USPTO Update

Michelle K. Lee

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

**Backlog**
The backlog of unexamined patent applications **decreased ~30%** since 2009.

**Filings**
Patent application filings **increased ~32%** since 2009.
### Strategic Goal: Optimize Patent Quality and Timeliness

#### Patent Office Statistics - Patent Applications

**First Office Action Pendency**
First Office Action (FOA) pendency decreased ~42% since 2011.

<table>
<thead>
<tr>
<th></th>
<th>FY 2011</th>
<th>April 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>FOA Pendency</td>
<td>28 months</td>
<td>16.3 months</td>
</tr>
</tbody>
</table>

**Total Pendency**
Total pendency decreased ~26% since 2010.

<table>
<thead>
<tr>
<th></th>
<th>FY 2010</th>
<th>April 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Pendency</td>
<td>35 months</td>
<td>25.7 months</td>
</tr>
</tbody>
</table>
Patent Office Statistics - Ex Parte Appeals

**Ex Parte Appeal Backlog**
The Backlog of Ex Parte Appeals decreased ~45% since 2011.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Appeals</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2012</td>
<td>~26,000 appeals</td>
</tr>
<tr>
<td>April 2017</td>
<td>~15,000 appeals</td>
</tr>
</tbody>
</table>

**Average Pendency for Appeals**
Average Pendency for Ex Parte Appeals decreased ~30% since 2016.

<table>
<thead>
<tr>
<th>Year</th>
<th>Pendency</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2016</td>
<td>28 months</td>
</tr>
<tr>
<td>April 2017</td>
<td>19 months</td>
</tr>
</tbody>
</table>
Patent Quality

• Enhanced Patent Quality Initiative (EPQI)
  – Established in 2015

• 12 EPQI Programs
  – Search and Training
  – Prosecution
  – Post-Examination
  – Evaluation
Patent Quality: Consistency

- Technology Center-Specific “Best Practice” / Quality Concerns
  - Reopening Prosecution
  - Rework of Office Action
  - Consistency of Decision Making

- Root-Cause Analysis Across 1,000+ Examiners
  - Quality Concerns / Negative Examination Performance
    - Improper Claim Interpretation
    - Failure to Identify / Apply the Most Appropriate Art
  - “Best Practice” Examination Performance
    - Searching Both the Claimed Invention and Inventive Concept
    - Early Identification of Allowable Subject Matter

- Focused training based on root causes and best practices
**Strategic Goal:** Optimize Patent Quality and Timeliness

## Patent Quality: Measuring Quality

<table>
<thead>
<tr>
<th>Patent Quality: Measuring Quality</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Product Indicators</strong></td>
</tr>
<tr>
<td>Include metrics on the correctness and clarity of our work products. Formulate these metrics using data from reviews conducted by OPQA using Master Review Form.</td>
</tr>
<tr>
<td><strong>Process Indicators</strong></td>
</tr>
<tr>
<td>Assist in tracking the efficiency and consistency of internal processes. Our current focus is on analyzing reopening of prosecution and rework of Office actions as well as improving consistency of decision making.</td>
</tr>
<tr>
<td><strong>Perception Indicators</strong></td>
</tr>
<tr>
<td>Use both internal and external stakeholder surveys to solicit information that can be used for root cause analysis and to validate/verify other metrics.</td>
</tr>
</tbody>
</table>
Patent Quality: Post Grant Outcomes

- Harness art raised during Patent Trial and Appeal Board (PTAB) AIA trials to enhance examination of related applications.

- Identify best practices and deficiencies that arise in examination.
  - Use information to tailor examiner training.
Strategic Goal: Provide Domestic and Global Leadership

Domestic and Global Outreach

- Total Remote Programs in Fiscal Year 2016: 16
- Total Programs in Fiscal Year 2016: 143
- Number of Attendees Trained in Fiscal Year 2016: 7,073

Cumulative Number of Countries Trained in the Fiscal Year:
- FY2016, Q3: 94
- FY2016, Q4: 114
- FY2017, Q1: 80
- FY2017, Q2: 94
Domestic and Global Outreach

IP Attaché Program
- Secure High Standards in International Agreements and Host Country Laws.
- Encourage Effective IP Protection and Enforcement by U.S. Trading Partners.

Patent Pro Bono Program
- Provides free legal assistance to under-resourced inventors who wish to secure patent protection for their inventions.

Coverage of Patent Pro Bono Program

[Map showing coverage of Patent Pro Bono Program]
Institution Rate is calculated by dividing institutions by decisions on institution.

FY13 to FY17: 10/1/12 to 3/31/17