An Overview of U.S. Patent Operations

David J. Kappos
Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office
Applications Awaiting First Action
FY 2009 – FY 2012 (through November)

610,000
620,000
630,000
640,000
650,000
660,000
670,000
680,000
690,000
700,000
710,000
720,000
730,000
740,000
750,000
760,000
770,000

Applications Awaiting First Action

Backlog

668,466 as of November 30th.

Preliminary FY 2012 Target:

624,700
Total UPR and RCE Filings
FY 2001 – FY 2012 (projections)

Preliminary FY 2012 Target:
533,300

FY 12 data are projections.
RCE Backlog
FY 2010 – FY 2012 (through November)

75,529 as of November 30th.
First Action Pendency and Total Pendency
FY 2009 – FY 2012 (through November)

Preliminary FY 2012 First action Target: 22.5 Months

Preliminary FY 2012 Total Pendency Target: 34.7 Months
Interview Time
FY 2008 – FY 2012 (through November)

21,273 hours as of November 2011, compared with 20,177 hours in November 2010.
Clearing the Oldest Patent Applications 2.0 (COPA) FY 2012 (through 11/5/11)

FY 2012 COPA Backlog (Tail): Applications with filing dates on or before September 1st, 2010 (304,000 on Oct. 1, 2011)

FY 2012 Goal: Reduce COPA Backlog (Tail) by 260,000 applications
Forward Looking First Action Pendency
FY 2009 – FY 2012 (through November)

Forward Looking Pendency represents an estimate of the average number of months it would take to complete a first Office action under current and projected workload and resource levels for an application filed at the given date.
12 Month Rolling Average Actions Per Disposal, by Bi-Week
FY 2009 – FY 2012 (through November)

Sustained decrease in actions per disposal is a positive indicator – issues are being resolved efficiently.
Sustained increase in allowance rate is a positive indicator – it shows increased efficiency of the workforce.
UPR Examiner Attrition Rate
Less Transfers and Retirees
FY 2001 – FY 2012 (November)
Quality Measures
12 Month Rolling Average
FY 2005 – FY 2012 (through November)

2012 Final Disposition Compliance Rate Target Range
(95.6% - 96.7%)
Actual as of November 2011: 95.5%

2012 In-Process Compliance Rate Target Range
(94.6% - 96.0%)
Actual as of November 2011: 95.3%
### Quality Measures

#### Definitions

**Final Disposition Compliance Rate** focuses on the correctness of the examiners’ overall determination of the patentability of the claims in the decision to finally reject or allow an application. Metric determined by 12-month % Compliance as determined by OPQA random-sample-review of Allowances and Final Office Actions.

**In-Process Compliance Rate** focuses on the quality of examination early in prosecution, rather than on the end-product. Metric determined by 12-month % Compliance as determined by OPQA random-sample-review of Non-Final Office Actions.

**Pre-FAOM Search Review** and **Complete FAOM Review** provide comprehensive assessments of the degree to which the search conducted prior to the first office action, and the first action on the merits, respectively, conform with best practices. Metric determined by OPQA random-sample, points-based-review of examiner work product. Score=Points earned/available points.

**Quality Index Reporting** is a 12-month average of 5 Quality Index Reporting metrics being tracked for quality performance. Items are converted to "% desired behavior" for inclusion in Composite. Items tracked include: Actions per Disposal; RCEs as % of Total Disposals; Reopenings After Final; 2nd+ Action NonFinals; and Restrictions After First Action.

**External Quality Survey** measures the degree to which the experience of patent applicants and practitioners reveals trends and issues indicative of quality concerns. The survey is conducted semi-annually and ascertains perceptions of their experiences with the various tools and inputs that are required to conduct a high quality examination. The metric is reported as the ratio of positive to negative responses to a question regarding overall satisfaction.

**Internal Quality Survey** measures the degree to which the experience of patent examiners reveals trends and issues indicative of quality concerns. The survey is conducted semi-annually and ascertains examiner perceptions of their experiences with the various tools and inputs that are required to conduct a high quality examination. The metric is reported as the ratio of positive to negative responses to a question regarding overall satisfaction.

