FY 2022

AGENCY FINANCIAL REPORT

United States Patent and Trademark Office

uspto UNITED STATES PATENT AND TRADEMARK OFFICE ®

FINANCIAL AND RELATED HIGHLIGHTS			
(Dollars in Thousands)	**% Change 2022 over 2021**	**For the Year Ended September 30, 2022**	**For the Year Ended September 30, 2021**
Fund Balance with Treasury	13.3%	$ 3,162,015	$ 2,790,547
Property, Plant, and Equipment, Net	5.2%	374,333	355,843
Other Assets	10.2%	48,624	44,124
Total Assets	12.4%	$ 3,584,972	$ 3,190,514
Advances from Others and Deferred Revenue	11.4%	$ 1,393,202	$ 1,250,318
Accounts Payable	(15.8%)	119,100	141,467
Accrued Payroll, Benefits, and Leave	1.0%	373,252	369,503
Other Liabilities	4.7%	144,419	137,920
Total Liabilities	6.9%	$ 2,029,973	$ 1,899,208
Net Position	20.4%	1,554,999	1,291,306
Total Liabilities and Net Position	12.4%	$ 3,584,972	$ 3,190,514
Total Earned Revenue	16.6%	$ 3,946,553	$ 3,384,463
Total Program Cost	2.9%	(3,732,273)	(3,627,437)
Net Income/(Cost) of Operations	(188.2%)	$ 214,280	$ (242,974)
Budgetary Resources Available for Spending	8.7%	$ 4,790,111	$ 4,406,096
Total Collections, Net	383.9%	$ (366,057)	$ (75,641)
Federal Personnel	1.1%	13,103	12,963
On-Time Payments to Vendors	-%	99%	99%

PERFORMANCE HIGHLIGHTS			
Performance Measures	**FY 2022 Target**	**FY 2022 Actual**	**Performance Results***
Patent Total Patent Term Adjustment (PTA) Compliance—Mailed Actions	80%	80%	**Green**
Patent Total PTA Compliance—Remaining Inventory	87%	85%	**Red**
Trademark Average First Action Pendency (months)	2.5-7.5	8.3	**Red**
Trademark Average Total Pendency (months)	13.5	13.8	**Red**
Trademark First Action Compliance Rate	95.5%	96.2%	**Green**
Trademark Final Compliance Rate	97.0%	98.5%	**Green**
Trademark Exceptional Office Action	50.0%	60.3%	**Green**
Percentage of prioritized countries for which intellectual property (IP) country teams have made progress on at least three of the four performance criteria: a. Institutional improvements of IP office administration for advancing IP rights b. Institutional improvements of IP enforcement entities c. Improvements in IP laws and regulations d. Establishment of government-to-government cooperative mechanisms	66%	100%	**Green**
Number of people, including Foreign Government Officials and U.S. Stakeholders, trained on best practices to protect and enforce IP	5,000	18,633	**Green**

** For the performance results other than those regarding trademark pendency, a given measure's performance result either meets the target (100% of target or greater) or does not meet the target (99.9% of target or below).*

TABLE OF CONTENTS

MESSAGE

Kathi Vidal

Message from Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

Since I was sworn in last spring, we have hit the ground running, and we have no plans to slow down as we work to bring our newly-defined mission to impact in fiscal year (FY) 2023 and beyond. It has been my honor to work with the talented and dedicated staff at the United States Patent and Trademark Office (USPTO) to accomplish exciting goals and make meaningful progress. We still have much to do.

Some highlights from FY 2022 include improvements to our Patent organization processes and systems, such as launching Similarity Search, replacing the Public Patent Application Information Retrieval tool with the user-friendly Patent Center, and unveiling an all-new Patent Public Search tool. Our Trademarks organization implemented new strategies and tactics to fight fraud, including proceedings to reexamine and expunge fraudulent registrations under the Trademark Modernization Act (TMA), ferreting out fraud on the trademark registry by issuing sanctions impacting thousands of fraudulent applications, requiring identity verification of all trademark filers, and focusing on anti-counterfeiting activity through international work and our "Go For Real" anti-counterfeiting campaign with the National Crime Prevention Council.

On April 26, we celebrated World Intellectual Property Day and, on May 5, I had the honor of recognizing the achievements of five inductees to the 2022 class of National Inventors Hall of Fame (NIHF). Through our collaboration with NIHF, we have educated nearly 250,000 children this year alone in innovation, entrepreneurship, and intellectual property (IP).

Demand for patent and trademark services in FY 2022 was mixed. Pending patent applications saw a slight increase, while trademark application filings were approximately 17% lower than FY 2021's unprecedented high levels. It is worth noting that trademark filings in FY 2022 were still roughly 7% higher than in FY 2020, demonstrating that trademark applications remain on an upward trend overall. While this unprecedented growth affected pendency metrics for FY 2022, the USPTO is working on new measures to reduced and control pendency.

We are also focused on ensuring the innovation ecosystem works for all. To incentivize and protect U.S. innovation, we must issue and maintain robust and reliable patents. To do this, we worked to enhance our collaboration with other government agencies, such as the Food and Drug Administration, sought comments from the public on proposed initiatives to bolster the robustness and reliability of patents, and conducted listening sessions with our examiners and examining attorneys to understand the kinds of trainings and internal process improvements that will best support fast and reliable examination.

As part of that effort, the USPTO began developing and deploying a training initiative to show patent examiners how their examination prosecution record is used after a patent is granted and providing techniques to improve the clarity of that record. The USPTO further improved trademark quality in FY 2022 by using trademark attorney quality reviews to develop innovative training modules and written guidelines to address emerging challenges and issues in substantive and procedural matters. The USPTO also updated the legal guidance and procedures for trademark examining attorneys and stakeholders, applicants and registrants, and legal practitioners.

We also improved transparency, consistency, and operations of the Patent Trial and Appeal Board (PTAB). We sought public comment on the process of allowing a party to request Director review of a PTAB final written decision in inter partes review or post-grant review proceedings. The period for comment has now closed and we will review stakeholder feedback when formalizing any Director review changes. In addition, we made several improvements to enhance certainty for ex parte appeals and AIA trials. These changes were made in response to stakeholder feedback and the global pandemic, including conducting 432 ex parte appeal hearings and 506 trials remotely, as well as granting public access to 247 remote proceedings. In addition, the PTAB resumed in-person hearings for 16 ex parte appeal hearings and 44 trials. To ensure equity in access, the PTAB will only host in-person hearings if both parties agree to in-person.

This year, the USPTO pursued several strategies to better protect the trademark register by implementing legislation, enhancing information technology, and improving tactical management of trademark programs. The USPTO implemented the TMA nonuse cancelation provisions in December 2021 and will complete implementation for response to office actions provisions in December 2022. The TMA will be fully implemented by October 2023. To mitigate fraud risk, the USPTO now requires customer accounts to be identity-verified to file trademark applications, and the agency is using Robotic Process Automation to validate addresses against the United States Postal Service database. As part of our efforts to move to full electronic processing of trademark applications and registrations, we began issuing electronic trademark registration certificates in June, giving trademark owners easier access to their registrations.

As the world's leading IP agency, the USPTO is focused on bringing innovation to positive impact through several programs. These programs help support innovators, entrepreneurs, and brand owners across the country, reaching people where they are with the resources they need to participate in innovation. The Pro Bono Program ensures that financially under-resourced inventors have access to the innovation ecosystem. Through this program, the USPTO is reaching communities with historically low patent participation rates. In FY 2022, USPTO's Council for Inclusive Innovation (CI^2) publicly announced four initiatives focused on offering resources and services to encourage, empower, and support the innovators of tomorrow. To further the efforts and impact of the CI^2 program, we recently welcomed five Co-Vice Chairs to join Secretary Raimondo, the Chair, and myself, the Vice Chair, in providing leadership to CI^2. This new leadership team will use a whole-of-government approach and collaborate with private and non-profit partners and the USPTO regional offices to devise a national outreach strategy, ensuring more Americans from underrepresented communities can participate in and benefit from innovation.

THE USPTO MISSION

Drive U.S. innovation, inclusive capitalism, and global competitiveness

The USPTO is preparing to launch a new first-time filer expedited petition for micro entities who file patent applications for the first time and is expanding access to free legal services to assist more under-resourced innovators in protecting their ideas. In addition, the Law School Clinic Program welcomed five new law schools in FY 2022. Finally, the USPTO provided programming to inspire, educate, and empower independent inventors, small businesses, entrepreneurs, and underrepresented or underserved communities of innovators. In FY 2022, the USPTO exceeded goals for these programs with more than 4,000 in attendance (cumulative for all programs) with an average of 90% of attendees finding these programs informative, relevant, and useful. Programs such as these are an important element to unleashing the potential of every American, to creating jobs, and to bolstering economic prosperity.

The President has made it a priority to accelerate the pace of innovation to solve urgent public health and environmental challenges. The USPTO extended the 2016 Cancer Immunotherapy Pilot Program through early 2023 to support President Biden's Cancer Moonshot initiative. In June 2022, the USPTO published a Federal Register notice announcing the launch of the Climate Mitigation Pilot Program — a program in support of national goals to positively impact the climate by accelerating the examination of patent applications for innovations that reduce greenhouse gas emissions. In FY 2022, the Patents for Humanity Program continued to recognize innovators who use game-changing technology to meet global humanitarian challenges. In July 2022, the USPTO became a technology partner to the global green-technology platform of the World Intellectual Property Organization (WIPO), WIPO GREEN, via initiatives such as the USPTO's Climate Change Mitigation Pilot Program and the soon-to-be-announced Patents for Humanity: Clean Energy Technologies awards competition.

THE USPTO VISION

Unleashing America's Potential

This year, the USPTO continued to navigate the pandemic, keeping employees safe and reopening our facilities across the U.S. in May 2022. The USPTO welcomed 820 new employees virtually in FY 2022 while providing excellent customer service to internal and external customers through our secure, high-speed networks. The USPTO was already a leader in telework, and our new, expanded hybrid telework program increased the opportunity for 85% of our workforce to telework full-time and expands our ability to recruit nationwide. As a result of more employees working from home more days per week, we have taken steps that will result in relinquishing more than 1 million square feet of leased space by the end of 2024.

The USPTO is a data-intensive organization. This year, the agency began transitioning to more use of cloud storage options as well as a modern data center that offers enhanced disaster recovery features and more resiliency and stability. The new facility will ensure we have needed technology backups, and systems that are less prone to failures.

In September 2022, the USPTO launched Similarity Search, an impactful step forward in leveraging the power of artificial intelligence (AI) to help with patent searches. This AI enables users to search patent applications while providing new flexibilities to emphasize application text and patent classifications. In addition, the USPTO deployed a tool using AI/Machine Learning to help streamline how patents are classified, replacing the work of an external contractor and thereby saving the agency several million dollars per year.

We have also implemented system changes across the Trademarks product line to support the TMA. The USPTO deployed several Robotic Process Automation "bots" to production for the pre-examination process, which addressed several key staffing bottlenecks and realized new cost efficiencies. The USPTO also introduced identity verification for USPTO.gov account holders using the Trademark Electronic Application System (TEAS) and TEAS international applications.

Regarding our overall finances, our FY 2022 financial health was sound. The operating reserves performed as expected to meet daily financing needs for agency operations while mitigating the economic risk of uncertain demand and fee collections. The USPTO closes this fiscal year with both Patent and Trademark operating reserve balances above minimum levels. At the end of FY 2022, the Patent operating reserve was $775.0 million, $450.0 million above minimum levels and roughly equivalent to 84 days of operations. The Trademark operating reserve was $208.7 million, $88.7 million above minimum levels and roughly equivalent to 167 days of operations.

We are confident that the USPTO's financial and performance data are complete, reliable, accurate, and consistent. For the 30th consecutive year, the USPTO earned an unmodified (i.e., clean) audit opinion on its annual financial statements, giving the public independent reasonable assurance that the agency's financial information is presented fairly, in all material respects, and follows generally accepted accounting principles. The independent auditors also reported no material weaknesses or significant deficiencies, or instances of noncompliance with laws or regulations during the FY 2022 financial reporting period.

On the international front, the USPTO provided policy advice and technical training on domestic and international IP matters to multiple other federal agencies. These included approximately 84 USPTO-organized programs delivered through the USPTO's Global Intellectual Property Academy. These programs reached some 4,700 participants in FY 2022. We have held numerous bilateral meetings with other countries, working to make it easier for U.S. businesses to compete through stronger IP protection and reduced barriers to global protection.

Looking forward, FY 2023 will have new and important challenges as we work to deter incidences of fraudulent and suspicious applications, reduce the backlog of patent and trademark applications, re-think the way we work and stay connected in a hybrid environment, and ensure our IT systems are resilient and secure.

Now more than ever, we need the progress and growth that only protected IP can provide, and we need an IP ecosystem that will cultivate an innovation mindset and catalyze inclusive innovation, economic prosperity, U.S. competitiveness, and worldwide problem-solving. As we look ahead to FY 2023 and beyond, we are re-imagining the USPTO of the future while protecting and promoting inclusive innovation that delivers impact for the good of the nation.

Kathi Vidal

Kathi Vidal

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

November 7, 2022

INTRODUCTION

WHO ARE WE

The USPTO is the federal agency that grants U.S. patents and registers U.S. trademarks. In doing this, the USPTO fulfills the mandate of article I, section 8, clause 8 of the Constitution, which grants the legislative branch the power to "promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." The USPTO registers trademarks based on the Commerce Clause of the Constitution (article I, section 8, clause 3). American industry flourishes under this system of protection. New products are invented, and new uses for old products are discovered.

The founders of our country designed this system to drive economic growth and foster a higher standard of living for all. The strength and vitality of the U.S. economy depends directly on effective mechanisms that protect new ideas and investments in innovation and creativity. Our IP[1] system drives job creation, U.S. competitiveness, and national security. The continued demand for patents and trademarks underscores the ingenuity of American inventors and entrepreneurs.

The USPTO advises the President of the United States, the Secretary of Commerce, and U.S. government agencies on IP policy, protection, and enforcement. The USPTO helps lead the Administration's efforts to improve U.S. IP protection and enforcement around the world as well. The USPTO also provides training, education, and capacity building programs designed to foster respect for IP and to encourage U.S. trading partners to develop strong IP enforcement regimes.

The United States has four basic types of IP rights: patents, trademarks, copyrights, and trade secrets. The following figure briefly describes each type. The USPTO's IP policy-related mission encompasses all IP, including copyrights and trade secrets.

2022 – 2026 STRATEGIC PLAN

Goal 1:

Drive inclusive U.S. innovation and global competitiveness

Goal 2:

Promote the efficient delivery of reliable IP rights

Goal 3:

Promote the protection of IP against new and persistent threats

Goal 4:

Bring innovation to positive impact

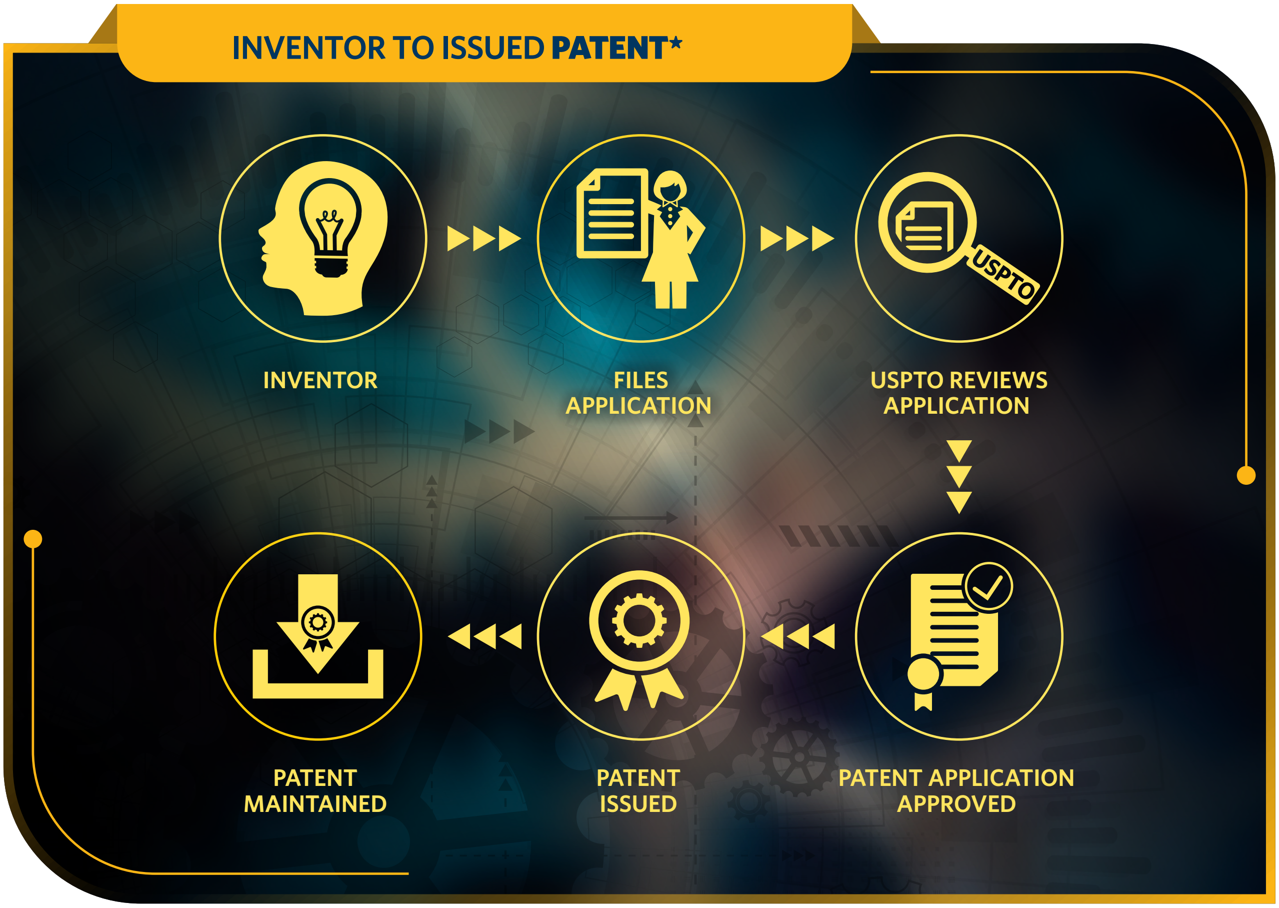
Goal 5:

Generate impactful employee and customer experiences by maximizing agency operations

[1] IP refers to the intangible assets of a business or inventor. IP may include products and services as well as any symbols, logos, words, or phrases that are characteristic of those products or services.

PATENTS	TRADEMARKS	COPYRIGHTS	TRADE SECRETS
GRANT rights to exclude others from making, using, or selling a Utility, Design, or Plant invention.	**GRANT** exclusive use to any word, phrase, symbol, or design used to distinguish you from your competitors.	**GRANT** protection for original works—books, music, research, and other forms of creative expression.	**GRANT** rights for information that has either actual or potential economic value by virtue of not being generally known.
TERM Design: 14 Years Utility: 20 Years Plant: 20 Years	**TERM** 10 Years	**TERM** 70 Years After Author's Death	**TERM** Continuous

A patent for an invention represents the granting of a property right to the inventor by the USPTO. Generally, the term of a new patent is 20 years from the date on which the application for the patent was filed in the United States or, in special cases, from the date an earlier, related application was filed, subject to the payment of maintenance fees. U.S. patent grants are effective only within the United States, U.S. territories, and U.S. possessions. Under certain circumstances, Patent Term Extensions (PTEs) or Adjustments (PTAs) may be available. The right conferred by the patent grant is, in the language of the statute and of the grant itself, “the right to exclude others from making, using, offering for sale, or selling” the invention in the United States or “importing” the invention into the United States. What is granted is not the right to make, use, offer for sale, sell, or import. Once a patent has been issued, the patent owner must enforce the patent without the aid of the USPTO.



**This is a high-level overview. It is not intended to capture every step of the Inventor to Issued Patent process.*

There are three types of patents:

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

The application and maintenance procedures for patents and general information about patents is available on the USPTO's Patent basics webpage.

A trademark is a word, name, symbol, or device, or any combination thereof, that is used in trade with goods to indicate the source of origin of the goods and to distinguish them from the goods of others. A service mark is the same as a trademark, except that it identifies and distinguishes the source of a service rather than a product. The terms "trademark" and "mark" are commonly used to refer to both trademarks and service marks.

**This is a high-level overview. It is not intended to capture every step of the Business Owner to Registered Trademark process.*

A trademark is a word, name, symbol, or device, or any combination thereof, that is used in trade with goods to indicate the source of origin of the goods and to distinguish them from the goods of others. A service mark is the same as a trademark, except that it identifies and distinguishes the source of a service rather than a product. The terms "trademark" and "mark" are commonly used to refer to both trademarks and service marks.

Trademark rights can prevent others from using a confusingly similar mark, but not from making the same goods or from selling the same goods or services under a clearly different mark. Trademarks that are used in interstate or foreign commerce may be registered with the USPTO. The registration procedure for trademarks and general information about trademarks is available on the USPTO's Trademark basics webpage.

Copyright is a form of protection provided to the authors of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works, both published and unpublished. The 1976 Copyright Act generally gives the owner of a copyright the exclusive right to reproduce the copyrighted work, to prepare derivative works, to distribute copies or phono records of the copyrighted work, to perform the copyrighted work publicly, or to display the copyrighted work publicly. The copyright protects the form of expression, rather than the subject matter of the writing. For example, a description of a machine could be copyrighted, but this would only prevent others from copying the description; it would not prevent others from writing a description of their own or from making and using the machine.

Copyrights are registered by the U.S. Copyright Office, a department of the Library of Congress.

A trade secret is information that has either actual or potential independent, economic value by virtue of not being generally known; has value to others who cannot legitimately obtain the information; and is subject to reasonable efforts to maintain its secrecy. All three elements are required; if any element ceases to exist, then the trade secret will also cease to exist. Otherwise, there is no limit on the amount of time a trade secret is protected.

ABOUT THIS REPORT

Before fiscal year (FY) 2022, the USPTO issued a Performance and Accountability Report (PAR) that included detailed performance results with the financial information. To simplify the information presented to the public, in FY 2022, the USPTO is preparing this Agency Financial Report (AFR). This reporting framework is consistent with many other federal agencies. The AFR will enhance the usefulness of the reported information and make it easier for the public to understand how patent and trademark fees are used to achieve the USPTO's most significant performance results.

The USPTO will produce an Annual Performance Plan and Annual Performance Report (APPR) that will be available for public viewing in the USPTO annual reports section of the agency's website in February 2023.

The USPTO's AFR describes the agency's complete FY 2022 financial information and summarizes performance information as context for the financial information. The AFR aligns this information and financial statement responsibility with our budget planning and the USPTO's two fee-generating business lines—the patent program and the trademark program. This report demonstrates to Congress, the Administration, and the public the USPTO's efforts to promote transparency and accountability regarding the resources entrusted to the agency.

This AFR, which is available in the USPTO annual reports section of the agency's website, satisfies the reporting requirements contained in the following legislation:

- 35 U.S. Code (U.S.C.) section 13
- Federal Managers' Financial Integrity Act of 1982
- Chief Financial Officers Act of 1990
- Government Management Reform Act of 1994
- Federal Financial Management Improvement Act of 1996
- Reports Consolidation Act of 2000
- Accountability of Tax Dollars Act of 2002
- Leahy-Smith America Invents Act (AIA) of 2011
- Study of Underrepresented Classes Chasing Engineering and Science Success (SUCCESS) Act of 2018
- Payment Integrity Information Act of 2019

CERTIFICATE OF EXCELLENCE IN ACCOUNTABILITY REPORTING

The AGA awarded the USPTO the Certificate of Excellence in Accountability Reporting (CEAR®) for the 20th consecutive year for its FY 2021 PAR. In addition to being recognized as a CEAR recipient, the USPTO received "Best in Class" honors for the best agency head and Chief Financial Officer (CFO) message and the "Value-Added Distinction Award" for the best overall report among all the 21 CEAR award winners across the federal government.

The AGA highlighted particular areas of the FY 2021 PAR. For example, the AGA said the USPTO's report provided a high-quality summary of the agency's financial and mission performance. The report was timely, and the agency received an unmodified audit opinion on the financial statements. The AGA also said producing a high-quality PAR and a Summary of Performance & Financial Information, which the USPTO successfully did for FY 2021, was a leading practice.

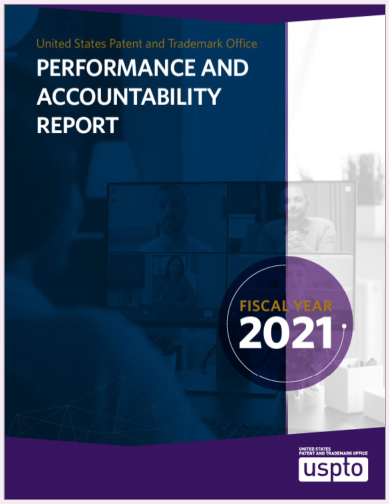
The three principal goals of the 1990 Chief Financial Officers Act are:

- Systematic measurement of performance
- Development of cost information
- Integration of program, budget, and accounting systems

Integrating performance and financial information provides richer accountability and transparency to Americans. The FY 2021 PAR integrated noteworthy features, including new, innovative, and best practices, that helped support full disclosure, transparency, and accountability. Examples of noteworthy features included:

- Prominent, clear, concise financial and performance highlights
- A highly informative, well-written agency head message that helped users understand the USPTO's mission, operations, performance, and challenges
- A separate "Summary of Performance & Financial Information," which provided a clear and easy-to-read snap shot of FY 2021 results and is a leading practice
- Skillful use of graphics and easy-to-understand language to tell users who the USPTO is and what it does
- Consistent and successful use of links throughout the report to guide the reader and provide additional context
- Comparative funding diagram
- Prominent, concise explanations of key mission areas
- Insightful message from the CFO
- Informative, easy-to-read financial statements and footnotes with excellent sizing and formatting
- Professional, visually appealing graphics, color scheme information, and font size
- Responsiveness to the prior year's CEAR recommendations

The CEAR program was established in collaboration with the Chief Financial Officers Council and the U.S. Office of Management and Budget (OMB) to improve accountability by streamlining reporting. The CEAR program helps to improve the effectiveness of agency reports so they clearly show both what an agency accomplished with the dollars entrusted to them and the challenges they are facing. The USPTO is transitioning from a PAR to an AFR to further streamline its reporting and improve the nexus between financial and performance reporting.



The USPTO's 2021 PAR cover and the AGA's Certificates of Excellence in Accountability Reporting

YOUR GUIDE TO USING THIS REPORT

This report is organized into three major sections.

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)

This section provides an overview of the USPTO's organization, mission, and strategic framework; a brief performance and financial summary; and management's assessment of the USPTO's challenges and its assurances on the USPTO's internal controls.

FINANCIAL SECTION

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

OTHER INFORMATION (UNAUDITED)

This section provides the top management challenges the USPTO faces, as identified by the Office of Inspector General (OIG); a summary table of financial statement audit and management assurances; information on the agency's efforts to eliminate improper payments; and a discussion of matters related to the Federal Civil Penalties Inflation Adjustment Act of 1990.

MANAGEMENT'S DISCUSSION AND ANALYSIS (UNAUDITED)

MISSION AND ORGANIZATION OF THE USPTO

The USPTO is a government agency with a strong commitment to carrying out its new mission to drive U.S. innovation, inclusive capitalism, and global competitiveness and its vision of unleashing America's potential.

In today's challenging and competitive global economy, the USPTO's role in protecting America's IP remains critical to U.S. competitiveness and economic success internationally. The high demand for the USPTO's patent- and trademark-related products and services illustrates the immense value of IP protection in the United States. Since 2000, the USPTO has seen patent application filings and requests for continued examination more than double for both domestic and foreign entities. In the same time frame, the number of trademark application filings from U.S. residents grew more than 60%, and filings from foreign entities have increased over 325%. As an agency of the U.S. Department of Commerce (DOC), the USPTO supports the Department's mission to create the conditions for economic growth and opportunity for all communities. The USPTO also supports DOC's goal to promote accessible, strong, and effective IP rights to advance innovation, creativity, and entrepreneurship. For more information about DOC's Strategic Plan or DOC's Agency Financial Report, please visit their Budget and performance webpage.

OUR ORGANIZATION

The USPTO is a distinctive government agency. The Omnibus Budget Reconciliation Act of 1990 mandated that the USPTO's operations be funded by patent and trademark user fees, a change the agency implemented in 1991. In 1999, the American Inventors Protection Act incorporated performance-based attributes into the USPTO's operations. For example, the USPTO has a clear mission statement, public advisory committees, measurable services, a performance measurement system that provides customers with the agency's performance expectations, and known funding sources.

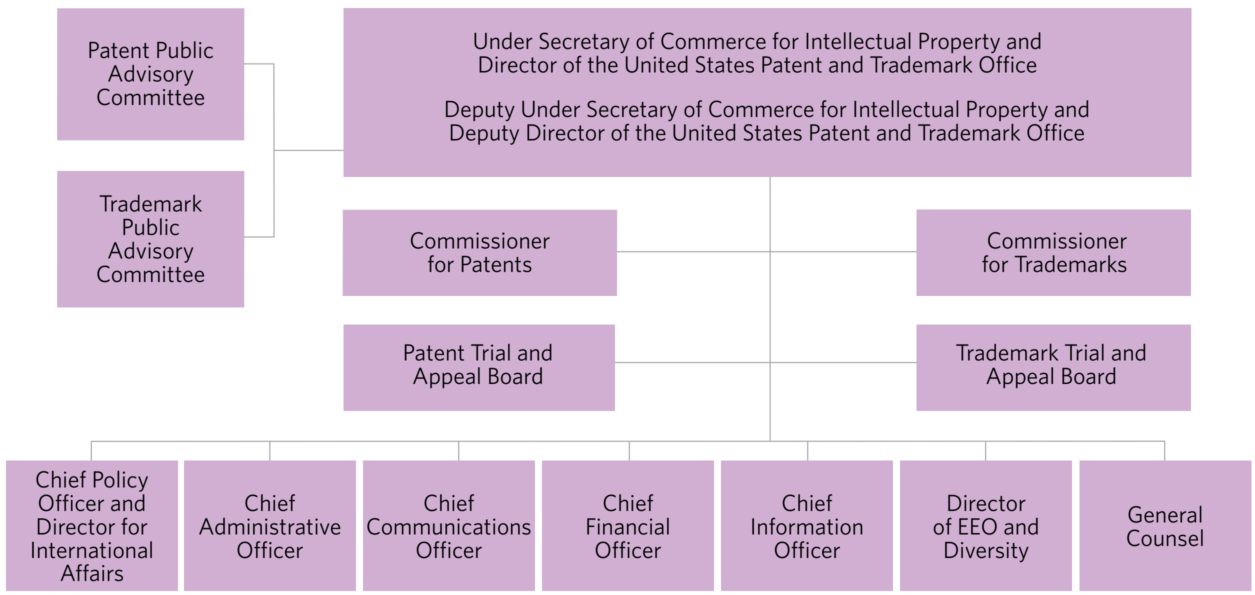
As shown in Figure 1, the agency is led by the Under Secretary of Commerce for Intellectual Property and Director of the USPTO. The Patent Public Advisory Committee and the Trademark Public Advisory Committee advise the Under Secretary. The USPTO is composed of two programs that operate as business lines: patents and trademarks. The Commissioner for Patents leads the Patents organization in achieving the USPTO's patent program goals, and the Commissioner for Trademarks leads the Trademarks organization in achieving the USPTO's trademark program goals.

