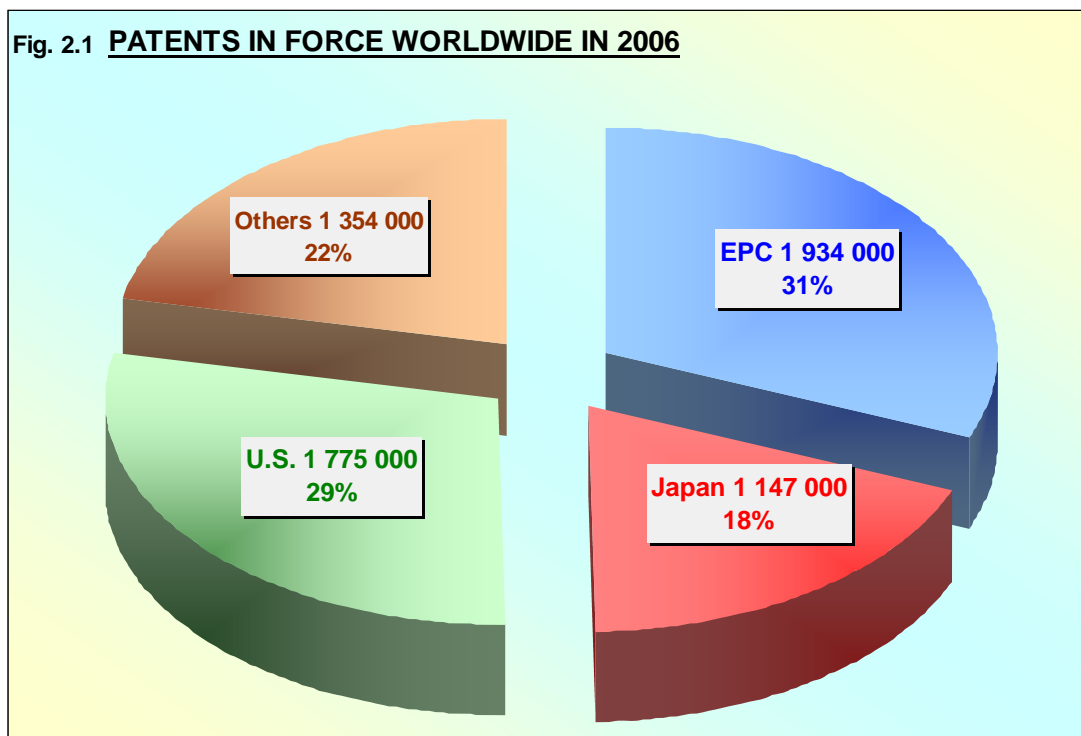


Chapter 2

THE TRILATERAL OFFICES

Patent rights are recognized throughout the world. 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 2006, about 6.3 million patents were in force¹¹.



About 77 percent of the total patents in force worldwide were granted in either the EPC contracting states, Japan or U.S. In EPC contracting states, patents are granted either by the national offices or by the EPO.

¹¹ Data for 2006 are missing for some countries, in which case statistics for 2005 were used when available.

EUROPEAN PATENT OFFICE

The EPO, the main patent granting authority for Europe, is an 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 receives currently more than 50 percent of all the patent applications filed in the area of the EPC contracting states.

By the end of 2007, the 32 members of the underlying European Patent Organisation were:

Austria	Belgium	Bulgaria	Cyprus	Czech Republic
Denmark	Ellas	Estonia	Finland	France
Germany	Hungary	Iceland	Ireland	Italy
Latvia	Liechtenstein	Lithuania	Luxemburg	Malta
Monaco	Netherlands	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 2007, extensions of European patents could be requested for:

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

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

Norway and Croatia joined the Organisation on January 1, 2008. Other states have expressed their intention to join the Organisation in the near future.

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.

Adopted during a diplomatic conference in November 2000, the revised European Patent Convention (EPC 2000) entered into force on 13 December 2007¹². 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 (TRIPS) and the Patent Law Treaty (PLT). It strengthens the position of applicants and patentees, and simplifies the access to patent protection and introduces new legal remedies, without departing from the fundamental principles established with the original convention of 1973.

¹² www.epo.org/patents/law/legal-texts/epc2000.html

Late in 2007, the London Agreement was ratified by a large enough number of countries to enter into force in May 2008. This is a major step towards reducing translation costs for European patents.

The EPO continued to develop its quality management system based on the ISO 9001 standard. 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 2006 and 2007.

