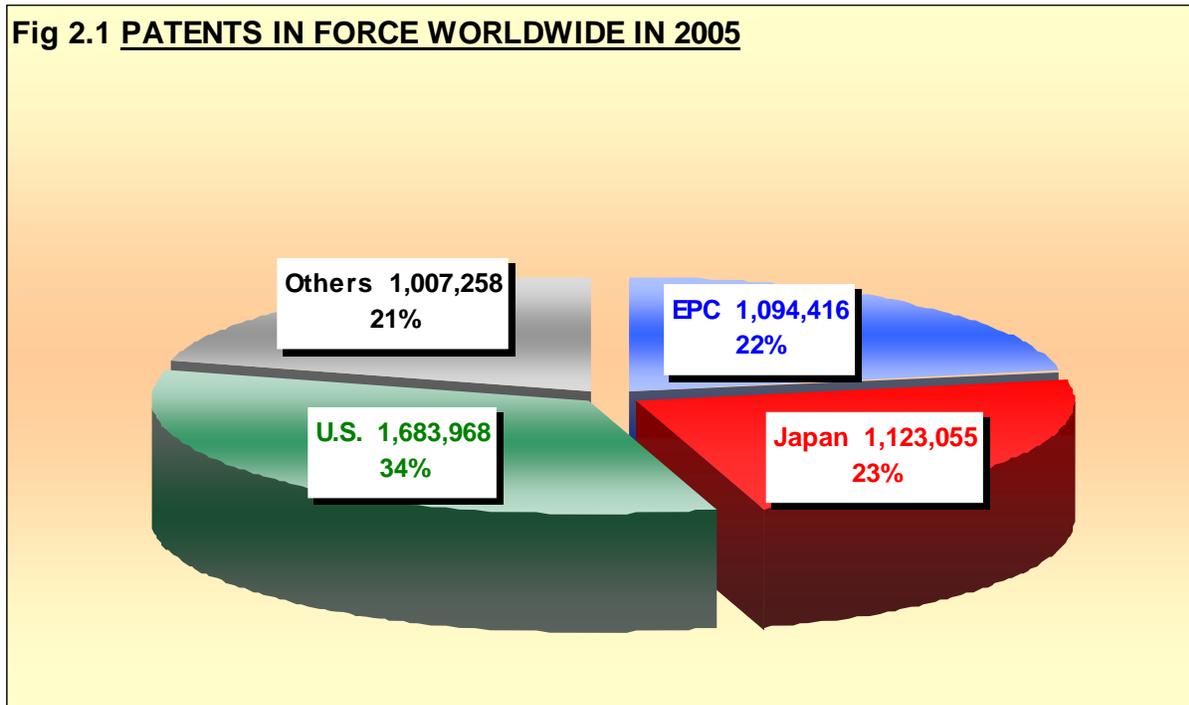


Chapter 2 THE TRILATERAL OFFICES

Patent rights are recognized throughout the world. The most recent information on worldwide patent rights is available from the 2005 WIPO Industrial Property Statistics. At the end of the year 2005, more than 4.9 million patents were in force.

Fig 2.1 PATENTS IN FORCE WORLDWIDE IN 2005



About 79 percent of the total patents in force worldwide were granted in either the EPC contracting states, Japan or U.S. This share has been continuously declining over the last five years. This may be due to a larger number of countries reporting from "Others" as well as to the increase of patenting there. In EPC contracting states, patents are granted either by the national offices or by the EPO.

EUROPEAN PATENT OFFICE

The EPO, the main patent granting authority for Europe, represents a good example of economic and political cooperation, providing patent protection in up to 37 European countries on the basis of a single patent application and a unitary grant procedure. The EPO currently records more than 200,000 European patent application filings per year.

By the end of 2006, the 31 members of the underlying European Patent Organization were:

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

In 2007, the EPC entered into force in Malta, which became the 32nd contacting state. Norway will become the 33rd member on January 1, 2008. Croatia recently expressed its intention to join the Organization. Other states have agreements with the EPO to allow applicants to request an extension of European patents to their territory. At the end of 2006, extensions of European patents could also be requested for:

Albania, Bosnia-Herzegovina, Croatia, the FYROM, and Serbia.