**Quality Composite Score** is composed of the seven individual metrics shown here. The composite metric determines progress in each component metric towards the desired five-year goal, applying a weighting factor to each component metric to determine the overall progress towards the composite quality goal. A composite score of 0 represents the statistical achievement in the baseline year used for comparison. A composite score of 100 represents attainment of a superior level of performance identified as the stretch goal.

#### USPTO Patents Quality Composite Item - Actual Metrics

<table>
<thead>
<tr>
<th>Reporting Period</th>
<th>Final Disposition Compliance Rate</th>
<th>In-Process Compliance Rate</th>
<th>Pre-FAOM Search Review</th>
<th>Complete FAOM Review</th>
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**FY12-Nov** (Nov 95.5% 95.3% 95.1% 90.8% 89.4% N/A N/A N/A)**
Green Technologies Pilot
December 2009 – November 2011

| Request Summary   | 12/09 | 1/10 | 2/10 | 3/10 | 4/10 | 5/10 | 6/10 | 7/10 | 8/10 | 9/10 | 10/10 | 11/10 | 12/10 | 01/11 | 02/11 | 03/11 | 04/11 | 05/11 | 06/11 | 07/11 | 08/11 | 09/11 | 10/11 | 11/11 | Total |
|-------------------|-------|------|------|------|------|------|------|------|------|------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Petitions Received | 325   | 351  | 124  | 76   | 67   | 72   | 234  | 133  | 95   | 86   | 32    | 166   | 340   | 287   | 165   | 548   | 150   | 276   | 216   | 162   | 151   | 145   | 291   | 202   | 4,790 |
| Awaiting Decision (by month) | 316  | 541  | 138  | 68   | 59   | 77   | 147  | 42   | 42   | 56   | 51    | 107   | 290   | 220   | 224   | 310   | 327   | 285   | 272   | 282   | 244   | 252   | 326   | 357   |
| Requests Granted (by month) | 2    | 12   | 209  | 67   | 45   | 38   | 98   | 65   | 48   | 26   | 81    | 122   | 222   | 117   | 263   | 86    | 237   | 167   | 116   | 206   | 111   | 156   | 128   | 2,802 |
| Requests Denied (by month) | 7    | 0    | 2    | 29   | 18   | 7    | 30   | 28   | 14   | 11   | 6     | 1     | 0     | 10    | 9     | 23    | 14    | 14    | 9     | 0     | 3     | 0     | 7     | 0     | 242   |
| Requests Dismissed (by month) | 0    | 121  | 316  | 43   | 14   | 8    | 36   | 30   | 16   | 13   | 5     | 28    | 69    | 91    | 35    | 176   | 33    | 67    | 53    | 41    | 65    | 32    | 55    | 42    | 1,389 |

Average time from petition grant to final disposition: 262 days
Shortest time from petition grant to final disposition: 57 days
Longest time from petition grant to final disposition: 638 days
### Project Exchange Pilot

#### January 2010 – November 2011

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### Graphs

- **Awaiting Decision**
- **Requests Granted**
- **Requests Dismissed**
- **Petitions Received**
Prioritized Examination (through November)

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President Obama Presents the 2010 National Medal of Technology and Innovation
October 21

Under Secretary for Commerce and Director of the USPTO David Kappos and Deputy Director Teresa Stanek Rea traveled to the White House to honor the recipients of the highest award bestowed upon innovators in the United States.

President Obama honors rocket scientist Yvonne C. Brill with the 2011 National Medal of Technology and Innovation for improvement in the effectiveness of space propulsion systems. Photo by NSF.

Event: Title of the Event Here
Dynamic text about the event or item here

Event: Title of the Event Here
Dynamic text about the event or item here

Event: Title of the Event Here
Dynamic text about the event or item here

Director’s Forum
Latest director’s blog post title

Data Visualization Center
The Patents, Trademarks, and OPEA dashboards

Calendar of Events

POPULAR LINKS

Patent Application Information Retrieval (PAIR)
Patents Electronic Filing System (CF3-Web)
Trademark Electronic Application System (TEAS)
Trademarks for First-Time Filers
Trademarks: Official Gazette
Trademark Applications and Registrations Retrieval (TARR)
Trademark Manual of Examining Procedures (TMEP)
USPTO Forms
Fee Schedule

uspto.careers.gov
Flexible schedules and a career in Innovation
commerceconnect.gov
Department of Commerce business resources
FDSys.gov
Browse the Federal Register

USPTO NEWS

Commissioner for Patents Robert Stoll to Retire from Government Service After 29 Years at the USPTO.

