

Our Progress

The Patent and Trademark Office has identified two goals for the agency. The first is to —

1. *Play a leadership role in intellectual property rights policy development.*

PARTICIPATE IN INTERNATIONAL COOPERATIVE ARRANGEMENTS

The United States plays a pivotal role in intellectual property rights policy development both at home and abroad. In fiscal year 1995, the Patent and Trademark Office actively participated in efforts to improve international standards for the protection of intellectual property and to facilitate obtaining of intellectual property protection abroad.

Agreement on the Trade-Related Aspects of Intellectual Property

The terms of this agreement (TRIPs) entered into force on January 1, 1995, and the United States must fulfill all of the obligations of the Agreement by January 1, 1996. The intellectual property provisions of the Uruguay Round Agreements Act of 1994, enacted December 8, 1994, will bring the laws of the United States into compliance with those obligations.

The TRIPs Council is made up of representatives of the members of the World Trade Organization (WTO) and has responsibility for overseeing the implementation of the TRIPs obligations by the WTO Members. The Council met four times in 1995 to discuss a variety of procedural and institutional matters necessary for the smooth functioning of the Council.

U.S. - China Accord on Intellectual Property Rights

China's failure to enforce intellectual property rights adequately and effectively resulted in an investigation under the Special 301 provisions of the 1974 Trade Act. This investigation began on June 30, 1994, and culminated on February 26, 1995, with the United States and China reaching an accord on the protection of intellectual property rights and market access. Throughout the process, several officials from the PTO assisted the United States Trade Representative's Office (USTR) with the investigation and the negotiation of the agreement.

In fiscal year 1995, the United States and China held two quarterly consultations. These consultations covered a broad range of topics, including enforcement, structural changes to China's intellectual property enforcement system, and market access. The PTO will continue to participate in the consultations and work with Chinese officials to assist the Chinese in training judges, lawyers, students, government officials, and business people on intellectual property laws.

The Trademark Law Treaty

On October 27, 1994, the Trademark Law Treaty (TLT) was concluded at a Diplomatic Conference held under the auspices of the World Intellectual Property Organization (WIPO). The United States was one of the 35 countries signing the Treaty, which harmonizes procedural requirements regarding the establishment and maintenance of trademark rights.

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During the Diplomatic Conference, the United States strongly opposed a proposal by the European Union to grant a vote to intergovernmental organizations in addition to the votes of their member States. The issue was resolved through a compromise under which the Treaty has no administrative Assembly and no voting provisions. Any amendment to the Treaty can be accomplished only in a diplomatic conference of the Parties, which can be called by the WIPO Governing Bodies.

U.S. trademark groups have expressed their interest in U.S. participation in this treaty. The PTO plans to work with the State Department to prepare the Administration's implementation legislation and request for Senate advice and consent to ratify the treaty.

Berne Protocol and New Instrument

Governments around the world are carefully considering the implications of the Global Information Infrastructure (GII) on their national economies and their copyright systems. The PTO has taken the lead in this policy area by identifying the essential elements needed to update the Berne Convention for the Protection of Literary and Artistic Works, to provide improved protection for performers and producers of phonograms, and to work speedily toward reaching international agreement on them.

To that end, at the September 4-12, 1995, Meetings of the Committees of Experts on a Possible Protocol to the Berne Convention and a New Instrument for the Protection of Performers and Producers of Phonograms, the United States proposed that WIPO convene a Diplomatic Conference early in the second half of 1996. The United States urged that the two Committees continue to focus attention on the digital agenda and seek to quickly develop agreement on the needed "conventional" elements for the appropriate international agreement or agreements that would be adopted at such a Diplomatic Conference. The

Committee of Experts recommended an accelerated schedule, which was approved by the WIPO Governing Bodies, on September 29, 1995.

North American Free Trade Agreement

In July 1995, the United States, Canada, Mexico and Chile met to discuss the accession of Chile to the North American Free Trade Agreement (NAFTA). The PTO, in conjunction with USTR and the Departments of State, Treasury, Agriculture, and Commerce, took an active role in formulating the U.S. proposals to bring the NAFTA into conformance with TRIPs and to provide, in certain circumstances, TRIPs-plus levels of protection. Negotiations to effect these changes are ongoing and progress is being made to ensure that the NAFTA continues to provide the highest level of protection for intellectual property.



IMPROVE INTELLECTUAL PROPERTY SYSTEMS IN THE UNITED STATES AND ABROAD

Over the past decade, the Congress has made significant changes to the laws governing intellectual property rights. Based on the quantity and subject matter of the bills introduced during the first session of the 104th Congress, it is clear that the Congress intends to continue to introduce and consider legislative proposals which improve and refine domestic intellectual property laws. In fiscal year 1995, the PTO continued to work closely with the Senate and House Subcommittees on many of these legislative proposals.

Uruguay Round Agreements Act

This Act was enacted on December 8, 1994, to bring the laws of the United States into compliance with the obligations of the TRIPs Agreement (page 11). See sections on patent and trademark law changes for specific provisions (pp.19 and 21).

Early Publication of Patent Applications Legislation

On May 25, 1995, Mr. Moorhead, Chairman of the House Judiciary Subcommittee on Courts and Intellectual Property, introduced the "Patent Application Publication Act of 1995," H.R. 1733. The bill would amend Chapter 11 of Title 35, United States Code, to provide for early publication of patent applications, amend Chapter 14 of such title to provide provisional rights for the period of time between early publication and patent grant, and amend Chapter 10 of such title to provide a prior art effect for published applications. H.R. 1733 also includes provisions that address the patent term changes that went into effect on June 8, 1995.

On June 8, 1995, the Commissioner of Patents and Trademarks testified at a House Judiciary Subcommittee hearing that early publication of patent applications would provide American inventors with a prompt English-language publication of relatively current technology and would promote more efficient use of limited research and development resources by preventing duplication of research, signaling promising areas of research and indicating which fields of research are being pursued by others.

PTO Corporation Legislation

On May 17, 1995, Mr. Moorhead, Chairman of the House Judiciary Subcommittee on Courts and Intellectual Property, introduced the "Patent and Trademark Office Corporation Act of 1995," H.R. 1659, which would convert the Patent and Trademark Office into a wholly owned government corporation, under the direction of a Chief Executive Officer appointed by the President with the advice and consent of the Senate. The bill would exempt the Patent and Trademark Office from the appropriation and apportionment process, from limitations on full-time employee equivalent ceiling, and from limitations on procurement of goods and services. On September 14, 1995, the PTO voiced its support for the concept of a PTO Corporation underlying H.R. 1659, but suggested changes based on the Administration's alternative bill.

At the request of the Administration, H.R. 2533, "The United States Intellectual Property Organization Act of 1995," was introduced. This second bill would convert the Patent and Trademark Office into the United States Intellectual Property Organization, a unique agency in the Department of Commerce, directed by a Chief Executive Officer appointed by the Secretary of Commerce. The new organization would be subject to the patent and trademark policy direction of an Under Secretary of Commerce for Intellectual Property, also created by the bill, who would also advise the Secretary of

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Commerce, the United States Trade Representative and other government officials on intellectual property policy, including policy related to international intellectual property activities of the United States. The United States Intellectual Property Organization would be exempt from the general full-time employee equivalent ceiling and would, instead, be subject to a ceiling based upon projected increases in patent and trademark application filings.

Biotech Process Bills

After years of effort to simplify the patent granting process regarding claims to processes that use or make patentable materials, Congress passed S. 1111, which was signed into law by the President on November 1, 1995, and became Public Law number 104-41. The new law amends Title 35, United States Code, to simplify and provide greater certainty for patent applicants in the determination of patentability of biotechnological processes that use or make patentable compositions of matter. This amendment closes a loophole in present patent law that has permitted competitors of someone owning a patented biotechnological material to use that material abroad and import resulting products, without incurring liability for patent infringement. By providing that biotechnological processes using or making patentable products are considered to be nonobvious for the purpose of determining patentability, this legislation ensures that the biotech industry is given the patent tools necessary to prevent unfair exploitation of its patented technology.