Together, the above states build a market of about 590 million people.

In June 2006, a strategic debate with the Organization's member states was concluded with the creation of the European Patent Network (EPN). Its objectives are to develop further synergy and cooperation between the EPO and the member states to foster innovation in Europe. The EPN shall work around five major topics: a pilot project on search report utilization, a common European quality system, a service consortium for EPO non-core work, an enhanced technical cooperation and a study on the future workload.

Grant Procedure

The mission of the EPO is to support innovation, competitiveness, and economic growth for the benefit of the citizens of Europe. Its main task is to grant European patents according to the EPC. Moreover, the EPO 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.

To keep pace with the higher demand for its services, the Office carried out some internal adjustments in 2006. With the completed deployment of the BEST⁸ project, all examiners now perform searches, examinations and oppositions on their dossiers. The examining units have

⁸ Bringing Examination and Search Together

been grouped under the same centralized authority in the Operational General-Directorate, while all the departments directly supporting the grant procedure are now grouped in the Operational Support General-Directorate.

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 2005 and 2006.

Table 2.1: EPO PRODUCTION INFORMATION

PRODUCTION FIGURES	2005	2006
Filings		
Total Euro-direct & Euro-PCT international phase	197,391	208,502
Total Euro-direct & Euro-PCT regional phase	128,754	135,183
Searches carried out		
European searches (Euro & Euro-PCT supplementary)	74,068	75,727
PCT international searches	69,722	69,577
Searches on behalf of national offices and other searches	19,354	18,269
Total production search	163,144	163,573
Examination: final actions performed		
European examination	84,056	83,067
PCT Chapter II	18,023	14,574
Opposition (final action)	2,354	2,641
Total final actions examination / opposition	104,433	100,282
Appeals settled		
Technical appeals	1,395	1,529
PCT protests	37	24
Other appeals	50	46
Total decisions	1,482	1,599

In 2006, the Office production in search marginally increased by 0.3 percent to about 163,600 completed searches. While the examination work under the PCT has been reduced, the number of final actions in European examination slightly decreased by 1 percent to 83,000. In 2006, 1,600 decisions in appeal were completed (8 percent more than in 2005).

Documentation

The Office further improved the range and quality of its databases and online search tools. At the end of 2006, the electronically searchable EPO database contained more than 57 million patent documents. The database now covers 78 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 71 million searchable abstracts, a 30 percent increase over 2005. Further efforts led to the acquisition of new databases in the fields of telecommunication standards and traditional knowledge.

The EPO citation database currently contains 70 million references relating to 14 million applications or publications. Quality control resulted in 240,000 manual corrections related to six million cited documents.

In 2006, a total of 331 million documents were viewed from the primary computer-based retrieval system by an average per month of 5,200 examiners in the EPO and in the countries using the tool for their searches.

An important activity regarding classification has been the implementation of the IPC reform.⁹ Document re-classification will be a major concern in 2007.

By the end of 2006, 17 member states had received the EPTOS¹⁰ tool set, helping them to handle patent procedures, including the World Patent Finder (esp@cenet) and the European Register.

The electronic filing tool epoline[®] received a growing response from the users. About one third of the European applications were filed online-via epoline[®].

Patent Information

The 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.

A major enhancement to the World Patent Finder was an automatic translation feature from English into Spanish, French, German and vice versa. Since June 2006, the service also includes a Japanese language interface.

A new version of the World Patent Statistical Database (aka PATSTAT) was distributed in autumn 2006 incorporating amendments as suggested by the 27 institutions that had received it. It is planned to distribute two updates per year in future.

Finally, the optical disc based patent information products (ESPACE) are now available on-line.

Technical Cooperation

The EPO has pursued its cooperation with other European countries concerning information technology infrastructure, promoting IP issues and modernizing patent systems.