The USPTO's Office of Policy and International Affairs (OPIA) fulfills the USPTO's statutory mandate to advise the Administration (through the Secretary of Commerce) and federal agencies on all IP policy issues, conduct capacity building programs on IP protection and enforcement, study the economic impacts of IP and innovation, and work with IP offices and intergovernmental organizations worldwide. The OPIA fulfills its mandate through activities such as:

- Leading negotiations on behalf of the United States at the World Intellectual Property Organization (WIPO)
- Providing expert guidance in negotiating the IP provisions of free-trade agreements and advising on their implementation
- Managing the IP Attaché Program, through which IP experts are placed in U.S. missions throughout the world to promote high-quality IP protection and enforcement
- Engaging with Congress and other federal agencies on IP legislation and policy

The USPTO's other organizations provide mission support functions including: information technology (IT); human resources; financial, legal, and administrative services; equal employment opportunity; and communications.

FIGURE 1: **UNITED STATES PATENT AND TRADEMARK OFFICE**

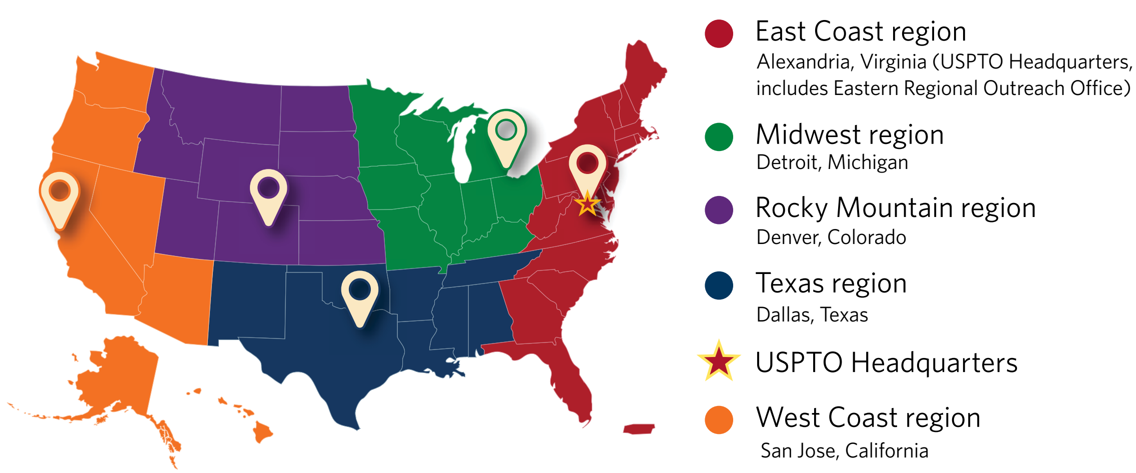


Headquartered in Alexandria, Virginia, the USPTO has four regional offices, as seen in Figure 2.

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

The USPTO also has an Eastern Regional Outreach Office located at the agency's headquarters. The regional offices are an important channel for the USPTO to expand innovation inclusively and reach people where they are located across the United States.

FIGURE 2: **MAP OF THE USPTO HEADQUARTERS AND REGIONAL OFFICES**



The SUCCESS Act of 2018 required the USPTO to conduct a study, create a report, and provide legislative recommendations to increase entrepreneurship and the number of patents applied for and obtained by women, minorities, and veterans (and by small businesses owned by women, minorities, and veterans). The SUCCESS Act also amended the AIA to extend the USPTO's fee setting authority until 2026.

The 21st Century Integrated Digital Experience Act of 2018 and the Evidence-Based Policymaking Act of 2018 emphasized acquiring and using customer feedback to shape agency operations, improve program data and information accessibility, and enhance digital customer experiences (CX). In FY 2019, the White House designated the USPTO as a high-impact service provider (HISP) of federal government services. The USPTO became one of DOC's designated HISP bureaus, given the scale and impact of the USPTO's public-facing services. As part of the USPTO's obligation as a HISP bureau, the agency conducts yearly CX capacity assessments and service improvement action planning. The USPTO also publicly reports customer satisfaction and trust data quarterly.

PATENT PROGRAM

The patent program is implemented through the Patents organization led by the Commissioner for Patents, who oversees all aspects of the organization, including the administration of patent operations, examination policy, patent quality management, international patent cooperation, resources and planning, and budget administration. The patent program is also implemented through the PTAB. The PTAB is a tribunal within the USPTO led by a Chief Judge who reviews rejections made by examiners in proceedings called ex parte appeals and decides patentability questions for issued patents raised by third parties in proceedings called AIA trials. Patents' primary function is having examiners (highly skilled professionals with backgrounds in science, engineering, and graphic design/art) review patent applications to determine whether the claimed invention is eligible for patent protection, useful, adequately disclosed, and clearly defined. In addition, patent examiners compare the claimed invention to a large body of technical information to determine whether the claimed invention is novel (never before seen) and nonobvious (something not readily familiar to a person knowledgeable about that field of study). Furthermore, patent examiners respond to appeal briefs on applications appealed to the PTAB and prepare preliminary examination reports for international applications filed under the Patent Cooperation Treaty. Patents also develops policy for examination; patent-focused educational and stakeholder outreach; and, in collaboration with OPIA, initiatives that support international cooperation.

EX PARTE

Ex parte means with respect to or in the interests of one side only or of an interested outside party.

TRADEMARK PROGRAM

The trademark program is implemented through the Trademarks organization led by the Commissioner for Trademarks, who oversees all aspects of the organization responsible for registering marks (i.e., trademarks and service marks, as well as certification marks, collective marks, and collective membership marks) that meet the requirements of the Trademark Act of 1946, as amended. The trademark program is also implemented through the Trademark Trial and Appeal Board (TTAB). The TTAB is a neutral body that functions like a court for trademark matters at the USPTO and handles appeals involving applications to register marks, appeals from expungement or reexamination proceedings involving registrations, and trial cases of various types involving applications or registrations. Trademarks plays a primary role in advancing the USPTO's mission. Its database provides notice to the public and businesses of the trademark rights claimed in pending applications and existing registrations. Trademarks' core business is examining applications for trademark registration. As part of this process, examining attorneys determine registrability under the provisions of the Trademark Act by:

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

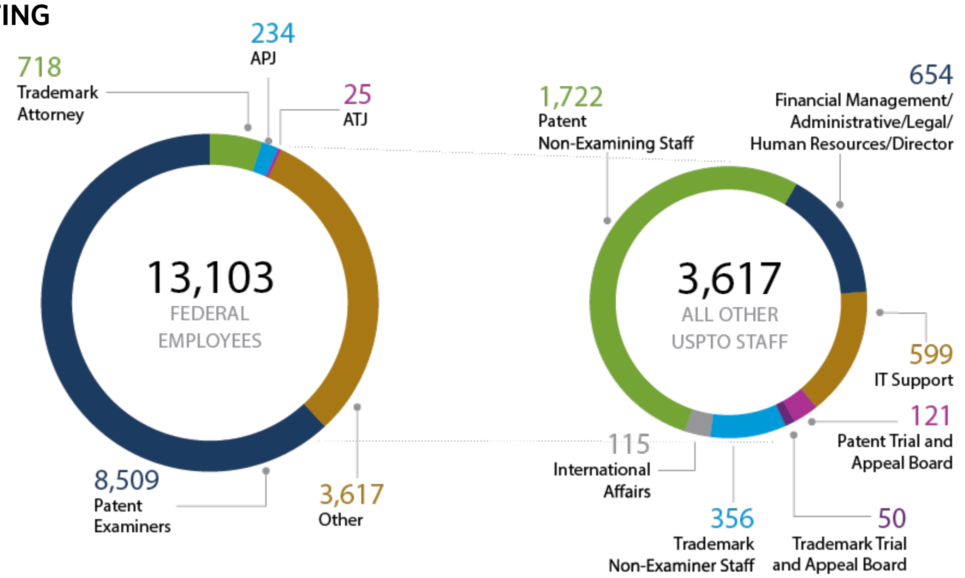
Trademarks also evaluates and approves lawful maintenance documents and renewals of trademark registrations. Additionally, Trademarks develops policy for examination; trademark-focused education and stakeholder outreach; and, in collaboration with OPIA, initiatives that support international trademark cooperation.

OUR PEOPLE

At the end of FY 2022, the USPTO workforce (Figure 3) was comprised of 13,103 federal employees, including:

- 8,509 patent examiners
- 718 trademark examining attorneys
- 234 administrative patent judges (APJs)
- 25 administrative trademark judges (ATJs)
- 3,617 other staff performing functions in areas including, but not limited to, the PTAB and the TTAB, international affairs, congressional relations, IT, financial management, administrative support, legal affairs, human resources, and the Office of the Under Secretary.

FIGURE 3: **USPTO STAFFING**



PERFORMANCE HIGHLIGHTS

INTRODUCTION TO PERFORMANCE

In FY 2022, the President nominated and the U.S. Senate confirmed a new Under Secretary of Commerce for Intellectual Property and Director of the USPTO, Kathi Vidal. Upon arrival, the Under Secretary and Director led the leadership team through a process of defining USPTO priorities and charting a course for the future. The Under Secretary and Director also hosted employee and stakeholder listening sessions across the nation to understand key issues impacting the agency and IP stakeholders and their businesses. With this information, the USPTO is actively finalizing its 2022-2026 Strategic Plan, to include future input from employees and the public.

As the USPTO transitions to the new strategic plan, this AFR is framed by the overarching agency program priorities that are aligned with the interim goals in the draft plan. See Table 1. The overarching program priorities are the USPTO's two fee-generating business lines—the patent program and the trademark program—bolstered by inclusive innovation activities and mission support services. The USPTO has phased out its 2018–2022 Strategic Plan.

TABLE 1: **2022–2026 STRATEGIC PLAN**

Interim Strategic Goal	Patent Program	Trademark Program	Inclusive Innovation	Mission Support
Goal 1: Drive inclusive U.S. innovation and global competitiveness	✓	✓	✓	✓
Goal 2: Promote the efficient delivery of reliable IP rights	✓	✓		✓
Goal 3: Promote the protection of IP against new and persistent threats	✓	✓		✓
Goal 4: Bring innovation to positive impact	✓	✓	✓	✓
Goal 5: Generate impactful employee and customer experiences by maximizing agency operations	✓	✓		✓

The USPTO's achievements in these areas further its vision to unleash America's potential while maintaining the United States as the global leader in IP.

The USPTO will produce an APPR that will be available for public viewing in the USPTO annual reports section of the agency's website in February 2023.

STRATEGIC PERFORMANCE FRAMEWORK

To fulfill its mission and goals, the USPTO uses a comprehensive strategic performance framework and quarterly balanced scorecard to guide and monitor the agency's implementation of its objectives, initiatives, and performance measures. The USPTO's strategic goals align with DOC's strategic goals and objectives, including DOC's strategic objective to "[p]romote accessible, strong, and effective intellectual property rights to advance innovation, creativity, and entrepreneurship."

The USPTO's strategic goals protect IP both in the U.S. and abroad by providing vital and significant rights, encouraging the continued development of innovation, and enforcing the nation's trade laws and security laws, thus providing direction for foreign governments to comply with IP-related international agreements. The USPTO also develops annual key performance measures for each measurable outcome. Supporting measures are metrics that track progress on the key performance measures, and many are viewable online in the USPTO's Data Visualization Center. During FY 2022, the USPTO had nine key performance outcome measures. Of those nine, the USPTO met or exceeded its targets for six of those measures. See the inside cover for more information.

Performance Overview: FY 2022 in Review and Looking Ahead

The strength and vitality of the U.S. economy depends directly on effective mechanisms that protect new ideas and investments in innovation and creativity. The USPTO is at the cutting edge of the nation's technological progress and achievement. The following performance overview reflects highlights of the USPTO's accomplishments and challenges in delivering patent and trademark services, along with inclusive innovation and mission support performance outcomes.

The Patent Program

The USPTO plays a critical role in promoting innovation by granting patents and securing the IP rights of creators and entrepreneurs across virtually all sectors of the economy. This section highlights the USPTO patent program's achievements in FY 2022 in relation to delivering patent services that promote innovation.

The USPTO received 457,510 serialized patent applications (new patent filings) in FY 2022, which represents an increase of 1.6% over the number received in FY 2021. The number of patent grants was 361,435, a decrease of 3.6% from FY 2021.

While the quantity of patent applications (filings) has increased, the processing time (pendency) has remained relatively stable, with some fluctuations. For FY 2022, the USPTO met its target of 80% of total PTA compliance for mailed actions (i.e., office actions the agency mailed to applicants). An office action is an official letter from the patent examiner to the patent applicant during the patent examination process. The USPTO did not meet the PTA compliance target for remaining inventory (i.e., cases awaiting action from the USPTO); the PTA compliance result was 85%, 2% below the target. The underperformance was due to the increase in applications awaiting a first office action.

As part of its continued effort to issue robust and reliable patents, the USPTO launched Similarity Search, an internal tool for patent examiners. This tool represents a significant advancement in leveraging the power of artificial intelligence (AI) to conduct patent searches. The Similarity Search capability enables patent examiners to search patent applications and provides new flexibilities to emphasize application text and patent classifications. The AI is powered by world-class models that calculate similarity based on patent document text, classifications, document citations, and human ratings and feedback. This new capability searches across U.S. patents (back to 1836), all U.S. pre-grant publications, and foreign image and text (FIT) foreign patent documents that are already available in the Patents End-to-End search tool. The Similarity Search capability is updated regularly with newly published documents.

The USPTO is collaborating with the American Intellectual Property Law Association (AIPLA) and the Intellectual Property Owners Association (IPO) to develop training that focuses on how a patent examiner's examination prosecution record is used after a patent has been granted. Patent practitioners from AIPLA and IPO worked with the USPTO to create training based on their real-life experiences using the prosecution record in licensing, technology transfer, and litigation. The training provides patent examiners with techniques to improve the clarity of their examination prosecution record. The training also allows patent examiners to see the real-world impact of their work on people's livelihoods and the central role they play in advancing technology and our society.

The USPTO incentivizes innovations in key technology areas such as healthcare, manufacturing, and climate through an accelerated application process. Below are several USPTO programs that helped bring innovation to positive impact in FY 2022.

The USPTO's Cancer Immunotherapy Pilot Program, launched in 2016, supports the White House's National Cancer Moonshot initiative to accelerate cancer research. The USPTO program expedites the examination of patent applications pertaining to cancer immunotherapy. In FY 2022, 892 petitions requesting participation in the pilot program have been filed, and over 664 patents have been granted. With the Biden Administration's renewed focus on the Cancer Moonshot initiative, the USPTO extended the current pilot program through early 2023. This will allow the agency to explore options for expanding the scope of the pilot program to provide opportunities in cancer fighting technologies related to immunotherapy as well as personalized medicine, rare and pediatric cancers, cancer detection and screening, and smoking cessation.

PTAB Deputy Chief Judge Jackie Bonilla participates in a panel discussion at the 2022 PTAB Bar Association conference. Credit: Jeff Isaacs/USPTO

In June 2022, the USPTO published a Federal Register Notice announcing the launch of the Climate Change Mitigation Pilot Program—a program designed to positively impact the climate by accelerating the examination of patent applications for innovations that reduce greenhouse gas emissions. The program is intended to encourage climate-related research, development, and innovation and provide ready and equitable IP protection to incentivize investment and bring climate change solutions to the country and the world. The program aligns with and supports [Executive Order 14008](), "Tackling the Climate Crisis at Home and Abroad," dated January 27, 2021, and is part of the USPTO's efforts to secure an equitable economic future, reduce greenhouse gas emissions, and mitigate climate change. Applications examined in the pilot program will be advanced out of turn for first action examination on the merits. In FY 2022, 111 applicants have filed requests to participate in the pilot program, 65 requests were granted, 23 requests are still under review, and 23 have been dismissed.

The USPTO's Patents for Humanity awards competition is an existing program that helps bring innovation to positive impact by recognizing innovators who use game-changing technology to meet global humanitarian challenges. Applicants to the program describe the actions they took with their patented or patent pending technology to address the welfare of impoverished populations, or how they furthered humanitarian purposes through research. Winners receive an acceleration certificate to expedite a future patent matter at the USPTO as well as recognition of their efforts at a public ceremony. In October 2021, the Patents for Humanity program closed its application cycle and began judging for the special award category that recognizes innovators who rose to the challenge of improving the outcome of the COVID-19 pandemic through innovation. The USPTO announced the winners of this special category in October 2022.

In July 2022, the USPTO became a technology partner to the global green-technology platform WIPO GREEN, a public-private partnership established by WIPO in 2013. Its 145 international partners include major technology companies, IP offices, business groups, research institutes, and nongovernmental organizations. The partnership provides an online platform for technology exchange, connecting providers and seekers of environmentally friendly technologies. It also organizes acceleration projects, conferences, and international events that highlight the availability of green technologies. The USPTO's contributions to WIPO GREEN include initiatives designed to address the challenge of climate change, such as the USPTO's Climate Change Mitigation Pilot Program and the soon-to-be-announced Patents for Humanity Clean Energy Technologies awards competition.

Based on stakeholder feedback, the USPTO also improved several PTAB processes and procedures to increase consistency, transparency, and certainty for ex parte appeals and AIA trials. These changes included:

- Allowing video to be used to conduct PTAB proceedings. Per customer feedback, this provides a better experience. Previously, PTAB proceedings were only conducted via telephone.
- In July, the PTAB resumed in-person hearings for 16 ex parte appeals and 44 AIA trials at the USPTO headquarters in Alexandria, Virginia, and at the Silicon Valley and Rocky Mountain Regional Offices. This was a significant change, and stakeholders had been asking the PTAB to resume in-person hearings.

By the end of FY 2022, the PTAB had conducted 432 ex parte appeal hearings and 506 AIA trial hearings remotely, either by telephone or video, and 107 ex parte appeal or AIA trial arguments involving practitioners participating in the PTAB Legal Experience and Advancement Program, which provides training and oral advocacy opportunities for less experienced advocates.

As part of its continuous improvement efforts, the USPTO issued a Request for Comments on discretion to institute trials before the PTAB in 2020. The agency received 822 comments from a wide range of stakeholders. On June 21, 2022, the agency published interim guidance for discretionary denials in AIA post-grant proceedings with parallel district court litigation. The interim guidance solidifies and provides further clarification regarding current practices and the way in which the PTAB will apply some of the *Fintiv* factors in deciding whether to institute an AIA trial, thereby ensuring that parties have certainty and avoid wasting resources. Judges consider the *Fintiv* factors when deciding whether to institute an AIA trial. These factors were announced in a PTAB precedential decision called "*Apple Inc. v. Fintiv, Inc.*"

The Trademark Program

As with patents, registered trademarks play a critical role in promoting innovation across virtually all sectors of the economy. This section highlights the USPTO trademark program's accomplishments in FY 2022 in relation to delivering trademark services that promote innovation.

The USPTO received 787,795 trademark application classes for registration in FY 2022. Although the rate of new trademark applications is approximately 20% lower than FY 2021's unprecedented high, trademark filings in FY 2022 are still roughly 7% higher than in FY 2020.

While FY 2022 trademark applications decreased from the number received in FY 2021, the USPTO is still managing a historic unexamined application inventory resulting from a surge in applications coinciding with the global economic stimulus related to COVID-19 during the prior two years. As a result of high inventories and relatively finite examination capacity, the USPTO did not meet its two pendency targets for trademark applications in FY 2022. First Action Pendency was 8.3 months, 0.8 months higher than the top range of the target, of 7.5 months. The Total Pendency average was 13.8 months, 0.3 months higher than the target of 13.5 months.

The USPTO met and exceeded all trademark quality targets. Compliance rates for trademark first and final office actions were 96.2% and 98.5%, respectively, versus the 95.5% and 97% target compliance rates. The Exceptional Office Action standard, which measures the quality and effectiveness of writing in trademark office actions, measured 60.3% as compared to a target of 50% for the year. The registration of high-quality trademarks allows owners to differentiate their products from others and establish a competitive advantage in the marketplace, effectively advancing innovation. A growing body of research correlates trademarks with innovative firms and overall advances in the marketplace. Despite its success in maintaining quality standards, the USPTO is proactively assessing the trademark quality metrics to optimize their use in the future.

Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of the USPTO, gives remarks and answers audience questions at the 2022 International Trademark Association (INTA) Annual Meeting held at the Walter E. Washington Convention Center. She is accompanied joined by along with David Gooder, Commissioner for Trademarks. CREDIT: Jay Premack/USPTO

The USPTO further improved trademark quality by educating its trademark examining attorneys and enhancing operational programs. In FY 2022, the USPTO reviewed the quality of trademark attorneys' examinations. Based on the results of its reviews, the USPTO developed innovative training modules and written guidelines that address emerging challenges and issues in substantive and procedural matters. The USPTO also updated the legal guidance and procedures for trademark examining attorneys and stakeholders, applicants and registrants, and legal practitioners.

IP violations harm consumers, create significant financial losses for individuals and businesses, and undermine U.S. competitive advantages. The USPTO deters and mitigates these violations through strong internal processes, domestic and global partnerships, education, advocacy, training, and policymaking. The USPTO also implemented several strategies in FY 2022 to better protect the Trademark Register through legislation, enhanced IT, and tactical management programs.

In FY 2022, the USPTO began requiring customers to file trademark submissions using identity-verified accounts. The USPTO is also implementing robotic process automation to validate addresses in trademark applications against the United States Postal Service's database, thereby mitigating a key fraud risk.

In addition, the Trademark Modernization Act (TMA) includes cancellation provisions to help clear the Trademark Register of registrations not in use. Its nonuse provisions also target registrations that should never have been issued due to false or fraudulent claims of use. The USPTO implemented the TMA nonuse cancellation provisions on December 18, 2021, and will implement additional provisions that shorten the period for applicants to respond to office actions from six to three months starting in December 2022. Full implementation of the TMA is planned for October 2023.

The USPTO is also using the Go for Real campaign to educate young people, their caregivers, and educators on how to spot counterfeit products and avoid the problems related to fake goods. Campaign resources include interactive games to help spot fakes, flash cards highlighting poisonous substances in counterfeit products, educational videos, activity sheets and games, and a downloadable multimedia kit.

Targeted messaging includes billboards at metro stations and bus stops; ads and short videos on social media platforms; and public service announcements (PSAs) on the radio, on television, and online. In August 2022, the Go for Real campaign aired its latest PSA, "The Real McGruff," which featured a 3D animated McGruff the Crime Dog and generated hundreds of thousands of views.

Inclusive Innovation

The USPTO is focused on providing more access and support to innovators, entrepreneurs, and brand owners across the country. Below are FY 2022 program highlights that promote inclusive innovation.

The Council for Inclusive Innovation (CI^2) is chaired by Gina Raimondo, the Secretary of Commerce, and Kathi Vidal, the Director of the USPTO, is the Vice Chair. In January 2022, the USPTO held its annual CI^2 meeting with all council members, and the CI^2 is currently working on new initiatives to bolster participation in the innovation ecosystem. The USPTO publicly announced four CI^2 initiatives in July 2022 in a Director's blog. These initiatives offer resources and services to those new to innovation and encourage, empower, and support the innovators of tomorrow. The new initiatives being developed are:

- an Innovation Internship program
- a new, petition-based expedited examination process for first-time micro entity filers
- expanded access to free legal services for under-resourced innovators
- a community outreach campaign

The USPTO also promotes inclusive innovation by providing a full year of programming to inspire, educate, and empower independent inventors, small businesses, entrepreneurs, and under-represented or underserved communities of innovators. The content of these events increases knowledge and awareness of the importance of IP protection. Through the USPTO's webinars, symposia, and panel discussions, successful innovators from diverse backgrounds share stories of how IP has advanced their work and their communities. Subject matter experts from the USPTO, other federal government agencies, and national organizations provide relevant IP, innovation, entrepreneurship, and invention education and instruction on how to access financial assistance and other resources. In FY 2022, the USPTO exceeded its expectations for these programs, with over 4,000 attendees across all programs. An average of 90% of attendees surveyed found the programs informative, relevant, and useful. These programs also supported White House executive orders on the advancement of equity and inclusion. The USPTO will continue to partner with other federal government agencies and national organizations to expand its reach and increase its engagements with underserved communities and historically, socially, and economically disadvantaged groups.

USPTO Deputy Director Derrick Brent (right) participates in the 2022 National Minority Enterprise Development Week hosted by the Minority Business Development Agency (MBDA).
CREDIT: Jay Premack/USPTO

The Patent Pro Bono Program is one of the primary tools the USPTO uses to provide financially under-resourced inventors access to the innovation ecosystem. Increasing access to the patent system spurs innovation, creates jobs, and improves the nation's welfare. As a result, expanding pro bono services is a key priority for the USPTO. Through the Patent Pro Bono Program, patent practitioners prepare and file more than 250 patent applications annually on behalf of financially under-resourced inventors, including those in traditionally underserved communities. The USPTO is reaching communities with historically low patent participation rates, which is essential for equity and economic growth. Last year, the USPTO surveyed its pro bono users and found that 30% identified as African American or Black, 14% identified as Hispanic, 5.6% identified as Asian American or Pacific Islander, and 1.5% identified as Native American. While only 13% of all inventors named on U.S. patents are women, 41% of those who received assistance in the Patent Pro Bono Program identified as female. The Patent Pro Bono Program's network of regional programs matches volunteer patent professionals with financially under-resourced inventors and small businesses. In FY 2022, the USPTO increased funding for these regional programs by 38% to increase outreach and referral services and improve program sustainability. To increase access to free legal assistance, the USPTO also launched pro bono programs for matters before the PTAB and the TTAB. The PTAB Bar Association serves as a national clearinghouse to connect volunteer practitioners with eligible inventors for PTAB matters. The International Trademark Association serves as the first clearinghouse for TTAB-related matters, connecting volunteer trademark practitioners with eligible individuals and organizations.

2022 National Inventors Hall of Fame (NIHF) Collegiate Inventors Competition (CIC) hosted at the United States Patent and Trademark Office (USPTO). Finalists arrive at the start of the event and judges meet with NIHF and USPTO staff for a presentation.
(Photo by Jay Premack/USPTO)

PRO SE

Applicants who file patent applications without the assistance of a registered patent attorney or agent.

Mission Support

CX is crucial to the USPTO's mission success. The agency conducts yearly CX capacity assessments and service improvement action planning. The USPTO also publicly reports customer satisfaction and trust data quarterly. This year, the USPTO unified its CX efforts across Patents and Trademarks to become a single HISP and completed its first agency-wide CX Action Plan covering FY 2023 and FY 2024. Furthermore, in alignment with the President's Management Agenda and Executive Order 14058, "Transforming Federal Customer Experience and Service Delivery To Rebuild Trust in Government," the USPTO prioritized improvements in the design and delivery of its services. The agency, which emphasizes meeting the needs of underserved communities, will also help pro se applicants file patent applications.

Secretary of Commerce Gina Raimondo visits the United States Patent and Trademark Office (USPTO) Madison Building on the Alexandria campus to meet and greet employees.
CREDIT: Jay Premack/USPTO

The USPTO also adopted security approaches in FY 2022 to protect IP from external and internal threats. This included conducting supply chain risk assessments, establishing an insider risk management program, providing Information System Security Officer training and certification, improving the timeliness of security control assessments and penetration testing, and expanding cybersecurity operations. The USPTO continues to explore additional capabilities and processes for insider risk management, timely remediation of known vulnerabilities, and increased protection and security for our most mission-critical processing systems.

In an effort to maintain its position as a global innovation leader, throughout FY 2022 the USPTO provided policy advice and technical training on domestic and international IP matters to multiple federal agencies. This advice and training was shared via approximately 84 USPTO-organized programs delivered through the USPTO's Global Intellectual Property Academy. These programs focused on IP enforcement and targeted audiences that included police, prosecutors, and customs and border enforcement officials. The USPTO reached some 4,700 participants through these programs in FY 2022.

The USPTO has a talented, highly educated workforce equipped to deliver high-quality, exemplary service. The agency has successfully navigated the COVID-19 pandemic, keeping its workforce safe, onboarding 820 new employees virtually, and reopening the Alexandria campus in May 2022. The USPTO partnered with all three unions to increase the full-time teleworking options from 50% of USPTO employees pre-pandemic to 85% this year. The USPTO's new hybrid environment enabled recruiting nationwide. The agency also provided employees with the necessary tools and equipment to succeed in a hybrid environment and installed enhanced video and IT equipment to improve the hybrid meeting experience. The USPTO's teleworking employees also contribute significantly to reducing commuting emissions, saving fuel, and reducing local road congestion.

The USPTO received a 2022 DOC Energy and Environmental Stewardship Award in the Environmental Stewardship Program category for its multi-faceted approach to waste management. In FY 2022, the USPTO achieved over 33% waste diversion from the Alexandria campus and sent zero trash to the landfill. In addition to recycling cans, plastic containers, paper, and toner cartridges, the agency recycles or donates used furniture and electronics for reuse by other agencies or schools. The USPTO has also transferred 88 tons of nonhazardous solid waste to the Eisenhower Avenue Energy-from-Waste Facility, which converts all waste into renewable energy.

In FY 2022, the USPTO also achieved the goals set to reduce energy usage and environmental impact. The agency purchased 6,000 megawatt-hours (MWhs) of Green-E Certified renewable energy certificates (RECs), where one REC is equivalent to one MWh. These 6,000 MWhs represented over 10% of the USPTO's annual energy consumption in FY 2021. As anticipated, energy consumption at the USPTO's Alexandria campus increased by 2.2% in FY 2022 due to the increased ventilation and a return to normal campus operations. The Alexandria campus earned the Environmental Protection Agency's ENERGY STAR certification in 2021 for the 10th consecutive year. To further improve the facility's energy efficiency, the USPTO continues to engage with its lessor, LCOR, and the USPTO Climate Working Group to reduce overall energy consumption.