Other Legislation

Prior Domestic Commercial Use Act of 1995 (H.R. 2235) would provide inventors who did not obtain patent protection with a limited defense against liability for patent infringement, if the invention in question is later patented by another. The PTO testified in support of the legislation.

Patent Reexamination Legislation (H.R. 1732 and S. 1070) would expand the right of third party-requesters to participate in reexamination proceedings, expand the basis and scope of reexamination, and limit the potential abuse of the reexamination process. The PTO testified in support of the legislation.

The Medical Procedures Innovation and Affordability Act (H.R. 1127) would, with some exceptions, exclude from patentability any technique, method, or process for performing a surgical or medical procedure, administering a surgical or medical therapy, or making a medical diagnosis. The PTO testified against the legislation.

The Inventor Protection Act of 1995 (H.R. 2419) would expand the activities of many States in providing specific protection to independent inventors on a national scale. The PTO testified in favor of the legislation.

Madrid Protocol Implementing Legislation (H.R. 1270) amends the Trademark Act of 1946 to implement the Protocol to the Madrid Agreement Concerning the International Registration of Marks, should the United States accede to the treaty. The PTO testified in support of the method of implementation but stated that it would not seek the advice and consent of the Senate to accede to the Treaty because of voting provisions.

Federal Trademark Dilution Act of 1995 (H.R. 1295) would provide injunctive relief against another person's unauthorized commercial use of a famous mark where such use dilutes the distinctive quality of the famous mark, except where the use is in the nature of comparative advertising or promotion, news reporting and news commentary, or a noncommercial use.

The PTO testified in support of the legislation. On January 16, 1996, the President signed H.R. 1295 and it became Public Law 104-98.

Anti-Counterfeiting Consumer Protection Act of 1995 (S. 1136 and H.R. 2511) amends several existing laws to provide stronger and more effective remedies against trademark and copyright counterfeiting. The PTO testified in support of the legislation.

Digital Performance Rights in Sound Recordings Act (S. 227 and H.R. 1506) would amend Title 17, United States Code, to provide copyright owners of sound recordings with the exclusive right to perform their sound recordings publicly by means of digital transmissions. On November 1, 1995, the President signed S. 227 and it became Public Law number 104-39.



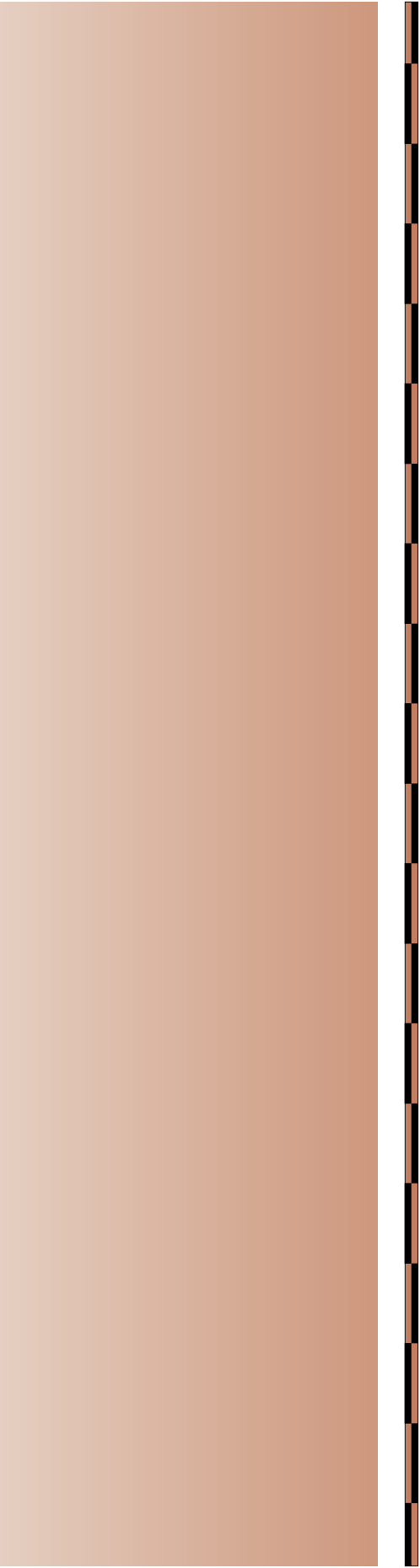
On September 5, 1995, Commissioner Lehman, chair of the Working Group on Intellectual Property Rights of the White House Information Infrastructure Task Force, released a report of the Working Group entitled *Intellectual Property and the National Information Infrastructure*. Bills implementing the White Paper's legislative recommendations were introduced in late September 1995 in the House of Representatives (H.R. 2441), and in the Senate (S. 1284).

Copyright Term Extension Act of 1995 (H.R. 989 and S. 483) would extend the term of copyright protection in all copyrighted works that have not fallen into the public domain by 20 years. The PTO testified in support of both bills.

COOPERATE WITH OTHER GOVERNMENT AGENCIES

International Cooperation and Training

In fiscal year 1995, the PTO continued and expanded its training and technical assistance programs. The Visiting Scholars Program hosted participants from over 30 foreign countries for two weeks of "hands-on" study about various aspects of the administration of industrial property law, patent and trademark examination, and the role of intellectual property protection as a tool



for economic development. The program provides an introduction to the basic elements of patent and trademark examination, including classification, search, office action creation, communication with applicants, and final application processing. This year's program was held from October through November 1995, and included participants from Bolivia, China, Guatemala, Indonesia, Jamaica, Mexico, Nicaragua, Panama, Russia, and Ukraine.

In addition, representatives of the PTO participated in training and technical assistance programs in many countries. These programs extend from providing legal advice on the drafting of laws to on-site lectures or training on a variety of intellectual property topics. In fiscal year 1995, the PTO conducted training programs in the Russian Federation, Estonia, Latvia, Lithuania, Bulgaria, Romania, Ukraine, Cyprus, throughout the Middle East and Latin America. The most significant of the Latin American programs took place in Mexico where the PTO continued the Agency for International Development-funded program of cooperation with the Mexican industrial office.

2. Provide our customers with the highest level of quality and service.

The second goal identified in PTO's 1996-2000 Strategic Plan is to provide our customers with the highest level of quality and service in all of our operations.

CUSTOMER STANDARDS

Our business depends on being responsive to customer expectations, and that has been our main focus the past year. Using focus groups comprising randomly selected customers, the PTO learned their concerns, needs, expectations, ideas for improvement, and their perspective for measuring success.

Customer feedback was specific to areas of operation, but overall expectations included:

- Prompt return of information, including filing receipts, status letters, and telephone inquiries,
- Better informed, more courteous staff,
- Improved search reviews, and
- Better communication of policy or rule changes.

Working groups of PTO employees used this information to establish Customer Service Standards for the patent, trademark, and information dissemination processes. Then, customers were surveyed to validate the importance of each standard and to determine their level of satisfaction with PTO performance for each standard. As an example, 57.2 percent of customers were satisfied with PTO's overall performance.

To ensure that these expectations are met, the PTO has adopted a comprehensive approach for defining and monitoring customer satisfaction. This approach includes the following concepts:

- Define quality services,
- Reflect customer service standards in all PTO plans,
- Ensure employees have what they need to do quality work,
- Improve/reengineer processes to increase customer satisfaction, and
- Measure success in satisfying customers.

This approach commits the PTO to the goal of providing quality patents, trademarks, and information services to its customers.

PATENT PROTECTION

The processing of patents is one of our two core businesses. That business has experienced steady growth in the last decade and is expected to continue growing well into the next century. The PTO is improving the patent process using reengineering and quality techniques so our customers will be assured of the best possible service.

