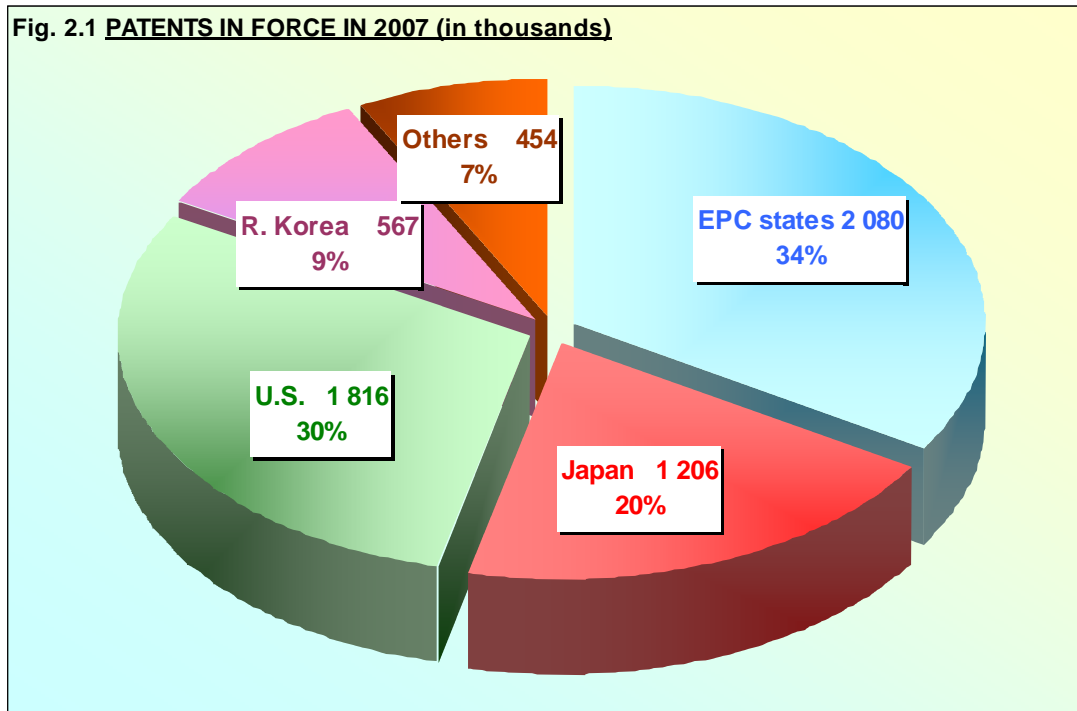


Chapter 2

THE FOUR OFFICES

Patent rights are recognized throughout the world as a measure of innovation output. The EPO, JPO, KIPO and USPTO are among the largest IP offices in the world in terms of the volume of patent applications they handle. The following figure shows the role played by the Four Offices in the patenting activity.



Based on the most recent information on worldwide patent rights available from the WIPO Patent Statistics and from some other offices, it appears that at the end of the year 2007, 93 percent of the 6.1 million patents in force¹ in the world, were valid in the Four Offices jurisdiction.

¹ Data for 2007 are missing for some countries in WIPO data, in which case data for 2007 in each annual report of such countries or WIPO data for 2005 or 2006 were used as available.

EUROPEAN PATENT OFFICE

The EPO, the main patent granting authority for Europe, is an example of economic and political cooperation, providing patent protection at the end of 2008 in up to 38 European countries on the basis of a single patent application and a unitary grant procedure. The EPO receives currently more than 50 percent of all the patent applications filed in the area of the EPC contracting states.

At the end of 2008, the 34 members of the underlying European Patent Organisation were:

Austria	Belgium	Bulgaria	Croatia	Cyprus
Czech Republic	Denmark	Ellas	Estonia	Finland
France	Germany	Hungary	Iceland	Ireland
Italy	Latvia	Liechtenstein	Lithuania	Luxemburg
Malta	Monaco	Netherlands	Norway	Poland
Portugal	Romania	Slovakia	Slovenia	Spain
Sweden	Switzerland	Turkey	United Kingdom	

Other states have agreements with the EPO to allow applicants to request an extension of European patents to their territory. At the end of 2008, extensions of European patents could be requested for:

Albania, Bosnia-Herzegovina, the F.Y.R. Of Macedonia, and Serbia.

