	465	177,312
2003	171,493	16,525	1,178	394	189,590
2004	169,295	16,533	998	343	187,169
2005	151,077	13,395	816	195	165,483
2006	162,509	19,072	1,106	500	183,187
2007	160,306	22,543	979	548	184,376
2008	154,699	26,016	1,179	662	182,556
2009	165,213	23,415	1,096	398	190,122
2010	207,915	23,373	978	861	233,127
2011	221,350	21,295	816	969	244,430
2012	246,464	21,953	920	921	270,258
2013	265,979	22,453	842	809	290,083
2014	303,930	24,008	1,013	661	329,612
2015	295,460	25,438	1,020	531	322,449
2016	304,568	27,830	1,250	459	334,107
2017	315,367	30,637	1,246	392	347,642
2018	306,912	30,849	1,251	500	339,512
2019	336,846	31,830	1,193	554	370,423
<b>2020</b>	<b>360,784</b>	<b>36,313</b>	<b>1,350</b>	<b>608</b>	<b>399,055</b>

<sup>1</sup> Past years' data may have been revised from prior-year reports.<sup>2</sup> Includes chemical, electrical, and mechanical applications.



TABLE 7: **PATENT APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES<sup>1</sup> (FY 2016–FY 2020)**  
*(Preliminary for FY 2020)<sup>2</sup>*

State/Territory	2016	2017	2018	2019		2020 <sup>2</sup>	
				Serialized <sup>3</sup>	RCE <sup>4</sup>	Serialized <sup>3</sup>	RCE <sup>4</sup>
<b>Total</b>	<b>318,701</b>	<b>316,718</b>	<b>310,416</b>	<b>227,703</b>	<b>88,373</b>	<b>0</b>	<b>0</b>
Alabama	1,026	1,061	1,052	863	229	N/A	N/A
Alaska	115	100	117	86	24	N/A	N/A
Arizona	5,134	5,330	5,483	4,350	1,298	N/A	N/A
Arkansas	750	959	1,162	732	227	N/A	N/A
California	90,050	87,203	85,071	61,333	25,683	N/A	N/A
Colorado	5,840	6,079	6,138	4,690	1,618	N/A	N/A
Connecticut	5,270	5,343	5,595	3,824	1,635	N/A	N/A
Delaware	836	686	622	464	155	N/A	N/A
District of Columbia	482	482	582	457	164	N/A	N/A
Florida	9,618	9,834	9,756	7,575	2,246	N/A	N/A
Georgia	5,879	6,066	5,725	4,090	1,716	N/A	N/A
Hawaii	265	312	262	219	68	N/A	N/A
Idaho	1,217	1,432	1,588	1,625	333	N/A	N/A
Illinois	12,136	10,748	10,244	7,599	2,901	N/A	N/A
Indiana	4,158	4,262	4,252	3,026	1,014	N/A	N/A
Iowa	1,722	1,923	2,033	1,591	453	N/A	N/A
Kansas	1,554	1,575	1,428	1,130	382	N/A	N/A
Kentucky	1,388	1,359	1,416	1,092	305	N/A	N/A
Louisiana	895	941	960	718	168	N/A	N/A
Maine	422	347	395	299	111	N/A	N/A
Maryland	4,278	4,325	4,303	3,142	1,204	N/A	N/A
Massachusetts	15,249	16,234	16,348	12,076	5,185	N/A	N/A
Michigan	11,363	11,970	11,237	8,844	1,900	N/A	N/A
Minnesota	8,686	8,417	8,142	5,572	2,331	N/A	N/A
Mississippi	337	378	363	341	62	N/A	N/A
Missouri	3,046	2,844	2,868	2,097	867	N/A	N/A
Montana	361	349	319	276	70	N/A	N/A
Nebraska	655	701	755	570	187	N/A	N/A

OTHER INFORMATION

TABLE 7: **PATENT APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES<sup>1</sup> (FY 2016–FY 2020)**  
(Preliminary for FY 2020)<sup>2</sup> (continued)

State/Territory	2016	2017	2018	2019		2020 <sup>2</sup>	
				Serialized <sup>3</sup>	RCE <sup>4</sup>	Serialized <sup>3</sup>	RCE <sup>4</sup>
Nevada	1,818	1,699	1,790	1,416	480	N/A	N/A
New Hampshire	1,766	1,834	1,795	1,329	490	N/A	N/A
New Jersey	10,340	9,983	9,270	6,596	2,696	N/A	N/A
New Mexico	951	1,026	932	625	241	N/A	N/A
New York	19,559	18,602	18,649	13,007	5,325	N/A	N/A
North Carolina	8,099	7,224	7,368	5,169	2,315	N/A	N/A
North Dakota	217	233	229	187	64	N/A	N/A
Ohio	9,182	9,638	9,237	6,458	2,734	N/A	N/A
Oklahoma	1,121	1,178	1,197	1,015	285	N/A	N/A
Oregon	6,453	6,395	6,486	5,013	1,360	N/A	N/A
Pennsylvania	8,633	8,934	8,693	6,189	2,496	N/A	N/A
Rhode Island	686	846	758	581	208	N/A	N/A
South Carolina	2,098	2,328	2,010	1,566	502	N/A	N/A
South Dakota	313	303	316	221	82	N/A	N/A
Tennessee	2,433	2,459	2,418	2,135	623	N/A	N/A
Texas	21,671	21,844	21,825	16,265	6,669	N/A	N/A
Utah	3,379	3,822	3,477	2,595	982	N/A	N/A
Vermont	678	596	574	399	130	N/A	N/A
Virginia	4,446	4,646	4,809	3,844	1,417	N/A	N/A
Washington	17,044	16,432	15,017	10,061	5,458	N/A	N/A
West Virginia	238	235	333	197	56	N/A	N/A
Wisconsin	4,498	4,831	4,645	3,838	1,147	N/A	N/A
Wyoming	212	232	243	192	54	N/A	N/A
Puerto Rico	100	83	99	100	17	N/A	N/A
U.S. Virgin Islands	12	15	14	8	6	N/A	N/A
U.S. Pacific Islands <sup>5</sup>	18	36	13	13	-	N/A	N/A
United States, Unknown <sup>6</sup>	4	4	3	3	-	N/A	N/A

- Represents zero.

<sup>1</sup> Data include utility, plant, design, and reissue applications.

<sup>2</sup> FY 2020 preliminary data should be available January 2021 at [www.uspto.gov](http://www.uspto.gov) and finalized in the FY 2021 PAR.

<sup>3</sup> Serialized—A newly filed UPR application that has been assigned a serial number.

<sup>4</sup> RCE (Request for Continues Examination)—A procedure by which, after the prosecution has been closed by a final rejection, a notice of allowance, etc., the applicant pays a fee and requests that the prosecution of the application be reopened.

<sup>5</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>6</sup> State/territory information not available.

TABLE 8: PATENTS ISSUED TO RESIDENTS OF THE UNITED STATES<sup>1</sup> (FY 2019–FY 2020)<sup>2</sup>

State/Territory	2019	2020	State/Territory	2019	2020
<b>Total</b>	<b>177,050</b>	<b>188,344</b>	Nebraska	374	457
Alabama	598	635	Nevada	877	1,045
Alaska	69	65	New Hampshire	1,109	1,111
Arizona	3,038	3,283	New Jersey	5,074	5,134
Arkansas	514	629	New Mexico	555	551
California	48,422	51,817	New York	10,487	10,827
Colorado	3,577	3,940	North Carolina	4,058	4,054
Connecticut	3,317	3,563	North Dakota	146	134
Delaware	291	373	Ohio	5,041	5,466
District of Columbia	300	332	Oklahoma	668	698
Florida	5,219	5,617	Oregon	3,846	4,084
Georgia	3,075	3,483	Pennsylvania	4,622	4,817
Hawaii	153	152	Rhode Island	455	505
Idaho	1,053	1,177	South Carolina	1,242	1,463
Illinois	6,114	6,349	South Dakota	182	156
Indiana	2,466	2,726	Tennessee	1,330	1,458
Iowa	1,076	1,274	Texas	12,721	13,605
Kansas	908	889	Utah	1,953	2,150
Kentucky	783	899	Vermont	381	371
Louisiana	493	520	Virginia	2,803	2,991
Maine	240	237	Washington	8,600	9,303
Maryland	2,291	2,508	West Virginia	153	146
Massachusetts	8,520	9,019	Wisconsin	2,920	2,997
Michigan	7,983	7,901	Wyoming	116	158
Minnesota	4,684	5,016	Puerto Rico	64	71
Mississippi	230	218	U.S. Virgin Islands	6	5
Missouri	1,617	1,768	U.S. Pacific Islands <sup>3</sup>	23	2
Montana	212	195	United States, Unknown <sup>4</sup>	1	-

- Represents zero.

<sup>1</sup> Data include utility, design, plant, and reissue patents.

<sup>2</sup> FY 2019 data may have been updated since the FY 2019 PAR.

<sup>3</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>4</sup> No state indicated in database.

TABLE 9: UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES<sup>1</sup> AND TERRITORIES (FY 2016–FY 2020)

Residence	2016	2017	2018	2019		2020	
				Serialized <sup>3</sup>	RCE <sup>4</sup>	Serialized <sup>3</sup>	RCE <sup>4</sup>
<b>Total</b>	<b>331,710</b>	<b>332,522</b>	<b>335,118</b>	<b>265,853</b>	<b>84,906</b>	<b>N/A</b>	<b>N/A</b>
Afghanistan	1	-	-	-	-	N/A	N/A
Albania	2	-	3	1	1	N/A	N/A
Algeria	1	2	-	-	-	N/A	N/A
Andorra	4	4	1	4	1	N/A	N/A
Angola	2	1	1	-	-	N/A	N/A
Anguilla	1	1	-	-	-	N/A	N/A
Antigua and Barbuda	1	1	-	-	-	N/A	N/A
Argentina	177	200	200	151	60	N/A	N/A
Armenia	25	52	31	32	20	N/A	N/A
Aruba	-	2	3	2	-	N/A	N/A
Australia	4,013	4,254	4,198	3,288	1,033	N/A	N/A
Austria	2,771	2,707	2,719	2,043	746	N/A	N/A
Azerbaijan	5	3	2	3	1	N/A	N/A
Bahamas	14	9	12	10	5	N/A	N/A
Bahrain	9	6	9	4	5	N/A	N/A
Bangladesh	18	15	10	7	10	N/A	N/A
Barbados	9	7	4	2	2	N/A	N/A
Belarus	20	23	19	47	10	N/A	N/A
Belgium	2,614	2,750	2,782	1,915	855	N/A	N/A
Belize	1	2	2	5	-	N/A	N/A
Bermuda	16	7	4	11	2	N/A	N/A
Bolivia	3	4	1	5	2	N/A	N/A
Bonaire, Sint Eustatius, and Saba	-	-	-	-	-	N/A	N/A
Bosnia and Herzegovina	3	3	3	3	-	N/A	N/A
Brazil	968	966	1,031	791	287	N/A	N/A
British Virgin Islands	22	15	8	1	-	N/A	N/A
Brunei Darussalam	3	7	4	1	3	N/A	N/A
Bulgaria	63	109	94	77	40	N/A	N/A
Burundi	-	-	2	-	-	N/A	N/A

**TABLE 9: UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES<sup>1</sup> AND TERRITORIES (FY 2016–FY 2020) (continued)**

Residence	2016	2017	2018	2019		2020	
Cambodia	2	-	1	1	-	N/A	N/A
Cameroon	1	3	3	1	-	N/A	N/A
Canada	14,328	14,167	14,086	10,484	3,989	N/A	N/A
Cayman Islands	59	25	13	23	5	N/A	N/A
Chad	1	-	-	-	-	N/A	N/A
Chile	130	129	171	113	21	N/A	N/A
China (Hong Kong)	1,325	2,001	1,723	1,325	322	N/A	N/A
China (Macau)	42	51	33	3	12	N/A	N/A
China (People's Republic of)	27,935	32,127	37,788	37,323	6,962	N/A	N/A
Colombia	88	84	114	87	28	N/A	N/A
Congo, Dem. Republic of <sup>5</sup>	-	-	1	-	-	N/A	N/A
Costa Rica	36	39	80	71	9	N/A	N/A
Cote d'Ivoire	-	-	1	-	-	N/A	N/A
Croatia	36	34	42	44	9	N/A	N/A
Cuba	18	16	10	12	1	N/A	N/A
Curaçao	1	-	-	-	-	N/A	N/A
Cyprus	45	26	25	22	5	N/A	N/A
Czech Republic	402	608	623	419	168	N/A	N/A
Denmark	2,505	2,419	2,455	1,808	649	N/A	N/A
Dominican Republic	6	9	8	5	2	N/A	N/A
Ecuador	4	8	7	8	-	N/A	N/A
Egypt	85	101	65	61	27	N/A	N/A
El Salvador	1	2	2	1	-	N/A	N/A
Eritrea	3	1	1	-	-	N/A	N/A
Estonia	78	81	80	63	24	N/A	N/A
Faroe Islands	-	1	-	1	-	N/A	N/A
Finland	3,358	3,081	2,851	1,762	1,027	N/A	N/A
French Polynesia	-	1	-	-	1	N/A	N/A
France	13,489	13,552	13,275	9,236	3,505	N/A	N/A
Gabon	2	1	1	-	-	N/A	N/A
Gambia <sup>5</sup>	-	-	1	-	-	N/A	N/A
Georgia	8	6	4	3	-	N/A	N/A
Germany	33,254	32,771	32,734	24,097	8,870	N/A	N/A

