An Overview of USPTO Operations

David J. Kappos
Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office
America Invents Act (AIA) 12 Month Timeline

**PATENT RULES**
- SEP 16 2011: Prepare G2 NPRMs
- DEC: DOC / OMB Review of G2 NPRMs
- JAN: Public Comment on G2 NPRMs
- FEB: Prepare G2 FRs
- MAR: DOC / OMB Review of G2 FRs
- APR: USPTO Public Roundtables on NPRMs
- MAY: Delayed Effective Date of G2 FRs
- JUN: USPTO Public Roundtables on FRs
- AUG: Delayed Effective Date of G2 FRs
- SEP 16 2012: On Schedule

**BOARD RULES**
- SEP 16 2011: Prepare G2 NPRMs
- DEC: DOC / OMB Review of G2 NPRMs
- JAN: Public Comment on G2 NPRMs
- FEB: Prepare G2 FRs
- MAR: DOC / OMB Review of G2 FRs
- APR: USPTO Public Roundtables on NPRMs
- MAY: Delayed Effective Date of G2 FRs
- JUN: USPTO Public Roundtables on FRs
- AUG: Delayed Effective Date of G2 FRs
- SEP 16 2012: On Schedule

On Schedule
## Implemented Provisions
(Effective on September 16, 2011 or within 60 days)

<table>
<thead>
<tr>
<th>AIA Provision</th>
<th>Implementation Documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Tax strategies are deemed within the prior art</td>
<td>Memo to Examiners, Sept. 20, 2011</td>
</tr>
<tr>
<td>3. Best mode</td>
<td>Memo to Examiners, Sept. 20, 2011</td>
</tr>
<tr>
<td>4. Human organism prohibition</td>
<td>Memo to Examiners, Sept. 20, 2011</td>
</tr>
</tbody>
</table>
Proposed Rules in Progress
(12 Month timeline)

<table>
<thead>
<tr>
<th>NPRMs Published as of January 25, 2012</th>
<th>NPRMs Published in February</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inventor’s oath / declaration</td>
<td>Inter partes review</td>
</tr>
<tr>
<td>Third party submission of prior art in a patent application</td>
<td>Post grant review</td>
</tr>
<tr>
<td>Citation of prior art in a patent file</td>
<td>Transitional program for covered business method patents</td>
</tr>
<tr>
<td>OED Statute of Limitations</td>
<td>Derivation</td>
</tr>
<tr>
<td>Supplemental examination</td>
<td></td>
</tr>
<tr>
<td>Examination Status</td>
<td>First Action on Merits mailed</td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>Number of Track I applications</td>
<td>1,388</td>
</tr>
<tr>
<td>Number of Petitions Filed</td>
<td>2,549</td>
</tr>
<tr>
<td>Days from Petition to first Office action</td>
<td>41.2</td>
</tr>
</tbody>
</table>
Continuous AIA Outreach
www.uspto.gov/AmericaInventsAct

Roadshow and Hearing Schedule 2012

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Venue</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wednesday, February 15</td>
<td>PPAC Fee Setting Hearing*</td>
<td>USPTO Campus</td>
<td>Alexandria, VA</td>
</tr>
<tr>
<td>Thursday, February 16</td>
<td>Genetic Testing Hearing*</td>
<td>USPTO Campus</td>
<td>Alexandria, VA</td>
</tr>
<tr>
<td>Friday, February 17</td>
<td>Roadshow*</td>
<td>USPTO Campus</td>
<td>Alexandria, VA</td>
</tr>
<tr>
<td>Thursday, February 23</td>
<td>PPAC Fee Setting Hearing*</td>
<td>Sunnyvale Public Library</td>
<td>Sunnyvale, CA</td>
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<tr>
<td>Friday, February 24</td>
<td>Roadshow*</td>
<td>Sunnyvale Public Library</td>
<td>Sunnyvale, CA</td>
</tr>
<tr>
<td>Monday, February 27</td>
<td>Roadshow</td>
<td>Marriott Library, University of Utah</td>
<td>Salt Lake City, UT</td>
</tr>
<tr>
<td>Wednesday, February 29</td>
<td>Roadshow</td>
<td>Dallas Public Library</td>
<td>Dallas, TX</td>
</tr>
<tr>
<td>Friday, March 2</td>
<td>Roadshow</td>
<td>Broward County Main Library</td>
<td>Ft. Lauderdale, FL</td>
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<tr>
<td>Monday, March 5</td>
<td>Roadshow</td>
<td>Boston Public Library</td>
<td>Boston, MA</td>
</tr>
<tr>
<td>Wednesday, March 7</td>
<td>Roadshow</td>
<td>Chicago Public Library</td>
<td>Chicago, IL</td>
</tr>
<tr>
<td>Friday, March 9</td>
<td>Genetic Testing Hearing*</td>
<td>University of San Diego</td>
<td>San Diego, CA</td>
</tr>
</tbody>
</table>
AIA Micro-Site