The European Patent Academy organized over seventy seminars and launched the Innovative Support Training Programme designed to help national IP offices in supporting industries in the field of innovation and IP management. The first European Patent Summer Course was jointly

⁹ For more information please go to http://www.wipo.int/classifications/ipc/en/reform/ipc_reform.html.

¹⁰ Electronic Patent and Trademark Office System

organized with Bocconi and St. Gallen Universities to bring together IP experts with academics and researchers to discuss patent strategy and management.

Several seminars, conferences and fora took place in various European countries where the EPO took part as organizer or contributed by providing expertise.

In May, the first European Inventor of the Year award ceremony was jointly organized in Brussels with the European Commission. About 400 guests took part in the two-day event. The first day was dedicated to the development of a competitive patent system in Europe, while the second day dealt with IP protection in China. The PATLIB conference was held in Prague, the Patent Information Conference in Paphos in Cyprus and the European Round Table on Patent Practice in Ljubljana.

A conference on patent statistics for policy decision making was held in October in Vienna, in cooperation with OECD, WIPO, JPO, USPTO and the Austrian Patent Office. Another conference on the value of patents as tradable assets was held in London in November. Finally, in December, a conference on pharmaceuticals and patents was held to raise patent awareness among European parliament members.

Bilateral technical cooperation projects with China, India, Mexico, Republic of Korea, and Singapore were launched during the year, and negotiations were initiated with South Africa. Other technical projects were continued in Brazil, Mexico and with the ARIPO.¹¹

EPO budget

The EPO is financially autonomous. Expenditure is met entirely out of income, mainly consisting of fees paid by applicants and patentees. Procedural fees, such as the filing, search, examination, appeal fees, and renewal fees for European patent applications (i.e. before grant) are paid to the EPO directly. On January 1, 2006 the EPO introduced International Financial Reporting Standards into its accounting system. Contrary to previous practice, this means that procedural fees are no longer recorded as income in the accounting year in which they are received, but are generally treated as deferred income, to be included in revenue in the year in which the relevant task is actually performed.

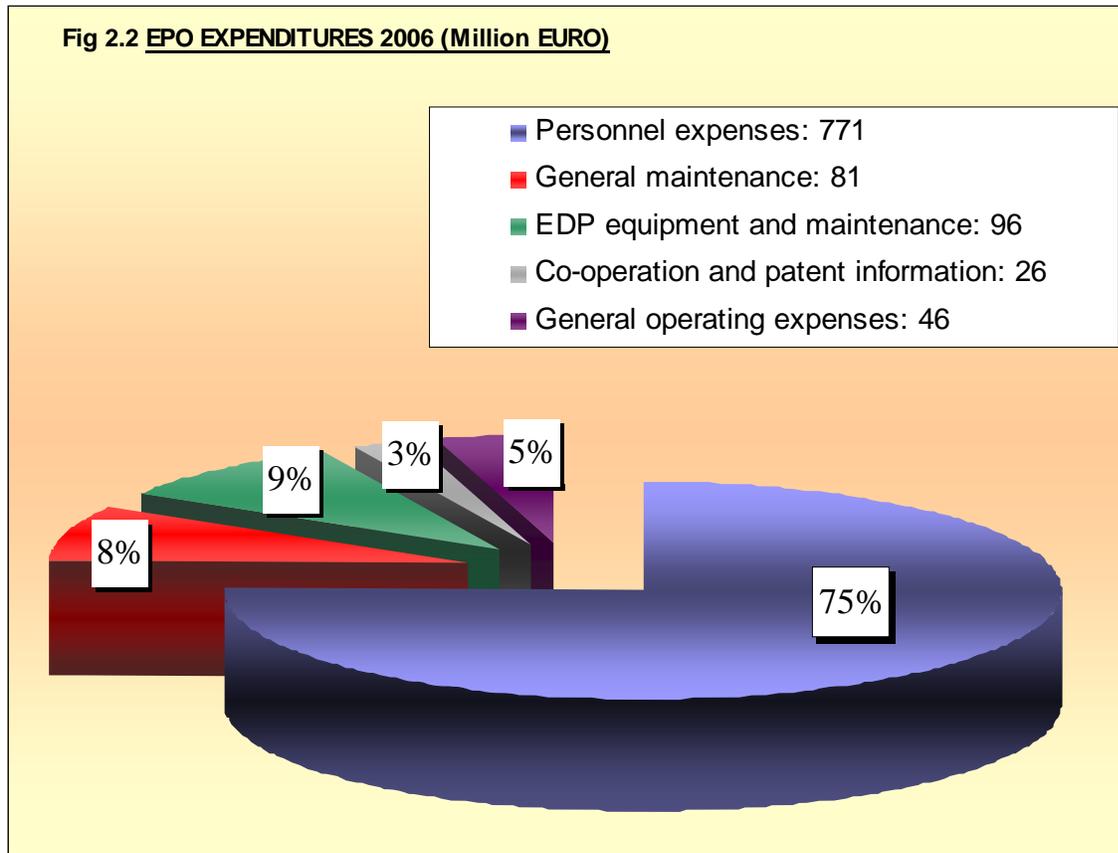
The renewal fees for European patents (i.e. after grant) are collected by the designated contracting states and determined by national law. From these renewal fees, 50 percent is kept by the national offices and 50 percent is transferred to the EPO.