**TABLE 9: UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES<sup>1</sup> AND TERRITORIES (FY 2016–FY 2020) (continued)**

Residence	2016	2017	2018	2019		2020	
Ghana	1	2	1	-	-	N/A	N/A
Gibraltar	3	8	3	5	4	N/A	N/A
Greece	223	248	246	219	61	N/A	N/A
Grenada <sup>5</sup>	-	-	1	-	-	N/A	N/A
Guadeloupe	1	-	-	-	-	N/A	N/A
Guatemala	-	9	13	5	2	N/A	N/A
Guernsey	4	-	2	2	-	N/A	N/A
Guinea	1	-	-	1	1	N/A	N/A
Honduras	-	-	-	1	1	N/A	N/A
Hungary	304	296	237	239	76	N/A	N/A
Iceland	88	93	99	66	19	N/A	N/A
India	7,676	9,115	9,809	7,678	3,181	N/A	N/A
Indonesia	35	38	27	22	12	N/A	N/A
Iran	78	157	172	88	13	N/A	N/A
Iraq	1	-	4	2	1	N/A	N/A
Ireland	1,408	1,487	1,612	1,118	532	N/A	N/A
Isle of Man	5	13	9	7	2	N/A	N/A
Israel	8,251	8,664	8,312	6,170	2,533	N/A	N/A
Italy	5,871	6,165	6,046	4,866	1,361	N/A	N/A
Jamaica	13	14	12	5	7	N/A	N/A
Japan	91,383	89,364	87,872	68,471	21,387	N/A	N/A
Jersey	9	33	26	16	2	N/A	N/A
Jordan	27	43	22	13	5	N/A	N/A
Kazakhstan	7	11	16	17	2	N/A	N/A
Kenya	31	33	41	35	10	N/A	N/A
Korea (Dem. Republic of)	-	-	-	1	-	N/A	N/A
Korea (Republic of)	41,823	38,026	36,645	28,390	10,675	N/A	N/A
Kuwait	105	46	59	65	7	N/A	N/A
Kyrgyzstan	-	-	2	-	-	N/A	N/A
Laos <sup>5</sup>	-	-	-	-	1	N/A	N/A
Latvia	19	15	29	25	1	N/A	N/A
Lebanon	25	28	37	34	10	N/A	N/A
Liberia	1	-	1	-	-	N/A	N/A



**TABLE 9: UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES<sup>1</sup> AND TERRITORIES (FY 2016–FY 2020) (continued)**

Residence	2016	2017	2018	2019		2020	
Liechtenstein	75	54	42	44	10	N/A	N/A
Lithuania	40	32	48	37	6	N/A	N/A
Luxembourg	137	135	127	122	45	N/A	N/A
Madagascar	-	1	-	-	-	N/A	N/A
Malawi	-	-	1	-	-	N/A	N/A
Malaysia	462	521	561	403	117	N/A	N/A
Mali	1	-	1	-	-	N/A	N/A
Malta	30	17	41	21	5	N/A	N/A
Mauritius	2	1	7	4	-	N/A	N/A
Mexico	686	727	681	460	159	N/A	N/A
Moldova	6	2	3	5	-	N/A	N/A
Monaco	39	50	37	19	5	N/A	N/A
Mongolia	3	3	-	4	-	N/A	N/A
Montenegro	1	1	1	2	-	N/A	N/A
Morocco	10	4	8	11	1	N/A	N/A
Myanmar	-	-	2	2	1	N/A	N/A
Namibia	3	-	3	-	-	N/A	N/A
Nepal (Federal Democratic Republic of)	-	-	2	2	-	N/A	N/A
Netherlands	6,676	5,921	5,761	3,990	1,520	N/A	N/A
New Caledonia	1	-	3	2	-	N/A	N/A
New Zealand	759	843	849	607	236	N/A	N/A
Nicaragua	2	1	1	-	-	N/A	N/A
Niger	2	-	-	2	2	N/A	N/A
Nigeria	8	5	7	7	2	N/A	N/A
North Macedonia	4	3	2	2	2	N/A	N/A
Norway	1,202	1,256	1,259	911	395	N/A	N/A
Oman	6	8	4	2	1	N/A	N/A
Pakistan	53	49	31	22	10	N/A	N/A
Palau	-	-	-	1	-	N/A	N/A
Panama	21	13	13	5	4	N/A	N/A
Paraguay	4	-	15	-	-	N/A	N/A
Peru	19	21	26	17	2	N/A	N/A

TABLE 9: UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES<sup>1</sup> AND TERRITORIES (FY 2016–FY 2020) (continued)

Residence	2016	2017	2018	2019		2020	
Philippines	119	165	176	114	40	N/A	N/A
Poland	570	608	742	574	138	N/A	N/A
Portugal	249	316	298	254	64	N/A	N/A
Qatar	52	42	59	47	10	N/A	N/A
Romania	139	143	193	155	31	N/A	N/A
Russian Federation	1,102	1,208	1,101	1,002	304	N/A	N/A
Rwanda	-	-	-	1	-	N/A	N/A
Saint Kitts and Nevis	-	-	1	1	-	N/A	N/A
Saint Lucia	-	-	1	-	-	N/A	N/A
Saint Vincent and the Grenadines	-	1	-	-	-	N/A	N/A
Samoa	3	5	4	2	2	N/A	N/A
San Marino	1	3	3	1	-	N/A	N/A
Saudi Arabia	1,029	1,093	1,384	1,374	240	N/A	N/A
Senegal	1	1	1	-	-	N/A	N/A
Serbia	40	51	45	44	10	N/A	N/A
Seychelles	10	7	3	-	2	N/A	N/A
Singapore	1,972	2,059	2,055	1,444	559	N/A	N/A
Slovakia	64	88	82	75	14	N/A	N/A
Slovenia	104	121	133	118	30	N/A	N/A
South Africa	382	409	369	272	75	N/A	N/A
Spain	1,902	2,138	2,090	1,745	463	N/A	N/A
Sri Lanka	17	26	22	19	3	N/A	N/A
Sudan	1	-	1	1	-	N/A	N/A
Sweden	5,699	5,404	5,355	4,348	1,514	N/A	N/A
Switzerland	5,862	5,938	5,968	4,214	1,644	N/A	N/A
Syrian Arab Republic	3	1	-	-	-	N/A	N/A
Taiwan	20,875	19,911	20,258	17,135	3,889	N/A	N/A
Thailand	148	187	196	220	34	N/A	N/A
Trinidad and Tobago	14	9	4	6	2	N/A	N/A
Tunisia	13	9	7	3	2	N/A	N/A
Turkey	396	500	497	356	76	N/A	N/A
Turkmenistan	1	-	-	1	1	N/A	N/A

**TABLE 9: UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES<sup>1</sup> AND TERRITORIES (FY 2016–FY 2020) (continued)**

Residence	2016	2017	2018	2019		2020	
Turks and Caicos Islands	2	-	4	2	-	N/A	N/A
Uganda	-	1	-	-	-	N/A	N/A
Ukraine	157	145	170	123	33	N/A	N/A
United Arab Emirates	215	170	209	161	54	N/A	N/A
United Kingdom	14,824	15,597	15,338	11,175	4,507	N/A	N/A
Uruguay	18	19	21	13	6	N/A	N/A
Uzbekistan	3	1	2	2	1	N/A	N/A
Vanuatu	1	-	2	-	-	N/A	N/A
Venezuela	31	20	13	14	3	N/A	N/A
Vietnam	36	53	74	73	6	N/A	N/A
West Bank/Gaza Strip	1	-	-	-	-	N/A	N/A
Yemen	1	1	2	-	1	N/A	N/A
Zambia	-	1	-	-	-	N/A	N/A
Zimbabwe	-	1	3	1	-	N/A	N/A
Other <sup>6</sup>	-	-	-	1,122	-	N/A	N/A

- Represents zero.

<sup>1</sup> Data include utility, design, plant, and reissue applications. Country listings include possessions and territories of that country unless listed separately in the table. Data are subject to minor revisions.

<sup>2</sup> FY 2020 preliminary data should be available in January 2021 at [www.uspto.gov](http://www.uspto.gov) and finalized in the FY 2021 PAR.

<sup>3</sup> Serialized—A newly filed UPR application that has been assigned a serial number.

<sup>4</sup> RCE (Request for Continued Examination)—A procedure by which, after the prosecution has been closed by a final rejection, a notice of allowance, etc., the applicant pays a fee and requests that the prosecution of the application be reopened.

<sup>5</sup> Country not previously listed.

<sup>6</sup> Country of origin information not available.

TABLE 10: PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES<sup>1,2</sup> AND TERRITORIES (FY 2016–FY 2020)<sup>3</sup>

Residence	2016	2017	2018	2019	2020
Total	173,656	180,287	177,550	193,373	210,695
Albania	-	1	-	1	1
Algeria	-	-	2	1	-
Andorra	3	2	3	-	1
Angola	1	-	-	-	-
Anguilla	-	1	-	-	1
Antigua and Barbuda	1	-	-	-	-
Argentina	89	93	83	115	111
Armenia	5	15	8	21	30
Aruba	-	-	-	3	1
Australia	1,888	1,964	1,966	2,136	2,298
Austria	1,416	1,615	1,528	1,618	1,650
Azerbaijan	1	2	1	1	1
Bahamas	6	5	4	9	6
Bahrain	3	2	4	7	1
Bangladesh	1	7	9	10	3
Barbados	2	3	4	-	7
Belarus	30	16	9	14	18
Belgium	1,315	1,358	1,408	1,447	1,537
Bermuda	-	2	1	4	2
Bolivia	2	2	1	1	4
Bosnia and Herzegovina	2	2	3	1	3
Brazil	399	396	442	432	547
British Virgin Islands	1	5	6	4	3
Brunei Darussalam	4	1	2	-	7
Bulgaria	52	43	42	49	56
Burundi <sup>4</sup>	-	-	-	-	1
Cabo Verde	-	-	-	1	-
Cambodia	1	-	1	-	-
Cameroon	1	2	1	3	-
Canada	7,260	7,539	7,225	7,790	8,179
Cayman Islands	8	12	15	9	14
Chile	47	59	58	41	83
China (Hong Kong)	824	892	973	1,073	1,071
China (Macau)	26	31	45	27	26
China (People's Republic of )	10,993	14,154	16,315	20,836	26,176
Colombia	39	31	44	46	51
Costa Rica	27	12	20	25	41
Cote d'Ivoire	10	-	-	-	-
Croatia	14	20	23	22	21
Cuba	9	12	3	5	4
Cyprus	14	8	13	17	17
Czech Republic	219	263	350	383	380
Denmark	1,221	1,249	1,270	1,320	1,425
Dominican Republic	2	3	5	4	5

TABLE 10: PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES<sup>1,2</sup> AND TERRITORIES (FY 2016–FY 2020)<sup>3</sup> (continued)

Residence	2016	2017	2018	2019	2020
Ecuador	3	3	3	3	3
Egypt	41	40	51	45	38
El Salvador	2	1	1	1	-
Eritrea	-	1	-	1	-
Estonia	51	30	44	48	46
Faroe Islands	1	1	-	-	2
Finland	1,605	1,730	1,601	1,545	1,641
France	6,907	7,365	6,991	7,532	7,981
French Polynesia	-	-	-	1	-
Gabon	-	-	1	-	-
Georgia	2	2	-	4	3
Germany	17,569	17,994	17,434	18,758	19,799
Ghana	-	-	-	-	1
Gibraltar	1	8	2	2	3
Greece	87	117	110	133	137
Greenland	-	-	-	1	-
Grenada <sup>4</sup>	-	-	-	-	1
Guadeloupe	1	-	-	-	-
Guatemala	1	1	4	5	5
Guernsey	-	1	1	-	1
Guinea	-	-	-	1	-
Honduras	-	2	-	-	1
Hungary	193	183	139	145	182
Iceland	42	61	42	50	56
India	3,685	4,207	4,248	5,075	5,888
Indonesia	24	22	9	13	17
Iran	32	33	55	86	113
Iraq	-	1	-	-	1
Ireland	570	611	628	754	930
Isle of Man	12	9	10	5	3
Israel	3,820	4,304	4,168	4,630	5,011
Italy	3,158	3,209	3,247	3,718	3,913
Jamaica	5	8	5	5	10
Japan	53,044	51,741	50,012	53,172	55,899
Jersey	7	7	14	8	33
Jordan	7	11	16	19	15
Kazakhstan	2	2	2	10	5
Kenya	5	5	9	12	26
Korea (Republic of)	21,867	22,689	22,054	22,427	24,218
Kuwait	54	48	27	44	38
Kyrgyzstan	-	-	-	-	1
Laos <sup>4</sup>	-	-	-	-	1
Latvia	8	7	8	12	16
Lebanon	19	13	9	25	9

TABLE 10: PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES<sup>1,2</sup> AND TERRITORIES (FY 2016–FY 2020)<sup>3</sup> (continued)