USPTO Launches Small Business Innovation Research Pilot Program

USPTO to Host Webinar on America Invents Act (AIA) With Senior Agency Officials

USPTO and EPO Launch New Website for the Cooperative Patent Classification (CPC) Project

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Patents end2end

- IT Overhaul for the 21st Century
- Dynamic views of drawings, claims, and annotations
- Greater Examination & Agency Efficiency
A computer, comprising a fixed casing accommodating a first computer component and having an opening; a movable casing covering said opening of said fixed casing, said movable casing having a tab protruding from said movable casing, said movable casing accommodating a second computer component on an inner surface of said movable casing; a pair of hinges rotatably coupling said movable casing to the fixed casing.
Discuss the MPEP

Discuss the Manual of Patent Examining Procedure (MPEP)

Welcome to the MPEP discussion tool! We have received many thoughtful ideas on Chapters 500 and 600 of the MPEP as well as on how to improve the discussion site. Each and every idea submitted by you, the participants in this conversation, has been carefully reviewed by the Office, and many of these ideas will be implemented in the next revision of the MPEP. We would like to thank everyone for participating in the discussion of the MPEP.

We have some great news! Chapters 100 through 400 of the MPEP are now available for discussion. Please submit any ideas and comments you may have on these chapters. Also, don’t forget to vote on ideas and comments submitted by other users. As before, our editorial staff will periodically be proposing new material for you to respond to, and in some cases will post responses to some of the submitted ideas and comments.

Recently, we have received several comments concerning the Leahy-Smith America Invents Act (AIA). Please note that comments regarding the implementation of the AIA should be submitted to the USPTO via email at aia_implementation@uspto.gov or via postal mail, as indicated at the America Invents Act Website. Additional information regarding the AIA is available at www.uspto.gov/americaninvents

We really appreciate your thinking and recommendations!

Submit New Idea

Getting Started:

MPEP sections can be viewed by clicking on the boxed plus sign next to each chapter name on the left. You must register on the site to contribute ideas, comments, and votes.

> View and Comment on Other People’s Ideas
> See all of the ideas below, or select a chapter to see the ideas associated with it.

> Add Your Idea
> Click on the “Submit New Idea” button.

> Vote, Vote, Vote!
> Your votes are critical to ensuring that the best ideas “bubble up” to the top.

> Spread the Word!
> E-mail, tweet, or post this URL (uspto-mep.ideascale.com) to your networks, and invite them to get involved.

> Review our Terms of Participation and Privacy Policy.

> Go mobile! Submission of ideas and voting can now be done using your smartphone; this discussion tool is available in a completely mobile version that will render optimally on any smartphone with a Web browser. Of course, you can also still use the Web interface as before.

Usage statistics

74 ideas posted

243 comments 388 votes 142 users

View the Leaderboard

Popular Tags
Discuss Chapter 600: Parts, Form, and Content of Application:

You can start a discussion about a section within this chapter by clicking on the boxed plus sign to the left of the chapter name. The contents of the chapter will be shown beneath it. Select a section or subsection from the contents for discussion. You can read this chapter on the USPTO website.

Moderators

12 votes

- **citing "other material" on IDS form**
  
  37 CFR 1.98 (a) lists "other information" which may be cited in an IDS form. The PTO/ SB/08A form is limited to US and foreign patents and their...

- **Non-mandatory nature of Background**
  
  Section should be revised to help novice Examiners recognize and appreciate that no Background section is statutorily required, and thus absence...

- **Non-mandatory nature of Summary**
  
  Section should be revised to help novice Examiners recognize and appreciate that no Summary section is statutorily required, and thus absence...