USPTO’s website devoted to America Invents Act legislation

- One-stop shopping for all America Invents Act information
- Full text of bill and summary documents, including legislative history
- Implementation plans
- Announcements
- Points of contact

http://www.uspto.gov/AmericaInventsAct

President Barack Obama signs the America Invents Act, Friday September 16, 2011, at Thomas Jefferson High School for Science and Technology in Alexandria, VA
Elijah J. McCoy Satellite Office
Detroit, MI

- Scheduled: July 2012
- 100 ‘IP Experienced’ Patent Examiners to be hired in first year of operation
- Office will have a Board of Patent Appeals Presence
- 1 of 3 planned Satellite Offices
Unexamined Patent Application Backlog
FY 2009 – FY 2012 (through February)

Applications Awaiting First Action

654,829 as of March 8th.

FY 2012 Target (2013 President’s Budget): 621,800 – Includes CPC Production Adjustment.

Target Less CPC Adjustment: 615,000.
Total UPR and RCE Filings
FY 2001 – FY 2012 (through March 3rd)

213,239 Total UPR Filings
Received so far in FY 2012.

FY 2012 Target based on 2013 President’s Budget:
533,300 (5.2% Projected Growth over FY 2011)
RCE Backlog
FY 2010 – FY 2012 (through February)

85,836 as of March 6th.
First Action Pendency and Total Pendency
FY 2009 – FY 2012 (through February)

First Action Pendency as of February 29th, 2012: 22.7 months.
Total Pendency as of February 29th, 2012: 34.0 months.

Average Total Pendency FY 2012 Target: 34.7 months (Actual as of 02/29/12 – 34.0 months)
Average First Action Pendency FY 2012 Target: 22.5 months (Actual as of 02/29/12 – 22.7 months)
(Average First Action Pendency FY 2012 Stretch Target Less CPC Adjustment: 22.3 months)
Forward Looking First Action Pendency
FY 2009 – FY 2012 (through February)

Forward Looking First Action Pendency as of February 29th, 2012: 16.8 months.

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.
Interview Time
FY 2008 – FY 2012 (through February)

(63,124 hours as of February, 2012, compared with 55,285 hours as of February, 2011.)
Clearing the Oldest Patent Applications 2.0 (COPA) FY 2012 (through February 25th, 2012)

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 (14,494 applications have been disposed)

Applications to the right of the red line include pending cases from the COPA 1.0 initiative.
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.

Allowance Rate as of 2/25/12: 49.4%
Central Re-examination Unit (CRU)

- **Significant decline in pendency**: Increased staffing; Pilot program for waiving the statement period; Streamlined process for handling petitions and publication of certificates.
Board of Patent Appeals & Interferences

**Appeals**

*Aggressive hiring to tackle BPAI backlog*

**Judges**

4/9/2012
Quality Measures
Final Disposition, In-Process and QIR
12 Month Rolling Average
FY 2009 – FY 2012 (through February)

2012 Final Disposition Compliance Rate Target Range 2012 In-Process Compliance Rate Target Range 2012 Quality Index Reporting Target Range
(95.6% - 96.7%). Actual as of February: 96.2% (94.6% - 96.0%). Actual as of February: 96% (88.3% - 91.60%). Actual as of February: 89.5%
# Quality Measures

## Patent Quality Composite Metrics

<table>
<thead>
<tr>
<th>Reporting Period</th>
<th>Final Disposition Compliance Rate</th>
<th>In-Process Compliance Rate</th>
<th>FAOM Search Review</th>
<th>Complete FAOM Review</th>
<th>Quality Index Reporting</th>
<th>External Quality Survey</th>
<th>Internal Quality Survey</th>
<th>Quality Composite Score</th>
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<tbody>
<tr>
<td>FY12-Feb</td>
<td>96.2%</td>
<td>96.0%</td>
<td>95.6%</td>
<td>90.9%</td>
<td>89.5%</td>
<td>3.0</td>
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<td>95.2%</td>
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<td>3.0</td>
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<td>2.7</td>
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<td>94.8%</td>
<td>90.6%</td>
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<td>2.7</td>
<td>4.2</td>
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<td>88.9%</td>
<td>3.6</td>
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<td>3.6</td>
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<td>83.4%</td>
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<td>83.5%</td>
<td>1.3</td>
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FY 2011 was baseline year.
Green Technologies Pilot
Data as of February 27th, 2012