Residence	2016	2017	2018	2019	2020
Liechtenstein	27	30	36	28	36
Lithuania	20	22	18	20	17
Luxembourg	62	64	63	58	92
Madagascar	-	-	1	-	1
Malaysia	301	270	239	296	310
Mali	1	-	-	1	-
Malta	13	14	7	20	17
Mauritius	1	1	2	1	2
Mexico	246	315	385	411	394
Moldova	1	1	2	2	1
Monaco	17	17	15	20	19
Mongolia	1	-	-	1	2
Montenegro	-	-	-	1	-
Morocco	1	2	3	7	3
Myanmar	-	-	1	-	1
Namibia	1	5	-	-	2
Nepal (Federal Democratic Republic of )	-	-	1	-	1
Netherlands	2,941	3,132	3,215	3,340	3,552
New Caledonia	1	-	2	-	-
New Zealand	349	374	376	435	494
Nicaragua	-	2	-	-	-
Nigeria	1	2	4	1	2
North Macedonia	1	1	2	1	1
Norway	720	628	636	676	759
Oman	1	4	5	3	2
Pakistan	19	18	16	26	19
Panama	5	9	9	6	5
Paraguay	-	-	1	1	2
Peru	9	7	9	10	14
Philippines	46	66	82	88	71
Poland	265	281	291	337	439
Portugal	83	115	110	151	167
Qatar	9	20	28	33	22
Romania	82	110	96	106	120
Russian Federation	542	569	536	615	711
Rwanda <sup>4</sup>	-	-	-	-	1
Saint Kitts and Nevis	1	-	-	-	1
Saint Lucia	-	-	1	-	-
Samoa	-	4	1	1	6
San Marino	-	2	1	1	1
Saudi Arabia	442	541	608	871	1,007
Serbia	15	20	21	26	33
Seychelles	2	5	2	-	1



TABLE 10: PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES<sup>1,2</sup> AND TERRITORIES (FY 2016–FY 2020)<sup>3</sup> (continued)

Residence	2016	2017	2018	2019	2020
Singapore	1,019	1,046	1,071	1,103	1,191
Sint Maarten	1	-	-	-	-
Slovakia	26	42	40	58	57
Slovenia	65	57	77	79	91
South Africa	208	216	190	202	221
Spain	940	926	965	1,058	1,187
Sri Lanka	6	6	7	10	11
Sudan	-	1	-	-	-
Sweden	3,044	3,327	3,164	3,321	3,495
Switzerland	2,905	3,024	2,893	3,197	3,394
Syrian Arab Republic	-	-	2	1	-
Taiwan	12,735	12,535	11,424	11,857	13,390
Tanzania	1	1	-	-	-
Thailand	106	113	114	128	138
Trinidad and Tobago	7	3	3	4	3
Tunisia	3	4	2	5	4
Turkey	149	190	181	252	223
Turkmenistan	-	-	-	1	1
Turks and Caicos Islands	-	2	1	-	-
Uganda	-	-	-	1	-
Ukraine	64	82	59	71	100
United Arab Emirates	60	95	100	98	135
United Kingdom	7,289	7,636	7,549	8,494	8,834
Uruguay	8	12	12	5	11
Uzbekistan	-	1	3	-	3
Vanuatu	-	-	1	-	-
Venezuela	15	7	9	10	4
Vietnam	18	21	24	57	41
West Bank/Gaza	-	-	-	-	1
Yemen	-	-	2	-	-
Zambia	-	-	-	1	-
Zimbabwe	-	-	-	-	3

- Represents zero.

<sup>1</sup> Data include utility, design, plant, and reissue patents.

<sup>2</sup> Each patent grant is listed under only one country of residence. Country listings include possessions and territories of that country unless separately listed in the table.

<sup>3</sup> Past years' data may have been revised from prior-year reports to reflect patent withdrawal information that was updated during the year. It is not uncommon for the withdrawal status of patents issued in prior years to change.

<sup>4</sup> Countries/territories not previously reported.

TABLE 11: **PERCENTAGE OF UTILITY PATENTS ISSUED TO MICRO, SMALL, AND LARGE ENTITIES (FY 2016–FY 2020)**

Year of Grant	2016	2017	2018	2019	2020
<b>Percentage Micro Entity</b>	<b>2.16%</b>	<b>2.33%</b>	<b>2.48%</b>	<b>2.49%</b>	<b>2.50%</b>
U.S. Origin <sup>1</sup>	3.81%	4.06%	4.34%	4.22%	4.20%
Foreign Origin <sup>1</sup>	0.68%	0.77%	0.84%	0.94%	1.01%
<b>Percentage Small Entity</b>	<b>19.24%</b>	<b>19.54%</b>	<b>19.86%</b>	<b>19.94%</b>	<b>19.98%</b>
U.S. Origin <sup>1</sup>	25.45%	25.68%	25.91%	25.82%	25.92%
Foreign Origin <sup>1</sup>	13.65%	14.02%	14.49%	14.67%	14.74%
<b>Percentage Large Entity</b>	<b>78.60%</b>	<b>78.13%</b>	<b>77.66%</b>	<b>77.57%</b>	<b>77.52%</b>
U.S. Origin <sup>1</sup>	70.74%	70.26%	69.75%	69.97%	69.88%
Foreign Origin <sup>1</sup>	85.67%	85.21%	84.67%	84.39%	84.25%

<sup>1</sup> Patent origin is based on residence of the first-named inventor.

TABLE 12: **UNITED STATES GOVERNMENT AGENCY PATENTS <sup>1</sup> (FY 2016–FY 2020)<sup>2</sup>**

Agency or Department	2016	2017	2018	2019	2020	Total
<b>Total</b>	<b>916</b>	<b>940</b>	<b>953</b>	<b>1,007</b>	<b>965</b>	<b>4,781</b>
Agriculture	43	53	46	40	35	<b>217</b>
Commerce	12	28	28	33	20	<b>121</b>
Defense:						
Air Force	55	48	53	73	79	<b>308</b>
Army	144	139	148	131	137	<b>699</b>
Navy	320	345	341	367	322	<b>1,695</b>
National Security Agency (NSA)	3	1	2	7	6	<b>19</b>
Energy	24	23	18	29	13	<b>107</b>
Environmental Protection Agency	3	3	4	3	1	<b>14</b>
Health and Human Services	161	135	132	131	121	<b>680</b>
Homeland Security (DHS)	3	2	7	7	12	<b>31</b>
Interior	2	3	5	1	2	<b>13</b>
Justice:						
Office of the Attorney General	-	-	-	-	-	<b>-</b>
National Aeronautics and Space Administration (NASA)	107	117	118	129	142	<b>613</b>
National Science Foundation	3	6	3	1	2	<b>15</b>
Postal Service	20	20	28	36	50	<b>154</b>
State	-	-	-	-	-	<b>-</b>
Transportation	1	-	-	-	-	<b>1</b>
Tennessee Valley Authority	-	1	-	-	-	<b>1</b>
United States <sup>3</sup>	2	3	2	3	8	<b>18</b>
Veterans Affairs	13	13	18	16	15	<b>75</b>

- Represents zero.

<sup>1</sup> Data in this table represent utility patents assigned to agencies at the time of patent issue. Data subject to minor revisions.

<sup>2</sup> Past years' data may have been revised from prior year reports to reflect patent withdrawal information that was updated during the year. It is not uncommon for the withdrawal status of patents issued in prior years to change.

<sup>3</sup> No agency or department listed in database.

TABLE 13A: EX PARTE REEXAMINATION (FY 2016-FY 2020)

	2016	2017	2018	2019	2020
<b>Requests Filed, Total*</b>	<b>219</b>	<b>188</b>	<b>187</b>	<b>167</b>	<b>193</b>
By Patent Owner	8	25	30	29	19
By Third Party	211	163	157	138	174
Commissioner Ordered	-	-			
<b>Determinations on Requests, Total<sup>1</sup></b>	<b>218</b>	<b>203</b>	<b>185</b>	<b>151</b>	<b>175</b>
Requests Granted:					
By Examiner	201	188	173	145	167
By Petition	4	4	2	2	2
Requests Denied	13	11	10	5	6
<b>Requests Known to Have Related Litigation<sup>1</sup></b>	<b>116</b>	<b>92</b>	<b>76</b>	<b>83</b>	<b>94</b>
<b>Filings by Discipline, Total<sup>2</sup></b>	<b>223</b>	<b>191</b>	<b>178</b>	<b>163</b>	<b>193</b>
Chemical	40	38	34	50	51
Electrical	101	63	66	54	61
Mechanical	78	75	71	51	58
Design	4	15	7	8	23

- Represents zero.

\* Only represents requests that have received a filing date.

<sup>1</sup> Litigation search numbers were updated to include old pending reexaminations that ultimately require new litigation.

<sup>2</sup> Filings were updated to include reexams that had not been granted a filing date or had a filing date vacated in FY 2018.

TABLE 13B: SUPPLEMENTAL EXAMINATION (FY 2016-FY 2020)

	2016	2017	2018	2019	2020
<b>Supplemental Examinations Filed, Total<sup>1</sup></b>	<b>44</b>	<b>60</b>	<b>32</b>	<b>26</b>	<b>44</b>
<b>Supplemental Examinations Granted a Filing Date, Total<sup>1</sup></b>	<b>46</b>	<b>61</b>	<b>31</b>	<b>23</b>	<b>40</b>
<b>Determinations on Supplemental Examinations Granted a Filing Date, Total</b>	<b>46</b>	<b>61</b>	<b>35</b>	<b>25</b>	<b>37</b>
Substantial New Question Found	31	46	22	20	20
Substantial New Question Not Found	15	15	13	5	17
<b>Requests Known to Have Related Litigation<sup>1</sup></b>	<b>3</b>	<b>5</b>	<b>2</b>	<b>4</b>	<b>2</b>
<b>Filings by Discipline, Total</b>	<b>45</b>	<b>59</b>	<b>31</b>	<b>26</b>	<b>44</b>
Chemical	14	16	15	5	15
Electrical	18	33	11	10	22
Mechanical	13	8	5	11	7
Design	-	2	-	-	-

- Represents zero.

\* Late-filed requests may not have had a determination by the end of the fiscal year. Numbers will be revised in the following year's PAR, where necessary. While the transition to inter partes reexaminations began in FY 2011, no measureable caseload activity began until FY 2013. FY 2013 is the earliest date of activity for this Workload Table.

<sup>1</sup> Litigation search numbers were updated to include old pending reexaminations that ultimately require new litigation.

TABLE 14: **SUMMARY OF CASES BEFORE THE PATENT TRIAL AND APPEAL BOARD AS OF SEPTEMBER 30, 2020**

Cases	Total
<b>Ex Parte Appeals</b>	
<b>Ex Parte and Reissue Appeals</b>	
Cases Pending as of 9/30/2019	8,589
Cases Filed during FY 2020	6,772
Disposed during FY 2020	7,872
<b>Total Ex Parte and Reissue Appeals Pending as of 9/30/2020</b>	<b>7,489</b>
<b>Ex Parte Appeal and Reissue Rehearings</b>	
Cases Pending as of 9/30/2020	36
<b>Reexamination Appeals</b>	
<b>Ex Parte Reexamination Appeals</b>	
Cases Pending as of 9/30/2019*	12
Cases Filed during FY 2020	38
Cases Disposed during FY 2020	42
<b>Total Ex Parte Reexamination Appeals Pending as of 9/30/2020</b>	<b>8</b>
<b>Inter Partes Reexamination Appeals</b>	
Cases Pending as of 9/30/2019	4
Cases Filed during FY 2020	20
Cases Disposed during FY 2020	15
<b>Total Inter Partes Reexamination Appeals Pending as of 9/30/2020</b>	<b>9</b>
<b>Supplemental Examination Appeals</b>	
Cases Pending as of 9/30/2019	1
Cases Filed during FY 2020	6
Cases Disposed during FY 2020	7
<b>Total Supplemental Examination Appeals Pending as of 9/30/2020</b>	<b>-</b>
<b>Reexamination Appeals Rehearings</b>	
Cases Pending as of 9/30/2020	4

- Represents zero.

\* Changes in EOFY 2019 data due to internal FY 2020 year end audit

TABLE 14: SUMMARY OF CASES BEFORE THE PATENT TRIAL AND APPEAL BOARD AS OF SEPTEMBER 30, 2020 (continued)

<b>Interferences</b>	
Cases Pending as of 9/30/2019	15
Cases Declared during FY 2020	7
Cases Disposed during FY 2020	12
<b>Total Interferences Pending as of 9/30/20</b>	<b>10</b>
<b>Leahy-Smith America Invents Act (AIA) Trials</b>	
<b>Inter Partes Reviews</b>	
Cases Pending as of 9/30/2019*	1,283
Cases Filed during FY 2020	1,429
Cases Reinstated during FY 2020	1
Cases Disposed during FY 2020	1,388
<b>Total Inter Partes Reviews Pending as of 9/30/2020</b>	<b>1,325</b>
<b>Transitional Program for Covered Business Method (TPCBM)</b>	
Cases Pending as of 9/30/2019	24
Cases Filed during FY 2020	20
Cases Disposed during FY 2020	24
<b>Total TPCBM Proceedings Pending as of 9/30/2020</b>	<b>20</b>
<b>Post Grant Reviews</b>	
Cases Pending as of 9/30/2019	51
Cases Filed during FY 2020	64
Cases Disposed during FY 2020	62
<b>Total Post Grant Reviews Pending as of 9/30/2020</b>	<b>53</b>
<b>Derivation Proceedings</b>	
Cases Pending as of 9/30/2019	22
Cases Filed during FY 2020	1
Cases Disposed during FY 2020	11
<b>Total Derivation Proceedings Pending as of 9/30/2020</b>	<b>12</b>

- Represents zero.