Together, the above states build a market of about 600 million people.

On January 1, 2009 the F.Y.R. Of Macedonia became a member of the European Patent Organisation, and San Marino joined on July 1, 2009. Other states are likely to join the Organisation in the future.

Grant Procedure

The mission of the EPO is to support innovation, competitiveness, and economic growth across Europe through a commitment to high quality and efficient services delivered under the EPC, particularly by granting European patents. The EPO also acts as a receiving, searching, and examining authority under the PCT. A further task is to perform, on the behalf of patent offices of certain member states, state of the art searches for the purpose of national procedures and to carry out searches at the request of third parties.

Adopted during a diplomatic conference in November 2000, the revised European Patent Convention (EPC 2000) entered into force on December 13, 2007². It aimed at bringing the Convention fully in the line with the recent developments in international law, in particular the Agreement on Trade-Related aspects of Intellectual Property Rights and the Patent Law Treaty. It strengthens the position of applicants and patentees, simplifies the access to patent protection and introduces new legal remedies, without departing from the fundamental principles established in the original convention of 1973.

² www.epo.org/patents/law/legal-texts/epc2000.html

The London Agreement was ratified by a large enough number of countries to enter into force in May 2008 in 14 contracting states. This is a major step towards reducing translation costs for granted European patents.

The EPO continued to develop its quality management system based on the highest standards. Among other methods, systematic regular quality control checks on sampled search reports and granted applications enable a system of preventive and corrective actions.

In Table 2.1, the latest production figures for search (European, PCT and national searches), for examination (European and PCT Chapter II), for opposition and for appeal in the European procedure are given for the years 2007 and 2008.

Table 2.1: EPO PRODUCTION INFORMATION

PRODUCTION FIGURES	2007	2008
Applications filed (Euro-direct & PCT regional phase)	141 439	146 561
Searches carried out		
European (including PCT supplementary)	84 698	87 667
PCT international	73 880	82 063
On behalf of national offices and other	18 877	17 104
Total production search	177 455	186 834
Examination - Opposition (final actions)		
European examination	90 310	99 053
PCT Chapter II	11 513	10 430
Oppositions	2 085	1 982
Total final actions examination-opposition	103 908	111 465
Appeals settled		
Technical appeals	1 620	1 737
PCT protests	41	45
Other appeals	61	67
Total decisions	1 722	1 849

In 2008, the Office production in search increased by 5 percent to about 186 800 completed searches. While the examination work under the PCT has been reduced, the number of final actions in examination at EPO increased by 10 percent to about 99 100. In 2008, about 1 850 decisions in appeal were completed (7 percent more than in 2007).

Documentation

The Office further improved the range and quality of its databases and online search tools in 2008. At the end of the year, the electronically searchable EPO database contained more than 64 million patent documents. The database now covers 84 countries and is accessible to the public via the World Patent Finder (*esp@cenet*). The literature documentation on patent and non-patent literature now contains 86 million searchable abstracts, 9 million more than in 2007. A special effort was made to improve patent data coverage of Asia.

The EPO citation database currently contains more than 85 million references relating to 13 million applications or publications. Quality control resulted in half a million corrections related to 5.6 million cited documents.

The bibliographic database was augmented with more than 3 million documents to 68 million and around one million corrections were made.

The electronic filing tool *epoline*® increased in popularity with the users. In 2008, almost half of the European applications were filed online.

Patent Information

EPO is a producer of patent information products and services and has set up databases that are available not only for internal use, but also for dissemination by national offices.

The Office launched in 2008 the new SmartSearch feature in *esp@cenet* and ESPACE Global Patent Index, a world patent search product. These products facilitate the search for patent documents.

Two updates of the World Patent Statistical Database (aka PATSTAT³) were distributed, in spring and autumn 2008 respectively, incorporating amendments as suggested by the users. The EPO developed best-practice examples of how to use this database for patent statistics and patent mapping.

International Cooperation

EPO is engaged in different types of co-operation programmes.

The co-operation within the European Patent Network concentrated on the exchange of best practices and tools and the exchange of knowledge and expertise among member states. The second annual meeting took place in Sofia in June.

The partnership with the European Union (EU) Neighbourhood policy helps neighbouring countries to harmonise with European IP standards.