Total expenditure in the year 2006 (excluding investments) was EUR 1,020 million. This breaks down into EUR 771 million (75 percent) for personnel expenses, EUR 81 million (8 percent) for general maintenance (including depreciation), EUR 96 million (9 percent) for EDP equipment and maintenance (including depreciation), EUR 26 million (3 percent) for patent information and cooperation with the contracting states and EUR 46 million (5 percent) for general operating expenses.

¹¹ African Regional Intellectual Property Organization

Total income to the EPO in 2006 amounted to EUR 1,121 million (unadjusted for deferred income).

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



EPO Staff Composition

During 2006, 325 employees were recruited of which 208 were examiners. By the end of the year, the staff reached a total of 6,319, including 3,555 examiners in search, examination, opposition, and 141 members of Board of Appeal.

More information

Further information can be found from the EPO's Homepage:

www.epo.org

JAPAN PATENT OFFICE

The 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 sustainable 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, the JPO, which is responsible for the core of the IP administration, shall continue specific measures to establish the human and system environments that will support the adequate protection and effective exploitation of IP.

Further efforts toward expeditious and efficient patent examination

Securing the necessary number of examiners through the appointment of new fixed-term examiners

The JPO has established, ahead of other countries, the paperless system for all of the procedures, from the filing of an application to the examiner’s decision, which enables active promotion of the world’s first outsourcing of prior art searches to the private sectors. The resulting significant increase is evidenced by the JPO’s performance. The JPO’s number of patent examinations processed is two to four times the number processed in the EPO and the USPTO.

In (fiscal year) FY 2007 the JPO recruited 99 additional patent examiners, including 98 fixed-term examiners. It will continue to strive to secure the necessary number of examiners and fixed-term examiners in FY 2008. FY 2008 is the final year of the five-year-plan under which the JPO recruited fixed-term examiners in FY 2004.

Table 2.2: JPO INCREASE IN THE NUMBER OF PATENT EXAMINERS

	FY 2004	FY 2005	FY 2006	FY 2007
Regular examiners	1,145 (+19)	1,162 (+17)	1,174 (+12)	1,175 (+1)
Fixed-term examiners	98 (+98)	196 (+98)	294 (+98)	392 (+98)
Total	1,243 (+117)	1,358 (+115)	1,468 (+110)	1,567 (+99)

Increase in outsourcing of prior art searches to the private sector

The JPO will continue to expand the number of prior art searches outsourced to the private sectors in FY 2007. One of the JPO’s goals is to increase outsourced prior art searches by 15 percent from FY 2006, to 226,000. This will include the highly efficient dialog-based type outsourcing searches with the expectation of the efficiency to increase by 18 percent over the FY 2006’s number of 185,000. The JPO will further redouble its efforts to promote the scale expansion and the efficiency. The JPO will also try work to increase the number of registered search organizations, aiming to have a total of five or more organizations, by adding at least one new entrant in FY 2007 to the four organizations currently registered.