Table 2.1: EPO PRODUCTION INFORMATION

PRODUCTION FIGURES	2006	2007
Applications filed (Euro-direct & PCT regional phase)	135 429	140 725
Searches carried out		
European (including PCT supplementary)	83 748	84 698
PCT international	69 841	73 880
On behalf of national offices and other	18 444	18 877
Total production search	172 033	177 455
Examination - Opposition (final actions)		
European examination	96 422	90 310
PCT Chapter II	14 564	13 389
Oppositions	1 921	2 085
Total final actions examination-opposition	112 907	105 784
Appeals settled		
Technical appeals	1 529	1 620
PCT protests	24	41
Other appeals	46	41
Total decisions	1 599	1 702

In 2006, the Office production in search marginally increased by 3 percent to about 177 500 completed searches. While the examination work under the PCT has been reduced, the number of final actions in European examination slightly decreased by 6 percent to 90 300. In 2007, 1 700 decisions in appeal were completed (6 percent more than in 2006).

Documentation

The Office further improved the range and quality of its databases and online search tools in 2007. At the end of the year, the electronically searchable EPO database contained more than 60 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 78 million searchable abstracts, a 10 percent increase over 2006. A special effort was made to improve patent data coverage of Asia by acquiring more data from countries such as China and Japan.

The EPO citation database currently contains 83 million references relating to 12.5 million applications or publications. Quality control resulted in half a million corrections related to six million cited documents.

The bibliographic database was augmented with 3.5 million documents to 66 million and around one million corrections were made.

The electronic filing tool epoline® received a growing response from the users. More than 40 percent of the European applications were filed online.

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.

The Office reformulated its patent information policy to put the emphasis on barrier-free access to patent information. More data and search tools have been made available to the public.

A new version of the World Patent Statistical Database (aka PATSTAT) was distributed in spring 2007 incorporating amendments as suggested by the users, followed by a further update in the autumn. The EPO developed best-practice examples of how to use this database for patent statistics and patent mapping.

Technical Cooperation

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

In order to help the national offices, the Innovation Support Training Programme was further developed with the implementation of four modules: Enforcing and challenging IPRs; Strategic use of IP; Innovation & IP management; and Financing of innovation and network building. The Academy is an active partner in the European Commission's "ip4inno", by helping to develop IP training modules for business advisers and technology transfer officers¹³. Other activities included roving workshops to raise IP awareness in the academic environment, and to organise other various beginner courses in the area of IP.

In the context of the Office's thirtieth anniversary, 450 experts attended the European Patent Forum in Munich, where the EPO Scenarios for the future were presented. The event was combined with the European Inventor of the Year award ceremony.

Annual conferences took place at Seville (PATLIB2007 in May), Riga (Patent Information Conference, in October), Como (Online Services Annual Conference, in November), and Brussels (CII in July and Biotechnological inventions in November).

¹³ www.ip4inno.eu

In 2007, the EPO signed a strategic partnership agreement with SIPO (China) to enhance co-operation between the two offices. A Memorandum of Understanding was signed with the ROSPATENT (Russia Federation) for future co-operation.

EPO income statement

The EPO is financially autonomous and makes its financial statements since 2007 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.

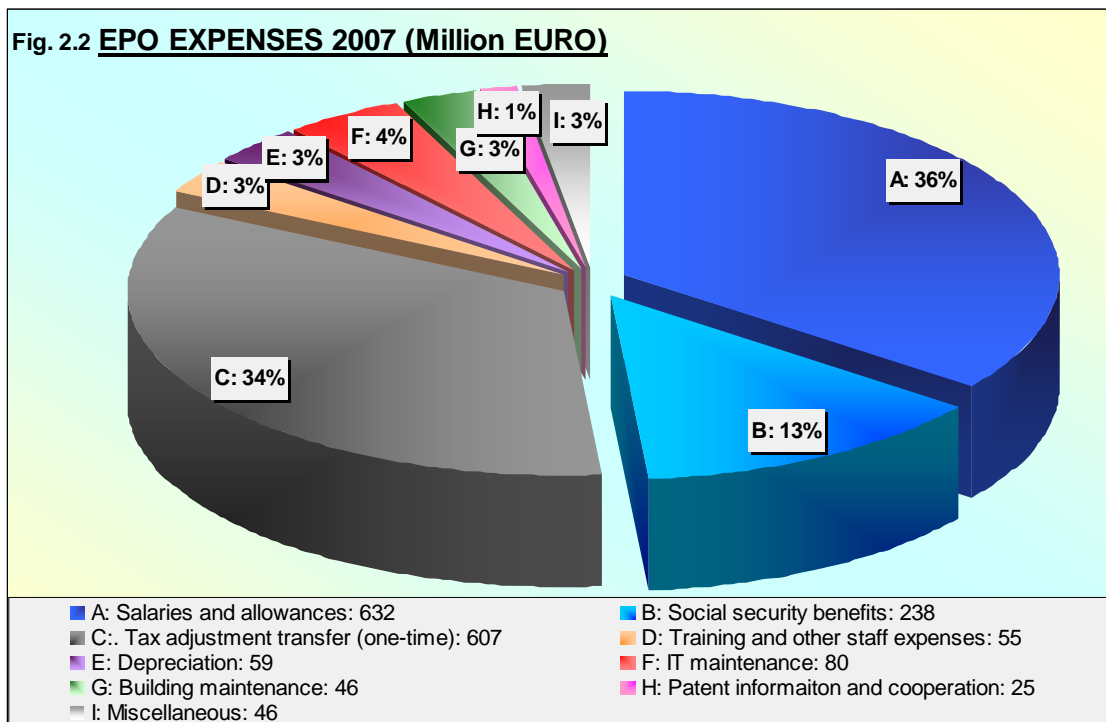
Fees related to the patent grant process, such as filing, search, examination, appeal fees as well as renewal fees for European patent applications (i.e. before grant) are paid to the EPO directly. Renewal fees for European patents (i.e. after grant) are collected by the designated contracting states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