Lastly, the USPTO is reducing its physical leased space footprint as more employees telework rather than work from a government office. The USPTO released leased space in two auxiliary facilities in Northern Virginia in FY 2022 and has notified the General Services Administration that the agency will release two main campus buildings in Alexandria, Virginia, by August 2024. The resulting footprint reductions will exceed 1 million square feet and will result in savings of nearly $40 million when fully implemented. The USPTO continues to evaluate its leased space needs.

PERFORMANCE AUDITS AND EVALUATIONS

In FY 2022, the Office of Inspector General (OIG) completed and issued three final audit reports pertaining to the USPTO:

- "USPTO Has Opportunities to Improve its Patent Examination Process and to Advance Patent Decision-Making," Final Report No. OIG-22-010-I
- "USPTO Needs to Improve Its Cost Estimating, Scheduling, and Agile Practices to Timely Retire Patent Legacy Systems," Final Report No. OIG-22-026-A
- "USPTO Should Strengthen Its Planning and Oversight of Patent Data Capture Contracts to Manage Risks and Prevent Unnecessary Costs," Final Report No. OIG-22-028-A

In these reports, the OIG recommended 18 corrective actions to mitigate the audit findings. The USPTO concurred with all recommendations and is working with the OIG in response to corrective actions. The U.S. Government Accountability Office did not issue any final reports during FY 2022.

Analysis of Systems, Control, and Legal Compliance

Management Assurances

On the basis of the USPTO's comprehensive internal control program in place during FY 2022, the USPTO can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations, reporting, and compliance with applicable laws and regulations, as of September 30, 2022, was operating effectively. Accordingly, I am pleased to certify with reasonable assurance that the USPTO's systems of internal control, taken as a whole, comply with section 2 of the FMFIA. The USPTO also is in substantial compliance with applicable federal accounting standards and the U.S. Standard General Ledger at the transaction level as well as federal financial system requirements. Accordingly, the USPTO fully complies with section 4 of the FMFIA, with no material non-conformances.

In addition, the USPTO conducted an assessment of the effectiveness of its internal control over reporting, which includes the safeguarding of assets and compliance with applicable laws and regulations, in accordance with OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control. Based on the results of this evaluation, the USPTO provides reasonable assurance that its internal control over reporting, as of June 30, 2022, was operating effectively, and no material weaknesses were found in the design or operation of the internal control over reporting. In addition, no material weaknesses related to internal control over reporting were identified between July 1, 2022, and September 30, 2022.

Kathi Vidal

Kathi Vidal

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

October 3, 2022

Federal Managers' Financial Integrity Act

To ensure the integrity of federal programs and operations, the FMFIA requires federal agencies to evaluate and report on the effectiveness and efficiency of their internal controls and financial management systems annually. USPTO management is responsible for establishing and maintaining effective internal controls and financial management systems that meet the objectives of the FMFIA. The objective of the USPTO's management control system is to provide reasonable assurance that:

- Obligations and costs comply with applicable laws
- Assets are safeguarded against waste, loss, unauthorized use, or misappropriation
- Revenues and expenditures applicable to agency operations are properly recorded and accounted for, permitting accurate accounts, reliable financial reports, and full accountability for assets
- Programs are efficiently and effectively carried out in accordance with applicable laws and management policy

During FY 2022, the USPTO reviewed its management control system in accordance with the requirements of the FMFIA, OMB, and Department of Commerce guidelines. The USPTO continually evaluates the efficiency of its operations using:

- Information obtained from reviews and audits conducted by the GAO and OIG
- Independent public accountants' opinions on the USPTO's financial statements
- Independent public accountants' reports on internal control and compliance with laws and regulations
- Evaluations conducted by other federal agencies, such as the Office of Personnel Management
- USPTO internal evaluations, control assessments, and analyses

The diverse reviews that took place during FY 2022 provide assurance that USPTO systems and management controls comply with standards established under the FMFIA.

The revised Appendix A to OMB Circular A-123, Management of Reporting and Data Integrity Risk, expands assurance beyond finance for internal controls over reporting. In preparing its statement of assurance, the USPTO considered activities related to the Digital Accountability and Transparency Act of 2014 (DATA Act), the OIG's Top Management Challenges, performance reporting, strategic plans and performance metrics, real property and asset management, and human resource reporting. The USPTO also considered controls related to its risk profile and fraud risk in providing assurance on internal controls. In addition, the USPTO is not identified on the GAO's High Risk List related to controls governing various areas.

Managing Risk

The USPTO will continue to manage complex mission and mission support activities, such as managing secure IT systems. While eliminating all uncertainties is not possible, USPTO strategies for managing risk are essential to minimizing losses and threats that deter mission success. Enterprise Risk Management (ERM) orchestrates those strategies. ERM creates a forum for openly identifying and discussing risks and developing mitigation plans. There are cascading levels of leadership and responsibility for ERM across the USPTO, including a top-down, bottom-up governance structure for advancing maturity. The USPTO uses a Risk Management Council to manage risk agency-wide and participates in the monthly Departmental Enterprise Risk Management Council to review enterprise strategies that inform acceptable risk-taking and prioritization.

The USPTO conducted an annual, enterprise-wide risk assessment to identify new risks the agency may face in FY 2022. USPTO management then scored all newly identified and existing risks on the likelihood of occurrence and degree of impact before prioritizing them based on final scores. The USPTO used the output to update its risk register for FY 2022, which tracks all identified risks, and its FY 2022 Risk Profile, which tracks the highest-priority risks. The USPTO developed the format of its risk profile, including the scoring parameters, in accordance with the requirements of OMB Circular A-123 and DOC Enterprise Risk Management Guidance.

The USPTO also created action plans in alignment with the results of the risk assessment, which heavily influence the allocation of leadership's time and attention. In FY 2023, ERM will continue to integrate program management, audit activities, performance, financial management, and budget into the risk management process.

Federal Financial Management Improvement Act of 1996

The Federal Financial Management Improvement Act (FFMIA) of 1996 requires federal agencies to report on their substantial compliance with federal financial management system requirements, federal accounting standards, and the U.S. Standard General Ledger at the transaction level. In accordance with OMB Circular A-123, Appendix D, an agency achieves substantial compliance when its financial management systems routinely provide reliable and timely financial information for managing day-to-day operations, producing reliable financial statements, maintaining effective internal controls, and complying with legal and regulatory requirements. The USPTO complied substantially with the FFMIA during FY 2022.

Other Compliance with Laws and Regulations

Federal Information Security Management Act

The USPTO is vigilant in reviewing administrative controls over information systems and seeks ways to improve its security program. During FY 2022, the USPTO continued its efforts to comply with Federal Information Security Management Act (FISMA) standards and to improve its security program. The USPTO strategy for continuous monitoring includes conducting credentialed compliance and vulnerability scans on servers, network devices, databases, and web applications quarterly. The USPTO performs monthly analyses to ensure operating systems are configured in accordance with their security baseline and the appropriate software patch levels. Additionally, the USPTO integrated artifacts to support the Security Impact Analysis within the systems development life cycle. These artifacts allow the USPTO to assess testing requirements for systems undergoing new developments, enhancements, or maintenance. This proactive approach to security within the development process has allowed the USPTO to successfully assess changes and has enabled systems to comply with security requirements as they are being developed or updated.

The USPTO successfully met the compliance requirements of the FISMA while meeting OMB reporting requirements. All USPTO systems achieved a 100% FISMA compliance reporting level for FY 2022, and no deficiencies were considered to be the result of any material weaknesses in internal control. As a result, the USPTO maintained its continuous monitoring and accurately summarized information according to the OMB requirements for year-end reporting.

The Inspector General's Statement of Management Challenges for DOC (referred to in the Other Information section of this report) identifies IT security as a cause for concern department-wide. However, USPTO management does not believe that any of the USPTO-specific FISMA findings, either individually or collectively, rise to a level that would require treating them as material weaknesses. The USPTO continues to coordinate closely with the OIG throughout the year and to review annual assessments with the OIG to gain additional insight and ensure compliance with requirements.

Improper Payments Elimination and Recovery Act

The USPTO continues to maintain internal control procedures that help monitor the disbursement of federal funds for valid obligations. The USPTO also assesses improper payment risks for all programs and activities, as required by OMB Circular A-123, Appendix C, Requirements for Payment Integrity Improvement. These improper payment risk assessments are updated annually and include assessments of the control and procurement environments. Additional details can be found in the Other Information section of this report (see page 97).

Prompt Payment Act

The Prompt Payment Act requires federal agencies to report on their efforts to make timely payments to vendors as well as the amount of interest penalties the agencies have paid for late payments. In FY 2022, the USPTO did not pay interest penalties on 98.9% of the 5,757 vendor invoices it processed, representing payments of approximately $982.1 million. Of the 62 invoices that the USPTO did not process in a timely manner, the agency was required to pay interest penalties on all 62. The USPTO paid $1 in interest penalties for every million dollars disbursed in FY 2022, and paid a total of $1.3 thousand in interest penalties. Virtually all recurring payments were processed by electronic funds transfer, in accordance with the electronic funds transfer provisions of the Debt Collection Improvement Act of 1996.

The USPTO continues to identify opportunities for new or improved business processes for its prompt payment percentage. Per OMB Memorandum M-15-19, Improving Government Efficiency and Saving Taxpayer Dollars through Electronic Invoicing (July 17, 2015), federal agencies were required to transition to electronic invoicing for appropriate federal procurements. The USPTO is transitioning to electronic invoicing through its Vendor Portal. During FY 2022 the USPTO increased the usage of its Vendor Portal by adding 157 new vendors to the Vendor Portal, an increase of over 206% compared to the prior year.

Debt Collection Improvement Act

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

Digital Accountability and Transparency Act of 2014

The DATA Act aims to increase the accessibility, accuracy, and usefulness of federal spending information. The DATA Act establishes government-wide data standards for financial data; seeks to simplify financial reporting; and provides consistent, reliable, accurate, and searchable spending data that is displayed for taxpayers and policy-makers on USAspending.gov. The USPTO has continually expanded its internal management practices to ensure the accuracy of federal spending information. The budget, financial spending, and award data required to comply with the DATA Act are currently housed in a single source system at the USPTO.

Most activities required in the reporting of DATA Act information at the USPTO entail extracting, validating, and reconciling the data before submitting it to the Department of the Treasury. With each applicable contract obligation in the USPTO's financial system of record (Momentum), a draft record is automatically created in the government-wide Federal Procurement Data System-Next Generation (FPDS-NG) for review and validation. Once the USPTO processes the financial obligation in Momentum, the agency is responsible for finalizing the record in FPDS-NG within three business days after contract award, in accordance with Federal Acquisition Regulation section 4.604. As an internal control to ensure all applicable contract actions have been finalized in FPDS-NG, the USPTO cross-references FPDS-NG data with the information in Momentum to ensure all actions completed in Momentum correspond to a finalized FPDS-NG entry. The USPTO matches the results from a report generated in Momentum to FPDS-NG data monthly to verify the actual actions processed. Every month, the USPTO validates financial and obligation data against the Department of the Treasury and FPDS-NG reporting via the USAspending.gov DATA Act broker. Once the USPTO has finished validating data, DOC combines the USPTO data with the rest of DOC's DATA Act data and uploads it to USAspending.gov.

In accordance with DATA Act requirements and data standards established by the Department of the Treasury and OMB, the USPTO reported financial and payment data for all periods required during FY 2022. Without exception, the USPTO successfully reconciles all financial data to the data it reports separately to the Department of the Treasury in the government-wide Treasury Account Symbol Adjusted Trial Balance System. At the end of each fiscal year, the USPTO successfully reconciles procurement data to the FPDS-NG actions.

Other Systems and Control Considerations

Financial Management Systems Strategy

The USPTO has 30 IT products organized into four product lines for capital planning and investment control. The Enterprise Business Product Line includes three products that support the overall USPTO financial management function: the Financial Management Product; the Fee Management Product; and the Planning, Budgeting, and Governance Product. In addition, the overall USPTO financial management function is supported by a fourth product in the Enterprise Business Product Line: the Data and Analytics Product. In FY 2021, the USPTO migrated the Fee Management Product to the Amazon Cloud. In FY 2022, the USPTO migrated some components of the Planning, Budgeting, and Governance Product to a public cloud software-as-a-service model. In FY 2023 and FY 2024, the USPTO will migrate the Data and Analytics product and the Financial Management Product to the Amazon Cloud.

The Financial Management Product leverages several commercial-off-the-shelf (COTS) components, including a core financial and acquisition tool, Momentum; a supplemental acquisition tool, Aeon; and a travel tool, Concur. The Financial Management Product supports acquisition, payroll, travel, accounting, and funds management. During FY 2022, the USPTO focused on expanding its adoption of electronic invoicing and enhancing its acquisition planning. Going into FY 2023, the USPTO will continue to focus on acquisition planning.

The Fee Management Product, which is the result of custom development, integrates

The Fee Management Product, which is the result of custom development, integrates with Momentum, which maintains the USPTO revenue subsidiary ledger. The services provided by this product include maintenance fee, stored payment account, pricing, order, and funds management. In FY 2022, the USPTO provided customers with the option to pay via Automated Clearing House (ACH) credit. Going into FY 2023, the USPTO will focus on integrating various USPTO next-generation storefronts for payment processing.

The Planning, Budgeting, and Governance Product leverages COTS components, including budgeting tools, Hyperion and Oracle APEX; a fee forecasting tool, Alteryx; and a cost accounting tool, Cost Perform. The Planning, Budgeting, and Governance Product supports planning, forecasting, budgeting, and performance management. In FY 2022, the USPTO continued to focus on central budget process requirements as well as decentralized IT budget process requirements. In FY 2023 and FY 2024, the USPTO will focus on decentralized, non-IT budget process requirements.

In addition to the source databases supporting each COTS component mentioned above, a COTS content repository, Cassandra and DataStax, stores unstructured data, such as scanned check images from the Fee Management Product and vendor submissions from the Financial Management Product. This content repository is currently part of the Data and Analytics Product.

The Data and Analytics Product includes both structured data in the Enterprise Data Warehouse (EDW) and unstructured data in the Big Data Reservoir. To date, the USPTO's financial management function has mainly leveraged the EDW. The EDW user community uses business intelligence tools Business Objects and Tableau, and system administrators use SAP Data Services, a data pipeline tool. The USPTO's culture is shifting toward viewing data as an asset within a robust governance model. To this end, the USPTO added a master data management tool, Collibra, to the Data and Analytics Product in FY 2022. The financial management community's attention to the benefits of the Data and Analytics Product will grow in the coming years, as will the product.

Financial Discussion and Analysis

FINANCIAL HIGHLIGHTS

The USPTO operations are financed solely by user fees received for incoming work, much like a private sector business. The amount of fees collected correlate with the demand for our products and services. The USPTO routinely forecasts demand and fee collections to plan for and manage annual operating expenses. The forecasts have inherent uncertainty because the economic conditions upon which fee collections are premised are inexact and actual demand for patents and trademarks could be higher or lower than projected. The USPTO must maintain operations and meet actual demand regardless of these forecasts. The USPTO routinely updates its fee collection forecasts, tracks operational and financial performance, and monitors changes in the economy to mitigate this risk of uncertainty. The USPTO also maintains operating reserves in accordance with GAO best practices to mitigate the risk of demand and revenue volatility. The USPTO received an unmodified (clean) audit opinion from the independent public accounting firm of KPMG LLP on its FY 2022 financial statements; the opinion can be found in the Financial Section of this report.

This is the 30th consecutive year that the USPTO has received an unmodified audit opinion, an outcome that provides independent assurance to the public that the information in the USPTO financial statements is fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America. In addition, KPMG LLP reported no material weaknesses or significant deficiencies in the USPTO's internal controls and no instances of noncompliance with laws and regulations affecting the financial statements. Please refer to the Other Information section for the Summary of Financial Statement Audit and Management Assurances.

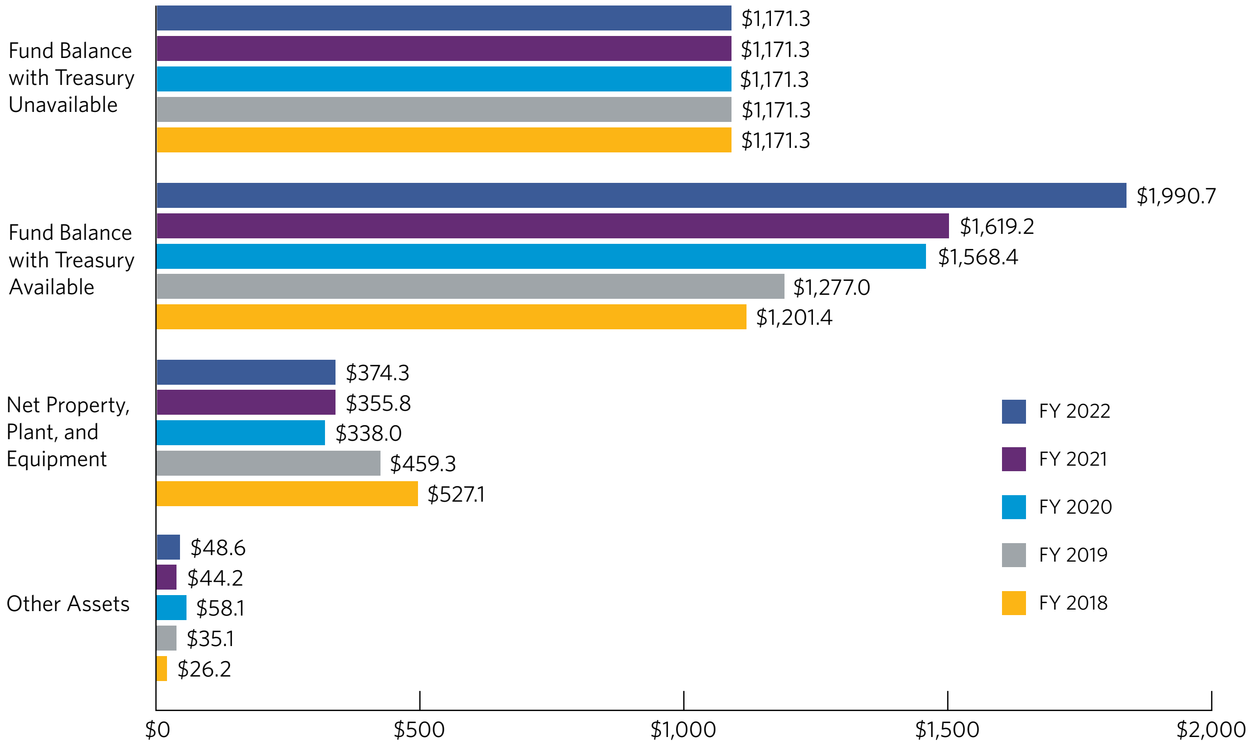
The financial highlights presented in this section provide an analysis of the information that appears in the USPTO's FY 2022 financial statements (amounts may vary slightly due to rounding). The USPTO's financial management process provides that financial decision-making information relied upon by USPTO leadership is dependable, internal controls over financial reporting are effective, and that there is compliance with laws and regulations. These financial statements and highlights are components of the USPTO's objective to continually improve the accuracy and usefulness of its financial management information and the OCFO's mission to deliver cost-effective, data-driven, customer-centric business solutions.

Balance Sheet and Statement of Changes in Net Position

At the end of FY 2022, the USPTO's Balance Sheet (see page 62) presents total assets of $3,584.9 million, total liabilities of $2,029.9 million, and a net position of $1,555.0 million.

Total assets increased during FY 2022. Overall, assets increased 22.5% over the last four years, resulting largely from the intentional increases in the operating reserves to achieve optimal balances for mitigating financing risk. Figure 4 shows the changes in assets during this period.

FIGURE 4: **Composition of Assets *(dollars in millions)***



Fund Balance with Treasury is the single largest asset on the Balance Sheet and represents 88.2% of total assets at the end of FY 2022. Thirty-seven percent of the Fund Balance with Treasury is unavailable and represents fees the USPTO collected between FY 1990 and FY 2011 but has not been authorized to spend through the annual appropriation process. The total, $1,171.3 million in unavailable fees, is comprised of temporarily unavailable fees of $937.8 million and unavailable special fund receipts under the Omnibus Budget Reconciliation Act (OBRA) of $233.5 million. These funds require Congressional appropriation before they will be available for the USPTO's use. The remaining 63.0% of the Fund Balance with Treasury is available for use and is comprised of unexpended obligated funds of $834.8 million, other funds held on deposit for customers of $140.5 million, and appropriated but unobligated funds carried over from one year to the next (operating reserve) of $1,015.4 million. See Note 2 (page 71) for additional information.

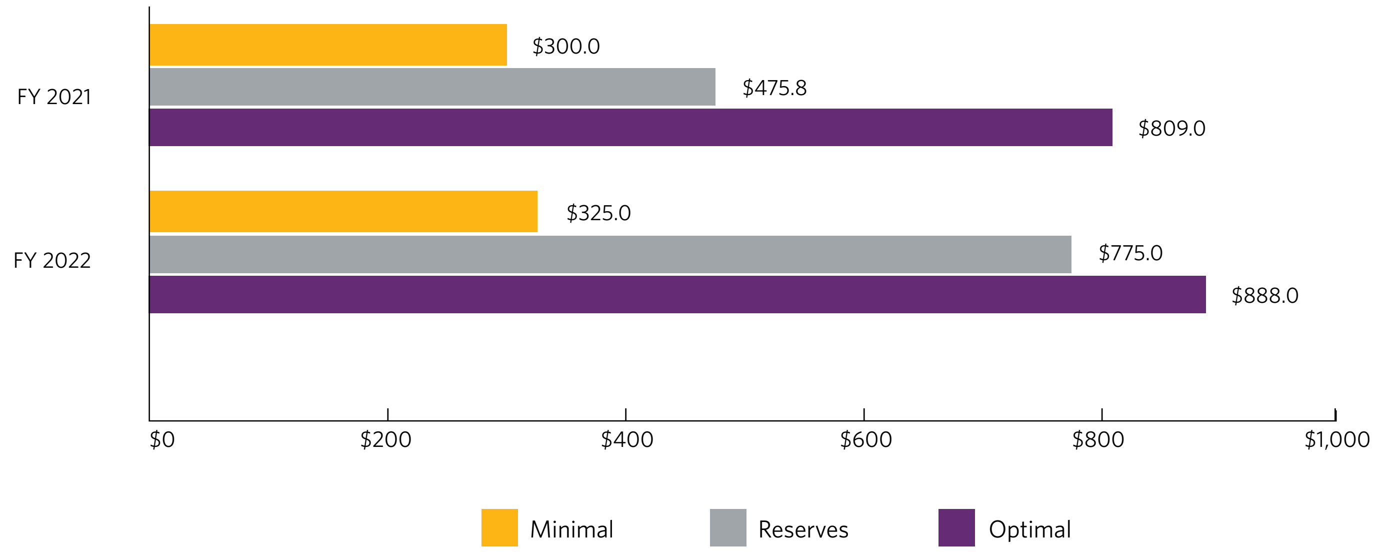
The operating reserves are unobligated carry-over balances available for use by the agency without further need for congressional appropriation. Operating reserves are a critical day-to-day financing mechanism, leveling differences between daily fee collections and daily costs, and also mitigating external risks such as changing demand patterns and unanticipated inflationary cost changes, to name a few. The operating reserves enable the USPTO to finance agency operations when: fee collections are partially or wholly unavailable (e.g., continuing resolution, government shutdown, etc.); fee collections are lower than expected (e.g., unexpected economic downturn); demand for patent and/or trademark services unexpectedly increases, resulting in higher than planned spending requirements to address the increases in work volumes (e.g., unexpected economic upturn); and other unanticipated spending requirements that are necessary to maintain USPTO operations exceed planned estimates (e.g., operating costs increasing due to inflationary pressures). Typically, the operating reserves are relied upon more heavily at the beginning of a fiscal year as part of normal financing operations when the availability of new fee collections are oftentimes capped by a continuing resolution, prior year fee collections in the Patent and Trademark Fee Reserve Fund (PTFRF) are awaiting reprogramming approval, and other obligations that coincide with the start of a new fiscal year are incurred. The operating reserves provide sufficient resources to fund operations in the early months of the fiscal year while fee collections build over the subsequent months.

As required by 35 U.S.C. § 42(c)(3), the USPTO maintains and tracks two distinct operating reserve balances—one derived from patent fees for patent operations and one derived from trademark fees for trademark operations. Both the patent and trademark operating reserve balances were maintained above the minimum planning level of $300 million in FY 2021 and $325 million in FY 2022 for patents and $75 million in FY 2021 and $120 million in FY 2022 for trademarks. The trademark minimum operating reserve threshold was increased in FY 2022 to reflect higher economic uncertainty and overall higher levels of trademark spending requirements as applications have increased over time.

The patent operating reserve increased from $475.8 million (1.7 months of operating expenses) at the end of FY 2021 to $775.0 million (2.8 months of operating expenses) at the end of FY 2022, representing an increase of $299.2 million, or 62.9%.

The pandemic and previous economic downturns have been instructive to the USPTO on the need to maintain operating reserves sufficient to mitigate economic uncertainty risks and sustain operations. The USPTO deliberately maintains reserves above minimum levels and is managing a measured growth of the patent operating reserve until it achieves the optimal level of having the ability to finance three months of operations.

FIGURE 5: **Patent Operating Reserve *(dollars in millions)***



The trademark operating reserve held steady, increasing slightly from $207.8 million (6.2 months of operating expenses) at the end of FY 2021 to $208.7 million (5.5 months of operating expenses) at the end of FY 2022, representing an increase of $0.9 million, or 0.4%. Although the operating reserve maintained a similar year over year balance, higher costs resulting from inflation and overall increase in the cost of doing business reduces the amount of time the operating reserve would sustain operations. It is important to note that during FY 2022 the trademark operating reserve served its purpose to mitigate the demand uncertainty and its impact on Trademarks operations. The unprecedented increase in trademark filings in FY 2020 resulted in an unusually large trademark application inventory awaiting examination. The trademark operating reserve is, in part, comprised of unearned revenue in the form of fees collected at the time those applications were submitted and the funding in the operating reserve is an important element of the multi-year financing approach to reduce application pendency. For more on Trademarks operations, please refer to page 24 in this document.

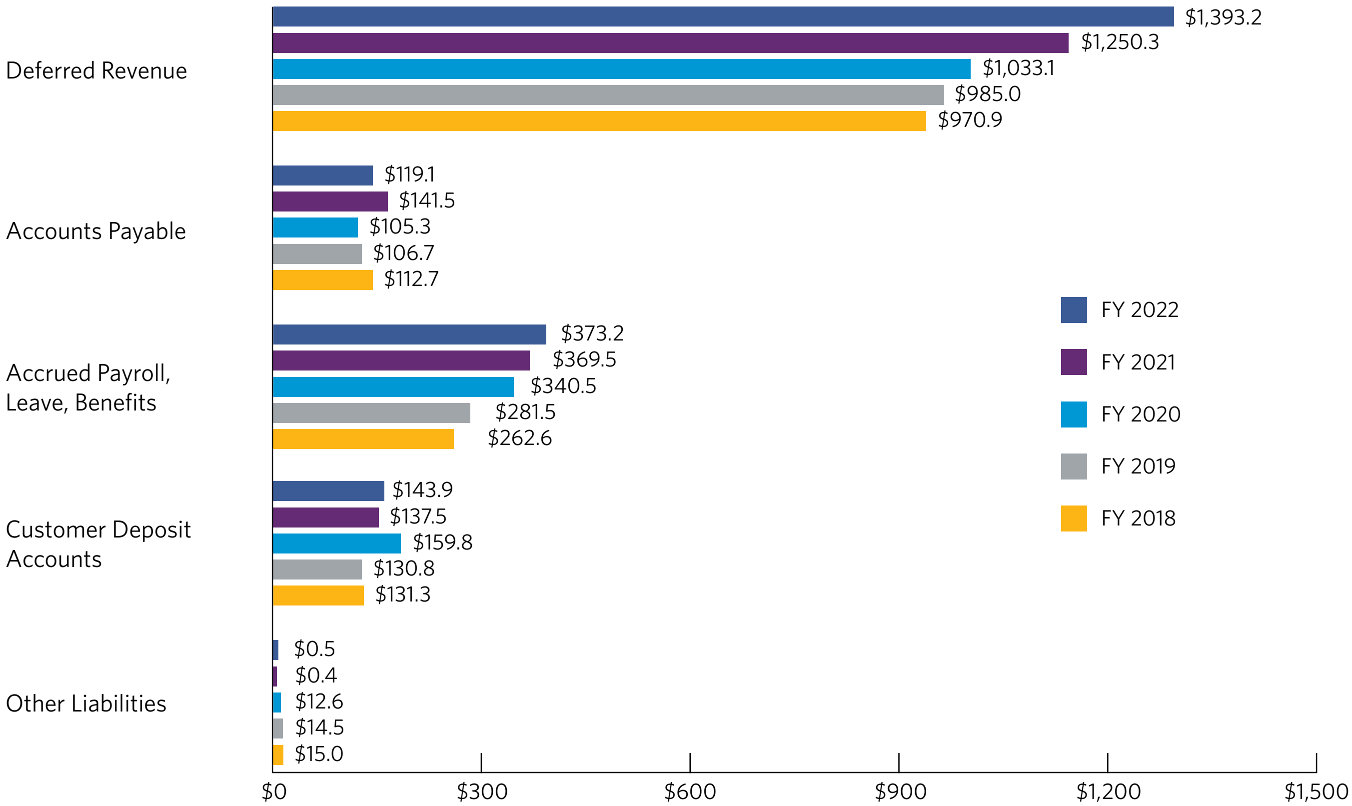
FIGURE 6: **Trademark Operating Reserve *(dollars in millions)***

The FY 2022 enacted appropriation for the USPTO was $4,058.4 million. All fees collected up to the appropriated amount are available for obligation, and fees collected in excess of the appropriated amount are deposited into the PTFRF. At the end of FY 2022, the USPTO collected more fees than the appropriated amount. As a result, $23.5 million in patent fee collections and $8.2 million in trademark fee collections were deposited into the PTFRF. The FY 2022 appropriation authorizes the USPTO to spend those fees without further appropriation, subject to reprogramming requirements.

During FY 2022, the USPTO continued investing in IT, as evidenced by the $118.8 million increase in the acquisition value of the other major asset—property, plant, and equipment—over the past year. Due to the recognition of depreciation and amortization of costs, the net balance of this asset has decreased by $152.8 million during the past four years, while the acquisition values of property, plant, and equipment have increased by $276.6 million. The USPTO continues to modernize IT products by employing cloud-based solutions that offer improved reliability, stronger cybersecurity protection, and an enhanced user experience. Continuing to make these investments will lead to future increases in software and software-in-development acquisition values. This was evidenced by an increase of $359.9 million from FY 2018 through FY 2022 for software and software-in-development, with FY 2022 contributing $142.0 million to that increase. During the past four years, IT modernization efforts included system and software development activities in support of the Patent, Trademark, Enterprise Business, and Enterprise Infrastructure product lines.