Maintenance and improvement of the quality of patent examinations

Quality management system for patent examinations

In the course of promoting expeditious patent examinations, securing examination accuracy to prevent unnecessary ex-post disputes and unnecessary competition over filing of applications is one of the necessary requirements for maintaining a sound examination system. The JPO also established the Quality Management Office in the Patent Examination Department in April 2007. Using the quality management methods applicable to all technical fields this Office strives to maintain and improve the quality of examinations. The Quality Management Office also makes plans and proposals for quality management methods. For example, it provides feedback on the results of quality analyses to examiners by conducting sample checks and users surveys.

Further increasing in the accuracy of prior art searches

With the acceleration of technological innovation and the continuing development of new technologies, the JPO's store of patent documents may prove insufficient. Because of the amount of patent documentation stored there may not be enough space for the field of new technologies for which the increasing number of applications have been filed amidst accelerating technological innovations. In order to carry out highly-detailed prior art and literature searches for accurate examinations it is necessary to conduct wide-ranging prior art searches including academic documents, such as academic papers and technical magazines. In FY 2007, the JPO will improve its search database for information on the latest technologies such as optical discs and flat panel displays, thereby further increasing the accuracy of prior art searches.

Table 2.3: JPO PRODUCTION INFORMATION

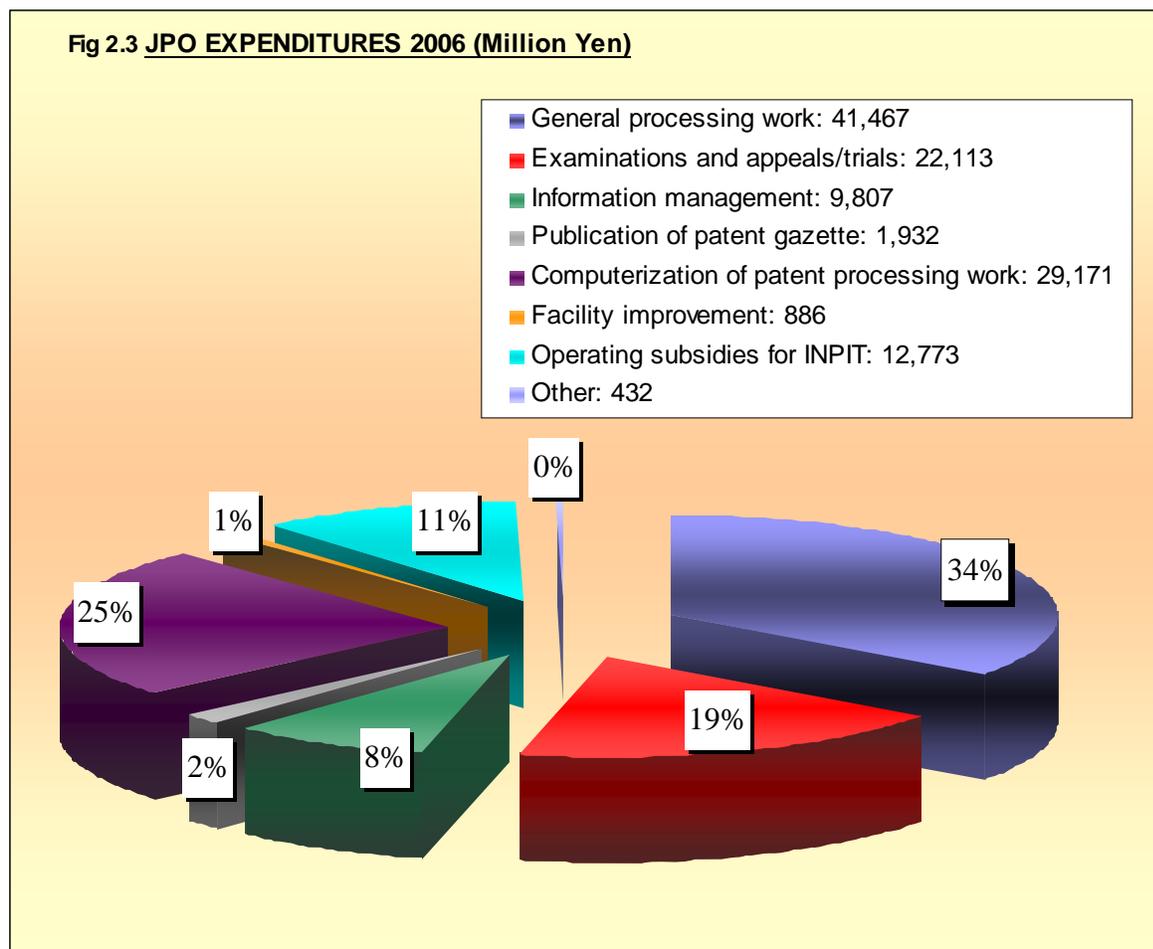
PRODUCTION FIGURES	2005	2006
Application filed		
Domestic	367,960	347,060
Foreign	59,118	61,614
Total	427,078	408,674
Grants		
Domestic	111,088	126,804
Foreign	11,856	14,595
Total	122,944	141,399
Applications in appeal	23,054	26,373
(Acceptance)	(5,712)	(6,545)