Other bilateral programmes are run under partnership agreements with the European Commission (EC) such as the regional programme for IP for the Western Balkans and Turkey; and the EU-China IPR2 project which was presented to industry representatives in Brussels.

EPO shares responsibility with USPTO and JPO for a Trilateral quality management system, some work-sharing projects and development of e-learning training modules to be used by the Trilateral Offices. In the context of the IP five offices co-operation with USPTO, JPO, SIPO and KIPO, ten foundation projects were identified for possible joint development.

EPO income statement

³ www.epo.org/patents/patent-information/raw-data/test/product-14-24.html

EPO is financially autonomous and makes its financial statements since 2006 in accordance with International Financial Reporting Standards (IFRS). Expenses are to be covered entirely out of revenue, mainly from patent fees paid by applicants and patentees.

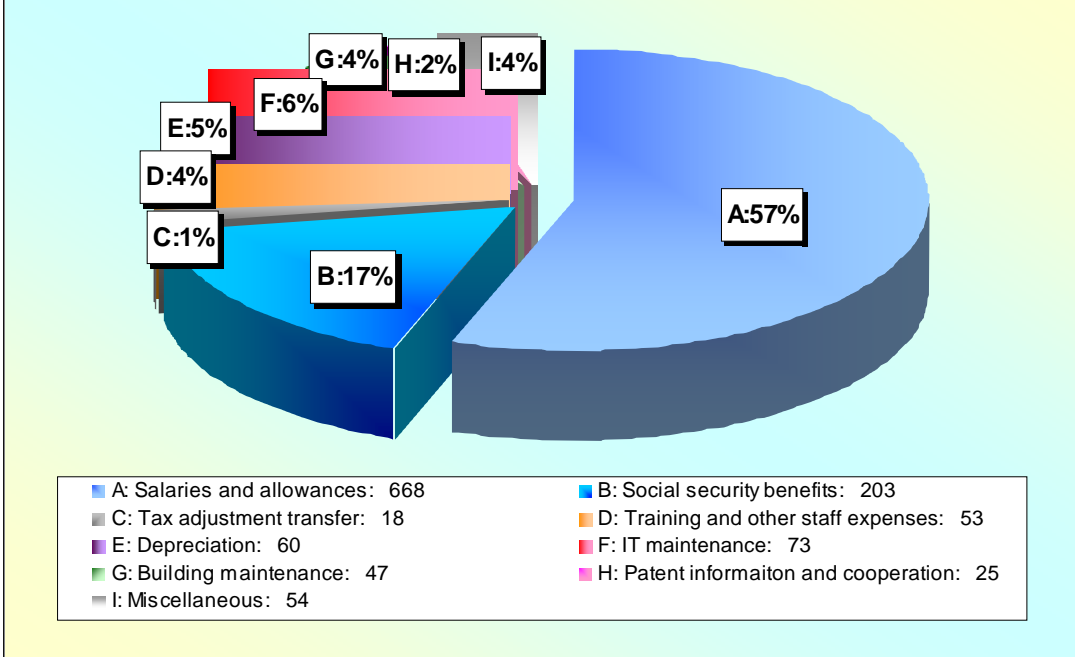
Fees related to the patent grant process, such as filing, search, examination, appeal fees as well as renewal fees for European patent applications (i.e. before grant) are paid to EPO directly. Renewal fees for European patents (i.e. after grant) are collected by the designated contracting states and determined by national law. From these renewal fees, 50 percent is kept by the national offices and 50 percent is transferred to EPO.

Under IFRS, procedural fees are not recorded automatically as revenue in the accounting year in which they are received, but instead are treated as deferred income, to be included as revenue in the year during which the relevant task is actually performed. A similar concept is applied also for all other types of income. In 2008, the total income, after netting finance revenue and finance costs, amounted to EUR 1 260 million.

On the expenditure side, in addition to salaries and allowances, staff expenses include entitlements for post-employment social benefits as far as these are built-up during the accounting year, including pensions as well as sickness and long-term care costs.

In conformity with IFRS, all expenses were recorded following the accrual principle, irrespective of whether or not cash disbursements took place in the period under consideration. For the same reason, depreciation for buildings, IT equipment and other tangible and intangible assets are shown under expenses.

Fig. 2.2 **EPO EXPENSES 2008 (Million EURO)**



A detailed description of the items in Fig. 2 can be found in Annex 1.