Total liabilities increased from $1,899.2 million at the end of FY 2021 to $2,029.9 million at the end of FY 2022, representing an increase of $130.7 million, or 6.9%. Figure 7 shows the composition of liabilities during the past five years.

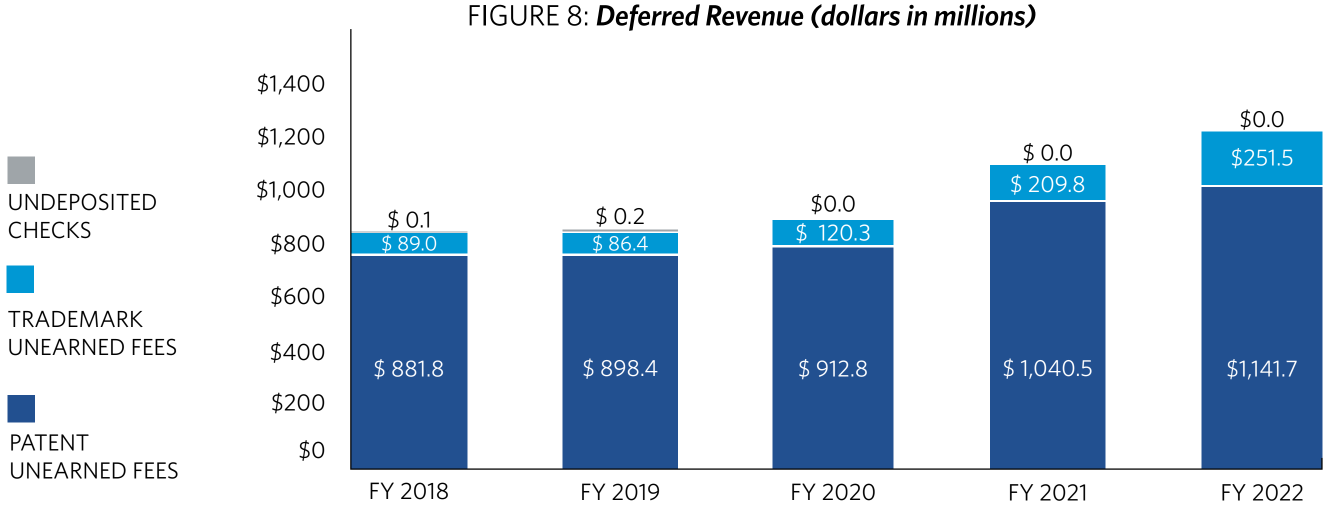
FIGURE 7: **Composition of Liabilities *(dollars in millions)***



The USPTO's deferred revenue (i.e., fees collected for services that have not yet been provided) is the largest liability on the Balance Sheet and accounted for the largest change over the past year. The liability for deferred revenue is estimated by analyzing the operating process for completing each fee service provided. The percentage that is incomplete based on the inventory of pending work and the completion status is applied to fee collections to estimate the amount for deferred revenue liability.

FY 2022 resulted in an increase in the deferred revenue liability of $142.9 million, or 11.4% from FY 2021. The deferred revenue liability includes unearned patent and trademark fees, as well as an immaterial amount of undeposited checks. The unearned patent fees represented 81.9% of this liability for FY 2022; however, the trademark deferred revenue experienced the greatest increase over last year. Figure 8 depicts the composition of the deferred revenue liability during each of the past five years.

FIGURE 8: ***Deferred Revenue (dollars in millions)***



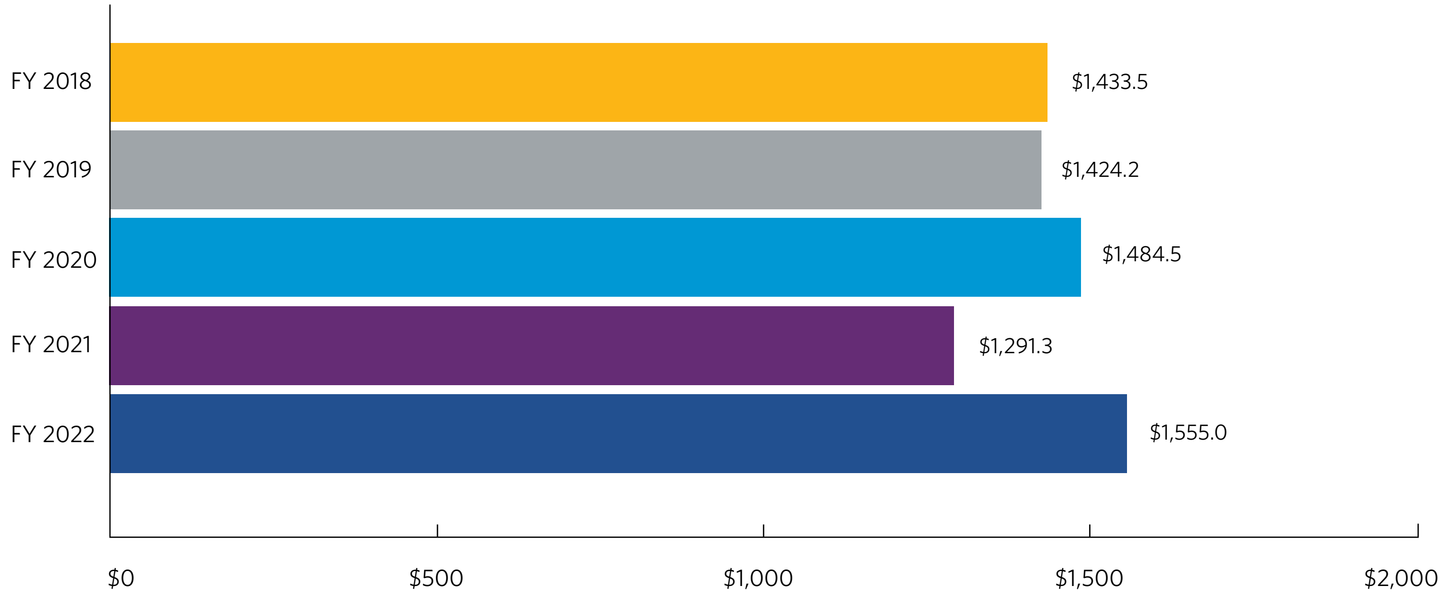
Deferred revenue at the USPTO is largely impacted by the change in patent and trademark filings, changes in the first action pendency and unexamined inventory, and changes in fee rates; increases to these result in increases in deferred revenue. First action pendency measures the time between when the USPTO first receives a patent or trademark application and when it is first pulled by a patent examiner or a trademark examining attorney for examination.

In FY 2022, with a 1.6 month increase in the amount of time it takes before a first action is taken on an application (from 16.9 months to 18.5 months) and an increase in unexamined patent application inventory of 7.2%, unearned patent fees increased 9.7%. Based on recent estimates that incorporate future demand, the number of serialized patent applications filed is expected to gradually increase to 2.0% in FY 2023 through FY 2027, with unexamined patent application inventory decreasing to 623,000 in FY 2023. The decreases in unexamined patent application inventory will result in patent deferred revenue decreases that will be offset by fee increases in the out years.

The trademark deferred revenue increased in FY 2022 by $41.7 million, or 19.9%, from FY 2021, with an overall 182.6% increase over the past four years. During the past four years the FY 2021 deferred revenue represented the most significant increase at 74.4% over FY 2020. The FY 2022 increase was consistent with the increased processing time in the trademark application review cycle. During FY 2022, first action pendency increased 2.0 months (from 6.3 months to 8.3 months) and unexamined trademark inventory increased by 4.3%. A tapering of demand in trademark filings began in FY 2021 in response to the FY 2020 filing surge and continued through the first half of FY 2022 before gradually slowing during the second half of the year. As the USPTO addresses the unprecedented surge in FY 2020, recent estimates reflect that it may take several years to sufficiently reduce the backlog of unexamined trademark applications before returning to pre-surge pendency levels. The decreases in unexamined trademark application inventory will result in trademark deferred revenue decreases.

The Statement of Changes in Net Position (see page 64) presents the changes in the financial position of the USPTO due to the results of operations (discussed in the next section). The movement in net position is primarily the result of the net income or net cost for the year. The change in the net position during the past five years is presented in Figure 9. The primary causes for the increase in FY 2022 net position is the unusual increase in earned revenue due to timing of fee collections (see earned revenue discussion on page 43), offset by a smaller increase in program costs.

FIGURE 9: **Net Position *(dollars in millions)***



Statement of Net Cost

The Statement of Net Cost (see page 63) presents the USPTO's results of operations by the following responsibility segments: Patents and Trademarks. Prior to FY 2022, the presentation by responsibility segment was consistent with the presentation used by the agency in submitting its strategic plan. Beginning FY 2022, the USPTO streamlined the presentation to match its two primary responsibility segments, granting patents and registering trademarks. This allows for a clear alignment between our budget plans (that use the two budget programs of patents and trademarks) and our results of operation.

Table 2 presents the USPTO's total results of operations for the past five fiscal years. In FY 2022, the USPTO generated a net income of $214.3 million. The net income increased due to an increase in earned fee collections, offset by a smaller increase in personnel services and benefit costs.

The Statement of Net Cost compares earned fees to costs incurred during a specific period of time. It is not necessarily an indicator of net income or net cost over the life of a patent or trademark. Net income or net cost for the fiscal year is dependent upon work that has been completed over the various phases of the production life cycle. The net income calculation reports fees earned during the fiscal year regardless of when those fees were collected.

TABLE 2: **Net Income/(Cost) *(dollars in millions)***

Net Income / (Cost) (dollars in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Earned Revenue	$ 3,309.4	$ 3,388.7	$ 3,657.1	$ 3,384.4	$ 3,946.6
Program Cost	(3,321.5)	(3,478.2)	(3,623.0)	(3,627.4)	(3,732.3)
Net Income/(Cost)	$ (12.1)	$ (89.5)	$ 34.1	$ (243.0)	$ 214.3

Maintenance fees play a large part in whether a total net income or net cost is recognized, as these fees are considered earned immediately. Maintenance fees collected in FY 2022 reflect the number of patents issued 3.5, 7.5, and 11.5 years ago that customers have elected to renew, rather than a reflection of patents issued in FY 2022. Trademark renewal fees reflect trademarks registered between nine and 10 years ago, 19 and 20 years ago, 29 and 30 years ago, etc. These fees can have a significant impact on matching costs and revenue for the purpose of the Statement of Net Cost.

Earned Revenue

The USPTO's earned revenue is derived from the fees collected for patent and trademark products and services. Fee collections are recognized as earned revenue when the activities to accomplish the work associated with the fee are completed.

Figure 10 shows the USPTO funding resources and how they are used to deliver on the mission of the USPTO, thereby recognizing earned revenue.

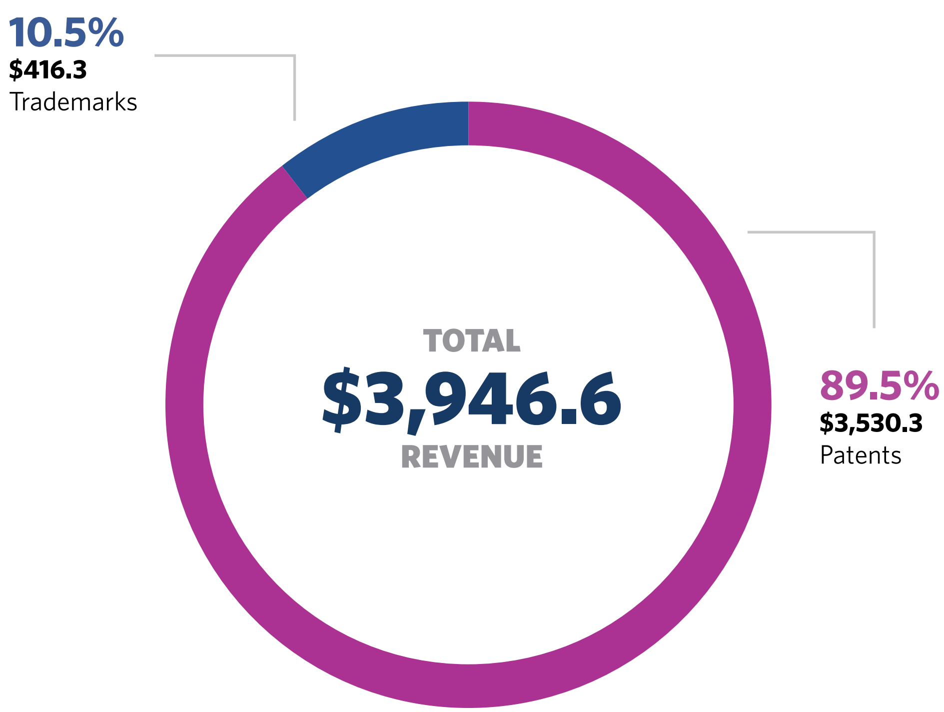
FIGURE 10: **USPTO Funding Resources**

Two Primary SOURCES OF FUNDING	**PATENT USER FEES**			**TRADEMARK USER FEES**
Are appropriated as this FUNDING TYPE	**SALARIES AND EXPENSES**			
To support the USPTO LINES OF BUSINESS and SUPPORTING ACTIVITIES (PROGRAMS)	**Patent Program**	**Inclusive Innovation**	**Mission Support**	**Trademark Program**
Which supports these STRATEGIC PRIORITIES				
Goal 1: Drive inclusive U.S. innovation and global competitiveness	✓	✓	✓	✓
Goal 2: Promote the efficient delivery of reliable IP rights	✓		✓	✓
Goal 3: Promote the protection of IP against new and persistent threats	✓		✓	✓
Goal 4: Bring innovation to positive impact	✓	✓	✓	✓
Goal 5: Generate impactful employee and customer experiences by maximizing agency operations	✓		✓	✓

Earned revenue totaled $3,946.6 million for FY 2022, an increase of $562.2 million, or 16.6%, from FY 2021 earned revenue of $3,384.4 million. This increase is primarily attributed to an increase in patent earned revenue. As discussed further in the patent revenue section, FY 2021 earned revenue included an artificially low amount of patent maintenance fee payments. Some customers opted to pay patent maintenance fees at the end of FY 2020 at a lower rate before a fee schedule change in early FY 2021. These early patent fee collections resulted in an estimated $266 million in maintenance fees paid before the patent fee increase went into effect on October 2, 2020. The USPTO considers patent maintenance fees earned at the time of payment, and this shift in timing explains most of the decrease in earned revenue from FY 2020 to FY 2021, as well as the significant increase from FY 2021 to FY 2022.

Of the revenue earned during FY 2022, $845.3 million was earned from fees collected in a prior fiscal year, with the associated work performed during FY 2022; $1,899.1 million was related to maintenance fees collected during FY 2022, and those fees were considered earned immediately at the time of receipt; $1,201.8 million was from fees collected and work performed during FY 2022; and $0.4 million was from other reimbursable amounts.

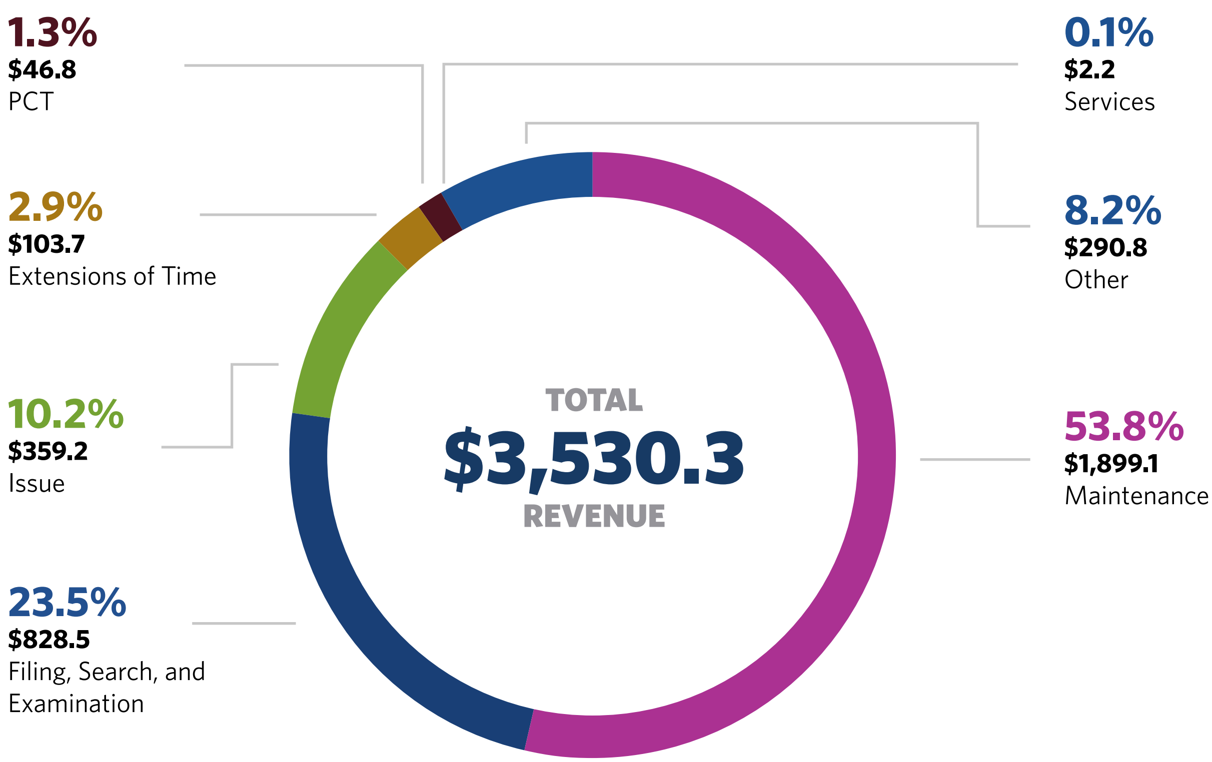
FIGURE 11: **FY 2022 Earned Revenue *(dollars in millions)***



Patents

Traditionally, the major components of earned revenue derived from patent operations are maintenance fees; initial application fees for filing, search, and examination; and issue fees. These fees account for approximately 87.5% of total patent income. Figure 12 depicts the share of patent revenue comprised by the most significant patent fee types.

FIGURE 12: **FY 2022 Patent Earned Revenue by Fee Type *(dollars in millions)***



Patent maintenance fees are the largest source of earned revenue by fee type. In order to maintain exclusive rights, a patent holder must pay maintenance fees at three separate stages: 3.5, 7.5, and 11.5 years from the date a patent is issued. Failure to pay these fees results in the lapse of patent protection, and the rights provided by a patent are no longer enforceable. Maintenance fees can be paid during the “window period,” the six-month period preceding each due date. It is this window period that enables certain customers to pay these fees ahead of fee rate changes. Additionally, a maintenance fee can be paid, with a surcharge, during the “grace period,” which is the six-month period immediately following each due date. If a maintenance fee has not been paid in a timely manner and the owner of the patent wants to have the patent rights reinstated, a petition and proper fees are required. Maintenance fees are recognized immediately as earned revenue, and fluctuations in both the timing of renewal payments and the rates of renewal may have a significant impact on the total earned revenue of the USPTO. Table 3 shows the renewal rates for all three stages of maintenance fees based on the year the patent was issued.

The fee structure is designed to keep the initial filing fees below the full cost of performing that work to lower barriers of entry for intellectual property protection. Maintenance fee payments, which are made after a patent is issued, are set at levels to recover the remaining cost of performing the work, thereby providing the necessary aggregate financing to fund operations (i.e., the revenue from renewals of maintenance fees helps to recoup costs incurred during the initial patent application process). As a result, the USPTO closely monitors payment behaviors (both rates of renewal and timing of payment) to forecast maintenance fee revenue. Using the data available at the end of FY 2022, the first stage patent renewal rate shows an increase of 0.6% above the previous year. When looking at the second stage patent renewal rate thus far, the yearly renewal rate is 1.1% above the previous year. Finally, when looking at the third stage patent renewal rate, thus far, the yearly renewal rate is 1.3% above the previous year. It is important to note that these differences will change slightly as additional payments continue to be made via petitions for delayed payments. The decision to renew a patent is influenced by many factors, including, but not limited to, federal court decisions, IP budgets, the perceived value of the patent, the USPTO's fee rates, and the economy. The USPTO closely monitors trends associated with renewal rates, especially as they impact future revenue estimates. Although some renewal rates have decreased slightly in past years, the number of patents eligible for renewal has increased significantly, which is forecasted to result in overall increases in fee collections and earned revenue associated with patent maintenance fees.

TABLE 3: **USPTO Renewal Rates**

Utility Patent Issue Date	Utility Issues	First Stage Renewal Rate	Second Stage Renewal Rate	Third Stage Renewal Rate
2002	160,839	85.5%	66.6%	47.5%
2003	171,493	86.7%	68.5%	47.7%
2004	169,295	87.3%	70.2%	47.6%
2005	151,077	86.7%	69.6%	46.3%
2006	162,509	85.1%	67.1%	44.4%
2007	160,306	86.2%	67.3%	44.3%
2008	154,699	87.5%	67.0%	43.4%
2009	165,213	87.1%	66.2%	41.6%
2010	207,915	86.1%	66.2%	42.9%
2011	221,350	85.6%	65.0%	
2012	246,464	85.4%	64.7%	
2013	265,979	85.8%	64.2%	
2014	303,930	86.4%	65.3%	
2015	295,460	86.3%		
2016	304,568	86.3%		
2017	315,367	85.8%		
2018	306,912	86.4%		

Note: The First Stage refers to the end of the 4th year after the initial patent is issued; the Second Stage refers to the end of the 8th year after the initial patent is issued; and the Third Stage refers to the end of the 12th year after the initial patent is issued. For example, 86.4% of the patents issued in 2014 paid the first stage maintenance fee. Past years' data may have been revised from prior year reports.

Overall, patent earned revenue increased $528.6 million, or 17.6% from FY 2021 to FY 2022. Maintenance fee collections drove the increase with a $506.4 million, or 36.4%, growth from FY 2021, due to artificially low FY 2021 maintenance fee payments. The USPTO implemented a fee increase on October 2, 2020. This incentivized fee payers to pay early and increased fee collections in FY 2020, which resulted in a shift in earned revenue across fiscal years 2020 and 2021. Many customers who were eligible opted to pay maintenance fees before the fee increase took effect, resulting in increased patent maintenance fee collections in late FY 2020 and decreased patent maintenance fee collections and earned revenue in early FY 2021. This increase in maintenance fee earned revenue accounted for 95.8% of the total increase in patents earned revenue.

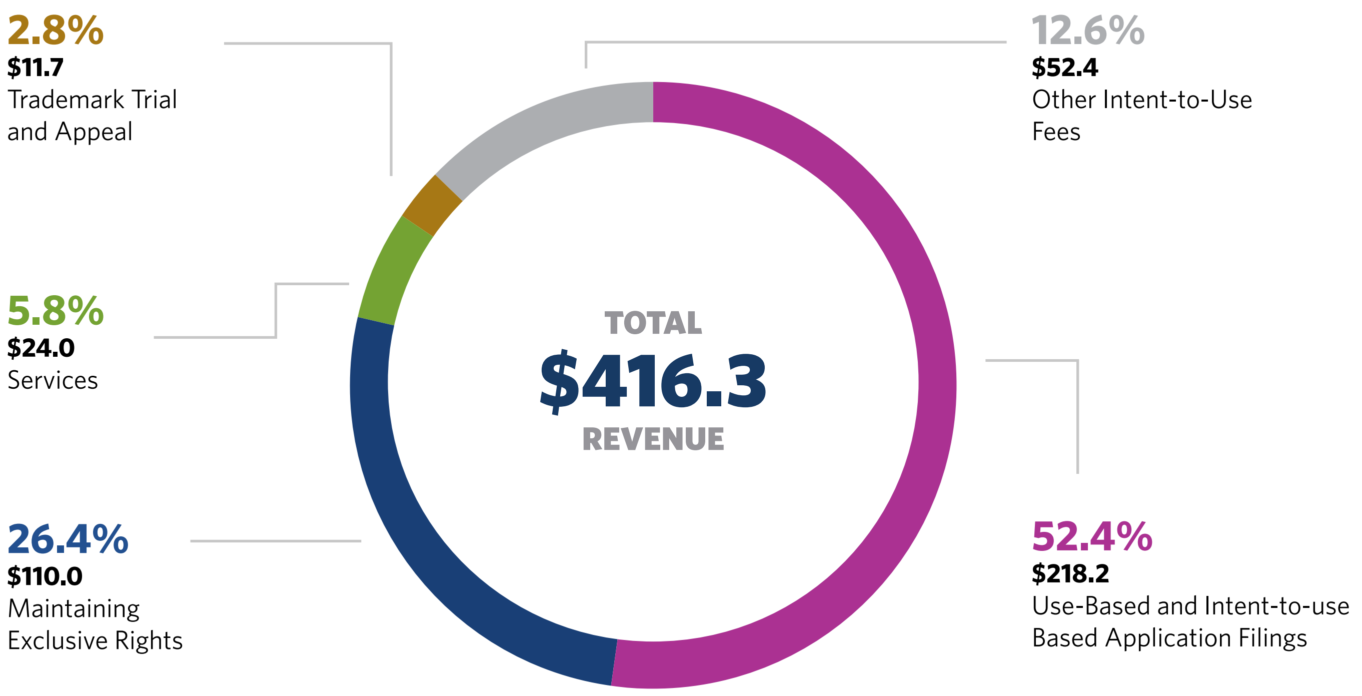
Application fee revenue earned upon filing increased slightly from $100.0 million in FY 2021 to $102.5 million in FY 2022 (increase of 2.5%) due to the number of serialized (new) application filings increasing from 450,467 to 457,510 over the same period (increase of 1.6%). At the same time and in line with the proactive steps the USPTO has taken to reduce the need for RCEs, RCE filings decreased from 146,353 to 133,777 (decrease of 8.6%) during this same period. These relatively small increases and decreases resulted in only a small change in earned revenue. Recent estimates indicate that serialized patent application filings will steadily increase at similar rates in the outyears, which will contribute to continued budgetary resources, as well as earned fee revenue.

Earned issue fee revenue increased from $354.4 million in FY 2021 to $359.2 million in FY 2022 (increase of 1.4%), despite the number of patents issued decreasing from 374,590 to 361,435 over the same period (decrease of 3.5%). Historically, while the number of patents issued in a given year may rise or fall, the general trend has been an increase given the overall growth in invention and innovation, which tends to result in increases in maintenance fees in future years.

Trademarks

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

FIGURE 13: **FY 2022 Trademark Earned Revenue by Fee Type *(dollars in millions)***



Overall, trademark earned revenue increased $33.6 million, or 8.8% from FY 2021 to FY 2022. Earned revenue for trademark application filings increased from $204.2 million in FY 2021 to $218.2 million in FY 2022, an increase of 6.9%. This increase in earned revenue occurred despite a FY 2022 decrease in trademark applications filed when compared to FY 2021. During FY 2022 the number of trademark applications decreased by 16.5% from the record high in FY 2021. Yet, when compared to FY 2020, the number of trademark applications increased in the aggregate, with a 6.7% increase from FY 2020.

The size of the change in trademark deferred revenue also contributed to the overall increase in earned revenue. Deferred revenue increased in FY 2022 by only 19.9% compared to the 74.4% increase in FY 2021. Despite the decrease in application filings, the application filing revenue increased by earning more of the revenue collected during FY 2022 and earning more revenue previously deferred in an earlier fiscal year. The smaller increase in deferred revenue resulted in an overall increase in earned revenue in FY 2022.

Earned revenue to maintain exclusive rights was a significant driver in the overall increase, growing 27.2% from $86.5 million in FY 2021 to $110.0 million in 2022. The number of trademarks registered also increased by 4.3% from 434,810 to 453,558 over the same period.

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

TABLE 4: **Trademark Renewal Rates**

Trademark Renewal Rates*	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022[1]
Renewals	30.6%	30.1%	26.3%	22.8%	19.2%

**Note: The renewals occur every 10th year for registered trademarks. For example, in FY 2022, 19.2% of the trademarks registered 10 years ago were renewed.*

[1]Preliminary data.

Program Costs

The USPTO responsibility segments present the cost of operations by program. Program costs consist of both costs related directly to program and overall support costs allocated to the program. In setting its annual spending plans, the USPTO maximizes resources directed to its mission areas. For FY 2022, costs directly attributable to the patent and trademark programs (also referred to as business lines) represent 80.4% of total USPTO costs. The remaining costs, representing support costs, are allocated from the executing business areas to the business lines using activity-based cost accounting.

Program costs totaled $3,732.3 million for FY 2022, an increase of $104.9 million, or 2.9%, over FY 2021 program costs of $3,627.4 million. The USPTO's most significant program cost is personnel services and benefits, which comprises approximately 69.3% of the USPTO's total program costs. Any significant change or fluctuation in staffing or pay rate directly impacts the change in total program costs from year to year. Total direct and allocated personnel services and benefits costs for FY 2022 were $2,586.8 million, an increase of $57.7 million, or 2.3%, over FY 2021 personnel services and benefits costs of $2,529.1 million. This change primarily reflects an increase in payroll compensation and benefit costs resulting from salary increases (e.g., congressionally mandated pay raises), as well as an increase in personnel, from 12,963 at the end of FY 2021 to 13,103 at the end of FY 2022.

The other significant increase in program costs was seen in contractual services. Consistent with our acquisition strategy to use innovative strategies and promote competition to provide the best value for our fee-paying customers, the USPTO recognized a short-term increase in contractual costs to create competition among two vendors and retire a legacy single vendor contract. In the long-term, we expect to realize overall cost savings with these contracts.