JPO Budget

The JPO FY 2006¹² budget totaled approximately 118,581 million yen. The breakdown of expenditures is as follows:

- 41,467 million yen for general processing work (includes personnel expenses) (31,450 million yen for existing personnel)
- 22,113 million yen for examinations and appeals/trials, etc.
- 9,807 million yen for information management
- 1,932 million yen for publication of patent gazette, etc.
- 29,171 million yen for computerization of patent processing work
- 886 million yen for facility improvement
- 12,773 million yen for operating for INPIT (subsidy)
- 432 million yens for other expenses.

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



¹² The period of JPO's FY 2006 is from April 1, 2006 to March 31, 2007.

JPO Staff Composition

As of the end of FY 2006, the JPO employed a total of 2,716 staff. This includes 98 new fixed-term examiners to further cut the time required for examination.

Examiners:	1,668
Patent / Utility model:	1,468
Design:	51
Trademark:	149
Appeal examiners:	386
General staff:	662

More information

Further information can be found from the JPO's Homepage:

<http://www.jpo.go.jp>

UNITED STATES PATENT AND TRADEMARK OFFICE

Mission Statement

For over 200 years, the core mission of the USPTO has remained the same: “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 of the U.S. Constitution).

The USPTO carries out the mission to foster innovation and competitiveness by:

- Providing high quality and timely examination of patent and trademark applications,
- Guiding domestic and international IP policy, and
- Delivering IP information and education worldwide.

Services and Operations

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

The 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 the USPTO are vested in the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, who consults with the Patent Public Advisory Committee and the Trademark Public Advisory Committee. The Commissioners of Patents and Trademarks act as the Chief Operating Officers of the agency’s two major business lines, Patents and Trademarks.

USPTO Strategic Plan

During 2006 the USPTO was guided by the aggressive and far-reaching *21st Century Strategic Plan* that committed the agency to promote the IP systems of the future to keep American innovators competitive in the global economy and transform the agency into a quality-focused, highly productive and responsive organization. While following the *21st Century Strategic Plan*, the USPTO continued to enhance the quality of the search and examination processes, complete the transition to electronic processing of patent and trademark applications, and develop innovative plans for hiring programs that address pendency and patent backlogs by hiring, training, retaining employees and allowing them to work at home or off-site.

The USPTO is currently under a new *Strategic Plan* which covers 2007-2012¹³. This *Plan* builds upon our past successes with three complementary strategic goals: (1) optimizing patent quality and timeliness; (2) optimizing trademark quality and timeliness, and (3) improving IP protection and enforcement domestically and abroad; and a management goal to achieve organizational excellence. The *Plan* outlines approaches toward attaining these goals, articulates underlying challenges and opportunities, and identifies steps that can be taken toward implementation. It provides a framework for continuing to make measurable quality

¹³ <http://www.uspto.gov/web/offices/com/strat2007/stratplan2007-2012.pdf>

improvements, reducing patent application pendency, increasing the percentage of patent applications filed electronically and improving worldwide IP expertise.