EPO Staff

In 2008, 348 employees were recruited of which 286 were examiners. By the end of the year, the staff complement reached a total of 6 685, including 3 864 examiners in search, examination, opposition, and 152 members of Board of Appeal.

More information

Further information can be found on the EPO's Homepage:
www.epo.org

JAPAN PATENT OFFICE

JPO is committed to comprehensive development of industry through planning and carrying out examinations and appeals under the system of IP rights, which includes patents, utility models, designs, and trademarks.

In order to ensure suitable growth, it is essential for Japan to establish itself as an IP-based nation where the achievements of intellectual creation activities become the source of national wealth. It is necessary to establish "the intellectual creation cycle" of creation, protection and exploitation of IP in order to achieve an IP based nation. To this end, JPO, which is responsible for the core of the IP administration, specifies measures to establish the human and system environments that will support the adequate protection and effective exploitation of IP.

Development of Intellectual Property Policy

The "Intellectual Property Strategic Program 2008" was adopted on June 18, 2008. This program contains various measures with particular emphasis on the following three priority issues:

- Enhancing further Japan's international competitive edge in the priority strategic fields
- Strengthening development in international markets
- Exhibiting leadership in efforts for world's common issues or Asian various issues, highlighting five important strategies, "IP for Innovation", "Global IP", "Promotion of Soft Power Industries", "Stable IP", and "User-Friendliness".

Recent Improvements to Japan's IP system

The Bill to Partially Amend the Patent Act and Other IP-Related Acts, which was promulgated in April 18, 2008, was formulated from the following perspectives: establishment of an IP system more friendly to users; and strategic utilization and adequate protection of IP rights. The bill includes revision of the non-exclusive license registration system, revision of the time limit for filing a request for an appeal, expansion of the network of electronic exchange of priority documents, and reduction of patent/trademark fees, etc. "Reduction of patent/trademark fees" has been effected on June 1, 2008. The other revisions have been effected on April 1, 2009.

Efforts related to Patents

With the goal of implementing expeditious and accurate patent examinations according to the highest global standards, JPO is making efforts to fundamentally strengthen the examination system by increasing the number of fixed-term examiners and outsourcing prior art searches to registered search agencies in the private sector. In addition, JPO has continued its efforts to maintain and improve the quality of patent examinations through activities such as the establishment of the Quality Management system. Furthermore, JPO is promoting international cooperation in patent examination, through programs such as the Patent Prosecution Highway (PPH) and JP-FIRST (JP-Fast Information Release Strategy).

Further efforts toward expeditious and efficient patent examination

- Securing the necessary number of examiners through the appointment of new fixed-term examiners
- Ahead of other countries, JPO has established a paperless system for all procedures, from the filing of an application to the examiner's decision. This enables active promotion of the world's first outsourcing of prior art searches to the private sector, and has enhanced efficiency to a significant degree.