FIGURE 14: **USPTO Program Costs *(dollars in millions)***

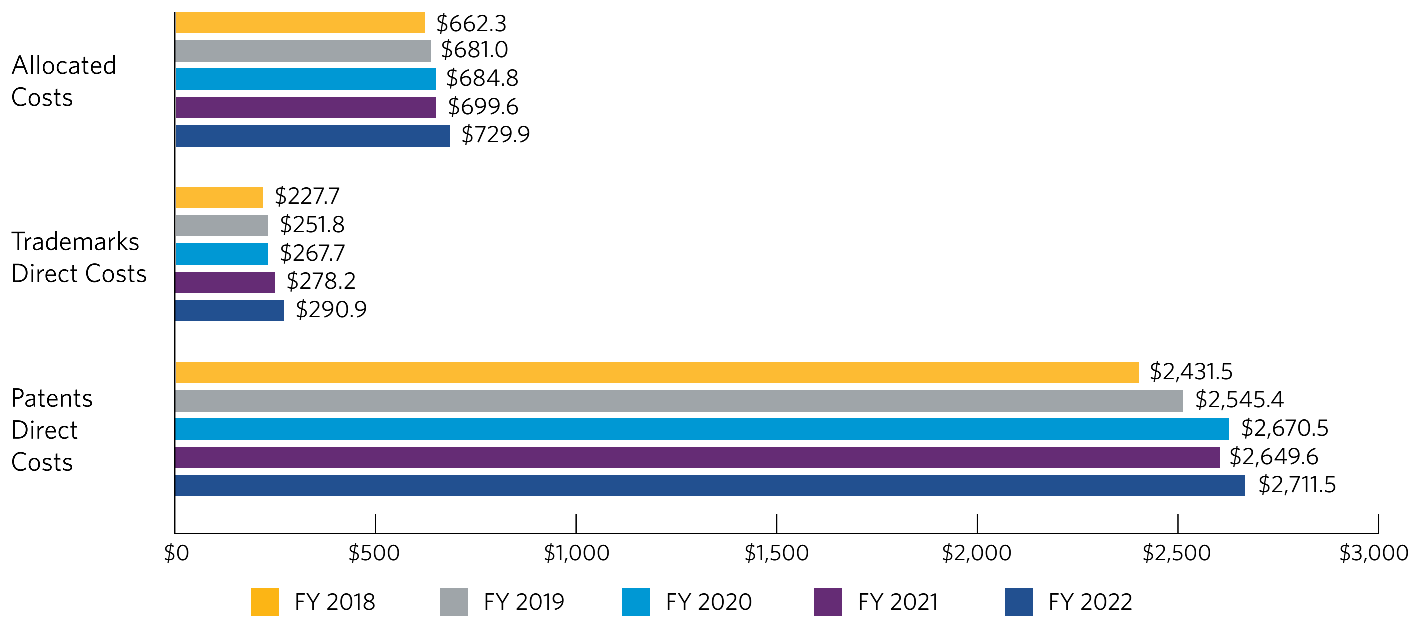
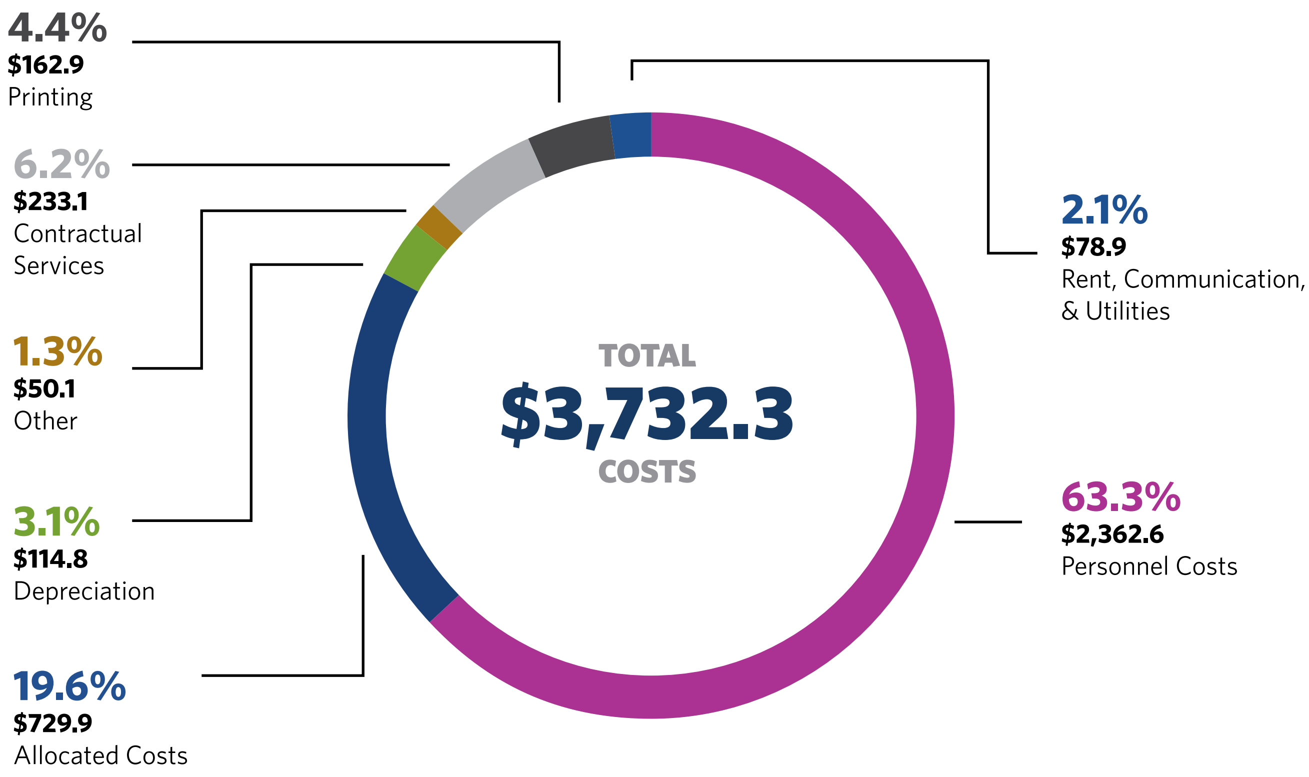


FIGURE 15: **FY 2022 USPTO Program Costs* *(dollars in millions)***

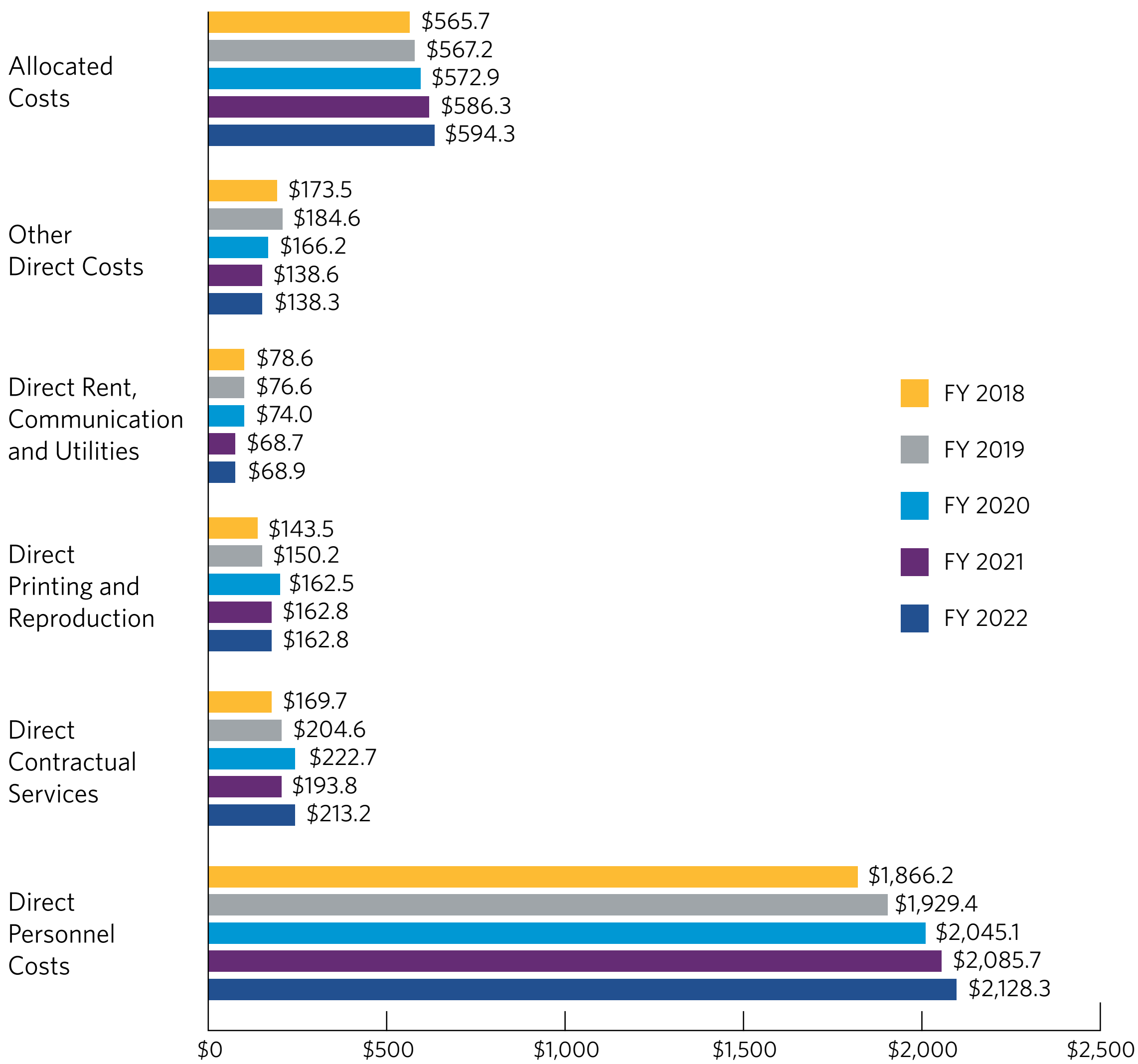


*All costs except those designated as allocated are direct costs. Allocated costs include the same types of costs as those that are direct; however, they also include mission-enabling costs.

Patents

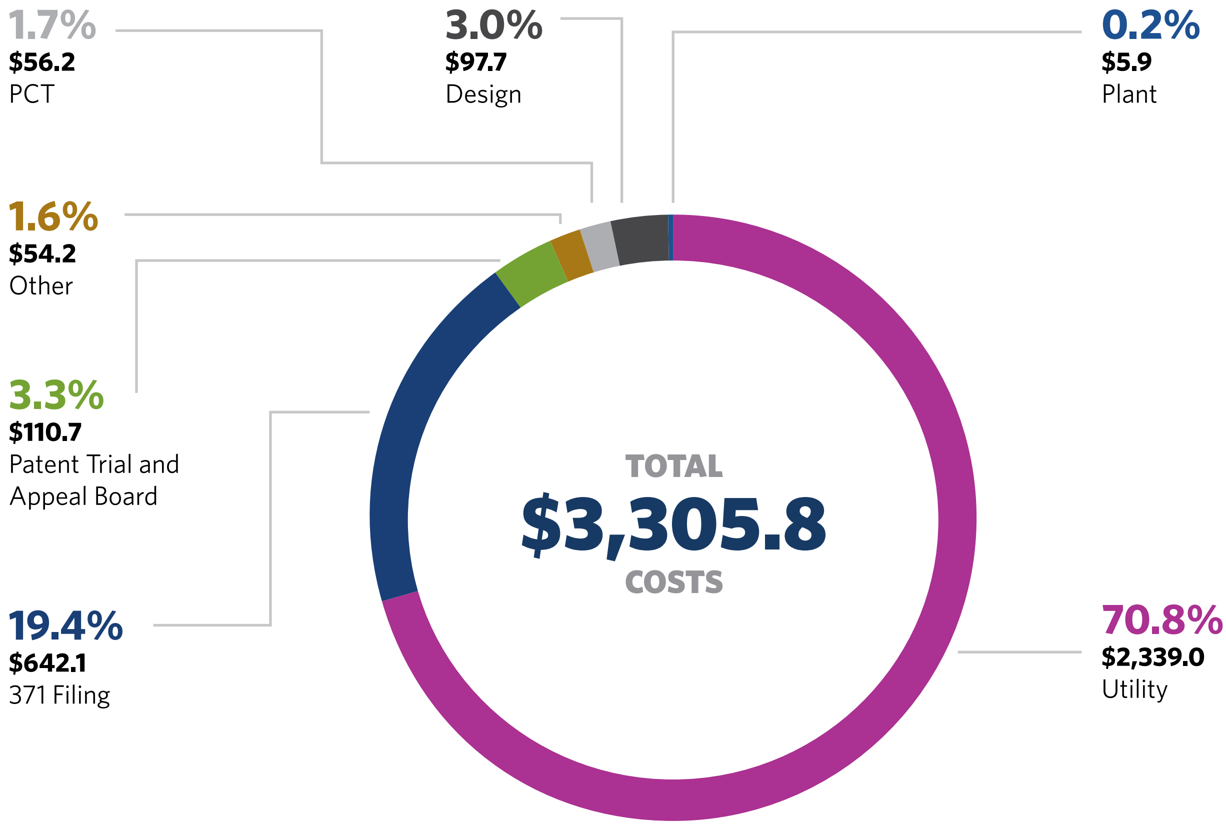
Total costs for the Patents program increased $308.6 million, or 10.3%, from FY 2018 through FY 2022. The Patents organization's most significant direct program costs relate to personnel services, which account for 84.9% of the increase in the total direct cost of Patents operations during the past four years. Patents personnel costs for FY 2022, were $2,128.3 million, an increase of $42.6 million, or 2.0%, over FY 2021 personnel costs of $2,085.7 million. This change primarily reflects an increase in payroll compensation and benefit costs resulting from salary increases, as well as a slight net increase of 50 personnel, from 10,175 at the end of FY 2021 to 10,225 at the end of FY 2022. Direct Patents contractual services costs were $213.2 million, an increase of $19.4 million, or 10.0%, from FY 2021 contractual service costs of $193.8 million. This change is primarily reflective of the aforementioned short-term increase in contractor costs required to introduce competition for mission-critical work. The new dual-vendor Patent Data and Document Management (PDDM) contract also mitigates risks, enhances cybersecurity, and strengthens continuity of operations (included in direct contractual services costs in Figure 16).

FIGURE 16: **Patent Costs *(dollars in millions)***



Patents activity costs were predominantly directed to two patent products: utility patents and international applications, called 371 filings. The cost percentages presented are based on direct and indirect costs allocated to Patents operations.

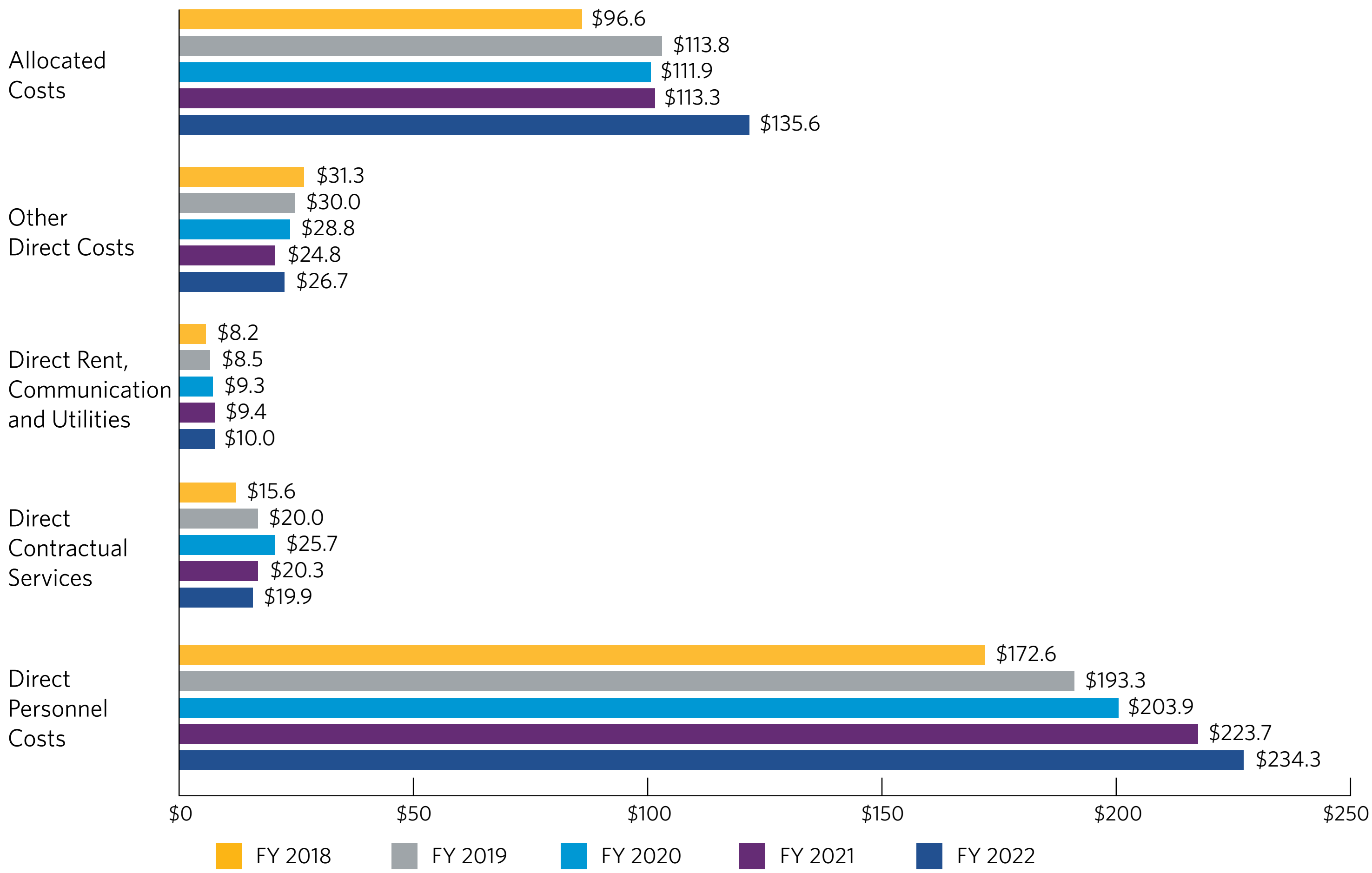
FIGURE 17: **FY 2022 Patent Cost By Product *(dollars in millions)***



Trademarks

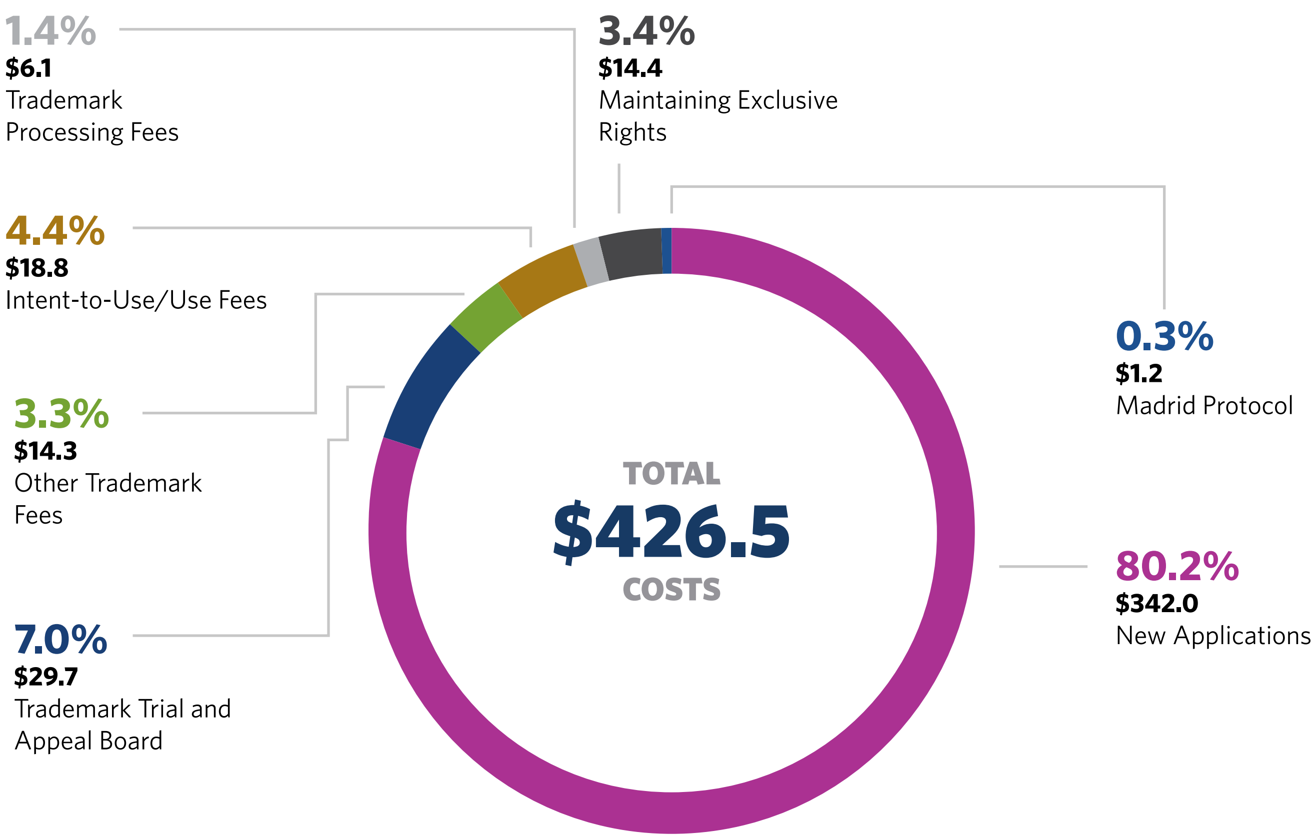
Total costs for the Trademarks program increased $102.2 million, or 31.5%, from FY 2018 through FY 2022. The Trademarks organization's most significant direct program costs relate to personnel services, and account for 60.4% of the increase in the total direct cost of Trademarks operations during the past four years. Trademarks personnel costs for FY 2022, were $234.3 million, an increase of $10.6 million, or 4.7%, over FY 2021 personnel costs of $223.7 million. This change primarily reflects an increase in payroll compensation and benefit costs resulting from salary increases, as well as an increase of 63 personnel, from 1,009 at the end of FY 2021 to 1,072 at the end of FY 2022. Costs allocated to Trademarks were $135.6 million, an increase of $22.3 million, or 19.7%, over FY 2021 allocated costs of $113.3 million.
This change is primarily reflective of IT infrastructure cost increases, combined with improvements in the cost allocation methodology. The increases in IT represent short term investments to capture longer-term cost savings.

FIGURE 18: **Trademark Costs *(dollars in millions)***



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

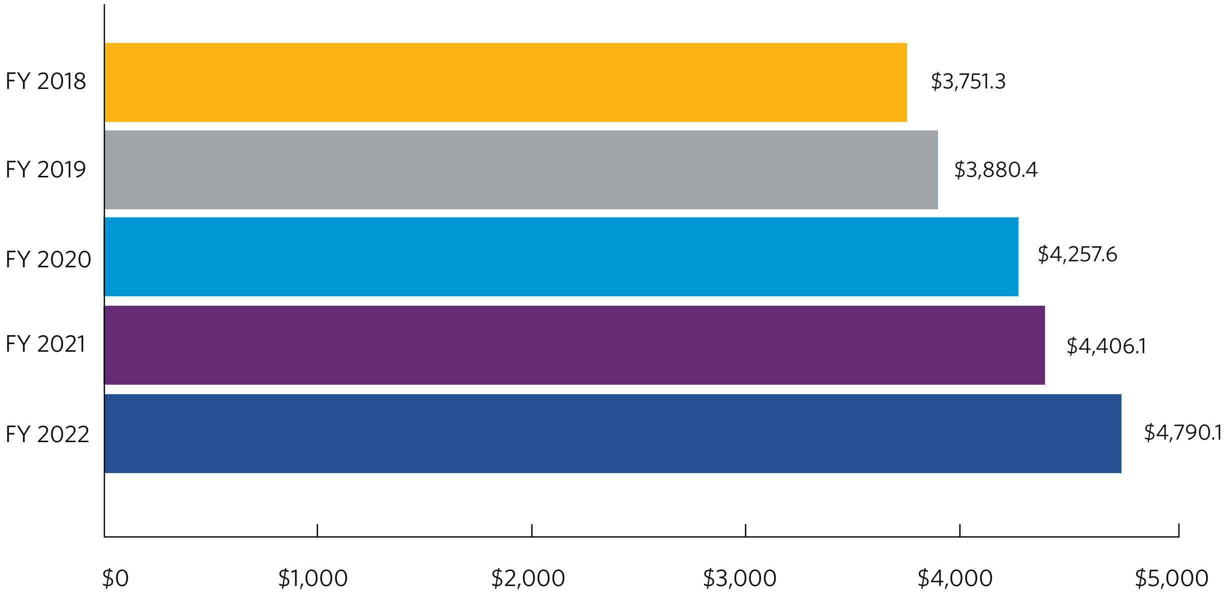
FIGURE 19: **FY 2022 Trademark Costs By Product *(dollars in millions)***



Statement of Budgetary Resources

During FY 2022, total budgetary resources available for spending were 8.7% greater than the amount available in the preceding year, with a 27.7% increase over the past four fiscal years. The change in budgetary resources available for use is depicted by the accompanying figure. The amount of budgetary resources in any given year is directly related to the demand for the USPTO's services, as manifested in the number of applications filed and IP rights renewed during the fiscal year, and the availability of agency operating reserves, including amounts deposited in the PTFRF. The operating reserves allow the USPTO to plan for long-term financial stability and temporary changes in its cash flow. In FY 2022, the fee collection budgetary resources increase correlates with the increase in demand.

FIGURE 20: **Annual Growth in Available Budgetary Resources *(dollars in millions)***



The USPTO was provided appropriation authority to spend anticipated fee collections in FY 2022 for an amount up to $4,058.4 million. In FY 2022, the USPTO collected fees in excess of the anticipated fee collections appropriated; patent and trademark fee collections amounted to $4,090.0 million (see Sources of Funds figure). Prior to 2012, when the USPTO was not appropriated the authority to spend all fees collected, the excess was classified as temporarily unavailable fee collections. The AIA established a statutory provision allowing the USPTO to deposit in the PTFRF fees collected in excess of the appropriated levels for each fiscal year. The USPTO deposited $23.5 million in patent fee collections and $8.2 million in trademark fee collections in the PTFRF at the end of FY 2022. The FY 2022 appropriation provided the authorization for the USPTO to spend those fees without further appropriation, subject to reprogramming requirements; those fees are available without fiscal limitation until expended.

The USPTO frequently reviews and analyzes operational and global economic data to assess whether there is a need to adjust the patent and trademark fee schedules. The fee schedules are designed to achieve the agency's financial and operational targets, while recovering the aggregate costs of USPTO operations. The process to review, analyze, and set fees typically takes at least two years to complete. The USPTO started a patent and trademark biennial fee review during FY 2021 continuing through 2022. The aggregate cost of USPTO operations is projected to increase as the agency continues to grow and manages inflationary pressures. The USPTO will use this data to assess the need for and timing of future fee schedule changes to efficiently recover aggregate operating costs.

Figures 21 and 22 present the budgetary resources made available to the USPTO in FY 2022, and the use of such funds representing FY 2022 total obligations incurred and the operating reserve, as reflected on the Statement of Budgetary Resources.

FIGURE 21: **FY 2022 Sources of Funds *(dollars in millions)***

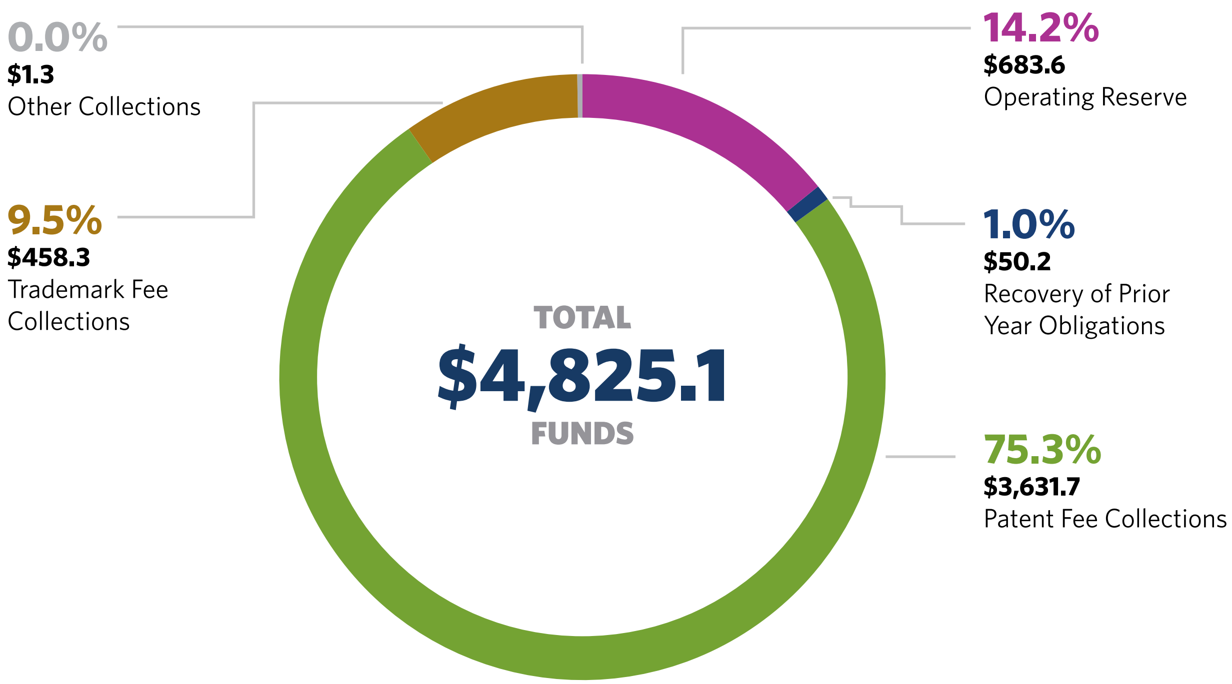


FIGURE 22: **FY 2022 Uses of Funds *(dollars in millions)***

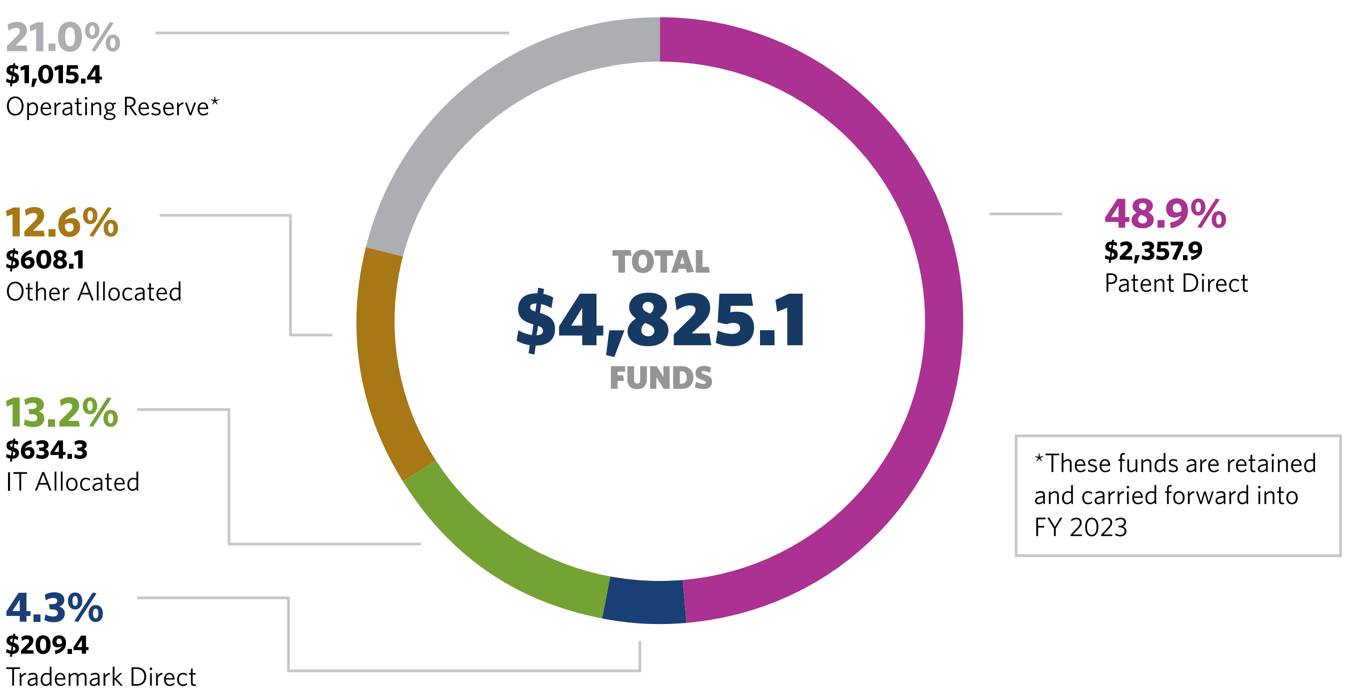


Table 5 illustrates the amounts of fees that Congress has appropriated to the USPTO for spending over the past five fiscal years, as well as the cumulative unavailable fee collections.