\* Changes in FY 2019 data due to internal FY 2020 year-end audit.

TABLE 15: SUMMARY OF TRADEMARK EXAMINING ACTIVITIES (FY 2016–FY 2020)

Item	2016	2017	2018	2019	2020
<b>Applications for Registration</b>					
Applications Including Additional Classes <sup>1</sup>	530,270	594,107	638,847	673,233	738,112
Applications Filed <sup>1</sup>	391,837	435,384	468,926	494,513	553,505
<b>Disposal of Trademark Applications</b>					
Registrations Including Additional Classes	309,188	327,314	367,382	396,836	400,298
Abandonments Including Additional Classes	170,469	187,693	273,808	212,288	247,593
<b>Trademark First Actions Including Additional Classes</b>	<b>536,830</b>	<b>596,678</b>	<b>613,555</b>	<b>711,075</b>	<b>667,616</b>
<b>Applications Approved for Publication Including Additional Classes</b>	<b>432,454</b>	<b>464,806</b>	<b>489,918</b>	<b>552,449</b>	<b>521,700</b>
<b>Certificates of Registration Issued<sup>2</sup></b>					
1946 Act Principal Register	142,300	153,195	179,179	199,223	194,405
Intent-to-Use (ITU) Statements of Use Registered	74,796	79,276	83,606	86,705	90,779
1946 Act Supplemental Register	10,311	10,238	11,023	11,846	10,544
<b>Total Certificates of Registration</b>	<b>227,407</b>	<b>242,709</b>	<b>273,808</b>	<b>297,774</b>	<b>295,728</b>
Renewal of Registration <sup>3</sup>					
Section 9 Applications Filed <sup>1</sup>	72,744	79,557	85,563	80,526	76,184
Section 8 Applications Filed <sup>1,4</sup>	72,708	79,580	85,571	80,545	76,184
Registrations Renewed	62,604	84,727	90,192	72,270	71,575
Affidavits, Sec. 8/15					
Affidavits Filed	87,447	92,138	96,091	98,234	97,636
Affidavits Disposed	77,105	95,613	97,296	87,817	81,171
<b>Amendments to Allege Use Filed</b>	<b>8,167</b>	<b>8,113</b>	<b>8,089</b>	<b>9,127</b>	<b>8,061</b>
<b>Statements of Use Filed</b>	<b>76,943</b>	<b>83,394</b>	<b>84,939</b>	<b>115,673</b>	<b>122,037</b>
<b>Notice of Allowance Issued</b>	<b>215,764</b>	<b>215,944</b>	<b>232,910</b>	<b>255,609</b>	<b>256,941</b>
<b>Total Active Certificates of Registration</b>	<b>2,138,546</b>	<b>2,202,390</b>	<b>2,415,550</b>	<b>2,519,866</b>	<b>2,664,627</b>
<b>Pendency—Average Number of Months</b>					
Between Filing and Examiner's First Action	3.1	2.7	3.4	2.6	3
Between Filing, Registration (Use Applications), Abandonments, and Notices of Allowance (NOAs)—Including Suspended and Inter Partes Proceedings	11.3	10.9	10.9	10.7	11.1
Between Filing, Registration (Use Applications), Abandonments, and NOAs—Excluding Suspended and Inter Partes Proceedings	9.8	9.5	9.6	9.3	9.5

- Represents zero.

<sup>1</sup> "Applications filed" refers simply to the number of individual trademark applications received by the USPTO. There are, however, 47 different classes of items in which a trademark may be registered. An application must request registration in at least one class, but may request registration in multiple classes. Each class application must be individually researched for registerability. "Applications filed, including additional classes" reflects this fact, and, therefore, more accurately reflects the Trademark business workload. With the exception of Certificates of Registration, Renewals of Registration, and Affidavits Filed under section 8/15 and 12(c), the workload count includes extra classes.

<sup>2</sup> With the exception of Certificates of Registration, Renewals of Registration, and Affidavits filed under section 8/15 and 12(c), the workload count includes extra classes.

<sup>3</sup> Renewal of Registration is required beginning 10 years following registration, concurrent with 20-year renewals coming due.

<sup>4</sup> Since the implementation of the Trademark Law Treaty on October 30, 1999 (FY 2000), a section 8 affidavit is required for filing a renewal.



TABLE 16: TRADEMARK APPLICATIONS FILED FOR REGISTRATION AND RENEWAL AND TRADEMARK AFFIDAVITS FILED (FY 2000-FY 2020)

Year	For Registration	For Renewal <sup>1</sup>	Section 8 Affidavit
2000	375,428	24,435	28,920
2001	296,388	24,174	33,547
2002	258,873	34,325	39,484
2003	267,218	35,210	43,151
2004	298,489	32,352	41,157
2005	323,501	39,354	47,752
2006	354,775	36,939	48,444
2007	394,368	40,786	49,241
2008	401,392	42,388	68,470
2009	352,051	43,953	65,322
2010	368,939	48,214	61,499
2011	398,667	49,000	65,771
2012	415,026	63,636	76,646
2013	433,654	74,280	93,174
2014	455,017	67,865	107,823
2015	503,889	63,981	88,486
2016	530,270	72,744	87,447
2017	594,107	79,557	92,138
2018	638,847	85,563	96,091
2019	673,233	80,526	98,234
<b>2020</b>	<b>738,112</b>	<b>76,184</b>	<b>97,636</b>

<sup>1</sup> Renewal of registration term changed in November 16, 1989 (FY 1990), with the implementation of the Trademark Law Reform Act (Pub. L. No. 100-667).

TABLE 17: **SUMMARY OF PENDING TRADEMARK APPLICATIONS (FY 2020)**

Stage of Processing	Application Files	Classes
<b>Pending Applications, Total</b>	<b>697,218</b>	<b>1,002,769</b>
<b>In Preexamination Processing</b>	<b>156,372</b>	<b>195,953</b>
<b>Under Examination, Total</b>	<b>399,098</b>	<b>617,940</b>
<b>Applications Under Initial Examination</b>	<b>135,197</b>	<b>210,842</b>
Amended, Awaiting Action by Examiner	128,528	200,998
Awaiting First Action by Examiner	6,669	9,844
<b>Intent-to-Use Applications Pending Use</b>	<b>198,602</b>	<b>303,649</b>
<b>Applications Under Second Examination</b>	<b>15,556</b>	<b>22,281</b>
Administrative Processing of Statements of Use	50	55
Undergoing Second Examination	3,528	4,868
Amended, Awaiting Action by Examiner	11,978	17,358
<b>Other Pending Applications<sup>1</sup></b>	<b>49,743</b>	<b>81,168</b>
<b>In Postexamination Processing<sup>2</sup></b>	<b>96,581</b>	<b>136,817</b>

<sup>1</sup> Includes applications pending before the Trademark Trial and Appeal Board and suspended cases.

<sup>2</sup> Includes all applications in all phases of publication, issue, and registration.

**TABLE 18: TRADEMARKS REGISTERED, RENEWED, AND PUBLISHED UNDER SECTION 12(C)<sup>1</sup>  
(FY 2000-FY 2020)**

Year	Certificates of Registration Issued	Renewed <sup>2</sup>	Registrations (Including Classes)
2000	106,383	8,821	127,794
2001	102,314	31,477	124,502
2002	133,225	29,957	164,457
2003	143,424	34,370	185,182
2004	120,056	34,735	155,991
2005	112,495	32,279	143,396
2006	147,118	37,305	188,899
2007	150,064	47,336	194,327
2008	209,904	42,159	274,250
2009	180,520	42,282	241,637
2010	164,330	46,734	221,090
2011	177,661	44,873	237,586
2012	182,761	59,871	243,459
2013	193,121	63,709	259,681
2014	206,555	56,166	279,282
2015	208,660	58,284	282,091
2016	227,407	62,604	309,188
2017	242,709	84,727	327,314
2018	273,808	90,192	367,382
2019	297,774	72,270	396,836
<b>2020</b>	<b>295,728</b>	<b>71,575</b>	<b>400,298</b>

<sup>1</sup> Includes withdrawn numbers.

<sup>2</sup> Includes renewals that were affected by the reduction of the renewal term of registration from 20 years to 10 years as a result of the implementation on November 16, 1989 (FY 1990), of the Trademark Law Reform Act (Public Law No. 100-667).

TABLE 19: TRADEMARK APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES (FY 2020)

State/Territory	2020	State/Territory	2020	State/Territory	2020
<b>Total</b>	<b>500,709</b>	Kentucky	3,094	Oklahoma	2,322
		Louisiana	3,023	Oregon	5,620
Alabama	2,924	Maine	1,010	Pennsylvania	13,077
Alaska	355	Maryland	9,354	Rhode Island	1,243
Arizona	9,193	Massachusetts	12,238	South Carolina	4,420
Arkansas	1,882	Michigan	10,197	South Dakota	521
California	107,120	Minnesota	7,694	Tennessee	7,403
Colorado	11,568	Mississippi	1,308	Texas	35,313
Connecticut	5,760	Missouri	5,761	Utah	6,079
Delaware	5,959	Montana	1,259	Vermont	815
District of Columbia	4,266	Nebraska	1,517	Virginia	11,023
Florida	40,247	Nevada	8,013	Washington	11,134
Georgia	16,910	New Hampshire	1,459	West Virginia	487
Hawaii	1,474	New Jersey	17,654	Wisconsin	5,348
Idaho	1,826	New Mexico	1,387	Wyoming	2,323
Illinois	18,322	New York	46,954	Puerto Rico	1,008
Indiana	4,966	North Carolina	11,623	U.S. Virgin Islands	107
Iowa	1,894	North Dakota	405	U.S. Pacific Islands <sup>1</sup>	30
Kansas	2,214	Ohio	11,337	Not Specified <sup>2</sup>	269

<sup>1</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>2</sup> No state indicated in database (includes Army Post Office filings).

**TABLE 20: TRADEMARKS REGISTERED TO RESIDENTS OF THE UNITED STATES<sup>1</sup>  
(FY 2020)**

State/Territory	2020	State/Territory	2020	State/Territory	2020
<b>Total</b>	<b>196,045</b>	Kentucky	1,286	Oklahoma	1,036
		Louisiana	1,148	Oregon	2,393
Alabama	1,169	Maine	492	Pennsylvania	5,548
Alaska	158	Maryland	3,104	Rhode Island	590
Arizona	4,511	Massachusetts	4,743	South Carolina	1,770
Arkansas	690	Michigan	4,112	South Dakota	261
California	39,211	Minnesota	3,550	Tennessee	3,105
Colorado	4,539	Mississippi	431	Texas	14,074
Connecticut	2,280	Missouri	2,575	Utah	2,567
Delaware	1,555	Montana	500	Vermont	335
District of Columbia	1,915	Nebraska	725	Virginia	4,344
Florida	15,848	Nevada	3,107	Washington	4,368
Georgia	6,171	New Hampshire	605	West Virginia	239
Hawaii	524	New Jersey	6,458	Wisconsin	2,438
Idaho	940	New Mexico	519	Wyoming	821
Illinois	768	New York	17,738	Puerto Rico	386
Indiana	7,456	North Carolina	4,600	Virgin Islands	28
Iowa	2,247	North Dakota	177	U.S. Pacific Islands <sup>2</sup>	11
Kansas	937	Ohio	4,942	Not Specified <sup>3</sup>	-

<sup>1</sup> When a trademark is registered, the trademark database is updated to indicate the home state of the entity that registered the trademark.

<sup>2</sup> Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

<sup>3</sup> No state indicated in database (includes Army Post Office filings).