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Applications

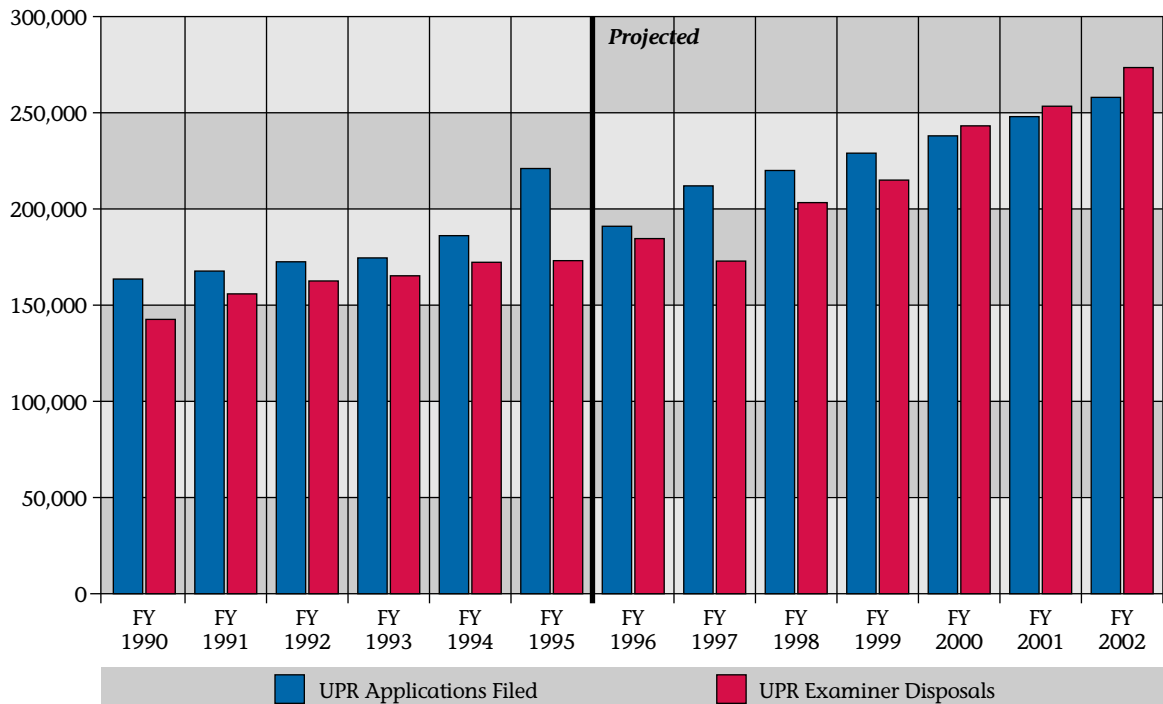
In fiscal year 1995, the PTO received the largest number of applications to date. Based on preliminary figures, we received 221,304 utility, plant and reissue (UPR) patent applications and 15,375 design applications.

The UPR patent application filings workload increased by 18.9 percent over the previous year— well above the PTO's historical average annual growth rate of 4 percent. This unusual increase was due to a surge of about 35,000 additional UPR application filings during the third quarter of fiscal year 1995, as applicants rushed to file their applications before the transition to the 20-year patent term on June 8, 1995.

Issues

Patent examiners allowed a total of 114,241 patents in fiscal year 1995; this includes 11,662 design patents. This was an overall increase of 973 patents above the fiscal year 1994 level.

**Figure 1. Patent Applications and Production (Examiner Disposals):
FY 1990–2002**



Pendency

End-of-year average pendency time rose to 19.2 months, up from 19.0 months last fiscal year, reflecting the effect of personnel restrictions and an increase in application filings. Patent pendency was reduced or relatively consistent in areas of particular growth: computer technology pendency was 25.9 months in FY 1995, down from 26.5 months in FY 1994; in the biotechnology area, the pendency average was 21.2 months in FY 1995, slightly higher than the FY 1994 pendency of 20.8 months, but still lower than the FY 1993 pendency of 22.2 months.

Design pendency averaged 17.9 months in FY 1995, down from 21.2 months in FY 1994 and 25.5 months in FY 1993.

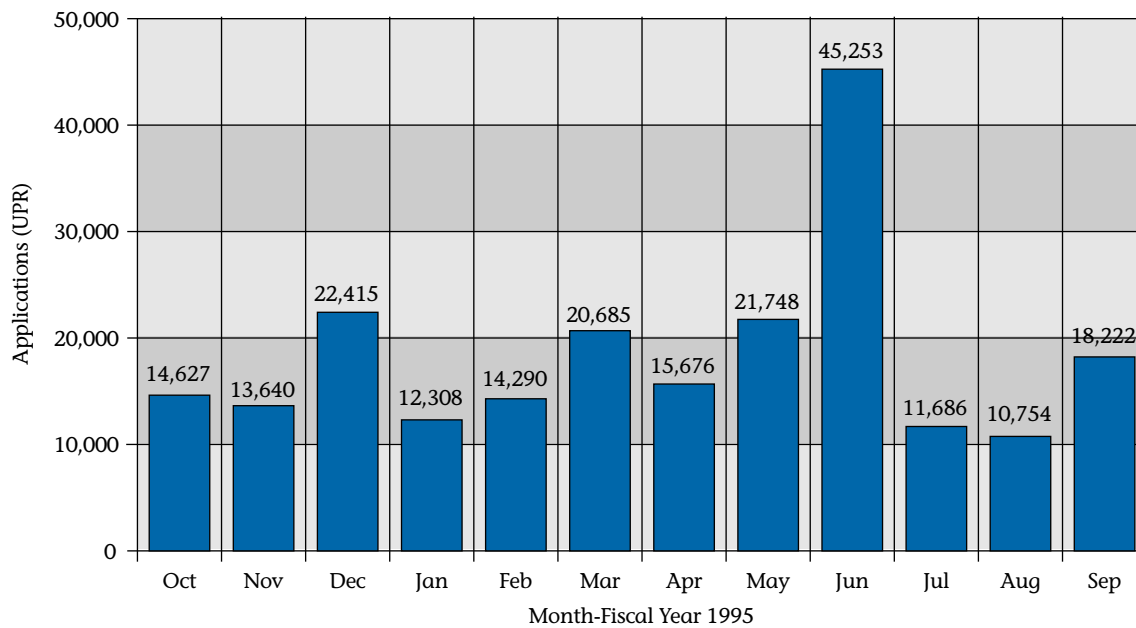
Reexamination

The PTO received 392 reexamination requests in FY 1995. Of these, 100 were known to be in litigation. A substantial new question of patentability was found and reexamination ordered in 372 cases. The Office denied reexamination in 26 cases. Reexamination was completed and certificates issued in 281 cases. Of those completed, patentability of all patent claims was confirmed in 73 cases. Claims were modified or added and patentability was confirmed on some existing, modified, or added claims in 176 cases. All claims were canceled in 32 cases.

Changes in Patent Law

Fiscal year 1995 saw four significant changes in U.S. patent law as a result of the Uruguay Round Agreements Act, which was enacted to implement changes resulting from the Agreement on Trade Related Aspects of Intellectual Property (TRIPs):

Figure 2. Patent Applications (UPR) by Month: FY 1995



Patent term: Section 154 of the patent law was amended to change the patent term from 17 years from date of patent grant to 20 years from the earliest effective application filing date. That 20-year term may be extended for a total of up to five years in the event of delays in the issuance of the patent due to interferences, national security considerations or successful appeals. Also, patents that were in force on June 8, 1995, or that resulted from applications filed prior to that date would have a term of the greater of 17 years from date of grant or 20 years from date of application.

Provisional applications: Sections 111 and 119, Title 35, U.S. Code, were amended to establish a new type of patent application called the provisional application. This simple, low-cost application allows inventors to easily and inexpensively (\$150/\$75 for small entities) establish an early filing date and defer examination costs for up to one year.