TABLE 5: **Temporarily Unavailable Fee Collections *(dollars in millions)***

Temporarily Unavailable Fee Collections (dollars in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Fiscal Year Fee Collections	$ 3,337.4	$ 3,398.7	$ 3,682.6	$ 3,625.0	$ 4,090.0
Fiscal Year Collections Appropriated	(3,337.4)	(3,398.7)	(3,682.6)	(3,625.0)	(4,090.0)
Fiscal Year Unavailable Collections	$ -	$ -	$ -	$ -	$ -
Prior Year Fee Collections Unavailable	937.8	937.8	937.8	937.8	937.8
Subtotal	$ 937.8	$ 937.8	$ 937.8	$ 937.8	$ 937.8
Special Fund Unavailable Receipts	233.5	233.5	233.5	233.5	233.5
Cumulative Temporarily Unavailable Fee Collections	$ 1,171.3	$ 1,171.3	$ 1,171.3	$ 1,171.3	$ 1,171.3

Since FY 2013, the USPTO has not collected any fees that were designated as temporarily unavailable. As a result, the USPTO maintained a $937.8 million balance of temporarily unavailable fee collections during FY 2021 (shown above as "Prior year collections unavailable"). In addition to the temporarily unavailable balances, collections of $233.5 million are unavailable, in accordance with the OBRA of 1990, and deposited in a special fund receipt account at the U.S. Department of the Treasury (Treasury). These cumulative unavailable fee collections remain in the USPTO's general fund account at the Treasury until appropriated for use by Congress. These amounts are not reflected in the USPTO's Statement of Budgetary Resources, but are included on the Balance Sheet as part of the agency's Fund Balance with Treasury.

Limitation on Financial Statements

The principal financial statements included in this report have been prepared by USPTO management to report the financial position and results of operations of the USPTO, pursuant to the requirements of 31 U.S.C. § 3515(b). While the statements have been prepared from the books and records of the USPTO in accordance with the Generally Accepted Accounting Principles (GAAP) for federal entities and the formats prescribed in OMB Circular A-136 (revised), the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records. The statements should be read with the understanding that they are for a component of the U.S. government, a sovereign entity.

Management Responsibilities

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

FINANCIAL SECTION

Message from the Chief Financial Officer

Jay Hoffman

The USPTO continues to benefit from resilient financing strategies that make innovation and entrepreneurship accessible to all Americans. The OCFO plays a pivotal role in the success of USPTO's mission by leveraging our strong financial management practices and mature analytical, problem-solving acumen to support executive level decision making. We remain flexible and attuned to our business partners' needs when delivering decision support and analysis to continuously improve the OCFO and the USPTO. The agency financial report for FY 2022 displays USPTO's operations segmented into two business lines: patents and trademarks. By law, the USPTO must maintain separate financial accounting for each business line.

During FY 2022, we carefully monitored global demand signals and evaluated economic uncertainties to provide current revenue and spending projections. The demand for patent services remained relatively stable throughout the year, and actual demand levels were consistent with our FY 2022 forecasts. However, demand for trademark services did not meet the forecast expectation. Last year, the USPTO reported that the demand for trademark services reached a record high before settling into a more consistent pattern during the second half of the year. This year, demand gradually declined over the last nine months of the year and was below our preliminary forecasts. However, trademark fee collections were generally consistent with fee amounts appropriated by Congress. The softer demand, both globally and domestically, resulted in lower FY 2022 trademark fee collections than planned and will require us to update our future years' spending and financing assumptions.

Fee collections in our patent business line exceeded annual operating requirements again this year. This resulted in deposits to the patent operating reserve consistent with our goal to move toward optimal reserve levels. Conversely, fee collections in our trademark business line were generally consistent with our operating requirements this year and there was only a marginal increase in the trademark operating reserve.

Overall, our FY 2022 financial health was good. The operating reserves performed as expected to meet daily financing needs for agency operations while mitigating the economic risk of uncertain demand. The USPTO closes this fiscal year with both patent and trademark operating reserve balances above minimum levels; our current target is to reach an optimal level of three months of operating expense for patents and seven months of operating expense for trademarks. At the end of the fiscal year, the patent operating reserve was $775.0 million, $450.0 million above minimum levels, roughly equivalent to 84 days of operations. Similarly, the trademark operating reserve was $208.7 million, $88.7 million above minimum levels, roughly equivalent to 167 days of operations.

A key component of our financing strategy is to routinely review historical and forecasted financial performance and analyze operational and global economic data. These reviews enable us to assess whether the patent and trademark fee schedules are achieving the desired financial and operational targets while recovering the full costs of USPTO operations. Throughout FY 2022, the USPTO analyzed our fee structures, payment patterns, and unit costs to provide important insights into our financial and operational health and anticipate the future needs of the intellectual property environment given the rapid economic and policy changes over the last two years. We will use this extensive analysis to determine if the USPTO's fee schedules require adjustments to maintain operations, achieve policy objectives, and attain an optimal operating reserve. If a fee schedule change is necessary, our fee setting process offers the public two formal opportunities for comment. Gathering public feedback on a proposed fee schedule change is necessary in order to create a fee schedule that is appropriate for customers, the USPTO, and the innovation ecosystem.

Another key element of our financing strategy is to continuously evaluate our operating requirements, priorities, and business needs to optimize costs. This year, the OCFO partnered with the Office of the Chief Administrative Officer to evaluate the USPTO's physical space requirements and long-term leases. The analysis demonstrated that USPTO's need for leased space has declined as more staff utilize telework and remote work, a best practice at the USPTO before the pandemic and a more common practice today on the heels of the recent COVID pandemic. As a result, the USPTO is vacating leased space in two auxiliary facilities in Northern Virginia by the end of 2022 and two additional buildings in Alexandria by the end of 2024. By continuously evaluating our business needs and reducing our real estate holdings, we enabled cost savings from future rental payments.

The OCFO also partnered with the Office of the Chief Information Officer (OCIO) to determine how to deliver cost effective IT in the face of upward pressures from inflation and an increasing demand for innovative mission-focused IT solutions. Informed with benchmarking data and robust IT planning information, we established inflation-adjusted targets for cost containment powered by mature agile practices and clear priorities like increased resilience, enhanced cybersecurity, and prioritizing high-value cloud migrations. Our IT spending plans remain relatively flat as we deliver IT more efficiently and recover sufficient cost savings to absorb inflationary increases.

Retiring the USPTO's largest and oldest Patent Data Capture contract in June marked another financial management milestone. The new contract, Patent Data and Document Management (PDDM), is structured to create competition among two vendors rather than relying on a single vendor, as was the case for the now-retired contract. Introducing competition will reduce costs for this mission-critical work. PDDM also mitigates risks, enhances cybersecurity, and strengthens continuity of operations. The PDDM award is becoming a model for how an acquisition team, using innovative strategies and promoting competition, provides the best value for our fee paying customers.

The OCFO continues to embrace opportunities for continuous improvement as we navigate the post-pandemic workplace environment. During FY 2022, we partnered with colleagues in OCIO to translate the learnings of the last two years into a new working paradigm that enables more employee autonomy to design a hybrid or fully virtual schedule. Adopting a Hybrid First posture has yielded immediate recruitment and retention benefits, had no adverse impacts on mission delivery, and enabled better work-life balance options for OCFO employees. The OCFO is acting deliberately to shape employees' future work experiences to maintain and evolve a healthy organizational culture. The OCFO recently launched an employee-led Hybrid First Council to advise the OCFO on how to develop and maintain practices that will further enable a flexible, inclusive, and equitable work experience for every employee, regardless of their work location. While it is just getting started, the Council has already identified ways to expand collaboration across the OCFO's four offices and allow interested employees an opportunity for a deeper connection as they work together virtually and in person.

Finally, I am pleased to share that in FY 2022 the AGA™ awarded the USPTO its 20th consecutive Certificate of Excellence in Accountability Reporting award for the

FY 2021 Performance and Accountability Report. The USPTO also received a Best-in-Class Award for being informative, candid, and forthright in addressing major challenges and accomplishments through both the USPTO Director's and Chief Financial Officer's messages. Finally, AGA recognized the USPTO with the Value-Added Distinction Award for the best overall report among CEAR winners from across the Federal Government—the highest honor awarded, which recognizes the year-end report that tells the story of its agency better than any other. We are humbled by these recognitions as we continue to improve our financial reporting each and every year. This year, in the spirit of continuous innovation and improvement, the USPTO streamlined its financial statement presentation by better aligning our responsibility segments (patents and trademarks) with our budget planning. Our goal is to present financial information plainly so that our IP stakeholders are able to clearly relate budget plans with our operating results.

We closed this year with our 30th consecutive unmodified opinion on the financial statements from the independent auditor. The auditor reported no material weaknesses or significant deficiencies in the design and operation of the USPTO's system of internal controls over financial reporting, and the financial system complies with financial system requirements in the FFMIA and OMB Circular A123, Appendix D.

The accomplishments in FY 2022 are the result of people from every business unit across the USPTO relentlessly pursuing financial management excellence 365 days per year. I appreciate the continued support of the entire agency, with special thanks to the Department of Commerce Office of the Inspector General and the KPMG audit team, as we continue to work together to sustain financial management excellence at the USPTO.

Jay Hoffman

Chief Financial Officer

November 7, 2022

UNITED STATES PATENT AND TRADEMARK OFFICE
BALANCE SHEETS
As of September 30, 2022 and 2021

(Dollars in Thousands)	2022	2021
ASSETS		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	$ 3,162,015	$ 2,790,547
Advances and Prepayments (Note 6)	5,979	3,163
Total Intragovernmental	3,167,994	2,793,710
With the Public:		
Cash and Other Monetary Assets (Note 4)	10,473	11,418
Accounts Receivable, Net (Note 3)	655	514
General Property, Plant, and Equipment, Net (Note 5)	374,333	355,843
Advances and Prepayments (Note 6)	31,517	29,029
Total with the Public	416,978	396,804
Total Assets (Note 7)	$ 3,584,972	$ 3,190,514
LIABILITIES		
Intragovernmental:		
Accounts Payable	$ 8,188	$ 12,797
Other Liabilities:		
Benefit Program Contributions Payable	33,881	30,162
Customer Deposit Accounts (Note 7)	10,399	9,792
Total Intragovernmental	52,468	52,751
With the Public:		
Accounts Payable	110,912	128,670
Federal Employee Benefits Payable (Note 10)	156,591	164,734
Advances from Others and Deferred Revenue (Note 9)	1,393,202	1,250,318
Other Liabilities:		
Accrued Payroll	182,780	174,607
Customer Deposit Accounts (Note 7)	133,520	127,713
Contingent Liabilities (Note 12)	500	415
Total with the Public	1,977,505	1,846,457
Total Liabilities (Note 8)	$ 2,029,973	$ 1,899,208
NET POSITION		
Cumulative Results of Operations (Consolidated)—Funds from Dedicated Collections (Note 14)	1,554,999	1,291,306
Total Net Position	$ 1,554,999	$ 1,291,306
Total Liabilities and Net Position	$ 3,584,972	$ 3,190,514

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

UNITED STATES PATENT AND TRADEMARK OFFICE

STATEMENTS OF NET COST

For the years ended September 30, 2022 and 2021

(Dollars in Thousands)		**2022**		**2021**
PATENT				
Program Cost	$	3,305,822	$	3,235,893
Program Earned Revenue		(3,530,253)		(3,001,692)
Net Program (Income)/Cost		(224,431)		234,201
TRADEMARK				
Program Cost		426,451		391,544
Program Earned Revenue		(416,300)		(382,771)
Net Program Cost		10,151		8,773
Net (Income)/Cost of Operations (Note 14)	$	(214,280)	$	242,974
TOTAL				
Total Program Cost (Notes 15 and 16)	$	3,732,273	$	3,627,437
Total Earned Revenue		(3,946,553)		(3,384,463)
Net (Income)/Cost of Operations (Note 14)	$	(214,280)	$	242,974

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

UNITED STATES PATENT AND TRADEMARK OFFICE

STATEMENTS OF CHANGES IN NET POSITION

For the years ended September 30, 2022 and 2021

(Dollars in Thousands)	2022	2021
	Funds from Dedicated Collections (Consolidated Totals)	**Funds from Dedicated Collections (Consolidated Totals)**
CUMULATIVE RESULTS OF OPERATIONS		
Beginning Balances	$ 1,291,306	$ 1,484,521
Transfers (Out)/In Without Reimbursement	(781)	1,119
Imputed Financing	50,194	48,640
Net Income/(Cost) of Operations	214,280	(242,974)
Net Change in Cumulative Results of Operations	263,693	(193,215)
Cumulative Results of Operations - Ending	$ 1,554,999	$ 1,291,306
Net Position, End of Year	$ 1,554,999	$ 1,291,306

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

UNITED STATES PATENT AND TRADEMARK OFFICE
STATEMENTS OF BUDGETARY RESOURCES
For the years ended September 30, 2022 and 2021

(Dollars in Thousands)		**2022**		**2021**
BUDGETARY RESOURCES				
Unobligated Balance, Brought Forward (Note 17)	$	683,646	$	744,641
Recoveries of Prior Year Obligations		50,210		34,028
Unobligated Balance from Prior Year Budget Authority, Net (discretionary)		733,856		778,669
Spending Authority from Offsetting Collections (discretionary)		4,091,198		3,627,427
Total Budgetary Resources	$	4,825,054	$	4,406,096
STATUS OF BUDGETARY RESOURCES				
New Obligations (Note 17)	$	3,809,681	$	3,722,450
Unobligated Balance, End of Year:				
Apportioned		980,430		683,646
Unapportioned		34,943		-
Total Status of Budgetary Resources	$	4,825,054	$	4,406,096
OUTLAYS, NET				
Net Collections (discretionary)	$	(366,057)	$	(75,641)

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

Notes to Financial Statements

As of and for the years ended September 30, 2022 and 2021

NOTE 1:
Summary of Significant Accounting Policies

Basis of Presentation

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

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

The USPTO presents cost of operations by program. Prior to FY 2022, the presentation by program was consistent with the presentation used by the agency in submitting its strategic plan. Beginning FY 2022, the USPTO changed its cost presentation to match its two primary responsibility segments, granting patents and registering trademarks. Program costs consist of costs related directly to these primary responsibility segments. All costs are assigned to specific programs. Certain other prior year balances were reclassified to conform with the current year presentation.

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

The USPTO is a component of the U.S Government. For this reason, some of the assets and liabilities reported by the entity may be eliminated for Government-wide reporting because they are offset by assets and liabilities of another U.S. Government entity. These financial statements should be read with the realization that they are for a component of the U.S. Government.

The federal budget classifies the USPTO under the Other Advancement of Commerce (376) budget function. The USPTO does not have lending or borrowing authority. The USPTO does not transact business among its own operating units, with the exception of select transactions processed (amounting to $5 thousand) in an effort to obtain trademarks used by the USPTO. As the amount is immaterial, no intra-entity eliminations are necessary.

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

Classified Activities

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

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

Basis of Accounting

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

Funds from Dedicated Collections

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

Fiduciary Activities

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

Use of Estimates

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

Revenue and Other Financing Sources

Exchange Revenue: Since FY 1992, the USPTO's funding has been primarily through the collection of user fees. Fees that are remitted with initial applications and requests for other services are recorded as exchange revenue when received, with an adjustment to defer revenue for services that have not been performed. Individual fees for Patent maintenance fees and Trademark renewal fees are recorded as exchange revenue when received and help to recoup costs incurred during the initial patent and trademark review processes. All amounts remitted by customers without a request for service are recorded as liabilities in customer deposit accounts until services are ordered. In 2011, the USPTO received fee setting authority under section 10 of the Leahy-Smith America Invents Act. Section 10(a) of the Leahy-Smith America Invents Act authorizes the Director of the USPTO to set or adjust by rule all patent and trademark fees to recover the aggregate estimated cost to the USPTO. Provided that the fees in the aggregate achieve overall aggregate cost recovery, the Director of USPTO may set individual fees, at, below, or above their respective cost.

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

Imputed Financing Sources from Cost Absorbed by Others (and Related Imputed Costs): In certain cases, operating costs of the USPTO are paid for in full, or in, part by funds appropriated to other federal entities. Only certain inter-entity costs are recognized for goods and services that are received from other federal entities at no cost or at a cost less than the full cost. For example, Civil Service Retirement System (CSRS) pension benefits for applicable USPTO employees are paid for in part by the U.S. Office of Personnel Management (OPM), and certain legal judgments against the USPTO are paid for in full from the Judgment Fund maintained by Treasury. Also, the cost of collecting fees electronically for the USPTO are paid for in full by Treasury. The USPTO includes applicable Imputed Costs on the *Statements of Net Cost*. In addition, an Imputed Financing Source from Cost Absorbed by Others is recognized on the *Statements of Changes in Net Position*.

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

Entity/Non-Entity

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

Fund Balance with Treasury

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

Accounts Receivable

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

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

Advances and Prepayments

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

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

Cash and Other Monetary Assets

The USPTO's cash and other monetary assets balance primarily consists of checks, electronic funds transfer, and credit card payments for deposits that are in transit and have not been credited to the USPTO's Fund Balance with Treasury.

The cash and other monetary assets balance also consists of checks for fees that were not processed at the *Balance Sheet* date due to the lag time between receipt and initial review. All such undeposited check amounts are considered to be cash equivalents. Additional details are provided in Note 4.

General Property, Plant, and Equipment, Net

The USPTO's capitalization policies are summarized below:

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

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

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

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

Workers' Compensation

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

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

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

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

Unemployment Compensation

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

Annual, Sick, and Other Leave

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

Employee Retirement Systems and Post-Employment Benefits

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

For the years ended September 30, 2022 and 2021, the USPTO made current year contributions through agency payroll contributions and quarterly supplemental payments to OPM equivalent to approximately 30.2% and 31.1%, respectively, of the employee's basic pay for those employees covered by CSRS, based on OPM cost factors. For the years ended September 30, 2022 and 2021, the USPTO made current year contributions through agency payroll contributions equivalent to approximately 17.9% and 16.8%, respectively, of the employee's basic pay for those employees covered by FERS, based on OPM cost factors. As contribution funding increases, imputed costs will correspondingly decrease.

All employees are eligible to contribute to a Thrift Savings Plan. For those employees participating in the FERS, a Thrift Savings Plan is automatically established, and the USPTO makes a mandatory contribution to this plan equal to 1% of the employees' compensation. In addition, the USPTO makes matching contributions ranging from 1% to 4% of the employees' compensation for FERS-eligible employees who contribute to their Thrift Savings Plans. No matching contributions are made to the Thrift Savings Plans for employees participating in the CSRS. Employees participating in the FERS are also covered under the Federal Insurance Contributions Act (FICA), for which the USPTO contributes a matching amount to the Social Security Administration.

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

Advances from Others and Deferred Revenue

Deferred revenue represents fees that have been received by the USPTO for requested services that have not been substantially completed. Two types of deferred revenue are recorded. The first type results from checks received, accompanied by requests for services, which were not yet deposited due to the lag time between receipt and initial review. The second type of deferred revenue relates primarily to fees for applications that have been partially processed.

The deferred revenue balance is estimated by analyzing the process for completing each service that the USPTO provides. The percent incomplete based on the inventory of pending work and completion status is applied to fee collections to estimate the amount for deferred revenue. Deferred revenue at the USPTO is largely impacted by the change in patent and trademark filings, changes in the first action pendency rates, and changes in fee rates. Increases in patent and trademark filings, first action pendency rates, and fee rates result in increases in deferred revenue. The components of the liability are provided in Note 9.

Net Position

Net Position is the residual difference between assets and liabilities, and is composed of Cumulative Results of Operations. Cumulative Results of Operations is the net result of the USPTO's operations since inception.

Environmental Cleanup

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

NOTE 2:
Fund Balance with Treasury

As of September 30, 2022 and 2021, Fund Balance with Treasury consisted of the following:

(Dollars in Thousands)	2022		2021	
Status of Fund Balance with Treasury:				
Obligated Balance Not Yet Disbursed	$	834,811	$	802,481
Unobligated Balance Available - Operating Reserves		980,430		683,646
Unobligated Balance Unavailable - Operating Reserves		3,310		-
Unobligated Balance Unavailable - Fee Reserve Fund		31,633		-
Temporarily Not Available Pursuant to Public Law		937,819		937,819
Non-Budgetary Fund Balance with Treasury		374,012		366,601
Total Fund Balance with Treasury	$	3,162,015	$	2,790,547

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

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

To sustain day-to-day operations by leveling differences between daily fee collections and daily costs and mitigating the risk of changing demand for USPTO services, the USPTO reserves a portion of the amount Congress makes available annually through appropriations to the USPTO Salaries and Expense general fund as a designated operating reserve that will be carried over for use in future years. As of September 30, 2022, the total Patent reserve was $775,054 thousand and the total Trademark reserve was $208,686 thousand. As of September 30, 2021, the total Patent reserve was $475,870 thousand and the total Trademark reserve was $207,776 thousand.

As of September 30, 2022, the USPTO collected more fees than appropriated for the fiscal year. As a result, $31,633 thousand was deposited in the fee reserve fund as of September 30, 2022. The Leahy-Smith America Invents Act requires the agency to submit a reprogramming request to make the funds available for use. As of September 30, 2021, the USPTO collected less fees than appropriated for the fiscal year. As a result, there were no funds deposited in the fee reserve fund as of September 30, 2021.

As of September 30, 2022 and 2021, the Non-Budgetary Fund Balance with Treasury includes unavailable surcharge receipts held in a special fund of $233,529 thousand for each year presented and non-entity customer deposit accounts held in deposit funds of $140,483 thousand and $133,072 thousand, respectively.

From FY 1990 through FY 2011 and prior to the Leahy-Smith America Invents Act, the USPTO was not always appropriated all of the fees and surcharges that were collected from customers. As of September 30, 2022 and 2021, previously collected and temporarily unavailable fee collections on deposit in the USPTO accounts at Treasury are $1,171,348 thousand.

As of September 30, 2022 and 2021, previously collected and temporarily unavailable fee collections on deposit in the USPTO accounts at Treasury consisted of the following:

(Dollars in Thousands)		**Patents**		**Trademarks**		**Totals**
Previously Collected Fees in Excess of Appropriations	$	580,443	$	209,643	$	790,086
Previously Collected Surcharge Fund Receipts		233,529		-		233,529
Previously Collected Fees Not Available	$	813,972	$	209,643	$	1,023,615
Previously Collected Fees Sequestered		134,291		13,442		147,733
Total Unavailable Fees	$	948,263	$	223,085	$	1,171,348

Of this amount, $790,086 thousand are previously collected fees for patent and trademark services provided to customers, $233,529 thousand in surcharge collections from patent customers withheld in accordance with the OBRA of 1990 and deposited in a special fund receipt account at Treasury, and patent and trademark sequestered funds of $147,733 thousand pursuant to the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. No. 113-6) and remain unavailable.

NOTE 3:
Accounts Receivable, Net

As of September 30, 2022, USPTO entity accounts receivable consisted of the following:

(Dollars in Thousands)	**Accounts Receivable, Gross**	**Allowance for Uncollectible Accounts**	**Accounts Receivable, Net**
With the Public	$ 1,010	$ (355)	$ 655

As of September 30, 2021, USPTO entity accounts receivable consisted of the following:

(Dollars in Thousands)	**Accounts Receivable, Gross**	**Allowance for Uncollectible Accounts**	**Accounts Receivable, Net**
With the Public	$ 848	$ (334)	$ 514

NOTE 4:
Cash and Other Monetary Assets

As of September 30, 2022 and 2021, cash and other monetary assets consisted of the following:

(Dollars in Thousands)	**2022**	**2021**
Deposits in Transit	$ 10,466	$ 11,413
Undeposited Checks	7	5
Total Cash and Other Monetary Assets	$ 10,473	$ 11,418

As of September 30, 2022 and 2021, cash and other monetary assets included customer deposit accounts held with the public amounting to $3,436 thousand and $4,433 thousand, respectively.

NOTE 5:
General Property, Plant, and Equipment, Net

As of September 30, 2022, general property, plant, and equipment, net, consisted of the following:

(Dollars in Thousands)

Classes of General Property, Plant, and Equipment	Useful Life (Years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
IT Equipment	3-5	$ 254,890	$ 218,981	$ 35,909
Software	3	1,322,437	1,073,548	248,889
Software in Development	-	54,203	-	54,203
Furniture	7	35,818	24,327	11,491
Equipment	3-8	2,067	2,057	10
Leasehold Improvements	5-20	141,283	117,452	23,831
Total Property, Plant, and Equipment		$ $1,810,698	$ 1,436,365	$ 374,333

As of September 30, 2021, general property, plant, and equipment, net, consisted of the following:

(Dollars in Thousands)

Classes of General Property, Plant, and Equipment	Useful Life (Years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
IT Equipment	3-5	$ 277,700	$ 234,190	$ 43,510
Software	3	1,176,075	973,304	202,771
Software in Development	-	58,537	-	58,537
Furniture	7	37,348	21,240	16,108
Equipment	3-8	2,067	1,928	139
Leasehold Improvements	5-20	140,112	105,334	34,778
Total Property, Plant, and Equipment		$ 1,691,839	$ 1,335,996	$ 355,843

The USPTO does not have any restrictions on the use or convertibility of the general property, plant, and equipment balances.

(Dollars in Thousands)	2022	2021
Balance, Beginning of Year	$ 355,843	$ 337,983
Capitalized Acquisitions	194,294	190,167
Loss on Dispositions	(7,371)	(722)
Depreciation Expense	(168,433)	(171,585)
Balance, End of Year	$ 374,333	$ 355,843

NOTE 6:
Advances and Prepayments

As of September 30, 2022 and 2021, advances and prepayments consisted of the following:

(Dollars in Thousands)		**2022**		**2021**
Intragovernmental				
Advances and Prepayments	$	5,979	$	3,163
With the Public				
Advances and Prepayments	$	31,517	$	29,029
Total	$	37,496	$	32,192

The largest governmental prepayments include the National Institute of Health Information Technology Acquisition and Assessment Center for enterprise network infrastructure services support, USPTO deposit accounts held with the U.S. Government Publishing Office to facilitate recurring transactions, the U.S. Postal Service for postage, and the Department of Commerce for centralized services.

The largest prepayments with the public as of September 30, 2022 and 2021 were predominantly $28,118 thousand and $27,466 thousand, respectively, for various hardware and software maintenance agreements and $3,263 thousand and $1,564 thousand, respectively, for various library and online database subscriptions.

NOTE 7:
Entity and Non-Entity Assets

Non-entity assets are amounts held on deposit for the convenience of the USPTO's customers. Customer deposit accounts assets have an equal customer deposit account liability recognized.

Customers have the option of maintaining a deposit account at the USPTO to facilitate the order process. Customers can draw from their deposit account when they place an order and can replenish their deposit account as desired. Funds maintained in customer deposit accounts are not available for the USPTO use until an order has been placed. Once an order has been placed, the funds are reclassified to entity funds.

As of September 30, 2022 and 2021, entity and non-entity assets consisted of the following:

(Dollars in Thousands)		**2022**		**2021**
Fund Balance with Treasury:				
Intragovernmental Customer Deposit Accounts	$	10,399	$	9,792
Customer Deposit Accounts with the Public		130,084		123,280
Total Fund Balance with Treasury		140,483		133,072
Undeposited Collections:				
Customer Deposit Accounts with the Public		3,436		4,433
Total Non-Entity Assets		143,919		137,505
Total Entity Assets		3,441,053		3,053,009
Total Assets	$	3,584,972	$	3,190,514

NOTE 8:
Liabilities Covered and Not Covered by Budgetary Resources

The USPTO records liabilities for amounts that are likely to be paid as the direct result of events that have already occurred. The USPTO's liabilities covered by budgetary resources are funded by realized budgetary resources. Realized budgetary resources include obligated balances funding existing liabilities and unobligated balances (operating reserve) as of September 30, 2022. Although future appropriations to fund liabilities not covered by budgetary resources are probable and anticipated, Congressional action is needed before budgetary resources can be provided. Liabilities not requiring budgetary resources consist of customer deposit accounts (see Note 7).