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<th></th>
<th>10/10</th>
<th>11/10</th>
<th>12/10</th>
<th>01/11</th>
<th>02/11</th>
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<th>11/11</th>
<th>12/11</th>
<th>1/12</th>
<th>2/12</th>
<th>Total</th>
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<tbody>
<tr>
<td>Petitions Received</td>
<td>32</td>
<td>166</td>
<td>340</td>
<td>287</td>
<td>165</td>
<td>548</td>
<td>150</td>
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<td>5,550</td>
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<tr>
<td>Awaiting Decision (by month)</td>
<td>51</td>
<td>107</td>
<td>256</td>
<td>220</td>
<td>224</td>
<td>310</td>
<td>327</td>
<td>285</td>
<td>272</td>
<td>282</td>
<td>244</td>
<td>252</td>
<td>325</td>
<td>357</td>
<td>345</td>
<td>382</td>
<td>278</td>
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<tr>
<td>Requests Granted (by month)</td>
<td>26</td>
<td>81</td>
<td>122</td>
<td>222</td>
<td>117</td>
<td>263</td>
<td>86</td>
<td>237</td>
<td>167</td>
<td>116</td>
<td>206</td>
<td>111</td>
<td>156</td>
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<td>308</td>
<td>134</td>
<td>256</td>
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<td>Requests Denied (by month)</td>
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<td>10</td>
<td>9</td>
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<td>0</td>
<td>11</td>
<td>4</td>
<td>12</td>
<td>269</td>
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<tr>
<td>Requests Dismissed (by month)</td>
<td>5</td>
<td>28</td>
<td>69</td>
<td>91</td>
<td>35</td>
<td>176</td>
<td>33</td>
<td>67</td>
<td>53</td>
<td>41</td>
<td>65</td>
<td>32</td>
<td>55</td>
<td>42</td>
<td>65</td>
<td>27</td>
<td>22</td>
<td>1,503</td>
</tr>
</tbody>
</table>

Average time from petition grant to final disposition: 303 days
Shortest time from petition grant to final disposition: 47 days
Longest time from petition grant to final disposition: 740 days

Average time from petition grant to final disposition:

Shortest time from petition grant to final disposition:

Longest time from petition grant to final disposition:
Current Patent Prosecution Highway (PPH) Programs

- Japan (JPO)
- Korea (KIPO)
- China (SIPO)
- European Patent Office (EPO)
- Germany (DPMA)
- Australia (IPAU)
- Canada (CIPO)
- United Kingdom (UKIPO)
- Denmark (DKPTO)
- Iceland (IPO)
- Norway (NIPO)
- Nordic Patent Institute (NPI)
- Finland (NBPR)
- Sweden (PRV)
- Russia (Rospatent)
- Israel (ILPO)
- Taiwan (TIPO)
- Hungary (HPO)
- Spain (SPTO)
- Austria (APO)
- Singapore (IPOS)
- Mexico (IMPI)
PPH Requests at USPTO

- USPTO goal for PPH requests in calendar year 2011: 8,000
- Status as of March 1:

<table>
<thead>
<tr>
<th></th>
<th>Paris-PPH</th>
<th>PCT-PPH</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6,739</td>
<td>2,991</td>
<td>9,730</td>
</tr>
</tbody>
</table>

PPH results compared with all cases:

<table>
<thead>
<tr>
<th></th>
<th>Paris-PPH</th>
<th>PCT-PPH</th>
<th>All Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grant Rate (Allowances/Total Number of Disposals)</td>
<td>89%</td>
<td>96%</td>
<td>47%</td>
</tr>
<tr>
<td>Actions per Disposal</td>
<td>2.13</td>
<td>1.61</td>
<td>2.49</td>
</tr>
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</table>
# Cooperative Patent Classification (CPC)

## CPC Milestone

<table>
<thead>
<tr>
<th>Description</th>
<th>Timeframe</th>
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</thead>
<tbody>
<tr>
<td>Introduction to CPC for all examiners.</td>
<td>2012</td>
</tr>
<tr>
<td>Develop Examiner Training with EPO.</td>
<td>2012-2014</td>
</tr>
<tr>
<td>Contractors apply CPC symbols to PGPUB pipeline documents.</td>
<td>January 1, 2013</td>
</tr>
<tr>
<td>USPC and CPC symbols will be searchable in EAST/WEST, while routing remains based on USPC.</td>
<td>2013</td>
</tr>
<tr>
<td>CPC symbols will propagate from PGPUB to Grants</td>
<td>2013</td>
</tr>
<tr>
<td>Examiners will begin to add CPC symbols as needed on issued applications, with voluntary search capability of CPC symbols in EAST/WEST.</td>
<td>2013-2014</td>
</tr>
<tr>
<td>Final stage of CPC implementation.</td>
<td>2015</td>
</tr>
</tbody>
</table>
Trademark Performance: Application Filings