Treatment of Inventive Activity: Section 104 of the Title 35, United States Code, was amended to the requirement that patents be available without discrimination as to the place of invention. The law, prior to the Uruguay Round Agreements Act, specified that no evidence could be introduced by a party seeking to prove a date of invention if that evidence was based on activity that took place outside the United States. The Act removed this restriction.

Definition of Infringing Activity: Section 154 of Title 35, United States Code, was amended to provide patent holders with the rights to prevent others from making, using, offering for sale, selling, or importing a protected product invention, and also to prevent others from using a patent process and offering for sale, selling, and importing the product directly obtained from the process.

Early Publication of Patent Applications

When legislation to implement early publication of patent applications was introduced in September 1994, the PTO began a reengineering effort to design a process that would allow the Office to implement early publication by January 1, 1996, if the legislation were enacted. During fiscal year 1995, employees from all areas of patent application processing were brought together to develop a Concept of Operations that is being used by the Chief Information Office to acquire the automated systems needed for early publication, by the Office of Human Resources to initiate any personnel changes (e.g., training) that will be required, and by any other office in the PTO that will be affected by this change to the patent system.

TRADEMARK PROTECTION

The importance of trademarks has intensified as the economy has become more global and market competition has expanded. Our second core business—the processing of trademarks—has increased accordingly. In FY 1995, our trademark area began developing an innovative plan to reengineer the trademark process and streamline work procedures.

Applications

In fiscal year 1995, the PTO received 175,307 trademark applications, an increase of more than 12 percent from last year's filing level of 155,376. The number of applications has continued to increase at higher than anticipated rates, approximately 10 percent annually, since the enactment of the Intent-To-Use legislation in 1989. Since fiscal year 1990, the trademark application workload has increased over 110 percent, while staffing levels for the trademark process have increased by only 60.1 percent during the same period of time.

Registrations

The number of registrations issued in fiscal year 1995, including extra classes, was 75,372. This represents an increase of 9.5 percent from registrations issued in fiscal year 1994.

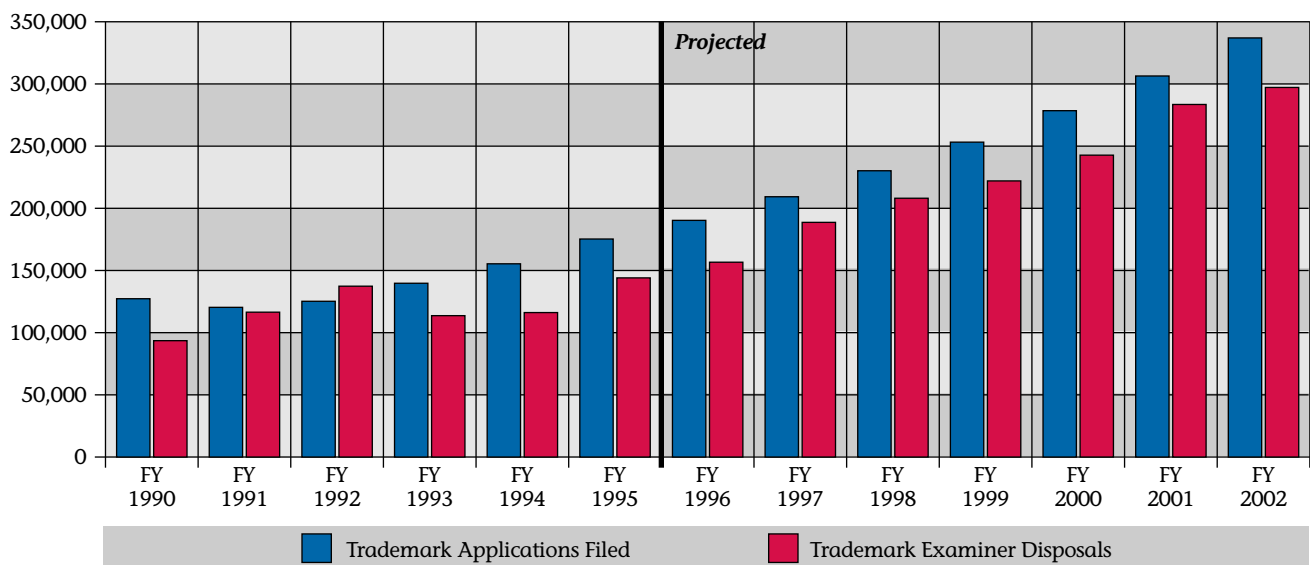
Pendency

Trademark pendency in fiscal year 1995 was 5.3 months from filing to first action and 16.7 months to registration. The backlog resulting from the reorganization of trademark operations in the last quarter of 1994, combined with incoming workloads that have continually exceeded projections kept pendency at a level higher than planned.

Trademark examining attorneys completed 176,764 first actions on trademark applications in fiscal year 1995, which was 14 percent above the goal of 154,800 and 20 percent above the fiscal year 1994 first actions of 147,343. Businesses have stressed the importance of the first action as it allows them to make timely decisions on commercializing their product or service. First action pendency was above goal because overall filings were in excess of budgeted levels.

Total first examination disposals were 144,052, approximately 1 percent under the budgeted goal of 145,300. FY 1995 first examination disposals increased by 27,888 or 24 percent.

Figure 3. Trademark Applications and Production (Examiner Disposals): FY 1990–2002



As new work processes are implemented, efficiencies are realized, and the backlog of work moves through the system, pendency to registration/abandonment is expected to begin to return to goal levels beginning in fiscal year 1997.

Changes in Trademark Law

The Uruguay Round Agreements Act contained two changes to Trademark Law:

Trademark Abandonment: Section 45 of the Trademark Act, 15 U.S. Code, Section 1127 was amended to change the definition of “Abandonment” to require evidence of nonuse for three consecutive years, rather than two, to establish prima facie abandonment.

Geographical Indications for Wines and Spirits: Section 2(a) of the Trademark Act, 15 U.S. Code Section 1052(a) was amended to include an absolute prohibition against the registration of terms of geographical indication for wines and spirits, when they do not come from the place named and the first use is on or after one year after January 1, 1995.



ENHANCE HUMAN RESOURCES

The enhancement of human resources helps the PTO provide quality patent, trademark, and information services.

Strategic Directions for Employee Programs

Five objectives have been established to carry out PTO's human resource strategic directions and create an integrated approach to human resource and diversity management:

Recruitment. We are committed to a diverse work force where differences are valued. This means creating an inclusive organization where the most talented individuals are recruited and empowered to serve customers and achieve our goals. In FY 1995, we began expanding our recruitment efforts to attract science and engineering applicants from colleges and universities with high minority and female enrollments.

Significant accomplishments included use of the Micro Assisted-computer Rating System (MARS), to facilitate the hiring of 281 patent examiners in FY 1995. We also expanded outreach efforts to enhance diversity recruitment by establishing long-term relationships and projects with the University of New Mexico, the Hispanic Association of Colleges and Universities (HACU), and the Lakota Native Americans. These efforts resulted in 21 potential permanent hires for PTO from targeted underrepresented groups.

Career management. To meet the challenges of changing technology and increasingly complex workloads, the Office has established educational programs that enable employees to learn the skills they need to effectively manage their careers and develop their potential for success.

Our newest educational program, PTO University is an after-hours evening college curriculum that helps our workforce improve current skills and learn new skills to improve their advancement opportunities. PTO University has a wide variety of programs that allow employees to earn career studies certificates, associate degrees, bachelor degrees, or graduate certificates in selected work-related subjects.

In FY 1995, we worked with Northern Virginia Community College, and established a Career Studies Certificate in business information technology and three Associate degree programs in legal studies, business administration, and office automation. Marymount University joined the team and we began offering PTO students on-site courses toward a Bachelor's degree in business. At the graduate level, both supervisors and employees participated in the graduate certificate in management information systems at George Washington University. Approximately 680 students participated in the PTOU programs.