TABLE 21: TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES AND TERRITORIES (FY 2016–FY 2020)

Residence	2016	2017	2018	2019	2020
<b>Total</b>	<b>141,249</b>	<b>180,487</b>	<b>192,906</b>	<b>216,770</b>	<b>237,403</b>
Afghanistan	1	1	3	3	-
Albania	8	2	4	15	15
Algeria	-	2	-	9	1
Andorra	17	17	2	20	14
Angola	9	-	1	1	-
Anguilla	7	14	5	5	5
Antigua and Barbuda	2	7	13	1	2
Argentina	263	277	243	374	318
Armenia	19	38	46	36	39
Aruba	9	18	3	5	14
Australia	5,482	6,600	7,275	7,303	7,358
Austria	1,351	1,495	1,719	1,550	1,721
Azerbaijan	17	1	13	17	16
Bahamas	146	149	163	113	87
Bahrain	9	11	12	32	23
Bangladesh	6	10	32	17	13
Barbados	105	110	138	217	102
Belarus	71	70	41	84	143
Belgium	1,063	2,069	1,340	1,245	1,312
Belize	40	54	79	108	60
Benin	-	-	2	7	-
Bermuda	278	199	201	228	140
Bolivia	12	7	15	6	7
Bosnia and Herzegovina	5	1	5	8	7
Botswana	-	-	135	-	-
Brazil	870	864	791	845	650
British Virgin Islands	886	899	888	874	605
Brunei Darussalam	11	6	5	2	-
Bulgaria	163	297	277	384	310
Cambodia	4	1	3	5	6
Cameroon	-	4	3	2	1
Canada	12,431	13,855	15,470	17,764	16,431
Cabo Verde	-	-	-	-	2
Cayman Islands	920	1,008	1,068	973	800
Chile	312	288	211	243	322
China (Hong Kong)	3,463	4,123	4,563	4,383	4,168



TABLE 21: TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES AND TERRITORIES (FY 2016–FY 2020) (continued)

Residence	2016	2017	2018	2019	2020
China (Macau)	32	21	58	20	40
China (People's Republic of)	28,770	50,942	57,879	76,334	102,593
Colombia	256	316	297	371	332
Cook Islands	11	8	3	-	1
Costa Rica	52	95	62	93	68
Croatia	75	72	71	99	79
Cuba	28	18	10	9	9
Curaçao	74	89	23	45	35
Cyprus	354	480	494	571	601
Czech Republic	332	413	411	516	494
Denmark	1,399	1,510	1,533	1,511	1,426
Dominica	3	1	4	4	-
Dominican Republic	113	104	91	105	96
Ecuador	56	57	88	48	47
Egypt	31	15	45	64	35
El Salvador	68	48	57	60	40
Equatorial Guinea	-	-	-	-	2
Estonia	142	144	226	247	287
Eswatini	-	2	-	-	-
Ethiopia	2	-	4	-	-
Faroe Islands	-	3	-	-	-
Fiji	9	10	3	4	3
Finland	1,191	1,468	1,253	1,199	1,159
France	7,157	7,953	7,642	8,660	7,259
French Polynesia	9	6	12	2	3
Gabon	1	-	-	1	-
Georgia	26	32	31	27	31
Germany	12,792	14,617	15,095	14,359	13,432
Ghana	1	-	2	4	9
Gibraltar	41	45	65	59	96
Greece	166	252	234	238	180
Grenada	4	-	2	3	-
Guadeloupe	-	-	1	-	2
Guatemala	43	53	83	72	81
Guernsey	40	33	43	45	34
Guinea	-	-	-	4	-
Guyana	4	4	1	-	13
Haiti	2	-	-	5	7
Honduras	8	13	19	40	29

TABLE 21: TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES AND TERRITORIES (FY 2016-FY 2020) (continued)

Residence	2016	2017	2018	2019	2020
Hungary	114	178	269	207	151
Iceland	98	92	157	161	90
India	983	1,100	1,238	1,558	1,310
Indonesia	80	90	96	63	151
Iran	59	41	35	16	7
Iraq	4	-	1	-	14
Ireland	942	1,141	1,247	1,190	1,168
Isle of Man	75	54	157	67	55
Israel	1,231	1,698	2,082	2,047	1,922
Italy	4,764	5,759	5,705	5,715	5,104
Ivory Coast	2	3	-	-	3
Jamaica	43	32	41	35	37
Japan	6,199	7,340	7,883	8,779	8,671
Jersey	-	-	-	-	47
Jordan	77	35	33	44	56
Kazakhstan	15	39	15	27	55
Kenya	5	7	7	24	21
Korea (Democratic Republic of)	1	-	5	2	2
Korea (Republic of)	4,462	4,529	5,011	5,649	6,557
Kuwait	49	37	79	34	51
Kyrgyzstan	-	2	-	4	3
Laos	-	-	-	1	1
Latvia	86	81	148	101	125
Lebanon	89	63	87	72	33
Liberia	3	1	-	1	2
Liechtenstein	105	129	129	113	174
Lithuania	76	131	150	138	149
Luxembourg	1,168	1,374	1,094	793	713
Madagascar	-	4	-	1	29
Malaysia	183	195	208	197	203
Malawi	-	-	-	-	2
Maldives	-	-	-	-	1
Malta	308	311	353	365	655
Marshall Island	8	31	35	19	17
Mauritania	-	2	-	-	-
Mauritius	58	78	80	89	110
Mexico	2,437	2,014	2,260	2,393	2,413
Micronesia	-	-	2	-	-
Moldova	19	25	27	41	40
Monaco	94	208	187	171	264

TABLE 21: TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES AND TERRITORIES (FY 2016–FY 2020) (continued)

Residence	2016	2017	2018	2019	2020
Mongolia	4	6	7	14	7
Montenegro	28	31	6	6	1
Montserrat	2	-	2	-	1
Morocco	52	93	66	68	69
Myanmar	2	-	1	-	18
Namibia	48	272	131	3	1
Nepal	-	1	2	5	-
Netherlands	2,823	3,320	3,539	2,983	3,023
New Zealand	922	1,016	1,064	1,253	1,234
Nicaragua	20	11	6	13	23
Nigeria	22	8	20	20	7
North Macedonia	18	34	17	16	29
Norway	568	815	1,048	953	752
Oman	9	3	9	6	6
Pakistan	36	58	42	74	37
Palau	1	-	4	-	-
Panama	222	156	175	137	164
Paraguay	5	7	46	7	5
Peru	78	86	134	102	104
Philippines	80	111	155	137	110
Poland	463	723	659	640	581
Portugal	369	428	436	331	466
Qatar	73	24	36	53	64
Romania	153	290	440	299	299
Russian Federation	674	1,020	1,369	1,377	1,366
Rwanda	1	-	1	-	1
Saint Kitts and Nevis	17	8	53	32	60
Saint Lucia	28	25	14	22	32
Saint Vincent and the Grenadines	2	6	4	3	19
Samoa	35	28	33	22	16
San Marino	26	14	11	15	10
Saudi Arabia	105	104	122	111	98
Scotland	45	41	90	61	-
Senegal	-	-	3	4	2
Serbia	27	74	70	139	105
Seychelles	60	44	99	63	66
Singapore	1,077	1,442	1,640	1,707	1,980
Sint Maarten	-	4	28	4	2
Slovakia	117	148	121	122	125

TABLE 21: TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES AND TERRITORIES (FY 2016–FY 2020) (continued)

Residence	2016	2017	2018	2019	2020
Slovenia	101	148	189	283	175
South Africa	243	218	308	274	277
Spain	2,276	2,723	2,462	2,765	2,637
Sri Lanka	40	29	61	29	25
Suriname	1	1	5	1	2
Sweden	2,073	2,694	2,466	2,403	2,730
Switzerland	5,285	5,741	6,433	6,922	6,128
Syria	5	45	9	9	12
Taiwan	1,610	1,734	1,965	2,004	2,142
Tanzania	2	4	6	12	-
Thailand	147	238	321	371	335
Trinidad and Tobago	49	32	21	17	58
Tunisia	3	26	12	25	7
Turkey	967	1,059	1,283	1,413	1,335
Turkmenistan	-	-	-	1	-
Turks and Caicos Islands	29	40	15	14	11
Uganda	9	-	3	-	3
Ukraine	147	376	450	579	608
United Arab Emirates	422	461	414	391	507
United Kingdom	14,249	15,953	14,925	16,116	15,288
Uruguay	72	58	62	67	55
Uzbekistan	-	-	-	2	4
Vanuatu	-	2	-	4	6
Vatican City	-	-	-	-	6
Venezuela	64	59	38	32	34
Vietnam	124	220	254	384	495
West Bank/Gaza Strip	2	-	-	5	7
Yemen	-	2	4	9	5
Zimbabwe	1	2	-	-	4
Other <sup>1</sup>	7	26	65	21	3

- Represents zero.

<sup>1</sup> Country of origin information not available or not indicated in database (includes African Regional Intellectual Property Organization filings).

TABLE 22: TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES AND TERRITORIES (FY 2016–FY 2020)

Residence	2016	2017	2018	2019	2020
<b>Total</b>	<b>50,980</b>	<b>65,636</b>	<b>85,182</b>	<b>96,559</b>	<b>99,683</b>
Afghanistan	1	1	1	1	-
Albania	3	2	6	3	8
Algeria	1	-	-	1	1
Andorra	4	9	-	4	6
Angola	1	-	-	1	-
Anguilla	1	5	2	2	4
Antigua and Barbuda	1	1	-	1	2
Argentina	135	101	159	125	125
Armenia	7	13	17	20	15
Aruba	5	2	1	1	1
Australia	1,940	2,016	2,388	2,733	2,971
Austria	406	467	454	494	485
Azerbaijan	-	3	1	4	9
Bahamas	56	51	36	50	-
Bahrain	6	7	2	6	12
Bangladesh	1	2	13	12	9
Barbados	48	38	44	45	42
Belarus	12	13	18	27	41
Belgium	372	398	567	522	481
Belize	16	18	23	11	18
Bermuda	76	100	70	71	68
Bolivia	1	2	2	4	8
Bosnia and Herzegovina	2	3	1	-	1
Brazil	257	301	333	361	347
British Virgin Islands	286	426	280	325	230
Brunei Darussalam	2	5	6	2	-
Bulgaria	67	55	109	86	133
Cambodia	2	1	-	3	4
Cameroon	-	-	2	1	-
Canada	4,288	4,739	4,827	5,131	5,610
Cabo Verde	-	-	-	-	1
Cayman Islands	169	202	224	271	230
Chile	111	109	131	134	117
China (Hong Kong)	1,268	1,504	1,859	2,110	2,005
China (Macau)	6	-	-	-	-
China (People's Republic of)	10,582	23,893	38,399	47,319	48,766
Colombia	128	142	147	162	167
Cook Islands	1	1	2	-	-

TABLE 22: TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES AND TERRITORIES (FY 2016–FY 2020) (continued)

Residence	2016	2017	2018	2019	2020
Costa Rica	21	22	31	30	29
Croatia	18	17	20	22	25
Cuba	11	11	5	5	2
Curaçao	28	16	30	20	8
Cyprus	117	114	186	169	167
Czech Republic	115	129	142	133	154
Denmark	472	442	523	491	482
Dominica	3	2	-	3	1
Dominican Republic	44	56	44	53	55
Ecuador	16	17	30	40	34
Egypt	18	6	6	9	13
El Salvador	28	30	30	40	30
Estonia	36	40	61	82	73
Eswatini	-	-	-	-	2
Ethiopia	-	-	2	1	1
Fiji	1	3	3	2	4
Finland	292	330	423	352	377
France	2,358	2,455	2,697	2,563	2,639
French Polynesia	3	2	3	3	3
Georgia	17	9	14	18	14
Germany	3,875	3,978	4,312	4,352	4,379
Ghana	-	-	1	1	-
Gibraltar	33	28	44	50	20
Greece	79	54	83	79	84
Greenland	-	-	1	-	-
Grenada	1	-	-	-	2
Guatemala	-	15	-	-	38
Guernsey	13	13	7	14	16
Guyana	4	1	3	-	1
Haiti	3	1	-	2	3
Honduras	5	3	2	10	9
Hungary	41	41	63	62	74
Iceland	36	29	33	28	56
India	315	386	480	584	668
Indonesia	28	28	20	45	35
Iran	9	13	15	6	3
Iraq	5	-	3	-	-
Ireland	365	346	444	495	444
Isle of Man	-	17	35	19	24



**TABLE 22: TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES AND TERRITORIES (FY 2016–FY 2020)** *(continued)*

Residence	2016	2017	2018	2019	2020
Israel	596	574	879	1,019	1,027
Italy	1,994	1,928	2,309	2,363	2,320
Ivory Coast (Cote d'Ivoire)	1	3	-	-	3
Jamaica	24	21	17	13	13
Japan	2,982	2,763	2,929	3,203	3,372
Jordan	41	25	26	16	20
Kazakhstan	4	8	5	14	11
Kenya	11	7	1	3	7
Korea (Democratic Republic of)	-	-	2	2	2
Korea (Republic of)	1,724	2,316	2,289	2,629	3,072
Kuwait	12	6	11	11	17
Kyrgyzstan	2	-	1	-	1
Latvia	20	26	44	50	48
Lebanon	40	29	27	28	24
Liberia	4	1	-	-	1
Liechtenstein	68	35	41	46	52
Lithuania	28	38	46	66	79
Luxembourg	375	388	369	340	275
Macao	-	14	31	10	11
Madagascar	-	-	-	-	2
Malaysia	54	61	100	88	100
Mali	-	-	102	-	-
Malta	122	107	-	114	141
Marshall Islands	12	6	12	7	17
Mauritius	20	20	19	12	26
Mexico	1,005	982	1,020	1,106	1,051
Moldova	7	7	9	15	12
Monaco	55	33	38	36	39
Mongolia	-	1	2	5	2
Montenegro	19	1	21	23	2
Montserrat	-	-	-	1	-
Morocco	12	13	44	25	25
Mozambique	-	-	1	-	-
Myanmar	-	-	-	1	-
Namibia	1	1	-	1	3
Nepal	-	-	1	1	-
Netherlands	1,017	951	1,207	1,207	1,163
New Zealand	375	353	434	472	505
Nicaragua	5	15	8	12	3
Nigeria	3	3	8	9	1