- FY 2010: 368,939 classes
- FY 2011: 398,667 classes
- FY 2012: projected 413,000 classes
# Trademark Performance: Quality

<table>
<thead>
<tr>
<th>FY 2011 Trademark Performance Measures</th>
<th>FY 2012 Targets</th>
<th>FY 2012 Q1 Results</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FIRST ACTION COMPLIANCE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-process review evaluation of the statutory bases for which the Office raises issues and or refuses marks for registration based on the first office action.</td>
<td>95.5%</td>
<td>94.1%*</td>
</tr>
<tr>
<td><strong>FINAL ACTION COMPLIANCE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In-process review evaluation of the statutory bases for which the Office raises issues and or refuses marks for registration based on the examiner’s approval or denial of the application.</td>
<td>97.0%</td>
<td>96.4%*</td>
</tr>
<tr>
<td><strong>EXCELLENT OFFICE ACTION</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New measure for FY 2011 indicating the comprehensive quality of the first Office action search, evidence, writing and decision making.</td>
<td>20.0%</td>
<td>22.1%</td>
</tr>
</tbody>
</table>

*Preliminary Numbers*
New TM Performance Measure:
Excellent Office Actions

Criteria for Excellence*

1. Correctness in decision making
2. Quality of the search
3. Quality and relevance of evidence
4. Clarity of the written Office Action

*Office action must meet all 4 criteria to be considered excellent
IP & Humanitarian Challenges

- President’s Global Development Agenda
- Awards competition for patent owners and licensees who apply their disruptive technologies to underserved people of the world
- Accepting Applications Since March 1, 2012
- Judges will choose winners in four categories:
  - medical technology
  - food and nutrition
  - clean technology
  - information technology

http://patentsforhumanity.challenge.gov/
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.
Patents End-to-End (PE2E)

- IT Overhaul for the 21st Century
- Dynamic views of drawings, claims, and annotations
- Greater Examination & Agency Efficiency
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 how to improve the discussion site. Each and every idea submitted by you, the participant in this conversation, is 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 new Chapters 108 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 posting proposed 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 this AIA is available at www.uspto.gov/america-invents.

We really appreciate your thinking and recommendations!

Submit New Idea
In January 2011, the USPTO began 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 Discuss this Section links in Chapters 500, 900, and 1900, or see http://uspto-tmep.ideascale.com.
ePetition Resource Page

The ePetitions Resource Page provides useful information and guidance regarding the submission, automatic processing, and immediate grant of ePetitions.

- **Secure Filing with Auto-Grant.** Filing an ePetition via EFS-Web automates the petition process and allows petitioners to directly input the requisite information into a secure Web interface and immediately receive an ePetition decision.

- **Saves Time when Immediate Petition Decisions are Important.** Time savings using ePetitions is especially advantageous for critical petitions where an automatic petition grant would reduce delays in restoration of patent rights, expedite withdrawal from representation and redirect Office correspondence to the new correspondence address, and initiate the revival of an abandoned application to save patent term adjustment time.

For questions regarding Patent e-Filing, or to suggest improvements to the online system, please send an email to [email protected] or call the Patent Electronic Business Center at 1-866-217-9197 (toll free) or 571-272-4100 from 6 a.m. to 12 Midnight Eastern Time, Monday - Friday.

### PDF-based ePetitions

The PDF-based ePetitions require the download and completion of the respective EFS-Web Fillable PDF Form.

- **Petition to Make Special Based on Age (37 CFR 1.102)**
  - [SBA 130 EFS-Web eForm](http://www.uspto.gov/patents/process/file/efs/guidance/epetition-info.jsp) [PDF] (version 1.0.18, 27JUL2009)
  - [SBA 130 Quick Start Guide](http://www.uspto.gov/patents/process/file/efs/guidance/epetition-info.jsp) [DOC]

- **Petition to Accept Unintentional Delayed Payment of the Maintenance Fee (37 CFR 1.378(c))**
  - [SBA 66 EFS-Web eForm](http://www.uspto.gov/patents/process/file/efs/guidance/epetition-info.jsp) [PDF] (version 2.2, 01MAR2009)
  - [SBA 66 Quick Start Guide](http://www.uspto.gov/patents/process/file/efs/guidance/epetition-info.jsp) [DOC]

### Web-based ePetitions

The ePetition information can be entered directly into EFS-Web screens. The PDF form is not required for these ePetitions.

- **Request for Withdrawal as Attorney or Agent of Record (37 CFR 1.36)**

- **Petitions to Withdraw from Issue after Payment of the Issue Fee**
  - Petition to Withdraw from Issue after Payment of the Issue Fee (37 CFR 1.313(c)(1) or (2))

http://www.uspto.gov/patents/process/file/efs/guidance/epetition-info.jsp