PTO University has been identified as an "exemplary government development program" by the Federal Training Officers Institute.

The Office of Patents significantly expanded their training ability in FY 1995 by creating two state-of-the-art training facilities: the Patent Academy, which trains all new patent examiners, and the Technical Support Institute, which provides training for the technical support of the patent process.

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Both facilities have the latest audio-visual and computerized training equipment with additional space for larger and more frequent programs.

In addition, the Patent Academy began designing a Juris Masters Program to enhance patent examiners' analytical and legal skills, knowledge, and abilities. This program is scheduled to become effective spring of 1996.

The Quality Skills Center (QSC) supports performance, production, and quality initiatives through the development of an internal pool of high quality employees. In FY 1995, a MicroComputer Proficiency program was introduced, and over 100 students enrolled and successfully completed the program. With the emphasis on reengineering, the QSC curriculum is being expanded to include additional courses to increase office automation and computer skills, technical reengineering, and analytical skills.

The Examiner Education Program encourages direct industrial experience for patent examiners through on-site visits to industry and technology demonstration sites. The program enables patent examiners to obtain "real world" insight into new developments in technology and use that understanding in their work at the PTO.

Law School Tuition Assistance is provided to patent examiners who attend law school.

Quality of Work Life. To create a balance between work and the personal lives of employees, we are promoting a culture of trust and flexibility. Today's workforce comprises more single-parent families, more dual-career couples, and more women than ever before. We are developing creative solutions to alleviate problems that affect all employees, such as transportation, work schedules, and leave for medical emergencies, and enhance our ability to attract and retain employees in critical occupations.

The PTO has several ways that allow employees to tailor their working hours to fit personal schedules:

- Flexitime allows employees to tailor their arrival and departure times around a set of core hours.
- Alternative Work Schedule permits employees to work an additional hour each day and earn one day off per pay period.
- Part-time opportunities were expanded for trademark attorneys and patent examiners to help them include time for education or family care.
- Flexiplace has been approved for testing in our Trademark operation as part of the National Performance Review's Reinvention Lab. This flexiplace pilot will allow a group of volunteer trademark attorneys to perform a substantial part of their duties at home. If this pilot is successful, it may be extended to other areas of PTO.

In fiscal year 1995, through its Partnership Council, the PTO approved the establishment of an on-site Fitness Center and began construction. The Center will be a non-profit entity supported by employee fees. We are now exploring the feasibility of establishing child care, elder care, and additional health and fitness programs.

PTO continues to sponsor observances that focus on the racial and ethnic cultures of employees and the community. These events improve awareness

of our diverse backgrounds and promote communication within the organization. In the past, we have focused on individual groups, but with the help of our Diversity Council, we are beginning to move to multicultural observances, expanding our definition of diversity and cultural identification. Future observances will stress our partnership with schools, college, community, and national organizations and enhance our "corporate partner" image.

Along with performance-based awards that are linked to appraisals, the PTO also has an active special awards program that includes:

- The On-the-Spot Award Program that allows managers to immediately recognize employees who have made exceptional contributions to a one-time project. With a minimum of paperwork and expense, employees can receive personal items that range from radios to luggage to movie tickets.
- The Support Employee of the Quarter recognizes five support staff members each quarter who have been nominated by their coworkers for exceptional service. Winners receive a monetary award and become eligible for the Support Employee of the Year Award.

As a result of their efforts, the Human Resources Strategic Diversity Team received the All-Star Team recognition from the International Personnel Management Association.

Communications. Good internal communication encourages better communication with customers. The Pulse, the monthly employee newsletter, is mailed to each employee's home with information about current activities and policies. New services, personnel appointments, and other notices are distributed in our FYI series. Along with these traditional methods of communication, the Office expanded its use of groupware technology through PTONet. Employees have access to all notices, electronic mail, and various software programs. Video teleconferencing and electronic bulletin boards help us expand the timely delivery of information throughout the organization.

In fiscal year 1995, the PTO began a project to create a communications environment that ties every employee into a true network of horizontal and vertical links. The project is exploring techniques that range from computer-based information sharing, such as forums, to advanced video-based technologies. The team leading this effort is studying successful organizations that use employee communications to help develop a strong sense of a common cause, shape and test new initiatives, and use information as a key strategic asset. This effort seeks to create an environment where we can learn from customers, stakeholders, partners, and each other. Knowledge building, new ideas, and the sharing of information in the target environment will contribute to the Office's abilities to maintain constant flexibility and adaptability to change.



Community Service. We also are using our resources in communities to improve education, health, and personal empowerment and establish the PTO as a corporate citizen and progressive employer. These programs include Project XL, Partnership in Education, and the Lakota Project, a Native American community project in South Dakota.

LEVERAGE INFORMATION TECHNOLOGIES

Information is one of the PTO's most valuable resources. As we move forward into the "information age," the PTO is taking advantage of advances in information technologies to enhance its core activities and improve how we do business.

Whether employees are examining patent or trademark applications, disseminating information to the public, or performing duties that support these functions, the PTO is using information technologies to ensure the quality, accuracy and efficiency of these efforts. The Office is focusing on a strategic direction to develop an information technology environment for both the PTO and the public where patent and trademark information is created once, managed effectively, used often, and evolves over time.

The PTO has developed its FY 1996 through FY 2001 *Strategic Information Technology Plan* and *Executive Overview*. These planning documents succinctly present the PTO's information technology goals, objectives, and strategic vision. They also document the major information technology activities planned through FY 2001. The executive overview, and the accompanying *Strategic Information Technology Plan*, are

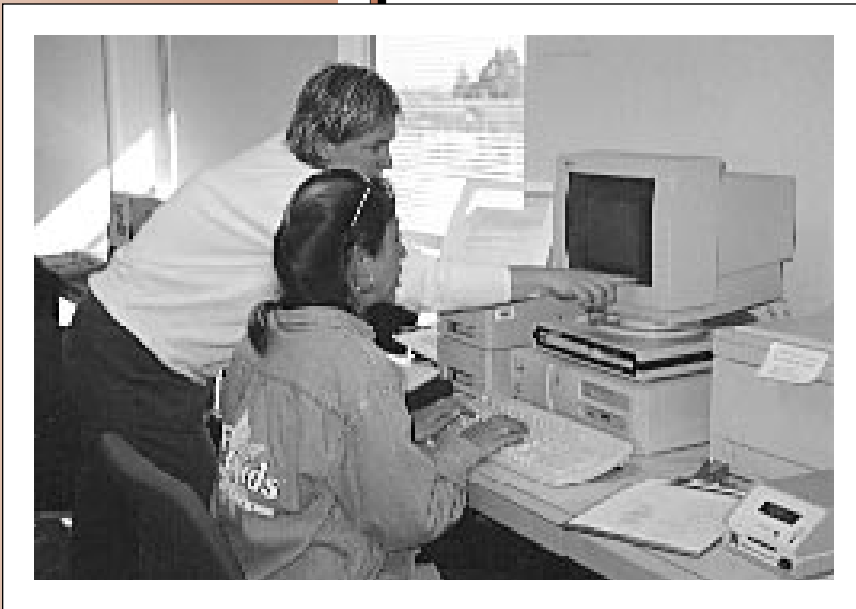
currently being reviewed by PTO senior management and will be issued in late January 1996.

Information Dissemination to the Public

Our core businesses require the PTO to disseminate information included in granted patents and registered trademarks. The Office makes various information products and services, including on-line access to data bases, magnetic tapes, and Compact Disc-Read Only Memory (CD-ROM) products, available to the public at its public search facilities in Arlington, Virginia, and at 80 Patent and Trademark Depository Libraries (PTDL's) located throughout the country.

In its public search facilities, the PTO provides reliable, low-cost access to the following automated systems:

- the Automated Patent System's Text Search and Retrieval (APS-Text) and Classified Search and Image Retrieval (APS-CSIR),
- the Automated Trademark Search System (X-Search), and



- the Trademark Reporting and Monitoring (TRAM) System.