TABLE 22: TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES AND TERRITORIES (FY 2016–FY 2020) (continued)

Residence	2016	2017	2018	2019	2020
North Macedonia	1	4	7	3	11
Norway	217	182	249	273	261
Oman	1	1	5	5	7
Pakistan	24	20	24	18	37
Panama	82	66	68	76	67
Papua New Guinea	-	-	-	8	-
Paraguay	1	2	2	-	4
Peru	32	33	33	68	42
Philippines	43	47	61	58	48
Poland	150	167	206	202	185
Portugal	194	172	189	188	171
Qatar	19	23	8	14	18
Romania	45	64	179	229	148
Russian Federation	251	215	322	356	435
Rwanda	-	-	-	-	1
Saint Kitts and Nevis	12	8	8	14	16
Saint Lucia	9	29	9	7	8
Saint Vincent and the Grenadines	-	2	2	3	3
Samoa	13	8	-	10	12
San Marino	8	12	6	7	2
Saudi Arabia	46	31	40	42	39
Senegal	-	-	-	1	4
Serbia	10	7	22	24	21
Seychelles	17	23	19	19	47
Singapore	385	431	524	524	611
Sint Maarten	1	-	5	3	-
Slovakia	33	45	46	42	47
Slovenia	32	38	60	56	69
South Africa	94	97	89	124	99
Spain	1,151	1,086	1,140	1,124	1,207
Sri Lanka	14	7	26	17	12
Swaziland	1	-	1	-	-
Sweden	744	749	845	921	885
Switzerland	2,060	1,775	1,961	2,012	2,222
Syria	-	5	7	5	1
Taiwan	902	921	1,002	1,094	1,129
Tanzania	-	-	-	4	2
Thailand	70	73	101	152	185
Trinidad and Tobago	5	8	7	15	4
Tunisia	4	2	9	5	12

**TABLE 22: TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES (FY 2016–FY 2020)** (continued)

Residence	2016	2017	2018	2019	2020
Turkey	369	350	360	508	498
Turks and Caicos Islands	17	21	16	3	8
Uganda	-	-	2	1	1
Ukraine	80	70	200	232	289
United Arab Emirates	137	134	128	151	146
United Kingdom	4,299	4,552	5,020	4,969	5,045
Uruguay	13	25	20	25	23
Uzbekistan	1	-	-	-	1
Vanuatu	-	-	1	-	1
Vatican City	-	-	3	1	-
Venezuela	26	41	33	25	21
Vietnam	60	68	117	120	232
Yemen	-	-	-	5	5
Zimbabwe	-	1	2	-	-
Other <sup>1</sup>	2	1	25	22	7

- Represents zero.

<sup>1</sup> Country of origin information not available or not indicated in database (includes African Regional Intellectual Property Organization filings).

**TABLE 23: SUMMARY OF CONTESTED TRADEMARK CASES (WITHIN THE USPTO, AS OF SEPTEMBER 30, 2020)**

Activity	Ex Parte	Opposition	Cancellations	Concurrent Use	Interference	Total
<b>Cases Pending as of 9/30/2019, Total</b>	<b>1,812</b>	<b>3,677</b>	<b>1,123</b>	<b>21</b>	<b>-</b>	<b>6,633</b>
<b>Cases Filed During FY 2020</b>	<b>3,487</b>	<b>6,712</b>	<b>2,501</b>	<b>24</b>	<b>-</b>	<b>12,724</b>
<b>Disposals During FY 2020, Total</b>	<b>3,286</b>	<b>4,815</b>	<b>1,542</b>	<b>20</b>	<b>-</b>	<b>9,663</b>
Before Oral Hearing or Briefing	2,757	4,683	1,476	18	-	8,934
After Briefing (No Oral Hearing)	470	110	53	1	-	634
After Oral Hearing	59	22	13	1	-	95
<b>Cases Pending as of 9/30/2020, Total</b>	<b>2,013</b>	<b>5,574</b>	<b>2,082</b>	<b>25</b>	<b>-</b>	<b>9,694</b>
Awaiting Decision	89	24	13	-	-	126
In Process Before Hearing or Final Briefing <sup>1</sup>	1,924	5,550	2,069	25	-	9,568
<b>Requests Made for Extension of Time to Oppose in FY 2020</b>	<b>-</b>	<b>18,893</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

- Represents zero.

<sup>1</sup> Includes suspended cases.

TABLE 24: ACTIONS ON PETITIONS TO THE DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE (FY 2016–FY 2020)

Nature of Petition	2016	2017	2018	2019	2020
<b>Patent Matters</b>					
<b>Actions on Patent Petitions, Total</b>	<b>49,467</b>	<b>47,678</b>	<b>48,063</b>	<b>48,373</b>	<b>51,856</b>
Acceptance of:					
Late Assignments	846	735	580	635	651
Late Issue Fees	2,242	2,702	2,543	2,678	3,046
Late Priority Papers	289	371	242	285	351
Access	12	4	3	1	-
Certificates of Correction	26,319	22,765	26,363	23,406	24,246
Deferment of Issue	14	20	18	7	11
Entity Status Change	2,813	2,542	2,657	3,008	3,900
Filing Date	222	117	66	68	69
Maintenance Fees	2,359	2,343	2,374	2,460	2,598
Revivals	7,621	7,811	6,249	6,258	7,242
Rule 47 (37 CFR 1.47)	131	94	45	32	26
Supervisory Authority	360	440	362	446	441
Suspend Rules	117	146	3	71	118
Withdrawal from Issue	4,783	5,605	5,225	7,113	7,738
Withdraw Holding of Abandonment	1,339	1,983	1,333	1,905	1,419
Late Benefit or Priority Claim	4,051	5,095	3,326	2,922	2,960
Withdraw as Attorney	3,440	3,286	2,196	3,693	1,957
Matters Not Provided For (37 CFR 1.182)	1,601	2,376	1,768	1,762	2,043
To Make Special	23,672	20,906	21,257	24,015	24,684
Patent Term Adjustment/Extension	688	507	390	448	556

TABLE 24: ACTIONS ON PETITIONS TO THE DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE (FY 2016–FY 2020) (continued)

Nature of Petition	2016	2017	2018	2019	2020
<b>Trademark Matters</b>					
<b>Actions on Trademark Petitions, Total</b>	<b>28,194</b>	<b>31,277</b>	<b>37,740</b>	<b>35,097</b>	<b>36,495</b>
Filing Date Restorations <sup>1</sup>	4	6	10	8	13
Inadvertently Issued Registrations	54	96	117	105	123
Letters of Protest	2,258	2,726	3,385	4,106	3,534
Madrid Petitions	68	88	80	99	116
Make Special	391	539	817	648	696
Reinstatements <sup>2</sup>	564	215	167	202	197
Revivals					
Reviewed on Paper	629	881	1,415	687	993
Granted Electronically <sup>3</sup>	20,432	22,610	26,108	23,862	25,426
Waived Fees and Refunds	13	14	13	5	8
Miscellaneous Petitions to the Director	1,143	1,335	1,371	1,453	1,354
Board Matters	27	24	31	24	20
Post Registration Matters	270	315	698	1,181	1,162
Post Publication Amendments	2,341	2,428	3,528	2,717	2,853
<b>Petitions Awaiting Action as of 9/30/2019</b>					
Trademark Petitions Awaiting Response	46	42	35	-	-
2.66 Petitions <sup>4</sup>	-	-	-	70	99
2.146 Petitions <sup>4</sup>	-	-	-	99	105
Trademark Petitions to Revive <sup>5</sup>	-	49	350	-	-
2.66 Petitions <sup>4</sup>	-	-	-	36	230
2.146 Petitions <sup>4</sup>	-	-	-	425	1,099
Trademark Pending Filing Date Issues	-	-	-	-	-

- Represents zero.

<sup>1</sup> Trademark applications that are entitled to a particular filing date based on clear evidence of error by Trademarks.

<sup>2</sup> Trademark applications restored to pendency (inadvertently abandoned by Trademarks).

<sup>3</sup> The petition to revive numbers were not separated into two categories (paper versus electronic) prior to 2006.

<sup>4</sup> Petitions to the Director made under Trademark Rules 2.66 and 2.146 have been counted separately.

<sup>5</sup> Prior to 2018, petitions in this category were designated as "Trademark Petitions Awaiting Action."

TABLE 25: **CASES IN LITIGATION (SELECTED COURTS OF THE UNITED STATES, AS OF SEPTEMBER 30, 2020)**

Cases	Patents	Trademarks	Office of Enrollment and Discipline	Total
<b>U.S. District Courts</b>				
<b>Civil Actions</b>				
<b>Pending as of 9/30/2019, Total</b>	<b>47</b>	<b>1</b>	<b>-</b>	<b>48</b>
<b>Filed During FY 2020</b>	<b>9</b>	<b>6</b>	<b>1</b>	<b>16</b>
<b>Disposals, Total</b>	<b>12</b>	<b>3</b>	<b>-</b>	<b>15</b>
Affirmed	-	-	-	-
Affirmed-in-Part	4	-	-	4
Reversed	-	-	-	-
Remanded	-	1	-	1
Dismissed	7	2	-	9
Summary Judgment Granted (USPTO)	1	-	-	1
Summary Judgment Granted (Opposing Party)	-	-	-	-
Transfer	-	-	-	-
<b>Cases Pending Before the U.S. District Courts as of 9/30/2020, Total</b>	<b>44</b>	<b>4</b>	<b>1</b>	<b>49</b>
<b>United States Courts of Appeals<sup>1</sup></b>				
<b>Ex Parte Cases</b>				
<b>Pending as of 9/30/2019, Total</b>	<b>63</b>	<b>7</b>	<b>3</b>	<b>73</b>
<b>Filed During FY 2020</b>	<b>49</b>	<b>12</b>	<b>-</b>	<b>61</b>
<b>Disposals, Total</b>	<b>63</b>	<b>13</b>	<b>3</b>	<b>79</b>
USPTO Affirmed	41	4	1	46
Affirmed-in-Part	-	-	-	-
District Court Affirmed	5	-	1	6
District Court Reversed	-	-	-	-
Reversed	-	-	-	-
Reversed-in-Part	-	-	-	-
Remanded	10	2	-	12
Dismissed	6	7	1	14
Transfer	-	-	-	-
Mandamus Denied	-	-	-	-
Mandamus Granted	-	-	-	-
Withdrawn	1	-	-	1
<b>Ex Parte Cases Pending as of 9/30/2020, Total</b>	<b>49</b>	<b>6</b>	<b>-</b>	<b>55</b>
<b>Intervention Cases</b>				
<b>Intervened Cases</b>				
<b>Pending as of 9/2019, Total</b>	<b>57</b>	<b>3</b>	<b>N/A</b>	<b>60</b>
<b>Filed During FY 2020</b>	<b>136</b>	<b>5</b>	<b>N/A</b>	<b>141</b>
<b>Disposals, Total<sup>2</sup></b>	<b>116</b>	<b>3</b>	<b>N/A</b>	<b>119</b>
USPTO Affirmed	33	2	N/A	35
Affirmed-In-Part	-	-	N/A	-
Reversed	1	-	N/A	1
Reversed-in-Part	1	-	N/A	1
Remanded	58	-	N/A	58
Remanded-in-Part	1	-	N/A	1
Dismissed	21	1	N/A	22
Vacated	-	-	N/A	-
Withdrawn	1	-	N/A	1
<b>Intervention Cases Pending as of 9/30/2020, Total</b>	<b>77</b>	<b>5</b>	<b>N/A</b>	<b>82</b>



TABLE 25: **CASES IN LITIGATION (SELECTED COURTS OF THE UNITED STATES, AS OF SEPTEMBER 30, 2020)** (continued)

Cases	Patents	Trademarks	Office of Enrollment and Discipline	Total
<b>Inter Partes Cases</b>				
<b>Pending as of 9/30/2019, Total</b>	455	13	N/A	468
<b>Filed During FY 2020</b>	449	20	N/A	469
<b>Disposals, Total<sup>3</sup></b>	599	21	N/A	620
<b>Inter Partes Cases Pending as of 9/30/2020, Total</b>	305	12	N/A	317
<b>Cases Pending Before the U.S. Courts of Appeals (Ex Parte Intervention and Inter Partes) as of 9/30/2020, Total</b>	431	23	N/A	454
<b>Supreme Court</b>				
<b>Ex Parte Cases</b>				
<b>Pending as of 9/30/2019, Total</b>	3	4	-	7
<b>Filed During FY 2020</b>	20	-	2	22
<b>Disposals, Total</b>	8	4	-	12
<b>Cases Pending Before the Supreme Court as of 9/30/2020, Total</b>	15	-	2	17

- Represents zero.

<sup>1</sup> Includes Federal Circuit and other appellate courts.

<sup>2</sup> Includes Consolidated Cases.

<sup>3</sup> Breakouts not shown—incompatible reporting methods.