Intellectual Property Protection

In accordance with its mission, the USPTO delivered even more IP information and education worldwide in 2006. While the USPTO has long provided IP rights assistance and training, it is using a flexible team approach to meet the challenges of IP rights enforcement in today's global environment. This effort is accomplished by fulfilling existing obligations to assist nations in implementing accessible and effective IP rights enforcement systems; partnering to provide useful programs and training; and working to increase the accessibility, efficiency, and effectiveness of civil, administrative, and criminal enforcement mechanisms in global trade, foreign markets, and electronic commerce.

The USPTO has established the Global Intellectual Property Academy (GIPA), which consolidates and greatly expands USPTO's curriculum of training and capacity building programs on IP rights protection and enforcement. The USPTO responded to particular needs of countries and regions including drafting IP legislation for Vietnam, administrative enforcement of IP rights in Southeast Asia, commercialization of IP rights in Ukraine, and IP judicial education in Cambodia. In addition, the USPTO conducted specialized IP enforcement study tours for participants from the Middle East including one for librarians and another for judges and prosecutors.

The USPTO conducted China-focused IP Awareness Programs (How to do Business and Protect Your IP in China) in the U.S., Traditional Knowledge/Genetic Resources Workshops in Beijing and Kunming, China, and a Geographical Indications Workshop in Beijing. The USPTO also conducted IP Rights Enforcement programs in Bangkok for customs officials from nine Southeast Asia countries, workshops on criminal enforcement for judges and prosecutors in Hanoi, and the same workshops for judges from the Ministry of Justice in Morocco.

The USPTO partners with both the DOC U.S. and Foreign Commercial Service and the Department of State to post IP experts in select, high profile countries where IP challenges are greatest. In 2006, the USPTO posted experts in the countries of Brazil, India, Thailand, China and Egypt. These experts will advocate U.S. IP policy and interests, conduct training on IP rights matters, assist U.S. businesses and support the embassy or consulate action plan on IP rights.

In 2006, the USPTO continued with Strategy Targeting Organized Piracy (STOP!) the most comprehensive U.S. government-wide initiative created to combat trade in pirated and counterfeit goods. The related web site, www.stopfakes.gov, provides in-depth information about the STOP! initiative. One key feature of the web site is the country-specific "toolkits" that have been created by our overseas embassies to assist small- and medium-sized businesses to understand the atmosphere and how to protect and enforce their rights in a particular country.