Three new libraries were designated as PTDL's in FY 1995:

- The University of Puerto Rico at Mayaguez;
- The Paul S. Boley Law Library of the Northwestern School of Law, Lewis and Clark College, Portland, Oregon; and
- The Akron-Summit County Public Library in Ohio.

APS-Text was made available to the PTDL network effective January 1, 1995, and thus far, 25 PTDL's have entered subscriptions.

In FY 1995, the PTO established a partnership at the PTDL in Sunnyvale, California, and negotiated a partnership at the Detroit, Michigan, PTDL. These partnership libraries have access to expanded on-line capabilities, including APS-CSIR; offer video-teleconferencing between applicants, their attorneys, and their PTO examiner; provide services, such as Disclosure Document receipt, administration of PTO agent/attorney registration examinations, electronic ordering of foreign patent documents, file wrappers, and assignments; and sponsor practitioner-level and public seminars on various aspects of intellectual property. Partnership PTDL's received recognition as National Performance Review National Reinvention Laboratories.

The PTO offers on-line access to patent and trademark information through the PTO BBS, an electronic bulletin board system, which contains information regarding PTO products, services, activities, and current patent bibliographic information. Internet access to the PTO's World Wide Web site

(<http://www.uspto.gov>) provides information concerning patents and trademarks, as well as a database of searchable text and full document images for patents dealing with AIDS research. In FY 1995, Commissioner Lehman announced that the PTO will provide free Internet access to 20 years of patent bibliographic data (1.68 million patent documents granted since 1976).

We continue to use CD-ROM technology to provide patent and trademark information to the public. Eight CD-ROM products have been designed to contain searchable text, indexes, and search tools, which are updated bi-monthly and quarterly. In addition, the PTO produces weekly patent image CD-ROM's (usually three per week) that allow for electronic document delivery to PTDL's, other industrial property offices around the world, and the public. All CD-ROM products can be used, at no cost, in PTO public search facilities and PTDL's, and are sold to the public as an annual subscription.

The public can also purchase copies of internal data bases on magnetic tape. Customers are usually commercial data base vendors, who add value to the raw data and produce a variety of products for sale to thousands of public customers.



Patent and Trademark Copy Sales (PTCS) continues to be a key element of information dissemination. Advances in automated technologies now provide PTCS with capacity to supply 10,000 patents per day to the public, which is 100,000 printed pages per week.

ELECTRONIC PROCESSING AMONG EMPLOYEES

Use of computers and information technology will streamline, automate, and improve work processes. Today, the PTO transmits information and conducts business in paper form, but eventually we will do our work electronically. To process this information, the Office will need electronic document management, standard electronic work tools, widespread access to information, and integrated data repositories. Automation projects related to electronic processing among employees are categorized by the processes or system they support: Patent Automation, Trademark Automation, and Administrative/Production Automation. All systems at the PTO are supported by a common information technology infrastructure.

Patent Automation

In fiscal year 1995, through its "Time-Out" program, the General Services Administration (GSA) directed the PTO to conduct an independent assessment of the patent automation program. Consequently, the Department of Commerce assembled a group of experts as an Independent Review Team (IRT) to assess the PTO's automation efforts. The IRT released its report, "An Independent Assessment of the Patent and Trademark Office Information Technology Modernization Program" on April 28, 1995. The team concluded that the overall effort by the PTO to understand and automate its processes "is superior to many government and industry organizations." The PTO "shows signs of getting stronger all the time in performing its information technology management functions."

Major accomplishments for patent automation in fiscal year 1995 included:

- Providing desktop access to the patent text search system to all patent examiners.
- Deploying 48 additional image workstations to the cluster search rooms, thus increasing the access by patent examiners to the Classified Search and Image Retrieval (CSIR) system from 23 to 40 percent of the Patent Corps.
- Deploying initial-desktop image workstations for use by patent examiners.
- Completing the second pilot for the Electronic Application System (EASY).
- Developing and analyzing detailed requirements for the pre-grant publication of applications.

Trademark Automation

A significant accomplishment for trademark automation in fiscal year 1995 was the contract award for the text-search product for X-Search version 1.1—the primary search tool used by examiners and the public. As a result of this procurement, development has begun to replace the operating system which will increase the number of users. Additionally, the Office improved Trademark Search System (X-Search) performance by reducing the average search time by four minutes.

Administrative/Production Automation

During 1995, work progressed on many administrative management systems. The new systems make use of technology to increase both functionality and productivity and also provide better access to data. Functionality for Procurement Desktop increased dramatically with the inclusion of an imaging system, conversion to Release 2.0 and implementation of the new security module. The contract for the development of the Revenue Accounting Management System (RAMS) has been placed, the contractors have begun work and the data model has been completed. As a result of Electronic Commerce, in 1995, the PTO became a pilot for Electronic Data Interchange (EDI), which increased our small purchase authority from \$25,000 to \$100,000.

Finally, the PTO implemented the Patent and Trademark Assignment System which supports the processing of assignment documents through image capture, OCR text capture, automated work flow processing and generation of computer output microfilm of recorded documents from scanned images. This is the first instance of PTO's application of document management system technology to establish a paperless work flow process.

Infrastructure

The PTO is focusing on transitioning its current information technology infrastructure to a standards-based, open-system environment. A PTO Technical Reference Model has been developed which provides a comprehensive set of information standards, services, protocols, and products that define the target technical environment and guide future information technology efforts.

The high level definition of a new PTO-standard and tailorable system development life cycle management process was completed in July 1995. The revised process will improve productivity, measure and improve performance, and take advantage of modern system development techniques and tools. This process includes senior management oversight and program sponsor direction. The end goal is to deliver quality software products when promised and within cost estimates.

The PTO issued a draft Request for Proposals for a Systems Development and Maintenance Contract. Under this contract, the PTO will receive contractor assistance in developing production and administrative systems required by organizations. This integrated approach to system development will enable the Office to devote fewer resources to manage contracts and take advantage of multiple-use solutions when meeting information-technology needs of organizations.

Finally, in fiscal year 1995, the PTO expanded the production network operations and availability of all on-line systems to 6:30 am to midnight, Monday through Friday and 7:30 am to 5:30 pm on weekends.



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Major reengineering efforts have set the stage for the radical redesign of trademark business processes
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EMPLOY BETTER PROCESSES

This strategy is directed toward changing the way PTO operates and how work is processed in order to provide high quality products and services in a cost effective manner. It is being realized through organizational transformation activities, extensive Business Process Reengineering (BPR) efforts, and the application of automated technology.

Patent Process Reengineering

Recognizing the need to operate differently in the new global economy, the PTO has undertaken a major project to reengineer the entire patent process. This comprehensive effort involved over 150 employees working on five reengineering teams: patent quality, patent process, patent tools, patent customers, and patent culture. The draft design of the reengineered patent process was completed in September, after refinement and verification with customers. Highlights of the target patent process include:

- Customers as partners in the patent process
- Variety of products and services to match customer needs
- Fees set to better align to the necessary work effort
- Flexible organization structure that is responsive to technological changes
- Employee empowerment at all levels
- Extensive mentoring and training of multi-skilled employees
- Desktop tools and automated decision system support
- Elimination of serial processing, and reliance of parallel processing
- One-time data capture; data availability through integrated system
- Interactive prosecution process
- Electronic filing processing and publishing

An intensive transition planning effort will be undertaken in fiscal year 1996.

Trademark Process Reengineering

Major reengineering efforts have set the stage for the radical redesign of trademark business processes which apply world-class concepts and practices, such as electronic application processing. The premise supporting the trademark target design concentrates on electronic receipt, processing, storage, maintenance, and management of trademark applications and other filings. The target design, once implemented, will improve processing times significantly in both pre-examination and examination areas. Transition planning will be the focus in FY 1996.