TABLE 26: **PATENT CLASSIFICATION ACTIVITY (FY 2016-FY 2020)**

Activity	2016	2017	2018	2019	2020
Subgroups Established in the Cooperative Patent Classification System	1,883	1,336	2,438	1,757	2,411
Subclasses Established in the United States Patent Classification System	-	-	-	-	-
Number of Reclassified CPC Patent Families in the Cooperative Patent Classification System	58,357	68,579	11,821	71,888	154,337
Number of Reclassified United States Patent Classification Documents	-	-	-	-	-

TABLE 27: SCIENTIFIC AND TECHNICAL INFORMATION CENTER ACTIVITY (FY 2020)

Activity	Quantity
<b>Prior Art Search Services Provided</b>	
Genetic Sequence Searches Requested	6,871
Genetic Sequence IDs Completed	35,931
Submissions in Computer Readable Form (CRF) Reviewed	25,088
PLUS Searches Completed	36,103
Foreign Patent Searches Completed	4,366
Text and Structure Searches Completed <sup>1</sup>	11,534
<b>Document Delivery Services Provided</b>	
Document Delivery/Interlibrary Loan Requests Processed	10,295
Copies of Foreign Patents Provided	13,940
<b>Information Assistance and Automation Services</b>	
One-on-One Examiner Information Assistance	15,993
Patents Employee Attendance at STIC-Led PTA and OPT classes	4,772
Patents Employee Attendance at STIC-Led Group Instruction	7,887
Foreign Patents Assistance for Examiners and Public	4,940
<b>Translation Services Provided for Examiners</b>	
Written Translations of Documents	1,173
Documents Orally Translated <sup>2</sup>	4,004
Number of Words Translated (Written)	5,932,346
<b>Foreign Patent Services Provided for Examiners</b>	
Machine Translations	6,970
Manual Machine Translations	1,998
<b>Total Number of Examiner Service Contacts</b>	<b>191,865</b>
<b>Collection Usage and Growth</b>	
Non-Patent Literature (NPL) Print/Electronic Collection Usage	4,264,634
Print Books/Subscriptions Purchased	10
Full-Text Electronic Journal Titles Available	68,172
Full-Text Electronic Book Titles Available	364,024
NPL Databases Available for Searching (Estimated)	316

<sup>1</sup> Commercial database searches completed.

<sup>2</sup> Includes orally translated requests for Trademarks.

TABLE 28: END OF YEAR PERSONNEL<sup>1</sup> (FY 2016-FY2020)

Activity	2016	2017	2018	2019	2020
<b>Business Lines</b>					
<b>Personnel by Business Lines, Total</b>	<b>12,725</b>	<b>12,588</b>	<b>12,579</b>	<b>12,652</b>	<b>12,928</b>
Patents	11,654	11,453	11,256	11,395	11,668
Trademarks	1,071	1,135	1,323	1,257	1,260
<b>Examination Staff</b>					
<b>Patent Examiners</b>	<b>8,351</b>	<b>8,147</b>	<b>8,185</b>	<b>8,296</b>	<b>8,434</b>
Utility, Plant, and Reissue Examiners	8,160	7,961	8,007	8,125	8,230
Design Examiners	191	186	178	171	204
Patent Examiner Attrition Rate	3.02%	3.00%	4.00%	4.50%	4.50%
<b>Trademark Examining Attorneys, Total</b>	<b>505</b>	<b>549</b>	<b>579</b>	<b>627</b>	<b>622</b>
Trademark Examining Attorneys Attrition Rate	2.10%	3.98%	4.91%	5.26%	4.60%

<sup>1</sup> Total number of available positions within the Patent and Trademark business lines.

TABLE 29A: TOP 50 TRADEMARK APPLICANTS (FY 2020)

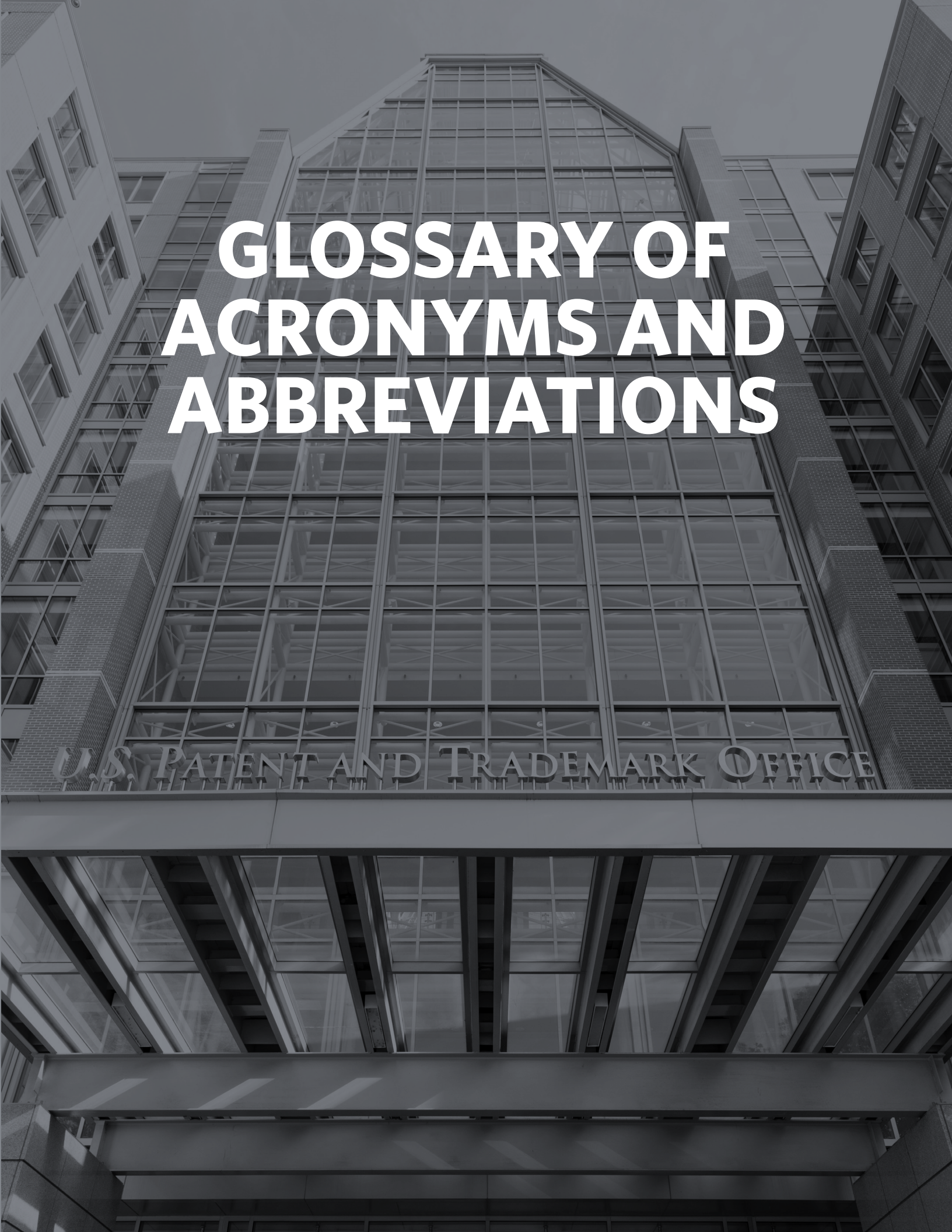
Name of Applicant	Class <sup>1</sup>	Name of Applicant	Class <sup>1</sup>
Walmart Apollo LLC.	478	KBZ TECH Inc.	168
Amazon Technologies Inc.	366	Colgate-Palmolive Company	164
Novartis AG	318	Home Depot Product Authority LLC.	164
Aristocrat Technologies Australia Pty Ltd.	297	Lidl Stiftung & Co. KG	164
MATTEL Inc.	281	Maison Battat Inc.	163
HUAWEI TECHNOLOGIES CO. Ltd.	273	LIBERTY PROCUREMENT CO. Inc.	161
Target Brands Inc.	245	World Wrestling Entertainment Inc.	159
Microsoft Corporation	242	GIVEWITH LLC.	154
Play'n GO Marks Ltd,	241	Lynco Distribution Inc.	154
QING WUTONG CO. Ltd.	240	PetSmart Home Office Inc.	154
LG ELECTRONICS Inc.	238	REEF GLOBAL Inc.	154
G&W Trademarks Inc.	232	Bessie Blu, LLC	153
Samsung Electronics Co. Ltd.	229	CVS Pharmacy Inc.	153
Johnson & Johnson	211	Barstool Sports Inc.	150
Bristol-Myers Squibb Company	210	Humana Inc.	149
THE WINE GROUP LLC.	203	George Tan	148
Bumble Holding Limited	198	Everglades College Inc.	147
SG GAMING Inc.	198	L'OREAL	147
E. & J. Gallo Winery	191	L'Oreal USA Creative Inc.	142
Mike Bloomberg 2020 Inc.	190	Eli Lilly and Company	140
Pfizer Inc.	183	FOX MEDIA LLC.	138
Pleiades Publishing Inc.	182	Yang, Xiaodong	138
LG HOUSEHOLD & HEALTH CARE Ltd.	177	CVB Inc.	135
Critical Role LLC.	175	Celgene Corporation	134
Highley Holdings LLC.	170	Truman State University	134

<sup>1</sup> Applications with additional classes.

TABLE 29B: TOP 50 TRADEMARK REGISTRATIONS (FY 2020)

Name of Registrant	Registrations	Name of Registrant	Registrations
Everglades College Inc.	378	LG Household & Health Care Ltd.	71
Aristocrat Technologies Australia Pty Ltd.	275	Shiseido Company Limited	70
Samsung Electronics Co. Ltd.	223	Huawei Technologies Co. Ltd.	68
Novartis AG	188	Everi Games Inc.	62
Xiamen Youjing E-commerce Co. Ltd.	183	Mattel Inc.	61
Warner Bros. Entertainment Inc.	136	Playtika Ltd.	61
SG Gaming Inc.	113	Google LLC.	59
Glaxo Group Limited	103	Gruma Corporation	58
AGS LLC.	95	Lynco Distribution Inc.	58
Amazon Technologies Inc.	92	Netflix Studios LLC.	58
Home Depot Product Authority LLC.	90	Sauder Woodworking Co.	56
L'Oreal	90	Bath & Body Works Brand Management Inc.	53
Disney Enterprises Inc.	87	Sazerac Brands LLC.	53
LG Electronics Inc.	86	UHS of Delaware Inc.	52
Baidu Online Network Technology (Beijing) Co., Ltd.	84	Marvel Characters Inc.	51
Apple Inc.	83	King Show Games Inc.	50
The Procter & Gamble Company	83	M S International Inc.	50
L'Oreal USA Creative Inc.	80	Trinity Property Consultants LLC.	50
Aristocrat Technologies Australia Pty Ltd.	79	Vicostone Joint Stock Company	49
Maison Battat Inc.	76	Amorepacific Corporation	48
Walmart Apollo LLC.	76	Incredible Technologies Inc.	48
Johnson & Johnson	75	Barstool Sports Inc.	47
LGT Canada Solutions Ulc.	74	Euro Games Technology Ltd.	47
Target Brands Inc.	72	Microsoft Corporation	47
Aldi Inc.	71	Ainsworth Game Technology Limited	46





# GLOSSARY OF ACRONYMS AND ABBREVIATIONS

U.S. PATENT AND TRADEMARK OFFICE

# GLOSSARY OF ACRONYMS

<b>ABA</b>	American Bar Association	<b>COTS</b>	Commercial Off-the-Shelf
<b>ACR</b>	Accelerated Case Resolution	<b>CPC</b>	Cooperative Patent Classification
<b>AFCP</b>	After Final Consideration Pilot	<b>CPIC</b>	Capital Planning and Investment Control
<b>AGA</b>	Association of Government Accountants	<b>CX</b>	Customer Experience
<b>AI</b>	Artificial Intelligence	<b>DAV</b>	Docket and Application Viewer
<b>AIA</b>	America Invents Act	<b>DC</b>	District of Columbia
<b>AIPA</b>	American Inventor Protection Act	<b>DHS</b>	Department of Homeland Security
<b>AIPLA</b>	American Intellectual Property Law Association	<b>DM</b>	Docket Management
<b>AMP</b>	Aspiring Managers Program	<b>DOC</b>	Department of Commerce
<b>APEC</b>	Asia Pacific Economic Cooperation	<b>DOCX</b>	Document in Extensible Markup Language
<b>APEX</b>	Administrative Professionals Excellence	<b>DSBD</b>	Digital Services and Big Data
<b>API</b>	Application Program Interface	<b>E2E</b>	End-to-End
<b>APJ</b>	Administrative Patent Judge	<b>eDAN</b>	Electronic Desktop Application Navigator
<b>ATJ</b>	Administrative Trademark Judge	<b>ELP</b>	Emerging Leaders Program
<b>AWE</b>	After Work Education	<b>EISA</b>	Energy Independence and Security Act
<b>BAS</b>	Building Automated System	<b>EOSD</b>	Employee and Office Services Division
<b>BDR</b>	Big Data Reservoir	<b>EPO</b>	European Patent Office
<b>CFR</b>	Code of Federal Regulations	<b>ESTTA</b>	Electronic System for Trademark Trial and Appeals
<b>CARES</b>	Coronavirus Aid, Relief, and Economic Security	<b>ETC</b>	Enhanced Testing Center
<b>CBM</b>	Covered Business Methods	<b>ETIS</b>	Enterprise Telework Information System
<b>CBP</b>	Customs and Border Protection	<b>EUIPO</b>	European Union Intellectual Property Office
<b>CBT</b>	Commerce Business Training	<b>Fed. Reg.</b>	Federal Register
<b>CEAR</b>	Certificate of Excellence in Accountability and Reporting	<b>FFMIA</b>	Federal Financial Management Improvement Act
<b>CES</b>	Consumer Electronics Show	<b>FIRST</b>	For Inspiration and Recognition of Science and Technology
<b>CFO</b>	Chief Financial Officer	<b>FMFIA</b>	Federal Managers' Financial Integrity Act
<b>CIPA</b>	Caribbean Intellectual Property Association	<b>FPNG</b>	Fee Processing Next Generation
<b>CICD</b>	Continuous Integration and Continuous Delivery	<b>FRAND</b>	Fair, Reasonable, and Non-discriminatory
<b>CMS</b>	Content Management System	<b>FY</b>	Fiscal Year
<b>CNIPA</b>	China National Intellectual Property Administration	<b>GAO</b>	Government Accountability Office
<b>CO2</b>	Carbon Dioxide	<b>GI</b>	Geographical Indications
<b>COOP</b>	Continuity of Operations Plan	<b>GIPA</b>	Global Intellectual Property Academy
		<b>GOTS</b>	Government Off-the-Shelf