Table 2.2: JPO NUMBER OF PATENT EXAMINERS

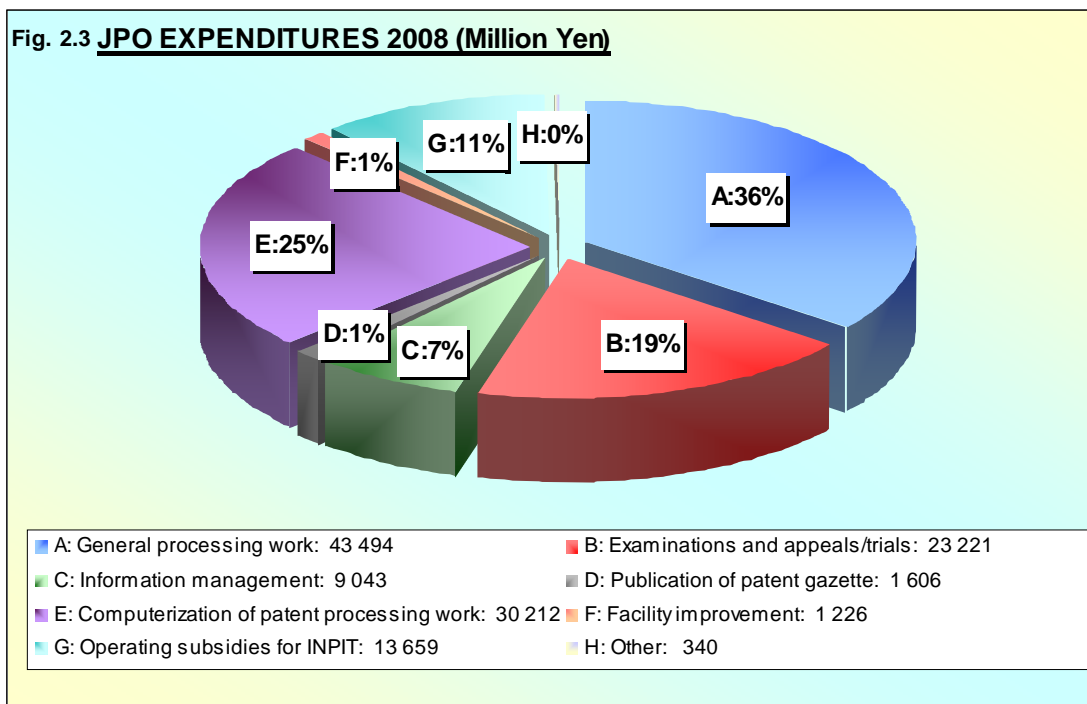
Examiners	FY 2007	FY 2008 ⁴
Regular	1 175 (+1)	1 190 (+15)
Fixed-term	392 (+98)	490 (+98)
Total	1 567 (+99)	1 680 (+113)

Table 2.3: JPO PRODUCTION INFORMATION

PRODUCTION FIGURES		2007	2008
Applications	Domestic	333 498	330 110
	Foreign	62 793	60 892
	Total	396 291	391 002
Examinations	Requests	376 310	347 836
	First actions	307 665	342 654
	Final actions	299 628	318 903
Registration	Domestic	145 040	151 765
	Foreign	19 914	25 185
	Total	164 954	176 950
Appeals/Trials	Demands for Appeal against examiner's decision of refusal	32 586	31 019
	Demands for Trial for invalidation	284	292
PCT activities	International searches	26 033	26 523
	International Preliminary examinations	2 741	2 321

⁴ The period of JPO's FY 2008 is from April 1, 2008 to March 31, 2009.

JPO Budget



A detailed description of the items in Fig. 2.3 can be found in Annex 1.

JPO Staff Composition

As of the end of FY 2008, JPO employed a total of 2 901 staff. This includes 98 new fixed-term examiners.

Examiners:	Patent / Utility model:	1 680	
	Design:	52	
	Trademark:	150	
Appeal examiners:		386	
General staff:			633
Total:		2 901	

More information

Further information can be found on the JPO's Homepage:
www.jpo.go.jp

KOREAN INTELLECTUAL PROPERTY OFFICE

Mission Statement and Strategic Goals

The mission of the Korean Intellectual Property Office is as follows:

To contribute to technical innovation and industrial development by facilitating the creation, commercialization and utilization of intellectual property and by strengthening the protection of intellectual property.

To execute the mission effectively, KIPO established the following six strategic goals:

- To conduct world-class examinations and trials
- To build a world-class IT system for patent administration
- To reinforce the basis for the creation of IP
- To facilitate the utilization of IP
- To fortify the basis for the protection of IP
- To implement customer and performance-based management.

Major Developments in 2008

In 2008, KIPO established and implemented the EXCEL(EXamination exCELLence) plan to enhance the quality of its patent examination. More specifically, 39 projects were implemented in three categories: (i) optimization of the examination infrastructure, (ii) enhancement of examination quality, and (iii) efficient management of examination quality. In addition, KIPO introduced a three-track examination system to meet the sophisticated and varying needs of applicants. The system enables applicants to choose an accelerated examination, a regular examination, or a customer-deferred examination. KIPO has adopted these measures to pursue a customer-oriented patent examination service of the highest quality.