- **Non-mandatory nature of Field of the Invention**
  
  Section should be revised to help novice Examiners recognize and appreciate that no "Field of the Invention" section is statutorily required, and thus absence...
Manual of Patent Examining Procedure (MPEP)

Eighth Edition, August 2001

Latest Revision July 2010

Consolidated Laws - the latest published version of the patent laws (Appendix L of the MPEP or Consolidated Patent Laws, whichever is more current). September 2007

Consolidated Rules - the latest published version of the patent rules (Appendix R of the MPEP or Consolidated Patent Rules, whichever is more current). July 2010

How to obtain a copy of the MPEP

MPEP Archives (1948 - 2008)

Current MPEP:

The "E8r8" columns below includes the PDF and html documents updated in Revision 8 of the Eighth Edition of the MPEP, dated July 2010. The documents updated in Revision 8 were the following: Blue Pages; Title Page; Chapters 300, 500, 1200, and 1700; Appendix R; and the Index.

Zipped files are also provided to facilitate downloading of the entire MPEP in PDF and HTML format.

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Beginning January 2011, the USPTO is offering an alternate method for commenting on selected chapters of the Manual. To participate in an online discussion and contribute your ideas, look for the Discus this Section link in Chapters 100 to 400, or see:


The USPTO is also working on a revision to the MPEP that will include changes to Chapters 500 and 600 based on suggestions received in the MPEP discussion forum.
100 Secrecy, Access, National Security, and Foreign Filing

100 Secrecy, Access, National Security, and Foreign Filing
101 General [R-5]
102 Information as to Status of an Application
103 Right of Public To Inspect Patent Files and Some Application Files [R-5]
104 Power to Inspect Application [R-5]
105 Suspended or Excluded Practitioner Cannot Inspect
106 Control of Inspection by Assignee [R-5]
106.01 Rights of Assignee of Part Interest
110 Confidential Nature of International Applications
115 Review of Applications for National Security and Property Rights Issues [R-5]
120 Secrecy Orders [R-5]
121 Handling of Applications and Other Papers Bearing Security Markings
130 Examination of Secrecy Order Cases [R-5]
140 Foreign Filing Licenses [R-5]
150 Statements to DOE and NASA
151 Content of the Statements

browse after

KEY: @=online business system $=fees &=forms @=help $=laws/regulations @=definition (glossary)

The Inventors Assistance Center is available to help you on patent matters. Send questions about USPTO programs and services to the USPTO Contact Center (UCC). You can suggest USPTO webpages or material you would like featured on this section by email to the webmaster@uspto.gov. While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.
America Invents Act

Goals of Patent Reform Legislation

• Encourage innovation and job creation
• Support USPTO's efforts to improve patent quality and reduce backlog
• Establish secure funding mechanism
• Provide greater certainty for patent rights
• Provide less costly, time-limited administrative alternatives to litigation
Timeline: Major Milestones

1. Month 1: Implement G1 FRs and other actions
   - Prepare G2 NPRMs
   - Publish Fed. Reg. Notice for Prior Study
   - Pro Bono Program Start

   - Public Comment on G2 NPRMs
   - OMB Review of G2 NPRMs
   - Public Comment on Genetic Testing Study

3. Month 3: Prepare Prior User Study
   - Prepare Sm. Bus. Study
   - Effects of H2F on Sm. Bus. Study Due
   - USPTO Public Roundtables on NPRMs

4. Month 4: Prior User Study Due
   - Sm. Bus. Study Due
   - Genetic Testing Study Due

5. Month 5: OMB Review of G2 FRs
   - Prepare G2 FRs
   - Diversity of Applicant Program Start

6. Month 6: Delayed Effective Date of G2 FRs
   - USPTO Prepare Internal Guidance, MPEP Updates, Examiner Training, etc. on G2 FRs


8. Month 8: Prepare G2 NPRMs

9. Month 9: OMB Review of G2 FRs

10. Month 10: Delayed Effective Date of G2 FRs

11. Month 11: USPTO Public Roundtables on NPRMs

12. Month 12: OMB Review of G2 FRs
### Group 1 Rulemakings and Other Actions
(60-Day and Under Effective Dates) (a.k.a. G1 Rulemakings)