As of September 30, 2022 and 2021, liabilities covered and not covered by budgetary resources were as follows:

(Dollars in Thousands)		**2022**		**2021**
Liabilities Covered by Resources				
Intragovernmental:				
Accounts Payable	$	8,188	$	12,797
Other Liabilities:				
Benefit Program Contributions Payable		32,639		28,761
Total Intragovernmental		40,827		41,558
With the Public:				
Accounts Payable		110,530		128,029
Advances from Others and Deferred Revenue		980,431		683,645
Other Liabilities:				
Accrued Payroll		108,002		97,867
Total with the Public:		1,198,963		909,541
Total Liabilities Covered by Resources	$	1,239,790	$	951,099
Liabilities Not Covered by Resources				
Intragovernmental:				
Other Liabilities:				
Benefit Program Contributions Payable	$	1,242	$	1,401
Total Intragovernmental		1,242		1,401
With the Public:				
Accounts Payable		382		641
Federal Employee Benefits Payable		156,591		164,734
Advances from Others and Deferred Revenue		412,771		566,673
Other Liabilities:				
Accrued Payroll		74,778		76,740
Contingent Liabilities		500		415
Total with the Public:		645,022		809,203
Total Liabilities Not Covered by Resources	$	646,264	$	810,604
Liabilities Not Requiring Resources				
Intragovernmental:				
Other Liabilities:				
Customer Deposit Accounts	$	10,399	$	9,792
Total Intragovernmental		10,399		9,792
With the Public:				
Other Liabilities:				
Customer Deposit Accounts		133,520		127,713
Total with the Public:		133,520		127,713
Total Liabilities Not Requiring Resources	$	143,919	$	137,505
Total Liabilities	$	2,029,973	$	1,899,208

NOTE 9:
Advances from Others and Deferred Revenue

As of September 30, 2022, deferred revenue consisted of the following:

(Dollars in Thousands)	Patent	Trademark	Total
Unearned Fees	$ 1,141,674	$ 251,521	$ 1,393,195
Undeposited Checks	6	1	7
Total Deferred Revenue	$ 1,141,680	$ 251,522	$ 1,393,202

As of September 30, 2021, deferred revenue consisted of the following:

(Dollars in Thousands)	Patent	Trademark	Total
Unearned Fees	$ 1,040,514	$ 209,799	$ 1,250,313
Undeposited Checks	5	-	5
Total Deferred Revenue	$ 1,040,519	$ 209,799	$ 1,250,318

NOTE 10:
Federal Employee Benefits Payable

The Federal Employee Benefits Payable includes both FECA and unfunded accrued annual leave.

The FECA actuarial liability is calculated annually, as of September 30th by the DOL. For FY 2022 and 2021, projected annual payments were discounted to the present value based on averaging the Treasury's Yield Curve for Treasury Nominal Coupon (TNC) issues for the current and prior four years to reflect the average duration in years for income and medical payments, respectively. Interest rate assumptions utilized for discounting were as follows:

2022	2021
For wage benefits: 2.12% in year 1, and thereafter	**For wage benefits:** 2.23% in year 1, and thereafter
For medical benefits: 1.97% in year 1, and thereafter	**For medical benefits:** 2.06% in year 1, and thereafter

Based on information provided by the DOL, the U.S. Department of Commerce estimated the USPTO's liability as of September 30, 2022 and 2021 was $7,116 thousand and $9,666 thousand, respectively.

As of September 30, 2022 and 2021, the annual leave liability totaled $149,475 thousand and $155,068 thousand, respectively.

NOTE 11:
Leases

Operating Leases:

The General Services Administration (GSA) negotiates long-term office space leases and levies rent charges, paid by the USPTO, approximate to commercial rental rates. These operating lease agreements for the USPTO's office buildings are cancelable with appropriate notification and expire at various dates between FY 2025 and FY 2035. During the years ended September 30, 2022 and 2021, the USPTO paid $89,339 thousand and $89,463 thousand, respectively, to the GSA for rent.

Under existing commitments, the future minimum lease payments as of September 30, 2022 are as follows:

(Dollars in Thousands) Fiscal Year	Total Real Property
2023	$ 60,118
2024	58,244
2025	46,754
2026	46,382
2027	46,382
Thereafter	106,448
Total Future Minimum Lease Payments	$ 364,328

The commitments shown above relate primarily to the operating lease for the USPTO headquarters and regional offices.

Lease Location	Lease Initiation	Lease Expiration
Detroit, Michigan	FY 2022	FY 2025
Alexandria, Virginia	FY 2022	FY 2029
Denver, Colorado	FY 2021	FY 2029
Dallas, Texas	FY 2016	FY 2031
Shirlington, Virginia	FY 2020	FY 2035

NOTE 12:
Other Liabilities—Commitments and Contingencies

The USPTO is a party to various routine administrative proceedings, legal actions, and claims brought by or against it, including threatened or pending litigation involving labor relations claims, some of which may ultimately result in settlements or decisions against the federal government.

As of September 30, 2022, management expects it is reasonably possible that approximately $900 thousand may be owed for awards or damages involving labor relations claims. As of September 30, 2021, management expected it was reasonably possible that approximately $900 thousand may be owed for awards or damages involving labor relations claims.

As of September 30, 2022, the USPTO was subject to suits where an adverse outcome was probable and the claims were $500 thousand. As of September 30, 2021, the USPTO was subject to suits where an adverse outcome was probable and the claims were $415 thousand.

For the years ended September 30, 2022 and 2021, there were no payments made on behalf of the USPTO from the Judgment Fund.

As of September 30, 2022 and 2021, the USPTO did not have any major long-term commitments.

NOTE 13:
Post-employment Benefits

For the years ended September 30, 2022 and 2021, the post-employment benefit expenses were as follows:

(Dollars in Thousands)	**2022**			**2021**		
	Funded	**Imputed**	**Total**	**Funded**	**Imputed**	**Total**
CSRS	$ 4,963	$ 1,170	$ 6,133	$ 6,449	$ 1,021	$ 7,470
FERS	303,521	4,820	308,341	277,590	4,136	281,726
FEHB	99,164	(687)	98,477	92,372	3,035	95,407
FEGLI	286	-	286	279	-	279
FICA	127,032	-	127,032	123,261	-	123,261
Total Cost	$ 534,966	$ 5,303	$ 540,269	$ 499,951	$ 8,192	$ 508,143

NOTE 14:
Funds from Dedicated Collections

Funds from dedicated collections are financed by specifically identified revenues, which remain available over time. These specifically identified revenues are required by statute to be used for designated activities, benefits, or purposes, and must be accounted for separately from the government's general revenues. At the USPTO, funds from dedicated collections include the salaries and expenses fund, the fee reserve fund, and the special fund receipts. Non-entity funds, as disclosed in Note 7, are not funds from dedicated collections and are therefore excluded from the below amounts.

The **Salaries and Expenses Fund** contains moneys used for the examining and granting or registering of patents and trademarks and advising the Secretary of Commerce, the President of the United States, and the Administration on patent, trademark, and copyright protection, and trade-related aspects of intellectual property. This fund is used for the USPTO's responsibility to promote the use of intellectual property rights as a means of achieving economic prosperity. These activities give innovators, businesses, and entrepreneurs the protection and encouragement they need to turn their creative ideas into tangible products, and also provide protection for their inventions and trademarks. The USPTO may use moneys from this account only as authorized by Congress via appropriations. As discussed in Note 2 and as of September 30, 2022, the salaries and expenses fund includes the Patent operating reserve of $775,054 thousand and the Trademark operating reserve of $208,686 thousand. As of September 30, 2021, the salaries and expenses fund includes the Patent operating reserve of $475,870 thousand and the Trademark operating reserve of $207,776 thousand.

The **Patent and Trademark Fee Reserve Fund** was created by the Leahy-Smith America Invents Act enacted on September 16, 2011 (Pub. L. No. 112-29) modifying 35 U.S.C §42(c). This established a statutory provision allowing the USPTO to collect and deposit in this fund fees collected in excess of the appropriated levels for each fiscal year. Annual appropriations, subject to Congressional reprogramming requirements, provide further the authorization for the USPTO to spend those fees, which are available without fiscal limitation until expended. As of September 30, 2022, $31,633 thousand was deposited in the fee reserve fund. There were no funds deposited in the fee reserve fund as of September 30, 2021.

The **Surcharge Fund** was created through the Patent and Trademark Office Surcharge provision in the Omnibus Budget Reconciliation Act (OBRA) of 1990 (Section 10101, Pub. L. No. 101-508). This required that the USPTO impose a surcharge on certain patent fees and set in statute the amounts of money that the USPTO should deposit in a special fund receipt account at Treasury. Due to a lack of Congressional reauthorization, this surcharge expired at the end of FY 1998. The USPTO may use moneys from this account only as appropriated by Congress, and only as made available by the issuance of a Treasury warrant.

NOTE 14:
Funds from Dedicated Collections *(continued)*

(Dollars in Thousands)	Salaries and Expenses Fund	Fee Reserve Fund	Surcharge Fund	Total Funds from Dedicated Collections
Balance Sheet as of September 30, 2022				
Intragovernmental:				
Fund Balance with Treasury	$ 2,756,370	$ 31,633	$ 233,529	$ 3,021,532
Advances and Prepayments	5,979	-	-	5,979
Total Intragovernmental	2,762,349	31,633	233,529	3,027,511
With the Public:				
Cash and Other Monetary Assets	7,037	-	-	7,037
Accounts Receivable, Net	655	-	-	655
General Property, Plant, and Equipment, Net	374,333	-	-	374,333
Advances and Prepayments	31,517	-	-	31,517
Total With the Public	413,542	-	-	413,542
Total Assets	$ 3,175,891	$ 31,633	$ 233,529	$ 3,441,053
Intragovernmental:				
Accounts Payable	$ 8,188	$ -	$ -	$ 8,188
Benefit Program Contributions Payable	33,881	-	-	33,881
Total Intragovernmental	42,069	-	-	42,069
With the Public:				
Accounts Payable	110,912	-	-	110,912
Federal Employee Benefits Payable	156,591	-	-	156,591
Advances from Others and Deferred Revenue	1,393,202	-	-	1,393,202
Other Liabilities:				
Accrued Payroll	182,780	-	-	182,780
Contingent Liabilities	500	-	-	500
Total with the Public	1,843,985	-	-	1,843,985
Total Liabilities	$ 1,886,054	$ -	$ -	$ 1,886,054
Cumulative Results of Operations	1,289,837	31,633	233,529	1,554,999
Total Liabilities and Net Position	$ 3,175,891	$ 31,633	$ 233,529	$ 3,441,053
Statement of Net Cost For the Year Ended September 30, 2022				
Total Program Cost	$ 3,732,273	$ -	$ -	$ 3,732,273
Less Program Earned Revenue	(3,946,553)	-	-	(3,946,553)
Net Income From Operations	$ (214,280)	$ -	$ -	$ (214,280)
Statement of Changes in Net Position For the Year Ended September 30, 2022				
Cumulative Results of Operations				
Beginning Balance	$ 1,057,777	$ -	$ 233,529	$ 1,291,306
Transfers (Out)/In Without Reimbursement	(32,414)	31,633	-	(781)
Imputed Financing	50,194	-	-	50,194
Net Income From Operations	214,280	-	-	214,280
Net Change in Cumulative Results of Operations	232,060	31,633	-	263,693
Cumulative Results of Operations - Ending	$ 1,289,837	$ 31,633	$ 233,529	$ 1,554,999
Net Position, End of Year	$ 1,289,837	$ 31,633	$ 233,529	$ 1,554,999

NOTE 14:
Funds from Dedicated Collections *(continued)*

(Dollars in Thousands)	Salaries and Expenses Fund	Fee Reserve Fund	Surcharge Fund	Total Funds from Dedicated Collections
Balance Sheet as of September 30, 2021				
Intragovernmental:				
Fund Balance with Treasury	$ 2,423,946	$ -	$ 233,529	$ 2,657,475
Advances and Prepayments	3,163	-	-	3,163
Total Intragovernmental	2,427,109	-	233,529	2,660,638
With the Public:				
Cash and Other Monetary Assets	6,985	-	-	6,985
Accounts Receivable, Net	514	-	-	514
General Property, Plant, and Equipment, Net	355,843	-	-	355,843
Advances and Prepayments	29,029	-	-	29,029
Total With the Public	392,371	-	-	392,371
Total Assets	$ 2,819,480	$ -	$ 233,529	$ 3,053,009
Intragovernmental:				
Accounts Payable	$ 12,797	$ -	$ -	$ 12,797
Benefit Program Contributions Payable	30,162	-	-	30,162
Total Intragovernmental	42,959	-	-	42,959
With the Public:				
Accounts Payable	128,670	-	-	128,670
Federal Employee Benefits Payable	164,734	-	-	164,734
Advances from Others and Deferred Revenue	1,250,318	-	-	1,250,318
Other Liabilities:				
Accrued Payroll	174,607	-	-	174,607
Contingent Liabilities	415	-	-	415
Total with the Public	1,718,744	-	-	1,718,744
Total Liabilities	$ 1,761,703	$ -	$ -	$ 1,761,703
Cumulative Results of Operations	1,057,777	-	233,529	1,291,306
Total Liabilities and Net Position	$ 2,819,480	$ -	$ 233,529	$ 3,053,009
Statement of Net Cost For the Year Ended September 30, 2021				
Total Program Cost	$ 3,627,437	$ -	$ -	$ 3,627,437
Less Program Earned Revenue	(3,384,463)	-	-	(3,384,463)
Net Cost of Operations	$ 242,974	$ -	$ -	$ 242,974
Statement of Changes in Net Position For the Year Ended September 30, 2021				
Cumulative Results of Operations				
Beginning Balance	$ 1,019,109	$ 231,883	$ 233,529	$ 1,484,521
Transfers In/(Out) Without Reimbursement	233,002	(231,883)	-	1,119
Imputed Financing	48,640	-	-	48,640
Net Cost of Operations	(242,974)	-	-	(242,974)
Net Change in Cumulative Results of Operations	38,668	(231,883)	-	(193,215)
Cumulative Results of Operations - Ending	$ 1,057,777	$ -	$ 233,529	$ 1,291,306
Net Position, End of Year	$ 1,057,777	$ -	$ 233,529	$ 1,291,306

NOTE 15:
Program Costs

Program costs consist of both costs related directly to the responsibility segments (patents and trademarks) and overall support costs, which are allocated to the responsibility segments based on their proportionate share. All costs are assigned to specific programs. Total program costs for the years ended September 30, 2022 and 2021 by cost category were as follows:

(Dollars in Thousands)	2022		
	Direct	**Allocated**	**Total**
Personnel Services and Benefits	$ 2,362,621	$ 224,150	$ 2,586,771
Travel and Transportation	203	993	1,196
Rent, Communications, and Utilities	78,933	39,411	118,344
Printing and Reproduction	162,837	241	163,078
Contractual Services	233,101	310,812	543,913
Training	3,288	2,559	5,847
Maintenance and Repairs	649	38,580	39,229
Supplies and Materials	44,135	2,270	46,405
Equipment not Capitalized	1,607	49,738	51,345
Insurance Claims and Indemnities	191	150	341
Depreciation, Amortization, and Loss on Asset Dispositions	114,789	61,015	175,804
Total Program Costs	$ 3,002,354	$ 729,919	$ 3,732,273

(Dollars in Thousands)	2021		
	Direct	**Allocated**	**Total**
Personnel Services and Benefits	$ 2,309,398	$ 219,699	$ 2,529,097
Travel and Transportation	21	285	306
Rent, Communications, and Utilities	78,140	42,848	120,988
Printing and Reproduction	162,825	127	162,952
Contractual Services	214,174	292,901	507,075
Training	2,787	2,686	5,473
Maintenance and Repairs	2,626	48,993	51,619
Supplies and Materials	42,639	2,903	45,542
Equipment not Capitalized	1,845	29,422	31,267
Insurance Claims and Indemnities	696	115	811
Depreciation, Amortization, and Loss on Asset Dispositions	112,640	59,667	172,307
Total Program Costs	$ 2,927,791	$ 699,646	$ 3,627,437

NOTE 16:
Program Costs by Responsibility Segment

The following tables present program costs for the USPTO's primary responsibility segments: granting patents and registering trademarks.

The program costs for the years ended September 30, 2022 and 2021 by responsibility segment were as follows:

(Dollars in Thousands)	2022		
	Patent	**Trademark**	**Total**
Direct Costs			
Personnel Services and Benefits	$ 2,128,313	$ 234,308	$ 2,362,621
Travel and Transportation	192	11	203
Rent, Communications, and Utilities	68,898	10,035	78,933
Printing and Reproduction	162,798	39	162,837
Contractual Services	213,225	19,876	233,101
Training	2,933	355	3,288
Maintenance and Repairs	475	174	649
Supplies and Materials	42,460	1,675	44,135
Equipment not Capitalized	434	1,173	1,607
Insurance Claims and Indemnities	189	2	191
Depreciation, Amortization, and Loss on Asset Dispositions	91,546	23,243	114,789
Subtotal Direct Costs	$ 2,711,463	$ 290,891	$ 3,002,354
Allocated Costs			
Automation	$ 268,909	$ 59,190	$ 328,099
Resource Management	325,451	76,369	401,820
Subtotal Allocated Costs	$ 594,360	$ 135,559	$ 729,919
Total Program Costs	$ 3,305,823	$ 426,450	$ 3,732,273

NOTE 16:
Program Costs by Responsibility Segment (continued)

	2021		
(Dollars in Thousands)	**Patent**	**Trademark**	**Total**
Direct Costs			
Personnel Services and Benefits	$ 2,085,712	$ 223,686	$ 2,309,398
Travel and Transportation	10	11	21
Rent, Communications, and Utilities	68,711	9,429	78,140
Printing and Reproduction	162,792	33	162,825
Contractual Services	193,836	20,338	214,174
Training	2,555	232	2,787
Maintenance and Repairs	2,320	306	2,626
Supplies and Materials	41,191	1,448	42,639
Equipment not Capitalized	1,406	439	1,845
Insurance Claims and Indemnities	689	7	696
Depreciation, Amortization, and Loss on Asset Dispositions	90,347	22,293	112,640
Subtotal Direct Costs	$ 2,649,569	$ 278,222	$ 2,927,791
Allocated Costs			
Automation	$ 265,518	$ 38,478	$ 303,996
Resource Management	320,805	74,845	395,650
Subtotal Allocated Costs	$ 586,323	$ 113,323	$ 699,646
Total Program Costs	$ 3,235,892	$ 391,545	$ 3,627,437

NOTE 17:
Budgetary Resources

Total budgetary resources are primarily comprised of Congressional authority to spend current year fee collections. The USPTO receives an apportionment of Category A funds from OMB, which apportions budgetary resources by fiscal quarter. The USPTO does not receive any Category B funds, or those exempt from apportionment.

For FY 2022, the USPTO was appropriated up to $4,058,410 thousand for fees collected during the fiscal year. For the year ended September 30, 2022, the USPTO collected $33,269 thousand more than the amount apportioned through September 30, 2022 (over-collections of fees of $33,633 thousand and net under-collections of other budgetary resources of $364 thousand); excess fee collections of $31,633 thousand were deposited in the fee reserve fund and remain available until expended subject to reprogramming.

For FY 2021, the USPTO was appropriated up to $3,695,295 thousand for fees collected during the fiscal year. For the year ended September 30, 2021, the USPTO collected $96,340 thousand less than the amount appropriated and apportioned through September 30, 2021 (under-collections of fees of $70,333 thousand and net under-collections of other budgetary resources of $26,007 thousand).

Total budgetary resources also include carryover of prior year budgetary resources (operating reserve). Carryover is derived from year-end budgetary resources that have not been obligated. Usage of the fees in the following fiscal year is for compensation and operational requirements on a first-in, first-out basis. For FY 2022, the carryover amount that was brought into the fiscal year from FY 2021 was $683,646 thousand, all of which were comprised of operating reserves which were immediately available. For FY 2021, the carryover amount that was brought into the fiscal year from FY 2020 was $744,641 thousand, comprised of $512,758 thousand in operating reserves immediately available and $231,883 thousand in the fee reserve fund subject to Congressional reprogramming.

As of September 30, 2022 and 2021, reimbursable obligations incurred were $3,809,681 thousand and $3,722,450 thousand, respectively.

Funding Limitations

Pursuant to the Leahy-Smith America Invents Act (35 U.S.C. §42(c)), all fees available to the Director under section 31 of the Trademark Act of 1946 are used only for the processing of trademark registrations and for other activities, services, and materials relating to trademarks, as well as to cover a proportionate share of the administrative costs of the USPTO.

Pursuant to the Leahy-Smith America Invents Act (35 U.S.C. §42(c)), all fees available to the Director under sections 41, 42, and 376 of 35 U.S.C. are used only for the processing of patent applications and for other activities, services, and materials relating to patents, as well as to cover a proportionate share of the administrative costs of the USPTO.

Since FY 1992, the USPTO has not always been appropriated all of the fees that have been collected. The total temporarily unavailable fee collections pursuant to Public Law as of September 30, 2022 are $1,171,348 thousand. Of this amount, certain USPTO collections of $233,529 thousand were withheld in accordance with the OBRA of 1990, and deposited in a special fund receipt account at Treasury.

Pursuant to the *Consolidated and Further Continuing Appropriations Act, 2013* (Pub. L. No. 113-6), the USPTO has sequestered funds of $147,733 thousand (8.6% of fees collected starting March 1, 2013 through the end of the fiscal year). The sequestered funds, while included in the USPTO Salaries and Expenses Fund, are not available for spending without further Congressional action.

NOTE 17:
Budgetary Resources *(continued)*

Undelivered Orders

In addition to the future lease commitments discussed in Note 11, the USPTO is obligated for the purchase of goods and services that have been ordered, but not yet received.

As of September 30, 2022, reimbursable undelivered orders consisted of the following:

(Dollars in Thousands)	**Unpaid**	**Paid**	**Total**
Intragovernmental	$ 22,012	$ 5,979	$ 27,991
With the Public	553,440	31,517	584,957
Total Undelivered Orders	$ 575,452	$ 37,496	$ 612,948

As of September 30, 2021, reimbursable undelivered orders consisted of the following:

(Dollars in Thousands)	**Unpaid**	**Paid**	**Total**
Intragovernmental	$ 21,503	$ 3,163	$ 24,666
With the Public	513,525	29,029	542,554
Total Undelivered Orders	$ 535,028	$ 32,192	$ 567,220

Explanation of Differences between the Statement of Budgetary Resources (SBR) and the Budget of the U.S. Government

A comparison was performed between the amounts reported in the FY 2021 SBR and the actual FY 2021 amounts reported in the FY 2023 Budget of the U.S. government for SBR lines T*otal Budgetary Resources; New Obligations; and Net Outlays (discretionary).* There were no material differences identified. The President's Budget that will report actual amounts for FY 2022 has not yet been published, and will be made available on OMB's President's Budget webpage.

NOTE 18:
Incidental Custodial Collections

Custodial collections represent miscellaneous general fund receipts of $380 thousand and $324 thousand for the years ended September 30, 2022 and 2021, respectively, and includes non-electronic patent filing fees, gains on foreign exchange rates, and employee debt finance charges. Custodial collection activities are considered immaterial and incidental to the mission of the USPTO.

NOTE 19:
Fiduciary Activities

Fiduciary activities are the collection or receipt, and the management, protection, accounting, and disposition by the federal government of cash or other assets in which non-federal individuals or entities have an ownership interest that the federal government must uphold. Fiduciary cash and other assets are not assets of the federal government and accordingly are not recognized on the proprietary financial statements.

The Patent Cooperation Treaty authorized the USPTO to collect patent filing and search fees on behalf of the World Intellectual Property Organization (WIPO), European Patent Office, Korean Intellectual Property Office, Russian Intellectual Property Organization, Australian Patent Office, Israeli Patent Office, Japanese Patent Office, and Intellectual Property Office of Singapore from U.S. citizens requesting an international patent. The Madrid Protocol Implementation Act authorized the USPTO to collect trademark application fees on behalf of the International Bureau of the WIPO from U.S. citizens requesting an international trademark.

(Dollars in Thousands)	**Patent Cooperation Treaty**	**Madrid Protocol**	**Total Fiduciary Funds**
Schedule of Fiduciary Activity For the Year Ended September 30, 2022			
Fiduciary Net Assets, Beginning of Year	$ 16,559	$ 964	$ 17,523
Contributions	163,233	46,114	209,347
Disbursements To and on Behalf of Beneficiaries	(163,170)	(46,288)	(209,458)
Increase/(Decrease) in Fiduciary Net Assets	63	(174)	(111)
Fiduciary Net Assets, End of Year	$ 16,622	$ 790	$ 17,412

(Dollars in Thousands)	**Patent Cooperation Treaty**	**Madrid Protocol**	**Total Fiduciary Funds**
Fiduciary Net Assets as of September 30, 2022			
Cash and Cash Equivalents	$ 16,622	$ 790	$ 17,412
Total Fiduciary Net Assets	$ 16,622	$ 790	$ 17,412

(Dollars in Thousands)	**Patent Cooperation Treaty**	**Madrid Protocol**	**Total Fiduciary Funds**
Schedule of Fiduciary Activity For the Year Ended September 30, 2021			
Fiduciary Net Assets, Beginning of Year	$ 14,236	$ 3,070	$ 17,306
Contributions	164,613	42,131	206,744
Disbursements To and on Behalf of Beneficiaries	(162,290)	(44,237)	(206,527)
Increase/(Decrease) in Fiduciary Net Assets	2,323	(2,106)	217
Fiduciary Net Assets, End of Year	$ 16,559	$ 964	$ 17,523

(Dollars in Thousands)	**Patent Cooperation Treaty**	**Madrid Protocol**	**Total Fiduciary Funds**
Fiduciary Net Assets as of September 30, 2021			
Cash and Cash Equivalents	$ 16,559	$ 964	$ 17,523
Total Fiduciary Net Assets	$ 16,559	$ 964	$ 17,523

NOTE 20:
Reconciliation of Net Cost to Net Outlays

Most entity transactions are recorded in both budgetary and proprietary accounts. However, because different accounting guidelines are used for budgetary and proprietary accounting, some transactions may appear in only one set of accounts. The reconciliation of net outlays, presented on a budgetary basis, and the net cost, presented on an accrual basis, provides an explanation of the relationship between budgetary and financial accounting information. This reconciliation serves not only to identify costs paid for in the past and those that will be paid in the future, but also to assure integrity between budgetary and financial accounting. The analysis below illustrates this reconciliation by listing the key differences between net cost and net outlays. *Net Outlays* is composed of Gross Outlays less Offsetting Collections. The second section reverses out items included in *Net Cost that are not part of Net Outlays*. The third section adds items included in *Net Outlays that are not part of Net Cost*. Items that do not have a budgetary impact as of the Balance Sheet date, such as the undeposited checks for fees that were not processed, or items that have a budgetary impact without a corresponding cost impact, such as accrued asset amounts (see Note 5), are not included in this reconciliation.

For the years ended September 30, 2022 and 2021, the reconciliation of net cost to net outlays is as follows:

	2022		
(Dollars in Thousands)	**Intragovernmental**	**With the Public**	**Total**
NET COST/(INCOME) FROM OPERATIONS	$ 841,443	$ (1,055,723)	$ (214,280)
COMPONENTS OF NET COST THAT ARE NOT PART OF NET OUTLAYS:			
Property, Plant, and Equipment Depreciation	-	(168,433)	(168,433)
Property, Plant, and Equipment Disposal and Revaluation	-	(7,371)	(7,371)
Increase/(Decrease) in Assets:			
Accounts Receivable	-	141	141
Cash and Other Monetary Assets	-	49	49
Advances and Prepayments	2,816	2,488	5,304
(Increase)/Decrease in Liabilities:			
Accounts Payable	4,609	766	5,375
Benefit Program Contributions Payable	(3,719)	-	(3,719)
Federal Employee Benefits Payable	-	8,143	8,143
Advances from Others and Deferred Revenue	-	(142,884)	(142,884)
Other Liabilities:			
Accrued Payroll	-	(8,173)	(8,173)
Contingent Liabilities	-	(85)	(85)
Other Financing Sources:			
Federal Employee Retirement Benefit Costs Paid by OPM and Imputed to the Agency	(5,303)	-	(5,303)
Other Imputed Financing	(44,891)	-	(44,891)
Total Components of Net Cost That Are Not Part of Net Outlays	(46,488)	(315,359)	(361,847)
COMPONENTS OF NET OUTLAYS THAT ARE NOT PART OF NET COST:			
Acquisition of Capital Assets	47	211,242	211,289
Transfers In Without Reimbursements	(1,219)	-	(1,219)
Total Components of Net Outlays That Are Not Part of Net Cost	(1,172)	211,242	210,070
NET OUTLAYS	$ 793,783	$ (1,159,840)	$ (366,057)

NOTE 20:
Reconciliation of Net Cost to Net Outlays *(continued)*

	2021		
(Dollars in Thousands)	**Intragovernmental**	**With the Public**	**Total**
NET COST/(INCOME) FROM OPERATIONS	$ 804,354	$ (561,380)	$ 242,974
COMPONENTS OF NET COST THAT ARE NOT PART OF NET OUTLAYS:			
Property, Plant, and Equipment Depreciation	-	(171,585)	(171,585)
Property, Plant, and Equipment Disposal and Revaluation	-	(722)	(722)
Increase/(Decrease) in Assets:			
Accounts Receivable	-	6	6
Cash and Other Monetary Assets	-	(21,428)	(21,428)
Advances and Prepayments	(887)	7,866	6,979
(Increase)/Decrease in Liabilities:			
Accounts Payable	(1,382)	(9,822)	(11,204)
Benefit Program Contributions Payable	(3,147)	-	(3,147)
Federal Employee Benefits Payable	-	2,915	2,915
Advances from Others and Deferred Revenue	-	(217,262)	(217,262)
Other Liabilities:			
Accrued Payroll	-	(16,453)	(16,453)
Contingent Liabilities	-	(115)	(115)
Other Financing Sources:			
Federal Employee Retirement Benefit Costs Paid by OPM and Imputed to the Agency	(8,192)	-	(8,192)
Other Imputed Financing	(40,448)	-	(40,448)
Total Components of Net Cost That Are Not Part of Net Outlays	(54,056)	(426,600)	(480,656)
COMPONENTS OF NET OUTLAYS THAT ARE NOT PART OF NET COST:			
Acquisition of Capital Assets	1,853	163,307	165,160
Transfers In Without Reimbursements	(3,119)	-	(3,119)
Total Components of Net Outlays That Are Not Part of Net Cost	(1,266)	163,307	162,041
NET OUTLAYS	$ 749,032	$ (824,673)	$ (75,641)

NOTE 21.
COVID-19 Activity

The USPTO did not have a significant amount of budgetary activity as of September 30, 2022 and 2021 associated with responding to COVID-19 and the economic consequences thereof.

Required Supplementary Information (Unaudited)

Combining Schedule of Budgetary Resources by Major Budget Account

The following table illustrates the USPTO's FY 2022 budgetary resources by major budget account.