<b>GPRA</b>	Government Performance Results Act	<b>NCEAI</b>	National Council for Expanding American Innovation
<b>GS</b>	General Schedule	<b>NCPC</b>	National Crime Prevention Council
<b>GSA</b>	General Services Administration	<b>NIHF</b>	National Inventors Hall of Fame
<b>GUI</b>	Graphical User Interface	<b>NPRM</b>	Notice of Proposed Rule Making
<b>IAC</b>	Inventors Assistance Center	<b>NSTI</b>	National Summer Teacher Institute
<b>ICANN</b>	Internet Corporation for Assigned Names and Numbers	<b>NTIA</b>	National Telecommunications and Information Administration
<b>ID5</b>	Five Largest Industrial Design Offices	<b>OAS</b>	Office of Administrative Services
<b>IDS</b>	Information Disclosure Statements	<b>OBRA</b>	Omnibus Budget Reconciliation Act
<b>IFW</b>	Image File Wrapper	<b>OC</b>	Office Correspondence
<b>IG</b>	Inspector General	<b>OCAO</b>	Office of the Chief Administrative Officer
<b>IMPI</b>	Mexican Institute of Industrial Property	<b>OCCO</b>	Office of the Chief Communications Officer
<b>INTA</b>	International Trademark Association	<b>OCE</b>	Office of the Chief Economist
<b>IP</b>	Intellectual Property	<b>OCFO</b>	Office of the Chief Financial Officer
<b>IPEC</b>	Intellectual Property Enforcement Coordinator	<b>OCIO</b>	Office of the Chief Information Officer
<b>IP5</b>	Five Largest Intellectual Property Offices	<b>OEO</b>	Office of Education and Outreach
<b>IPIA</b>	Improper Payments Information Act	<b>OECD</b>	Organization for Economic Cooperation and Development
<b>IPLA</b>	International Patent Legal Association	<b>OEEOD</b>	Office of Equal Employment Opportunity and Diversity
<b>IPR</b>	Inter Partes Review	<b>OGC</b>	Office of General Counsel
<b>ISD</b>	Illicit Streaming Device	<b>OIG</b>	Office of Inspector General
<b>IT</b>	Information Technology	<b>OMB</b>	Office of Management and Budget
<b>ITA</b>	International Trade Administration	<b>OPIA</b>	Office of Policy and International Affairs
<b>JDK</b>	Business Logic Software	<b>OPQA</b>	Office of Patent Quality Assurance
<b>JPO</b>	Japan Patent Office	<b>OPT</b>	Office of Patent Training
<b>KIPO</b>	Korean Intellectual Property Office	<b>P.L.</b>	Public Law
<b>kWh</b>	Kilowatt-hour	<b>PACE</b>	Patent Administrative Continued Education
<b>LDP</b>	Leadership Development Program	<b>PALM</b>	Patent Application Location Monitoring
<b>LEAP</b>	Legal Experience and Advancement Program	<b>PAR</b>	Performance and Accountability Report
<b>LED</b>	Light Emitting Diode	<b>PCAPS</b>	Patent Capture and Application Processing System
<b>MEF</b>	Mandatory Electronic Filing	<b>PCT</b>	Patent Cooperation Treaty
<b>ML</b>	Machine Learning		
<b>MPEP</b>	Manual of Patent Examination Procedure		
<b>MWh</b>	Megawatt-hour		
<b>NBIB</b>	National Background Investigations Bureau		

<b>PDF</b>	Portable Document Format	<b>SUCCESS</b>	Study of Underrepresented Classes Chasing Engineering and Science Success
<b>PE2E</b>	Patents End-to-End	<b>TAC</b>	Trademark Assistance Center
<b>PETTP</b>	Patent Examiner Technical Training Program	<b>TBMP</b>	Trademark Board Manual of Procedure
<b>PGA</b>	Professional Golf Association	<b>TC</b>	Technology Center
<b>PGR</b>	Post Grant Review	<b>TEAPP</b>	Telework Enhancement Act Pilot Program
<b>POA&amp;M</b>	Plans Of Action and Milestones	<b>TEAS</b>	Trademark Electronic Application System
<b>PPAC</b>	Patent Public Advisory Committee	<b>TM5</b>	Five Largest Trademark Offices
<b>PPH</b>	Patent Prosecution Highway	<b>TMNG</b>	Trademark Next Generation
<b>PTA</b>	Patent Term Adjustment	<b>TMX</b>	IT Modernization Solution for Trademarks
<b>PTA</b>	Patent Training Academy	<b>TPAC</b>	Trademark Public Advisory Committee
<b>PTAB</b>	Patent Trial and Appeal Board	<b>TRP</b>	Time, Routing, and PAP
<b>PTRC</b>	Patent and Trademark Resource Centers	<b>TTAB</b>	Trademark Trial and Appeal Board
<b>Pub. L. No.</b>	Public Law Number	<b>TTABIS</b>	Trademark Trial and Appeal Board Information System
<b>QPIDS</b>	Quick Path Information Disclosure Statement	<b>U.S.</b>	United States
<b>RCE</b>	Request for Continued Examination	<b>U.S.C.</b>	United States Code
<b>RFQ</b>	Request for Quotes	<b>UK</b>	United Kingdom
<b>RPA</b>	Robotic Process Automation	<b>UMP</b>	Upward Mobility Program
<b>SEE</b>	Site Experience Education	<b>UPOV</b>	Union for the Protection of New Varieties of Plants
<b>SBA</b>	Small Business Administration	<b>UPR</b>	Utility, Plant, and Reissue
<b>SBDC</b>	Small Business Development Center	<b>URL</b>	Uniform Resource Locator
<b>SBIR</b>	Small Business Innovation Research	<b>USMCA</b>	United States-Mexico-Canada Agreement
<b>SEP</b>	Standard-Essential Patents	<b>USPTO</b>	United States Patent and Trademark Office
<b>SFMD</b>	Space and Facilities Management Division	<b>USTR</b>	U.S. Trade Representative
<b>SHPE</b>	Society of Hispanic Professional Engineers	<b>VEO</b>	Voluntary Employee Organization
<b>SIMS</b>	Storage Infrastructure Managed Services	<b>VHP</b>	Veteran Hiring Program
<b>SOP</b>	Standard Operating Procedure	<b>vILT</b>	Virtual Instructor Led Training
<b>SPO</b>	Standard Protective Order	<b>WIPO</b>	World Intellectual Property Organization
<b>STEM</b>	Science, Technology, Engineering, and Mathematics	<b>WTO</b>	World Trade Organization
<b>STEPP</b>	Stakeholder Training on Examination Practice and Procedure	<b>XML</b>	Extensible Markup Language
<b>STTR</b>	Small Business Technology Transfer		

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U.S. PATENT AND TRADEMARK OFFICE

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## CEAR PROGRAM

- **CEAR Program:** [www.agacgfm.org/Standards-Guidance/CEAR.aspx](http://www.agacgfm.org/Standards-Guidance/CEAR.aspx)

## USPTO OFFICES

- **Alexandria:** [www.uspto.gov/about-us/uspto-locations/alexandria-virginia-headquarters](http://www.uspto.gov/about-us/uspto-locations/alexandria-virginia-headquarters)
- **Dallas:** [www.uspto.gov/about-us/uspto-locations/dallas-tx/dallas-texas](http://www.uspto.gov/about-us/uspto-locations/dallas-tx/dallas-texas)
- **Denver:** [www.uspto.gov/about-us/uspto-locations/rocky-mountain-regional-office-colorado](http://www.uspto.gov/about-us/uspto-locations/rocky-mountain-regional-office-colorado)
- **Detroit:** [www.uspto.gov/about-us/uspto-locations/detroit-michigan](http://www.uspto.gov/about-us/uspto-locations/detroit-michigan)
- **San Jose:** [www.uspto.gov/about-us/uspto-locations/silicon-valley-california](http://www.uspto.gov/about-us/uspto-locations/silicon-valley-california)

## PERFORMANCE INFORMATION

- **Performance Audits:**
  - [www.oig.doc.gov/OIGPublications/OIG-20-030-A.pdf](http://www.oig.doc.gov/OIGPublications/OIG-20-030-A.pdf)
  - [www.oig.doc.gov/Pages/USPTO-Needs-to-Improve-Its-Small-Business-Contracting-Practices.aspx](http://www.oig.doc.gov/Pages/USPTO-Needs-to-Improve-Its-Small-Business-Contracting-Practices.aspx)
  - [www.gao.gov/products/GAO-20-556](http://www.gao.gov/products/GAO-20-556)

## PATENTS STRATEGIC GOAL I

- **COVID-19 Prioritized Examination:** [www.uspto.gov/about-us/news-updates/uspto-announces-covid-19-prioritized-examination-pilot-program-small-and](http://www.uspto.gov/about-us/news-updates/uspto-announces-covid-19-prioritized-examination-pilot-program-small-and)
- **Post Grant Outcomes:** [www.uspto.gov/patent/initiatives/post-grant-outcomes](http://www.uspto.gov/patent/initiatives/post-grant-outcomes)
- **Subject Matter Eligibility:**
  - [www.govinfo.gov/content/pkg/FR-2019-01-07/pdf/2018-28282.pdf](http://www.govinfo.gov/content/pkg/FR-2019-01-07/pdf/2018-28282.pdf)
  - [www.uspto.gov/sites/default/files/documents/OCE-DH\\_AdjustingtoAlice.pdf](http://www.uspto.gov/sites/default/files/documents/OCE-DH_AdjustingtoAlice.pdf)

## Enhance Patent Customer Experience

- **Expanding Innovation:** [www.uspto.gov/initiatives/expanding-innovation](http://www.uspto.gov/initiatives/expanding-innovation)
- **Quick Clinic Videos:** [www.uspto.gov/patents-getting-started/using-legal-services/pro-se-assistance-program](http://www.uspto.gov/patents-getting-started/using-legal-services/pro-se-assistance-program)
- **Inventor Info Chat:** [www.uspto.gov/patents-application-process/inventor-info-chat](http://www.uspto.gov/patents-application-process/inventor-info-chat)
- **Pro Se Assistance Program:** [www.uspto.gov/patents-getting-started/using-legal-services/pro-se-assistance-program](http://www.uspto.gov/patents-getting-started/using-legal-services/pro-se-assistance-program)

## TRADEMARKS STRATEGIC GOAL II

### Overview of Trademark Process

- **Overview of Trademark Process:** [www.uspto.gov/trademarks-getting-started/trademark-process](http://www.uspto.gov/trademarks-getting-started/trademark-process)

## INTELLECTUAL PROPERTY STRATEGIC GOAL III

- **E-Commerce Platforms and the Sale of Counterfeit Goods:**
  - [www.dhs.gov/sites/default/files/publications/20\\_0124\\_plcy\\_counterfeit-pirated-goods-report\\_01.pdf](http://www.dhs.gov/sites/default/files/publications/20_0124_plcy_counterfeit-pirated-goods-report_01.pdf)
  - [www.whitehouse.gov/presidential-actions/memorandum-combating-trafficking-counterfeit-pirated-goods/](http://www.whitehouse.gov/presidential-actions/memorandum-combating-trafficking-counterfeit-pirated-goods/)
- **Patent Examination Outcomes after *Alice Corp.*:** [www.uspto.gov/sites/default/files/documents/OCE-DH\\_AdjustingtoAlice.pdf](http://www.uspto.gov/sites/default/files/documents/OCE-DH_AdjustingtoAlice.pdf)
- **2020 Update on U.S. women inventor-patentees:** [www.uspto.gov/ip-policy/economic-research/publications/reports/progress-potential](http://www.uspto.gov/ip-policy/economic-research/publications/reports/progress-potential)

## MANAGEMENT GOAL

- **Act:** [www.uspto.gov/ip-policy/legislative-resources/successact?MURL=successact](http://www.uspto.gov/ip-policy/legislative-resources/successact?MURL=successact)
- **Stop Fakes Road Show:** [www.stopfakes.gov/Roadshows](http://www.stopfakes.gov/Roadshows)

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