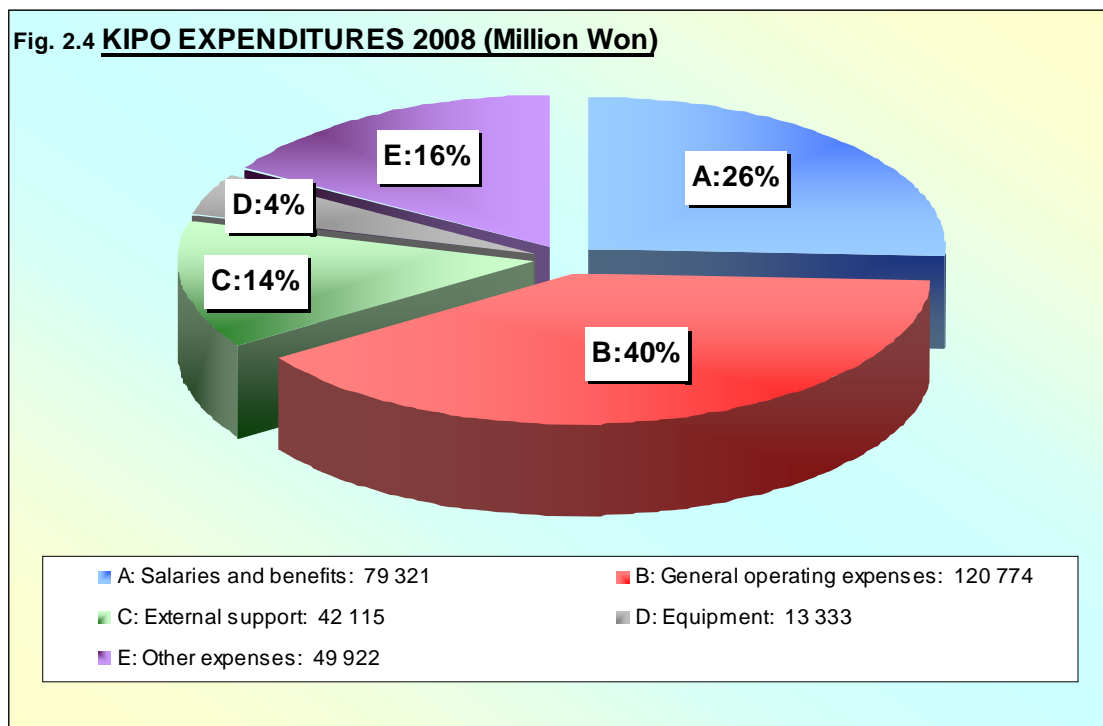
With regard to patent information, the number of domestic and international intellectual property rights stored in KIPO's database at the end of 2008 exceeded 42 million. Aside from being used in patent examinations, this information is used to promote R&D in the public and private sectors and to boost the creation of intellectual property among academic institutes, small and medium sized enterprises (SMEs), and the general public.

To raise public awareness of intellectual property, KIPO has been promoting open innovation through various projects such as the Campus Patent Strategy Universiade in collaboration with industry and academia. KIPO also initiated the "Happy CEO" project, which provided timely and appropriate support for SMEs through comprehensive consultations on intellectual property management.

Table 2.4: KIPO PRODUCTION INFORMATION

PRODUCTION FIGURES	2007	2008
Applications filed		
Domestic	128 701	127 114
Foreign	43 768	43 518
Total	172 469	170 632
Examination		
Requests	137 446	143 916
First actions	129 147	95 504
Final actions	152 417	108 897
Grants		
Domestic	91 562	61 115
Foreign	32 143	22 408
Total	123 705	83 523
Applications in appeal	10 950	12 238
PCT activities		
International searches	8 280	12 936
International preliminary examinations	586	474

KIPO Budget



A detailed description of the items in Fig. 2.4 can be found in Annex 1.

KIPO Staff Composition

Examiners	807	
Patents		678
Designs	27	
Trademarks	102	
Appeal examiners	88	
Other staff	616	
Total	1 511	

More information

Further information can be found on KIPO's Homepage:
www.kipo.go.kr

UNITED STATES PATENT AND TRADEMARK OFFICE

Mission Statement

The mission of the United States Patent and Trademark Office is:

To foster innovation and competitiveness by: Providing high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide.

The USPTO's core mission continues "to promote the progress of science and the useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries" (Article 1, Section 8, Clause 8, of the U.S. Constitution).

Services and Operations

As an agency of the U.S. Department of Commerce (DOC), the primary services provided by USPTO are examining patent and trademark applications and disseminating patent and trademark information. USPTO encourages technological advancement by providing incentives to invent, invest in, and disclose new technology by issuing patents and registering trademarks.