(Dollars in Thousands)	**Salaries and Expenses Fund**	**Fee Reserve Fund**	**Combining Total**
BUDGETARY RESOURCES			
Unobligated Balance, Brought Forward	$ 683,646	$ -	$ 683,646
Recoveries of Prior Year Obligations	50,210	-	50,210
Unobligated Balance from Prior Year Budget Authority, Net (discretionary)	733,856	-	733,856
Spending Authority from Offsetting Collections (discretionary)	4,059,565	31,633	4,091,198
Total Budgetary Resources	$ 4,793,421	$ 31,633	$ 4,825,054
STATUS OF BUDGETARY RESOURCES			
New Obligations	$ 3,809,681	-	$ 3,809,681
Unobligated Balance, End of Year:			
Apportioned	980,430	-	980,430
Unapportioned	3,310	31,633	34,943
Total Status of Budgetary Resources	$ 4,793,421	$ 31,633	$ 4,825,054
OUTLAYS, NET			
Net Collections (discretionary)	$ (366,057)	$ -	$ (366,057)

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

Deferred Maintenance and Repairs

Deferred maintenance and repairs (DM&R) are maintenance and repair activities that were not performed when they should have been, that were scheduled and not performed, or that were delayed to a future period. Maintenance and repair activities aim to keep Property, Plant, and Equipment (PP&E) in acceptable operating condition. These activities include preventive maintenance, normal repairs, replacing parts and structural components, and other activities needed to preserve a given asset so it can deliver acceptable performance and last its full life cycle. Maintenance and repairs exclude activities aimed at expanding an asset's capacity or otherwise upgrading it to serve different or significantly greater needs than those originally intended.

PP&E at the USPTO consists of furniture and fixtures, IT equipment, office and telecommunication equipment, leasehold improvements, and software. Entity policy is to ensure all PP&E, regardless of recorded value, is maintained, preserved, and managed safely and effectively. The USPTO conducts periodic user feedback meetings to evaluate the effectiveness of training, operations, maintenance, facilities, continuity of operations, and supporting documentation of automated systems. The USPTO prioritizes maintenance and repair projects, including maintaining warranties, to keep its PP&E in good operating condition. The USPTO uses funds to replace equipment regularly to keep operations and maintenance costs stable and low. Accordingly, the USPTO does not experience DM&R for its PP&E and does not periodically assess DM&R.

INDEPENDENT AUDITORS' REPORT

UNITED STATES DEPARTMENT OF COMMERCE
Office of Inspector General
Washington, D.C. 20230

November 15, 2022

MEMORANDUM FOR: Kathi Vidal
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

FROM: Richard Bachman
Assistant Inspector General for Audit and Evaluation

SUBJECT: *United States Patent and Trademark Office FY 2022 Financial Statements*
Final Report No. OIG-23-003-A

I am pleased to provide you with the attached audit report, which presents an unmodified opinion on the United States Patent and Trademark Office's (USPTO's) fiscal year 2022 financial statements. KPMG LLP—an independent public accounting firm—performed the audit in accordance with U.S. generally accepted auditing standards, standards applicable to financial audits contained in *Government Auditing Standards*, and Office of Management and Budget Bulletin No. 22-01, *Audit Requirements for Federal Financial Statements*.

In its audit of USPTO, KPMG

- determined that the financial statements were fairly presented, in all material respects, and in accordance with U.S. generally accepted accounting principles;
- identified no material weaknesses in internal control over financial reporting; and
- identified no instances of reportable noncompliance with applicable laws, regulations, contracts, and grant agreements.

KPMG is solely responsible for the attached audit report and the conclusions expressed in it. We do not express any opinion on USPTO's financial statements; any conclusions about the effectiveness of internal control over financial reporting; or any conclusions on compliance with applicable laws, regulations, contracts, and grant agreements.

This report will appear on our website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

We would like to thank USPTO's staff and management for its cooperation and courtesies extended to KPMG and my office during this audit.

Attachment

KPMG LLP
Suite 12000
1801 K Street, NW
Washington, DC 20006

Independent Auditors' Report

Inspector General, U.S. Department of Commerce and
Under Secretary of Commerce for Intellectual Property and
Director of the U.S. Patent and Trademark Office:

Report on the Audit of the Financial Statements

Opinion

We have audited the financial statements of the United States Patent and Trademark Office (USPTO) which comprise the balance sheets as of September 30, 2022 and 2021, and the related statements of net cost, changes in net position, and combined statements of budgetary resources for the years then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the United States Patent and Trademark Office as of September 30, 2022 and 2021, and its net costs, changes in net position, and budgetary resources for the years then ended in accordance with U.S. generally accepted accounting principles.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS), the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Bulletin No. 22-01, *Audit Requirements for Federal Financial Statements*. Our responsibilities under those standards and OMB Bulletin No. 22-01 are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the USPTO and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Other Matters - Interactive Data

Management has elected to reference to information on websites or other forms of interactive data outside the Agency Financial Report to provide additional information for the users of its financial statements. Such information is not a required part of the financial statements or supplementary information required by the Federal Accounting Standards Advisory Board. The information on these websites or the other interactive data has not been subjected to any of our auditing procedures, and accordingly we do not express an opinion or provide any assurance on it.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with U.S. generally accepted accounting principles, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

KPMG

Auditors' Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, Government Auditing Standards, and OMB Bulletin No. 22-01 will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, Government Auditing Standards, and OMB Bulletin No. 22-01, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the USPTO's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control related matters that we identified during the audit.

Required Supplementary Information

U.S. generally accepted accounting principles require that the information in the Management's Discussion and Analysis and Required Supplementary Information sections be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Federal Accounting Standards Advisory Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with GAAS, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audits of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Management is responsible for the other information included in the *Agency Financial Report*. The other information comprises the Financial and Related Highlights, Table of Contents, the Message, Introduction, Message from Chief Financial Officer, Other Information, Glossary of Acronyms, and Index of URL sections, as but it does not include the financial statements and our auditors' report thereon. Our opinion on the financial statements does not cover the other information, and we do not express an opinion or any form of assurance thereon.

KPMG

In connection with our audit of the financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Report on Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements as of and for the year ended September 30, 2022, we considered the USPTO's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the USPTO's internal control. Accordingly, we do not express an opinion on the effectiveness of the USPTO's internal control. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the USPTO's financial statements as of and for the year ended September 30, 2022 are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 22-01.

Purpose of the Reporting Required by *Government Auditing Standards*

The purpose of the communication described in the Report on Internal Control Over Financial Reporting and the Report on Compliance and Other Matters sections is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the USPTO's internal control or compliance. Accordingly, this communication is not suitable for any other purpose.

KPMG LLP

Washington, District of Columbia
November 7, 2022

OTHER INFORMATION (UNAUDITED)

Summary of Financial Statement Audit and Management Assurances

Table 6. Summary of Financial Statement Audit

Audit Opinion	Unmodified				
Restatement	No				
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Ending Balance**
NONE	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0

Table 7. Summary of Management Assurances

Effectiveness of Internal Control over Financial Reporting (FMFIA §2)						
Statement of Assurance	Unmodified Assurance					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Effectiveness of Internal Control over Operations (FMFIA §2)						
Statement of Assurance	Unmodified Assurance					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
NONE	0	0	0	0	0	0
Total Material Weaknesses	0	0	0	0	0	0
Conformance with Financial Management System Requirements (FMFIA §4)						
Statement of Assurance	Systems conform to financial management system requirements					
Non-Conformances	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Reassessed**	**Ending Balance**
NONE	0	0	0	0	0	0
Total Non-Conformances	0	0	0	0	0	0

Compliance with Section 803(a) of the FFMIA		
	Agency	**Auditor**
1. Federal Financial Management System Requirements	No lack of compliance noted	No lack of compliance noted
2. Applicable Federal Accounting Standards	No lack of compliance noted	No lack of compliance noted
3. U.S. Standard General Ledger at Transaction Level	No lack of compliance noted	No lack of compliance noted

Inspector General's Top Management Challenges Facing the USPTO

The USPTO is responsible for resolving the Management Challenge #9 – Strengthening U.S. Leadership in Intellectual Property, as described in the OIG's October 13th report, Top Management and Performance Challenges Facing the Department of Commerce in Fiscal Year 2023. The USPTO is also responsible for continuing to improve its own cybersecurity posture in support of resolving Management Challenge #1.

UNITED STATES DEPARTMENT OF COMMERCE
Office of Inspector General
Washington, D.C. 20230

INFORMATION MEMORANDUM FOR SECRETARY RAIMONDO

FROM: Peggy E. Gustafson, Inspector General, (202) 793-3336

DATE: October 13, 2022

CC: Don Graves, Deputy Secretary of Commerce
Eric Morrissette, Chief of Staff
André Mendes, Chief Information Officer
Jeremy Pelter, Acting Chief Financial Officer and Assistant Secretary for Administration
Operating Unit Heads
Operating Unit Audit Liaisons

RE: *Top Management and Performance Challenges Facing the Department of Commerce in Fiscal Year 2023*
Final Report No. OIG-23-001

The Office of Inspector General is required by statute[1] to report annually the most serious management and performance challenges facing the U.S. Department of Commerce (the Department). Attached is our final report on the Department's top management and performance challenges for fiscal year 2023.

For each challenge identified within this memorandum, please find brief descriptions of the issues discussed in greater detail in the report.

Challenge 1: Improving the Department's Cybersecurity Effectiveness Through Zero Trust

- Continuing to mature the information technology (IT) security program
- Transitioning to zero-trust architecture

Challenge 2: Ensuring Continuity of Environmental Data from Satellites, Ships, Aircraft, and Ground-Based Systems and Improving Weather and Climate Services

- Maintaining continuity of geostationary and polar satellites
- Developing the next generation of satellite systems
- Protecting observations, operations, and communications from frequency interference
- Moving toward an operational collision avoidance support service
- Recapitalizing ships and aircraft

[1] 31 U.S.C. § 3516(d).

- Balancing weather service improvements and longer-term climate resilience

Challenge 3: Managing IT Investments and Improving Supported Operations

- Avoiding further delays to Business Applications Solution implementation
- Managing risks to the implementation of an enterprise grants management system

Challenge 4: Ensuring Prudent Financial Management and Oversight of Broadband Infrastructure Funding

- Acquiring and maintaining sufficient staff with proficiency to ensure proper oversight and use of funds
- Implementing appropriate measures to prevent, detect, and report potential fraud and hold grantees, subgrantees, contractors, and subcontractors accountable for performance

Challenge 5: Enforcing Fair and Secure Trade and Effectively Implementing Export Controls

- Combating unfair trade practices by effectively resolving trade barriers and enforcing U.S. trade agreements
- Combating China's military-civil fusion strategy
- Ensuring proper implementation of export controls related to Russia's invasion of Ukraine

Challenge 6: Deploying a Nationwide Public Safety Broadband Network (NPSBN)

- Ensuring a sound reinvestment process
- Ensuring appropriate task order oversight
- Ensuring proper NPSBN adoption and coverage

Challenge 7: Improving Management and Oversight of Contracts and Grants to Ensure Responsible Spending

- Ensuring the integrity of grant programs
- Ensuring programs approved for State Small Business Credit Initiative funding comply with program requirements
- Developing and retaining a competent acquisition workforce to support the Department's mission

Challenge 8: Establishing a Strong Framework with Adequate Resources to Support the 2030 Census Planning Efforts and Enhance Overall Survey Quality

- Ensuring the timely delivery of 2020 Census studies and the timely completion of the *2020 Post-Census Group Quarters Review* needed to inform 2030 Census planning

2

- Ensuring information from the *Post-Enumeration Survey* is used to develop a strategy for obtaining a more accurate count of certain demographic groups and state populations for the 2030 Census
- Enhancing the accuracy and reliability of the U.S. Census Bureau's address list
- Ensuring data products provide timely, reliable, and quality data to stakeholders

Challenge 9: Strengthening U.S. Leadership in Intellectual Property

- Continuing efforts to improve and maintain patent quality and service
- Protecting and supporting registration processes and trademark owners
- Improving critical mission support functions

The final version of the report will be included in the Department's *Annual Financial Report*, as required by law.[2] We remain committed to keeping the Department's decision-makers informed of problems identified through our audits and investigations so that timely corrective actions can be taken. In addition to the topics included in the fiscal year 2023 top management and performance challenges report, we will review the Department's efforts to implement the CHIPS and Science Act (Pub. L. No. 117-167).

We appreciate the cooperation received from the Department, and we look forward to working with you and the Secretarial Officers in the coming months. If you have any questions concerning this report, please contact me at (202) 793-3336.

[2] *Ibid.*

Payment Integrity Information Act Reporting

The Payment Integrity Information Act of 2019 (PIIA) requires agencies to review all programs and activities periodically, identify and take multiple actions on those that may be susceptible to significant improper payments, and annually report information on their improper payment monitoring and minimization efforts. OMB Circular A-123, Appendix C, Requirements for Payment Integrity Improvement provides guidance to agencies on complying with PIIA and making efforts to monitor and minimize improper payments. The USPTO has not identified any programs or activities susceptible to significant improper payments or any significant problems with improper payments.

The USPTO recognizes the importance of maintaining adequate internal controls to ensure the accuracy and integrity of the agency's payments, and it maintains a strong commitment to continuously improving its overall disbursement management process. For FY 2022 and beyond, the USPTO will continue its efforts to ensure the integrity of its disbursements.

Risk Assessment

The USPTO annually reviews all of its programs and activities to assist in identifying, reporting on, and preventing erroneous or improper payments. The USPTO completed this review in FY 2022.

The USPTO annually assesses the effectiveness of its internal control over financial reporting in compliance with OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control. Furthermore, every three years, the USPTO includes a review of its internal controls over disbursement processes in its annual assessment. The most recent review the USPTO performed in FY 2021 indicated that the agency's current internal controls over disbursement processes are sound.

The USPTO completes an annual improper payment risk assessment covering all of its programs and activities, as required by OMB Circular A-123, Appendix C. These improper payment risk assessments also include assessments of the control and procurement environment.

The results of the USPTO assessments revealed no programs that were susceptible to risk and demonstrated that, overall, the USPTO has strong internal controls over disbursement processes, the amount of improper payments by the USPTO is immaterial, and the risk of improper payments is low.

Statistical Sampling

As none of the USPTO's programs or activities are susceptible to significant improper payments, the USPTO has not conducted a statistical sample to estimate the improper payment rate for USPTO programs and activities.

Improper Payments Reporting, Root Causes, and Corrective Actions

During FY 2022, improper payments for all USPTO programs and activities amounted to $1.2 million, or 0.03% of total outlays. As none of the USPTO's programs or activities are susceptible to significant improper payments, the USPTO does not present an improper payment reduction outlook, root cause analyses, or corrective actions for the agency's programs and activities.

Accountability

The USPTO has not identified any significant problems with improper payments. During FY 2022, improper payments for all USPTO programs and activities did not exceed the statutory thresholds for increased reporting. The USPTO recognizes the importance of maintaining adequate internal controls to ensure proper payments, and the agency remains strongly committed to continuously improving its disbursement management processes. The USPTO's CFO is responsible for establishing policies and procedures for assessing USPTO and program risks of improper payments; taking actions to reduce improper payments; and reporting the results of reduction actions to management for oversight and further steps, as deemed appropriate. The CFO has designated the Deputy CFO to oversee initiatives related to reducing improper payments within the USPTO.

Recaptures of Improper Payments

Payment Recapture Audits

The USPTO does not currently conduct recapture audits, as prior recapture audit activities did not yield any meaningful results. As the USPTO determined that recapture audits are not cost-effective, the agency does not present payment recapture rates, disposition of recaptured funds, and aging of outstanding overpayments for its programs and activities.

Overpayments Recaptured Outside of Payment Recapture Audits

The following table summarizes overpayments the USPTO identified. The table also includes recaptured overpayments verified through sources other than payment recapture audits that are reportable in the current fiscal year and that were reported in prior fiscal years. Prior fiscal years' amounts represent reporting for FY 2011 through FY 2021, as FY 2011 was the first fiscal year in which this reporting requirement took effect. Amounts recaptured for current year reporting include payment recaptures during FY 2022 of both improper payments reported in FY 2022 and improper payments reported in prior fiscal years.

Table 8. Overpayments Recaptured Outside of Recapture Audits (Dollars in Millions)

Overpayments Recaptured Outside of Recapture Audits *(Dollars in Millions)*						
	Current Year (CY)		**Prior Years (PY)**		**Cumulative (CY + PY)**	
Source of Overpayments	Amounts Identified for Payment Recapture	Amounts Recaptured	Amounts Identified for Payment Recapture	Amounts Recaptured	Amounts Identified for Payment Recapture	Amounts Recaptured
Post-payment Reviews	$ 0.34	$ 0.13	$ 6.23	$ 5.87	$ 6.57	$ 6.00
Audits and Other Reviews	0.10	0.04	0.43	0.23	0.53	0.27
Reported by Vendors	0.59	0.59	5.49	5.48	6.08	6.07
Total	$ 1.03	$ 0.76	$ 12.15	$ 11.58	$ 13.18	$ 12.34

The USPTO continues to enhance its processes by identifying and implementing additional procedures to prevent and detect improper payments. In FY 2022, the USPTO continued its reporting procedures to senior management and to DOC on improper payments and payment recapture data. As part of this reporting procedure, the USPTO identifies the nature and magnitude of any improper payments, along with any necessary control enhancements to prevent further occurrences of the types of improper payments identified. The USPTO's analysis of reported data reflects that improper payments were below 0.03% in FY 2022. The USPTO has also reviewed all financial statement audit comments and the results of other payment reviews for indications of disbursement control breaches. None of these audit comments or reviews have uncovered any significant problems with improper payments or the internal controls the USPTO applied to disbursements.

The USPTO has improper payment monitoring and minimization efforts in place, including the identification of improper payments through post-payment and contract closeout reviews. The agency seeks to identify overpayments and erroneous payments by reviewing credit memos and refund checks issued by vendors or customers and undelivered electronic payments returned by financial institutions. The USPTO also inquires with business units monthly about whether they, through the contract oversight process, identified any improper payments. In addition, the agency has improved processes to minimize erroneous payments resulting from vendor payment assignments, which have historically been the source of the larger improper payments. The USPTO now keeps a master file for all assignments that is available to all payment technicians and approvers. The USPTO also periodically reminds technicians and approvers to monitor assignments.

Agency Reduction of Improper Payments with the Do Not Pay Initiative

The USPTO employs a periodic vendor record eligibility validation process using Do Not Pay Initiative databases to prevent improper payments. In addition, the USPTO has incorporated the following PIIA-listed Do Not Pay Initiative databases into existing business processes and programs:

- The Death Master File of the Social Security Administration
- GSA's Excluded Parties List System/System for Award Management
- OMB Circular A-123, Appendix C, Requirements for Payment Integrity Improvement

Furthermore, the USPTO conducts monthly post-payment screenings using a batch process. The agency screens an applicable subset of payments to identify any improper payments and takes any appropriate recovery, corrective, and preventative actions. Also, the USPTO continuously monitors an applicable subset of active vendor records to ensure vendors are not subject to payment and procurement restrictions. The USPTO uses its monitoring results to better maintain vendor records and reduce or prevent improper payments and awards. During FY 2022, the validation processes using the Do Not Pay Initiative databases did not result in the identification or reduction of any improper payments or awards.

Table 9. Results of the Do Not Pay Initiative in Preventing Improper Payments (Dollars in millions)

Results of the Do Not Pay Initiative in Preventing Improper Payments *(Dollars in millions)*						
	Number of Payments Reviewed for Possible Improper Payments	***Dollars of Payments Reviewed for Possible Improper Payments***	***Number of Payments Stopped***	***Dollars of Payments Stopped***	***Number of Potential Improper Payments Reviewed and Determined Accurate***	***Dollars of Potential Improper Payments Reviewed and Determined Accurate***
Reviews with the PIIA-specified databases	16,553	$902.1	0	$0	0	$0
Reviews with other databases not listed in PIIAs	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable

Fraud Reduction Report

The PIIA requires federal agencies to improve their financial and administrative controls and procedures to assess and mitigate fraud risks. The PIIA also requires federal agencies to improve their development and use of data analytics to identify, prevent, and respond to fraud, including improper payments.

The USPTO considers the risk of fraudulent financial reporting and misappropriation of assets using internal controls and subsequent reviews. The agency consistently monitors internal controls, including approvals, authorizations, verifications, reconciliations, performance reviews, security activities, and the production of records and documentation. Restricting accounts' access to financial management systems and account access rights helps to reduce opportunities for fraudulent financial activities. In addition, segregating duties ensures roles are separated appropriately to decrease the likelihood of waste, abuse, fraudulent financial reporting, and the misappropriation of assets.

Control activities occur at all levels of the USPTO, and the agency reviews control activities annually to assess the risk of errors or irregularities due to fraud. The reviews the USPTO performs for OMB Circular A-123, Appendix A, test internal controls over financial reporting, which relate to the reliability of financial statements. At the beginning of the review, the USPTO performs a risk assessment and uses a risk-based approach to test financial controls. Throughout the year, the USPTO conducts variance analyses to identify trends and possible discrepancies that could indicate fraud or waste to investigate and correct the identified controls before the potential errors are included in the financial statements.

Within the federal government, payroll, contractor payments, and purchase and travel cards have an increased risk of and vulnerability to fraud. The OIG receives and reviews whistleblower and fraud, waste, and abuse complaints.

The USPTO implements controls to prevent the risk of time and attendance abuse or other types of misconduct and regularly takes appropriate steps to avoid and address any such misconduct. The USPTO has received valuable suggestions from sources inside and outside the agency and used the suggestions to strengthen policies and to increase time and attendance accountability. In the past, the agency invested significant time and effort into improving its already extensive workforce measures aimed at preventing time and attendance abuse and continuing its focus on accountability.

The agency has a policy on time and attendance tools, communication, and collaboration that provide employees with clear guidance on time and attendance policies and automated tools that enable transparency to both managers and employees.

All USPTO employees receive training on time and attendance requirements as well as work schedules and leave policies and will continue to receive similar training on an ongoing basis.

The USPTO has the authority to use any contract type it deems to be in the best interest of meeting the agency's mission. Although the USPTO is not statutorily required to provide a written justification when using high-risk contract types, as a matter of good business practice, the agency requires contracting officers to provide a rationale in the Acquisition File Documentation when selecting a high-risk contract type. High-risk contract types include noncompetitive contracts, single-offer contracts, cost-reimbursement contracts, time-and-material contracts, labor-hour contracts, incentive contracts, and indefinite-delivery contracts.

As part of the rationale, contracting officers must provide the reason it is in the USPTO's best interest to use the high-risk contract type, the planned risk mitigation for using a high-risk contract vehicle, and the steps they are taking to avoid the use of high-risk contract types in the future. The risk mitigation plan included in the contract includes various mechanisms for frequent contract surveillance.

The USPTO continuously monitors and updates internal control measures and processes to manage its purchase card and travel card programs. This monitoring includes certifying that the appropriate policies and controls are in place and that the agency has taken corrective actions to mitigate the risk of fraud and inappropriate charge-card practices. In addition, the USPTO has monthly procedures in place for monitoring, reporting on, and managing travel card delinquencies and potential card misuse.

The USPTO continues to prioritize the development and use of data analytics and strategic business initiatives to identify, prevent, and respond to fraud and suspicious activity. The Agency expanded deployment of automated trademark monitoring reports to better identify anomalies, trends, and suspicious activity. Furthermore, the USPTO's Register Protection Program features a variety of initiatives implemented over the course of several years that work collectively to guard the filing system against potential fraud. These activities include the Post Registration Audit and the post registration goods/services deletion fee, the US counsel rule, the Administrative Sanctions Process, TMA nonuse cancellation proceedings before the Director, and ID verification.

The USPTO implemented an automated process in FY 2022 to validate domestic addresses in response to attempts of some applicants to circumvent the U.S. counsel rule. The rule requires foreign domiciliaries to be represented by a U.S. licensed attorney before the USPTO in trademark matters. During FY 2022, the USPTO increased the investigative capacity of the Administrative Sanctions Process by adding contract investigators and increasing coordination with the USPTO's Office of Enrollment and Discipline (OED). Now, when OED enters into and publishes a settlement agreement with a U.S. attorney that has admitted to violations of the U.S. counsel rule, the USPTO's Register Protection Office begins reviewing submissions from that attorney, using contract investigators to find common data elements in additional related applications. These proceedings also apply to other USPTO Rules of Practice, including signatures and certifications, and Rules of Professional Conduct. Subsequently, the USPTO issues administrative orders to the entity, typically a foreign filing firm, that has contracted with the U.S. attorney, demonstrating evidence of widespread rule violations that support terminating any invalidly-filed applications and blocking the USPTO.gov accounts used to make the invalid submissions.

In August 2022, the USPTO made it mandatory for USPTO.gov account holders filing trademark documents to verify the identities associated with their accounts, either through an automated online identity (ID) verification process or through a notarized paper form. This requirement adds an additional layer of security since filers are already required to log in to a USPTO.gov account with two-step authentication to use the TEAS and TEASi filing systems.

Collectively, the USPTO's use of business intelligence, data analytics, regulatory action, and strategic operations help reduce and mitigate the impact of unauthorized, malicious, damaging, and fraudulent use of its systems. Enhancement and full implementation in subsequent years promises to strengthen the integrity of USPTO's comprehensive enterprise risk management framework and protect the Trademark Register to the benefit of stakeholders. The USPTO also continues to analyze patent filings for signs of improper activity. During FY 2022, the Agency issued a few thousand letters regarding potential micro-entity abuse, and continues to check for new potential violations each month to reduce fraud.

Civil Monetary Penalty Adjustment for Inflation

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, requires agencies to make regular and consistent inflationary adjustments to civil monetary penalties to maintain their deterrent effect. The USPTO did not assess any civil monetary penalties during FY 2022.

Biennial Review of User Fees

The Chief Financial Officers Act of 1990 requires agencies to review biennially fees, rents, and other charges they impose for services and things of value (e.g., rights or privileges) they provide to specific beneficiaries, as opposed to the American public in general. The objective of the review is to identify such activities; begin charging fees, where permitted by law; and periodically adjust existing fees to reflect current costs or market value to minimize the general taxpayer subsidy of specialized services or things of value provided directly to identifiable, nonfederal beneficiaries.

The USPTO is a fully fee-funded agency; the services it provides are not subsidized by general taxpayer revenue. The USPTO uses activity-based costing to calculate the cost of activities performed for each fee, and the agency uses this information to evaluate and inform fee setting. When appropriate, the USPTO adjusts fees to be consistent with legislative requirements to recover the full cost of the goods or services provided to the public. Consistent with the provisions of the Chief Financial Officers Act, the USPTO assesses fees at least biennially.

In keeping with the biennial review schedule, the USPTO initiated its latest review of user fees in 2021. The USPTO continued the review through 2022 and conducted significant research, evaluation, and analysis to ensure patent and trademark fees continue to recover aggregate agency costs and meet the current and future needs of the IP environment—particularly given the rapid changes in the global economic and policy landscape over the last two years. If the USPTO determines certain adjustments to the patent or trademark fee structure are necessary to preserve an optimal balance of customer, public, and USPTO needs, then the agency will introduce preliminary fee change proposals and offer multiple opportunities for public dialogue and input.

GLOSSARY OF ACRONYMS

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ACH	Automated Clearing House
AFR	Agency Financial Report
AGA	Association of Government Accountants
AI	Artificial Intelligence
AIA	America Invents Act
AIPLA	American Intellectual Property Law Association
APJ	Administrative Patent Judge
APPR	Annual Performance Plan and Annual Performance Report
ATJ	Administrative Trademark Judge
BFS	Bureau of the Fiscal Service
CEAR®	Certificate of Excellence in Accountability Reporting
CFO	Chief Financial Officer
CI²	Council for Inclusive Innovation
CIC	Collegiate Inventors Competition
COTS	Commercial Off-the-Shelf
COVID-19	Coronavirus Disease 2019
CSRS	Civil Service Retirement System
CX	Customer Experience
CY	Current Year
DATA	Digital Accountability and Transparency Act
DM&R	Deferred Maintenance and Repairs
DOC	Department of Commerce
DOL	Department of Labor
EDW	Enterprise Data Warehouse
ERM	Enterprise Risk Management
FECA	Federal Employees' Compensation Act
FEGLI	Federal Employees Group Life Insurance Program
FEHB	Federal Employees Health Benefit Program
FERS	Federal Employees Retirement System
FFMIA	Federal Financial Management Improvement Act
FICA	Federal Insurance Contributions Act
FISMA	Federal Information Security Management Act
FIT	Foreign Image and Text
FMFIA	Federal Managers' Financial Integrity Act
FPDS-NG	Federal Procurement Data System – Next Generation
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
GAO	Government Accountability Office
GPRA	Government Performance Results Act
GSA	General Services Administration
HISP	High Impact Service Provider
ID	Identity
IG	Inspector General
INTA	International Trademark Association
IP	Intellectual Property
IPO	Intellectual Property Owners Association
IT	Information Technology
kWh	Kilowatt-hour
MBDA	Minority Business Development Agency
MED	Minority Enterprise Development
MWh	Megawatt-hour
NIHF	National Inventors Hall of Fame
OBRA	Omnibus Budget Reconciliation Act
OCAO	Office of the Chief Administrative Officer
OCCO	Office of the Chief Communications Officer
OCE	Office of the Chief Economist
OCFO	Office of the Chief Financial Officer
OCIO	Office of the Chief Information Officer
OED	Office of Enrollment and Discipline
OIG	Office of Inspector General
OMB	Office of Management and Budget
OPIA	Office of Policy and International Affairs
OPM	Office of Personnel Management
OUS	Office of the Under Secretary and Director
PAR	Performance and Accountability Report
PDDM	Patent Data and Document Management
PDF	Portable Document Format
PIIA	Payment Integrity Information Act of 2019
PP&E	Property, Plant, and Equipment
PPAC	Patent Public Advisory Committee
PSA	Public Service Announcement
PTA	Patent Term Adjustment

PTAB	Patent Trial and Appeal Board
PTE	Patent Term Extension
PTFRF	Patent and Trademark Fee Reserve Fund
PY	Prior Year
RCE	Request for Continued Examination
REC	Renewable energy certificates
RPA	Robotic Process Automation
SBR	Statement of Budgetary Resources
SUCCESS	Study of Underrepresented Classes Chasing Engineering and Science Success
TEAS	Trademark Electronic Application System
TMA	Trademark Modernization Act
TNC	Treasury Nominal Coupon
TPAC	Trademark Public Advisory Committee
TTAB	Trademark Trial and Appeal Board
UPR	Utility, Plant, and Reissue
URL	Uniform Resource Locator
U.S.C.	United States Code
USPTO	United States Patent and Trademark Office
WIPO	World Intellectual Property Organization

INDEX OF URLS

INDEX OF URLS

Annual Reports

USPTO Annual Reports

www.uspto.gov/annualreport

Budget and Performance

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Copyrights

Copyrights

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