<table>
<thead>
<tr>
<th>Date of Enactment (September 16, 2011)</th>
<th>10 Days After Date of Enactment (September 26, 2011)</th>
<th>October 1, 2011</th>
<th>60 Days After Date of Enactment (November 15, 2011)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Inter partes reexamination threshold and termination</td>
<td>• Prioritized examination</td>
<td>Reserve fund</td>
<td>Electronic filing incentive</td>
</tr>
<tr>
<td>• Tax strategies are deemed within the prior art</td>
<td>• 15% transition surcharge</td>
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<tr>
<td>• Best mode</td>
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<td>• Human organism prohibition</td>
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<tr>
<td>• Venue change from DDC to EDVA for suits brought under 35 U.S.C. §§ 32, 145, 146, 154 (b)(4)(A), and 293</td>
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<tr>
<td>• OED Statute of Limitations</td>
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<tr>
<td>• Fee Setting Authority (effective after rulemaking)</td>
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<td></td>
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<tr>
<td>• Establishment of micro-entity (effective after rulemaking)</td>
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</tbody>
</table>
Group 2 Rulemakings
(12-Month Effective Date, i.e., September 16, 2012) (a.k.a. G2 Rulemakings)

- Inventor’s oath/declaration
- Third party submission of prior art for patent application
- Supplemental examination
- Citation of prior art in a patent file
- Priority examination for important technologies
- Inter partes review
- Post grant review
- Transitional program for covered business method patents
Group 3 Rulemakings and Other Actions
(18-Month Effective Date, i.e., March 16, 2013) (a.k.a. G3 Rulemakings)

• First-Inventor-to-File

• Derivation proceedings

• Repeal of Statutory Invention Registration
# Studies: USPTO as Lead Agency

<table>
<thead>
<tr>
<th>Study Topic</th>
<th>Due Date from Enactment</th>
</tr>
</thead>
<tbody>
<tr>
<td>International Patent Protection for Small Businesses</td>
<td>4 months</td>
</tr>
<tr>
<td>Prior User Rights</td>
<td>4 months</td>
</tr>
<tr>
<td>Genetic Testing</td>
<td>9 months</td>
</tr>
<tr>
<td>Misconduct Before the Office</td>
<td>Every 2 years</td>
</tr>
<tr>
<td>Satellite Offices</td>
<td>3 years</td>
</tr>
<tr>
<td>Virtual Marking</td>
<td>3 years</td>
</tr>
<tr>
<td>Implementation of AIA</td>
<td>4 years</td>
</tr>
</tbody>
</table>
AIA Micro-Site
http://www.uspto.gov/americainventsact

Implementation Information
- Patent Examination
- Inter Partes Disputes
- Fees and Budgetary Issues
- AIA Studies and Reports
- Programs
- Miscellaneous

AIA Resources
- AIA Informational Videos
- AIA Press Releases and Speeches
- AIA Frequently Asked Questions
- AIA Comments
- AIA Blog

Announcements and Upcoming AIA Events
- September 20, 2011 @ 2:10pm: Commissioner Robert L. Stoll
  The 21st All Ohio Annual Institute on Intellectual Property
  Cleveland, OH
- September 21, 2011 @ 10:10pm: Commissioner Robert L. Stoll
  The 21st All Ohio Annual Institute on Intellectual Property
  Cincinnati, OH
- September 23, 2011 @ 1:00pm: Commissioner Robert L. Stoll
  Virginia State Bar IP Law Section
  Arlington, VA
- September 27, 2011 @ 1:00pm: Commissioner Robert L. Stoll
  American Conference Institute America Invents Act Webinar
  https://www2.gotomeeting.com/register/127501938
  Registration is complimentary

Leahy-Smith America Invents Act Implementation

Message from Director David Kappos

On September 16, 2011, President Barack Obama signed into law the Leahy-Smith America Invents Act, which will foster innovation and spur job creation in the United States. This Act sets into motion the most comprehensive overhaul to our nation’s patent system since 1836.

The new law will afford more certainty for patent applicants and owners, and provide the USPTO the resources needed to operate efficiently and issue high-quality patents. Implementation of the new law will occur over a period of months, and our USPTO team will seek input and provide updates all along the way. I strongly encourage you to use this site to regularly track progress pertaining to the agency’s implementation efforts.

All of us at USPTO look forward to working together with the innovation community to tackle the exciting challenges of rolling-out this historic law. Here are a few documents to get started:

- America Invents Act Signing Ceremony
- White House chat on the America Invents Act
- Press Release: President Obama signs America Invents Act
- Leahy-Smith America Invents Act
- America Invents Act Effective Dates
- USPTO Fee Schedule

Timeline: Major Milestones