USPTO provides valued products and services to its customers in exchange for fees that are appropriated to fund its operations. The powers and duties of USPTO are vested in the Under Secretary of Commerce for Intellectual Property and Director of USPTO, who consults with the Patent Public Advisory Committee and the Trademark Public Advisory Committee. USPTO operates with two major business lines, Patents and Trademarks.

USPTO Strategic Plan

In collaboration with the Patent Public Advisory Committee, the Trademark Public Advisory Committee, members of the public, stakeholders and employees, USPTO created its *2007-2012 Strategic Plan*. This *Plan* supports the DOC's strategic objective to "protect IP and improve patent and trademark systems" by establishing three strategic goals and a management goal as follows:

- Goal 1: Optimize patent quality and timeliness.
- Goal 2: Optimize trademark quality and timeliness.
- Goal 3: Improve intellectual property protection and enforcement domestically and abroad.
- Management Goal: Achieve organizational excellence.

This *Strategic Plan*, goals, and objectives were built upon four guiding principles: quality, timeliness, cost-effectiveness, and transparency.

Patent Quality and Timeliness

High quality and timely examination of patent applications advances science and technology and creates the certainty innovators needed in capital-driven markets. In 2008, USPTO maintained its high level of quality, shown with a patent allowance compliance rate (a measure of error-free allowances) of 96.3 percent, while increasing patent production by examining 448 003 applications, the highest number in its history.

The sustained high level of quality is the result of several initiatives including the full implementation of the PPH with JPO. USPTO also implemented PPH pilots with EPO, KIPO, and the IP Offices of Canada, Australia, and the UK.

The patent filings examined through the Accelerated Examination Program rose by 173 percent over its introduction last year and maintained a 12-month or less pendency for every application in the program with an average time to final action or allowance of 186 days or just over six months.

Intellectual Property Protection

In 2008, USPTO hosted the follow-up to the Heads of Offices meeting for IP five offices (EPO, JPO, KIPO, SIPO, USPTO) to discuss further cooperative initiatives to meet the growing patent application filing demands and improve patent quality. USPTO entered into memoranda of understanding or other bilateral agreements with the IP Offices in R. Korea, Japan, Australia, Philippines, Brazil and Canada.

USPTO's Global Intellectual Property Academy (GIPA) celebrated the graduation of its first group of examiners participating in the Foreign Examiner in Residence program. Patent examiners from Brazil, P. R. China, Egypt, India, Mexico and the Philippines were trained in U.S. current patent examination practice while working on applications filed under the Patent Cooperation Treaty. USPTO officials gained critical knowledge of their systems as well. GIPA trained more than 4 100 foreign officials on best practices for strengthening IP rights and enforcement in their nations. USPTO continues to expand the scope of GIPA's programs and is developing outreach and capacity-building through long distance training to give participants maximum flexibility to benefit from these programs.

In 2008, USPTO continued with Strategy Targeting Organized Piracy⁵ (STOP!) which works with other U.S. Government agencies to fight piracy and counterfeiting. As part of STOP!, USPTO continued managing a hotline that helps small and medium-sized businesses leverage U.S. Government resources to protect their IP. The USPTO responded to more than a thousand STOP! hotline calls in 2008.

⁵ www.stopfakes.gov

Table 2.5: USPTO PRODUCTION INFORMATION

PRODUCTION FIGURES	2007	2008
Applications filed		
Utility	456 154	456 321
Plant	1 049	1 209
Reissue	1 054	1 104
<i>Total Patents of Invention</i>	<i>458 257</i>	<i>458 634</i>
Design	27 752	27 782
Provisional	136 046	141 475
TOTAL	622 055	627 447
PCT Chapter I Searches	55 500	52 433
PCT Chapter II Examination	3 107	3 087
First actions	394 492	436 947
Grants (Total)		
U.S. residents	80 171	78 267
Foreign	78 667	81 392
Japan	33 525	33 912
EPC states	23 884	24 007
R. Korea	6 307	7 572
Others	14 951	15 901
Applications in appeal and interference proceedings		
Ex-parte appeal contested	5 078	7 550
Ex-parte appeal disposed	3 757	4 876
Inter-partes appeal contested	61	63
Inter-partes appeal disposed	83	74
Patent cases in litigation		
Cases filed	51	79
Cases disposed	58	62
Pending cases (end of calendar year)	43	60

USPTO Budget

USPTO utilizes an activity based cost accounting methodology to allocate costs across the three strategic goals in order to provide transparency to program's operational performance in identifying various factors that drive program costs. In FY 2008⁶, USPTO expenditures totalled \$1 852 million.