TABLE 2.4: USPTO PRODUCTION INFORMATION

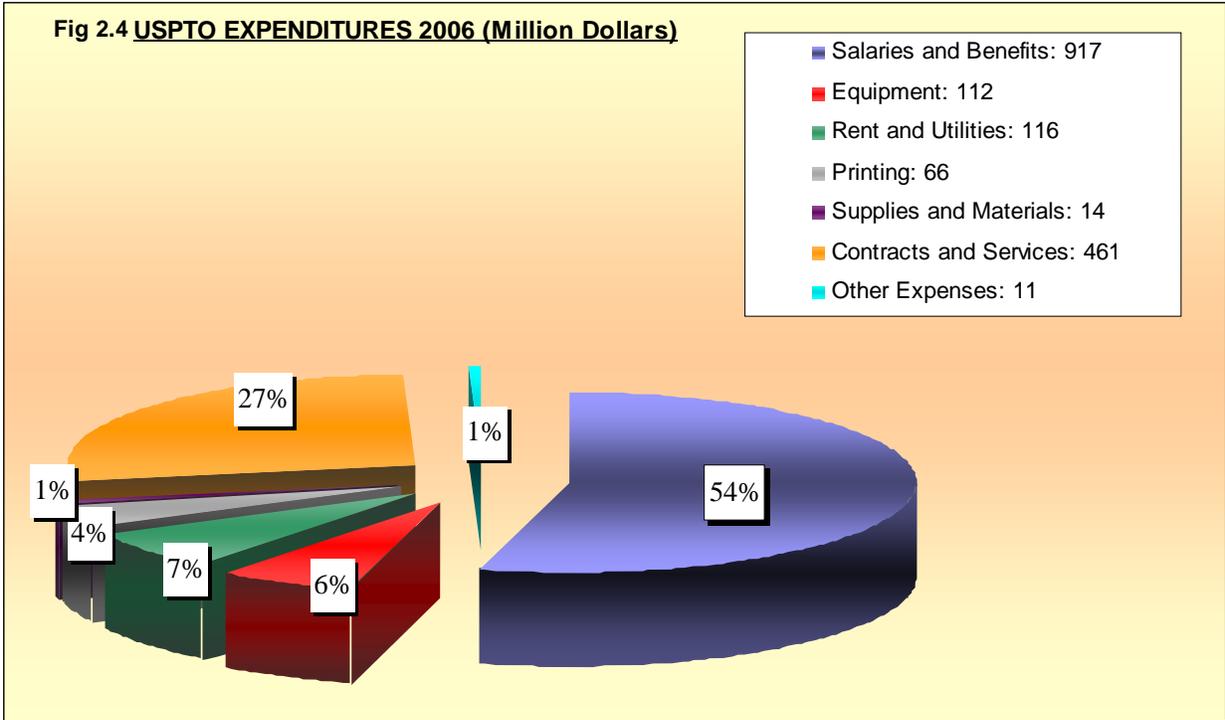
PRODUCTION FIGURES	2005	2006
Applications Filed		
Plant	1,222	999
Reissue	908	1,285
Design	25,553	25,515
Provisional	114,839	124,425
Total Utility	390,733	425,967
GRAND TOTAL	533,255	584,373
First Actions	302,659	323,379
Grants (Total)	143,806	173,771
U.S. Residents	74,637	89,823
Foreign	69,169	83,948
Japan	30,341	36,807
EPC States	22,182	22,043
"Others"	16,646	25,098
PCT Chapter II	11,427	7,124
Applications in appeal and interference proceedings		
Ex-parte Appeal Contested	2,834	3,349
Ex-parte Appeal Disposed	2,937	2,874
Inter-partes Appeal Contested	94	129
Inter-partes Appeal Disposed	96	107
Patent Cases in Litigation		
Cases filed	47	64
Cases disposed	53	59
Pending cases (end of calendar year)	47	58

USPTO budget

In calendar year 2006, USPTO expenditures reached \$1,697 million. USPTO expenditures are divided into seven major categories: salaries and benefits, equipment, rent and utilities, printing, supplies and materials, contracts/services, and all other expenses.

The majority of expenditures in 2006 were attributed to the USPTO's labor force. Salaries and benefits accounted for 54 percent of overall expenditures, or about \$917 million. Contracts and services were the second major expenditure, which represented about 27 percent of expenditures. Rent and utilities were the third largest at 7 percent. A breakdown of all the major spending categories is shown in Fig. 2.4.

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



USPTO Staff Composition

In FY 2006¹⁴, the total staff at the USPTO was 8,189. The Patent staff total was 7,283. This total was comprised of 4,779 Utility, Plant and Reissue examiners, 104 Design examiners, and 2,400 managerial, administrative and technical support staff. The Board of Patent Appeals and Interferences is a segment of the Office of General Counsel, which has 228 employees and consists of five organizations that are concerned with legal review of agency decisions, defense of agency decisions in court and administrative tribunals, internal agency legal advice, and regulation of persons practicing before the USPTO. The number of employees on the Board of Patent Appeals and Interferences increased in 2006, to a total of 114.

More Information

Further information can be found from the USPTO’s Homepage:

<http://www.uspto.gov>

¹⁴ The period of USPTO’s FY 2006 is from October 1, 2005 to September 30, 2006.