USPTO Update

Andrei Iancu

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office
10 Million Patents
NOTABLE PATENTS IN AMERICAN HISTORY

1790: First US Patent Issued to Samuel Hopkins
1794: Patent Issued to Eli Whitney for the Cotton Gin
1849: Patent Issued to Future President Abraham Lincoln
1876: Patent Issued to Alexander Bell for the Speaking Telephone
1880: Patent Issued to Thomas Edison for the Lightbulb
1906: Patent Issued to the Wright Brothers for a Flying Machine
1974: Patent Issued to Ted Hoff for the Microprocessor
1980: Patent Issued to Cohen and Boyer for Recombinant DNA Techniques
2008: Patent Issued to Radia Perlman for Internet STP
• USPTO Statistics
• Patent Trial and Appeal Board
• Subject Matter Eligibility
USPTO FILING STATISTICS:
Recent Applications Up, Backlog Down

From 2009- Present

- **Backlog**: Down ~30%
- **Filings**: Up ~32%

April 2018
First Office Action Pendency decreased ~40% since 2009.

<table>
<thead>
<tr>
<th>Year</th>
<th>FOA Pendency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan 2009</td>
<td>26 months</td>
</tr>
<tr>
<td>April 2018</td>
<td>15.6 months</td>
</tr>
</tbody>
</table>

USPTO FILING STATISTICS:
First Office Action Pendency Down
Total Pendency decreased ~29% since 2009.

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Pendency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan 2009</td>
<td>34 months</td>
</tr>
<tr>
<td>April 2018</td>
<td>24.3 months</td>
</tr>
</tbody>
</table>
FY 2012 ~26,500 appeals
FY 2017 ~13,000 appeals

**Backlog**
*decreased ~52% since 2012.*

<table>
<thead>
<tr>
<th>Year</th>
<th>Appeals</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2012</td>
<td>~26,500</td>
</tr>
<tr>
<td>FY 2017</td>
<td>~13,000</td>
</tr>
</tbody>
</table>

**Average Pendency**
*decreased ~35% since 2012.*

<table>
<thead>
<tr>
<th>Year</th>
<th>Pendency</th>
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</thead>
<tbody>
<tr>
<td>FY 2012</td>
<td>23 months</td>
</tr>
<tr>
<td>FY 2018</td>
<td>14.9 months</td>
</tr>
</tbody>
</table>
PTAB RECENT DEVELOPMENTS:
Supreme Court Addresses AIA Trials

- Oil States v. Green Energy – AIA trial proceedings can continue
- SAS v. Iancu – AIA trial proceedings must address all claims challenged
PTAB RECENT DEVELOPMENTS:
Consistency Of Claim Construction

- Proposed rule to move AIA trial proceedings from BRI claim construction standard to the standard applied by Federal Courts

Memorandum – Step 2 of the Alice/Mayo test:
Document factual support and consider § 112-like considerations