Trademark Trial and Appeal Board Support Processes

The docket management process in the Trademark Trial and Appeal Board (TTAB) was the focus of reengineering efforts throughout 1994. In fiscal

year 1995, the results of these efforts were implemented as a pilot in the TTAB, resulting in dramatic improvements in productivity, cycle time, accuracy and quality, employee morale, and effectiveness.

Resource Management Reengineering

Traditionally, the PTO's budget process and the PTO's planning process have occurred simultaneously and in isolation of each other, instead of the planning process driving the budget process. The reengineered planning/budget process integrates the two activities and the PTO's budget becomes the costed end product of a PTO-wide planning process. This year, the first phase of the reengineered process was implemented as a pilot for the fiscal year 1997 planning/budget cycle. To coincide with this new planning/budget process, the PTO's current cost management function is being examined in order to develop a reengineered process which will integrate planning, budgeting, and cost management.

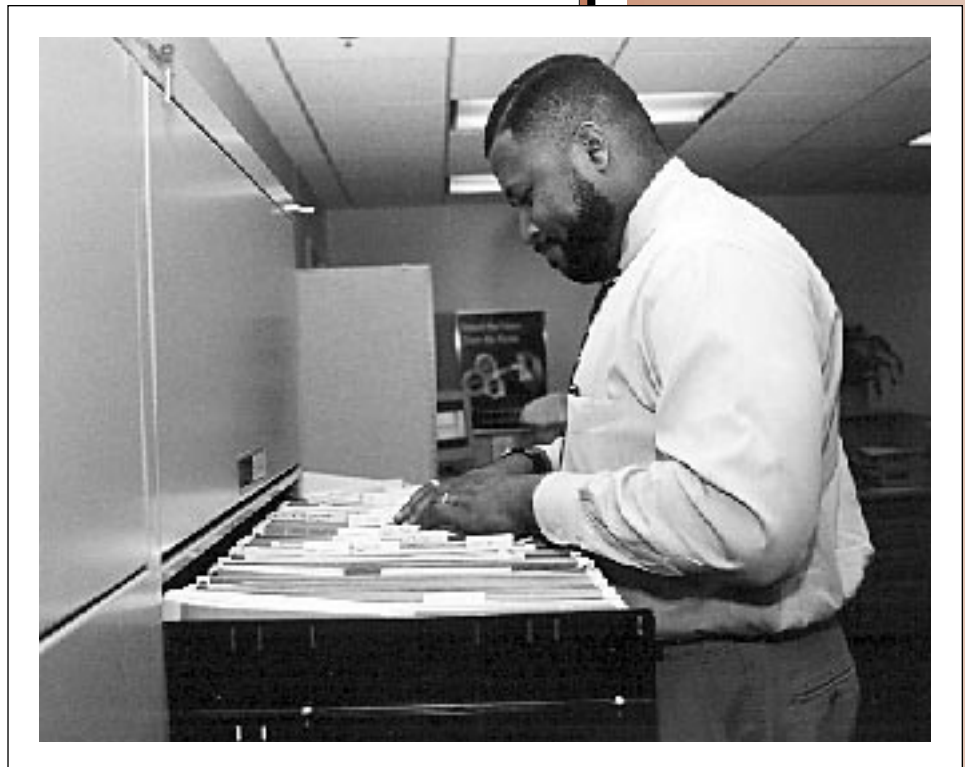
Acquisitions Business Process Reengineering

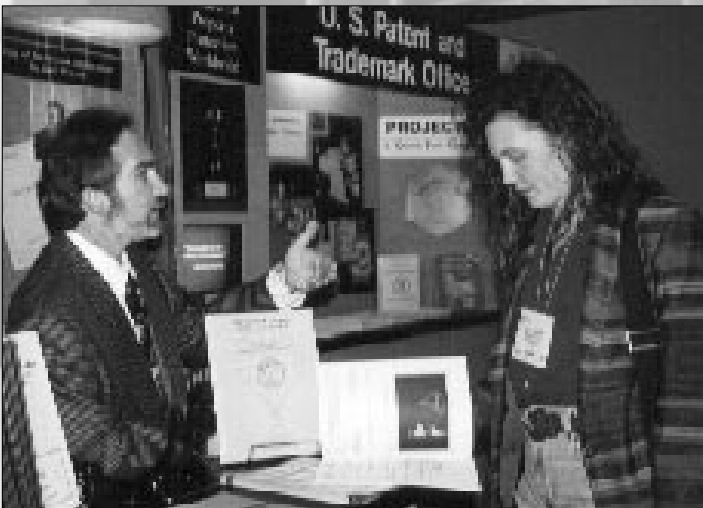
A multi-disciplinary team representing a broad cross-section of the Department of Commerce (DOC) employees has developed a proposed reengineered acquisition process of which the PTO will be a part. The new environment, covering acquisitions exceeding \$100,000, is designed to drastically reduce cycle time and meet the needs of customers through empowerment, elimination of approval layers, speed, risk reduction, and partnering. This vision is based on the following themes:

- A dramatically streamlined process
- Empowered project teams
- Redefined relationships with customers and vendors
- New uses of technology

The BPR team developed critical success factors, performance measures and performance targets (i.e., metrics) for the new process after gathering extensive data from customers and stakeholders. Quantified performance goals for such things as cycle time, customer satisfaction, administrative acquisition costs and project accomplishment were set and used as benchmarks for designing the TO-BE model.

Transitioning to the new environment is planned for the spring of 1996.





PROMOTE AWARENESS AND ENCOURAGE CREATIVITY

Fiscal year 1995 was the start of a new era in public relations at the Patent and Trademark Office. With the development of a marketing plan, outreach and promotion activities intensified and media relations improved. In addition to publicizing activities and issues to the media and general public, the Office of Public Affairs initiated and continued several significant outreach events.

The Patent and Trademark Museum

On July 25, 1995, the United States Patent and Trademark Museum was dedicated to Isaac Fleischmann, PTO's first director of Public Affairs. Created to promote awareness of the importance of ingenuity and innovation in our daily lives, the museum's inaugural exhibits featured Edison, Patent Models and Drawings of the 19th Century, and Trademarks: Fingerprints of Commerce. General information about intellectual property and the history of the Patent and Trademark Office are also featured. The museum will rotate exhibits throughout the year.

Inventors' Expo

The 1995 National Inventors' Expo was held at Disney World's Epcot Center in Orlando, Florida. Nearly 125 inventors with non-assigned patents from around the country exhibited their innovations to thousands of Disney guests. Only inventors who had received their patents in the previous 18 months were invited to exhibit. The event was co-sponsored by Intellectual Property Owners, who hosted a workshop prior to the two-day exhibit.

Trademark Expo

The 12th annual Trademark Expo was held at the Mellon Auditorium in Washington, DC, October 1994. Nearly 25,000 visitors enjoyed their favorite trademark characters along with some new exhibits: the history of trademarks, logo evolutions, and the faces behind the trademark names.

Project XL

The foundation of our educational outreach programs, Project XL provides educators with the information and curriculums they need to inspire ingenuity and creativity in our young people. In 1995, Project XL exhibited at annual conferences and conducted workshops around the country for the National Association for Bilingual Education, the National Science Teachers' Association, and other professional organizations. In collaboration with the National Inventive Thinking Association and the Copyright Office, Project XL recognized the creative and inventive works of high school students through the Young Inventors and Creator Program. Thousands of teachers and countless students have benefited by Project XL programs.

National Inventors' Hall of Fame

The new Inventors' Hall of Fame in Akron, Ohio, opened to the public in July 1995. Adjacent to Inventure Place, a hands-on museum that celebrates innovation and ingenuity, the new Hall of Fame honors American inventors who have made a significant contribution to our quality of life. PTO staff serve as advisors and assist with publicity; funds are not provided.