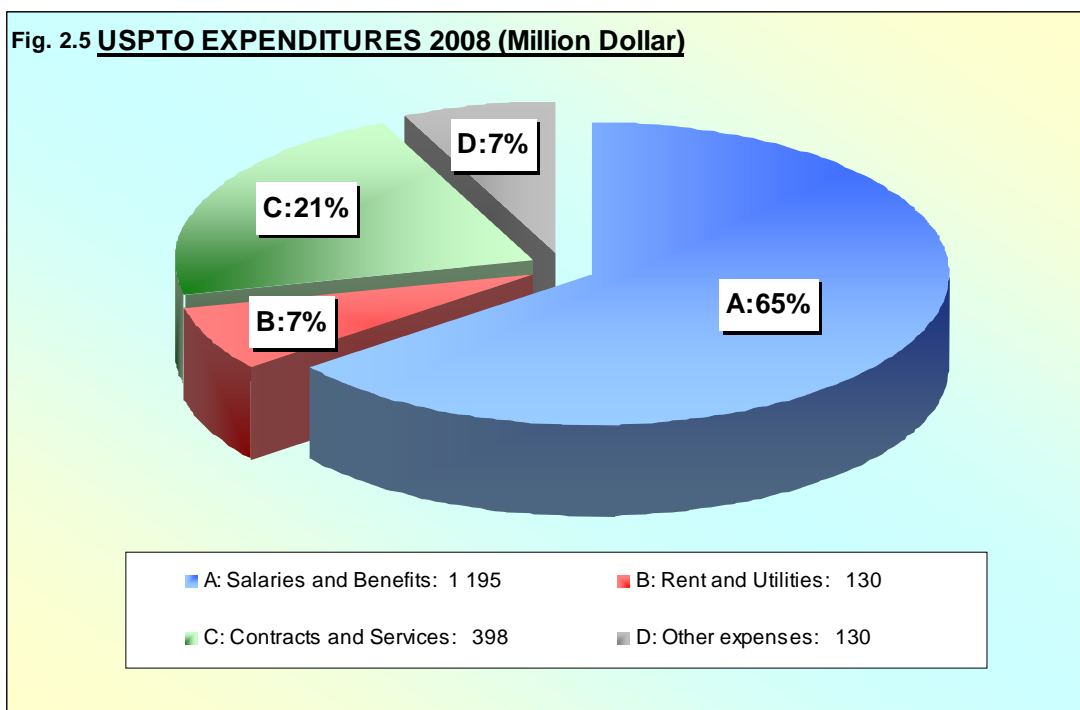
Goal 1 - Optimize patent quality and timeliness	\$1 602 million
Goal 2 - Optimize trademark quality and timeliness	\$187 million
Goal 3 - Improve IP protection and enforcement domestically and abroad	\$63 million

⁶ The period of USPTO's FY 2008 is from October 1, 2007 to September 30, 2008.

Agency-wide, 16.1 percent of expenditures was allocated to information technology (IT) security and other indirect IT costs such as rent, utilities, program administration, internal operations and infrastructure.

USPTO expenditures are divided into four major categories: salaries and benefits, rent and utilities, contracts and services, and all other expenses. The majority of expenditures in 2008 were attributed to USPTO's labor force. Salaries and benefits accounted for 64.5 percent of overall expenditures, or about \$1 195 million. Contracts and services were the second major expenditure, which represented about 21.5 percent of expenditures. Rent and utilities were the third largest at 7.0 percent. A breakdown of the major spending categories is shown in Fig. 2.5.

USPTO Expenditures 2008



A detailed description of the items in Fig. 2.5 can be found in Annex 1.

USPTO Staff Composition

At the end of FY 2008, the total staff at the USPTO was 9 518. Patent examiner staff totalled 6 055; 5 955 Utility, Plant and Reissue examiners, and 100 Design examiners. Trademark examiner attorney staff totalled 398. Managerial, administrative and technical support staff totalled 3 065.

More Information

Further information can be found on the USPTO's Homepage:
www.uspto.gov