PROJECT XL

A Quest for Excellence

The Year Ahead

- The PTO expects to issue 109,200 utility, plant and reissue patents and register 101,300 trademarks in fiscal year 1996.
- If legislation is enacted in 1996, the Office expects to begin publishing all U.S. patent applications 18 months from the earliest filing date for which a benefit is sought.
- Congress will continue to consider many significant intellectual property bills, including bills implementing the “Intellectual Property and the National Information Infrastructure Report” legislative recommendations, the PTO Corporation bills, and the anti-counterfeiting legislation.
- The PTO will continue to participate in the TRIPs Council and meetings to consider the Berne Protocol and New Instrument, as well as numerous other multilateral and bilateral intellectual property activities.
- In December 1995, the PTO will participate in the Committee of Experts meeting to resume discussion of a limited patent law harmonization draft treaty.
- Planning for the transition to the new reengineered patent system will begin in 1996 and implementation will take place over the next several years. Pilots for immediate initiatives will begin to evaluate feasibility.
- A cross-functional team will develop a transition plan for implementing the Trademark target design which, once implemented, will improve application processing times significantly.
- The Trademark Operation will consolidate its law offices from 13 to 9 as a part of its effort to streamline the examination process to maximize production with a limited work force.
- The Trademark Flexiplace Pilot program will be implemented in fiscal year 1996 in conjunction with the National Performance Review’s Reinvention Lab to allow a group of volunteer trademark examining attorneys to perform a substantial portion of their duties at home. If successful, the program will benefit the Office by reducing space requirements and increase our ability to attract and retain employees in critical occupations and positions and to target markets not readily accessible.

- In fiscal year 1996, the reengineered Resource Management processes will be defined, and a pilot program will be established for developing the planning/budget process for fiscal year 1998.
- To ensure continuous improvement in customer services, the PTO will continue to conduct customer focus sessions, surveys, interviews, and roundtable discussions to determine customer needs, expectations, ideas for improvement, concerns, and to understand the customers' perspective for measuring our success.
- The Office will continue to expand its outreach and promotion efforts with the media and the public to improve awareness of intellectual property and its protection.



- In early FY 1996, the PTO will establish its second business partnership through the Patent and Trademark Depository Library program in Detroit, Michigan. As in the Sunnyvale, California, facility, it will offer customers a broad range of information resources and capabilities.

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While the PTO will grow in FY 1996, it will not grow at a rate equivalent to the growth in incoming workloads.
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Critical Areas for Financial and Management Improvement

The PTO continued to address the following critical areas for financial and management improvement in fiscal year 1995:

- long-term space needs,
- restrictions in the number of PTO employees, and
- continued diversion of funds by Congress.

In addition, proposals have been introduced in Congress to make the PTO a wholly owned government corporation, and the Office has undertaken reengineering projects that will have short- and long-term impact on our finances and operations.

SPACE

PTO leases in Crystal City will expire in FY 1996 and FY 1997. The PTO and GSA worked together to outline the PTO's need in a space prospectus. Its provisions include a Northern Virginia area of consideration and a lease period of 20 years. OMB approved the prospectus in FY 1995. The House and Senate approved the plan early in fiscal year 1996.

The PTO will advertise and issue a solicitation in the first half of fiscal year 1996. We are pursuing multiple strategies that will result in the best possible outcome for our customers and employees. Space considerations will include cost, flexibility, and proximity to public transportation, as well as changes resulting from our reengineered processes. Until consolidated space is available, the PTO will extend certain leases and acquire additional space in Crystal City to allow adequate time for complete competition, as well as time for building or renovation of the consolidated space.

PERSONNEL CEILINGS

The PTO has been affected by the Federal Workforce Restructuring Act of 1994 (Public Law 103-226), which directed a Government-wide reduction of 272,900 federal employees by 1999. While the PTO will grow in FY 1996, it will not grow at a rate equivalent to the growth in incoming workloads. The PTO fiscal year 1996 budget request effectively included a personnel ceiling reduction of 249 positions. Beginning in 1995 and continuing in 1996, administrative positions will be reduced and resources redirected to core examination functions. The PTO is responding to these pressures by finding new ways of doing business to meet the needs of our customers, in the short term by increased use of contractors and through reengineering efforts in the long term.

REDIRECTION OF PTO FUNDS

The enactment of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) put the PTO on path to be totally funded through the sales of its products and services. As a result, patent fees were initially increased by 69 percent, with a smaller increase following. This 69-percent increase was a surcharge to be deposited to a specific Treasury account. Subsequent legislation removed the specific percentage but required the PTO to deposit exact dollar amounts of surcharges. By law, these deposits are scheduled to continue through fiscal year 1998.

As funds for House and Senate appropriations subcommittees have decreased, the subcommittees have ceased to appropriate the full amount of the surcharge back to PTO. Instead, they have withheld an increasing amount of the surcharge between fiscal year 1992 through fiscal year 1995. Through fiscal year 1995, \$59.1 million has been withheld. Our fiscal year 1995 appropriation was further reduced by a \$6 million redirection of surcharge funds by Congress to support a high performance computing center external to the PTO. In addition, a permanent cancellation/rescission of approximately \$5.9 million in funds was made for GSA rent reduction and for PTO's share of administrative, travel, and procurement savings. Of our fiscal year 1996 surcharge deposit of \$111 million, Congressional committees have marked approximately \$29 million to be withheld. If this trend were to continue, the PTO could expect additional amounts to be withheld each year through fiscal year 1998, approximately \$34 million in fiscal year 1997 and \$40 million in fiscal year 1998. The following table illustrates the amounts that have been withheld to date and scheduled deposits through fiscal year 1998:

Fiscal Year	Surcharge Deposit	Surcharge Appn.	(dollar amounts in thousands)		Annual Variance (%)	Cum. Variance (%)
			Surcharge Withheld	Cumulative Withheld		
1991	\$99,307	\$99,307	\$0	\$0	0.00	0.00
1992	95,000	86,894	8,106	8,106	8.53	4.17
1993	99,000	86,672	12,328	20,434	12.45	6.97
1994	103,000	88,329	14,671	35,105	14.24	8.86
1995	107,000	83,000	24,000	59,105	22.43	11.74
1996	<i>111,000</i>	<i>*\$82,324</i>	<i>*\$28,676</i>	<i>*\$87,781</i>	<i>*25.83</i>	<i>*14.29</i>
1997	<i>115,000</i>	(na)	(na)	(na)	(na)	(na)
1998	<i>\$119,000</i>	(na)	(na)	(na)	(na)	(na)

** Estimated (na) not available.
(Note: Numbers in italics indicate deposits required by Public Law 102-204 for fiscal years 1996-1998.)*

It is in the best interests of the PTO and its customers for the redirection of PTO surcharge funds to be discontinued, and for the depositing of surcharge funds to end in fiscal year 1998 and not be extended further. Fee-paying customers deserve the best service the Office can provide. When PTO funds are redirected for other purposes, the quality of service to our customers suffers, and a constituency that holds the keys to our nation's economic strength is penalized.

CORPORATION PROPOSALS

As discussed in "Our Progress" (page 13), proposals have been introduced in Congress that would convert the Patent and Trademark Office to a wholly owned government corporation responsible for patent and trademark policy, the issuance of patents, and the registration of trademarks. If enacted, these proposals would result in a more commercial entity that could provide more flexible service to its customers. Areas that would be affected would include personnel ceilings, borrowing authority, investment authority, and exemption from certain federal building regulations. Action on these proposals is anticipated during fiscal year 1996.

REENGINEERING PROJECTS

Reengineering efforts, as described earlier on page 30, are underway in the two main processes at PTO: patent examination and trademark examination. The movement from our current processes to our reengineered processes will involve significant one-time development and transition costs. The PTO views reengineering costs as an investment in our infrastructure, primarily in automation, that will pay long-term benefits to our customers. When fully implemented, the PTO should realize significant long-term cost savings, primarily from a reduction in the FTE required to process applications.