Under IFRS, procedural fees are not recorded as revenue in the accounting year in which they are received, but instead are treated as deferred income, to be included in 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 2007, the total income, after netting finance revenue and finance costs, amounted to EUR 1 169 million.

On the expenses 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 or sickness and long-term care costs. Due to a change of rules regarding pension taxation, a liability of EUR 720 million was shifted from the contracting states to the EPO in 2007, EUR 607m of which constitute a one-time expense in 2007.

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.

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



EPO Staff

During 2007, 308 employees were recruited of which 244 were examiners. By the end of the year, the staff reached a total of 6 499, including 3 689 examiners in search, examination, opposition, and 158 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 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, 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.

Development of Intellectual Property Policy

The "Intellectual Property Strategic Program 2008" was adopted on June 18, 2008. This program highlighted three important strategies, "further strengthening the global competitiveness of Japanese Industry in priority fields", "further strengthening the activities in the international market", and "leadership in dealing with global issues and Asian issues".

Policy Committee on Innovation and Intellectual Property

A discussion on a new IP policy that can keep pace with the recent changes worldwide is essential for increasing innovations in the drastically changing environment surrounding the IP system. For this purpose, the Policy Committee on Innovation and Intellectual Property (PCIIP) was set up on December 18, 2007. The PCIIP has been discussing desirable IP policies for Japan.

Recent Improvements to Japan's IP system

The Bill to Partially Amend the Patent Act and Other IP-Related Acts, which was enacted and promulgated in April 11, 2008 and April 18, 2008 respectively, 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, expanding of the network of electronic exchange of priority documents, and reduction of patent/trademark fees, etc.

Efforts related to Patents

With the goal of implementing expeditious and accurate patent examinations according to the highest global standards, the 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 to registered search agencies in the private sector. In addition, the 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, the 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, the 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, as evidenced by JPO performance, where the number of patent examinations processed is two to four times the number processed in the EPO and the USPTO.

The total number of examiners for FY 2008 is expected to increase by more than 100 over FY 2007.

Table 2.2: JPO NUMBER OF PATENT EXAMINERS

Examiners	FY 2004	FY 2005	FY 2006	FY 2007 ¹⁴
Regular	1 145 (+19)	1 162 (+17)	1 174 (+12)	1 175 (+1)
Fixed-term	98 (+98)	196 (+98)	294 (+98)	392 (+98)
Total	1 243 (+117)	1 358 (+115)	1 468 (+110)	1 567 (+99)

Table 2.3: JPO PRODUCTION INFORMATION

PRODUCTION FIGURES		2006	2007
Applications	Domestic	347 060	333 498
	Foreign	61 614	62 793
	Total	408 674	396 291
Examinations	Requests	382 116	376 310
	First actions	292 756	307 665
	Final actions	266 386	299 628
Registration	Domestic	126 804	145 040
	Foreign	14 595	19 914
	Total	141 399	164 954
Appeals/Trials	Demands for Appeal against examiner's decision of refusal	25 870	32 586
	Demands for Trial for invalidation	273	284
PCT activities	International searches	25 556	26 033
	International Preliminary examinations	3 023	2 741

JPO Budget

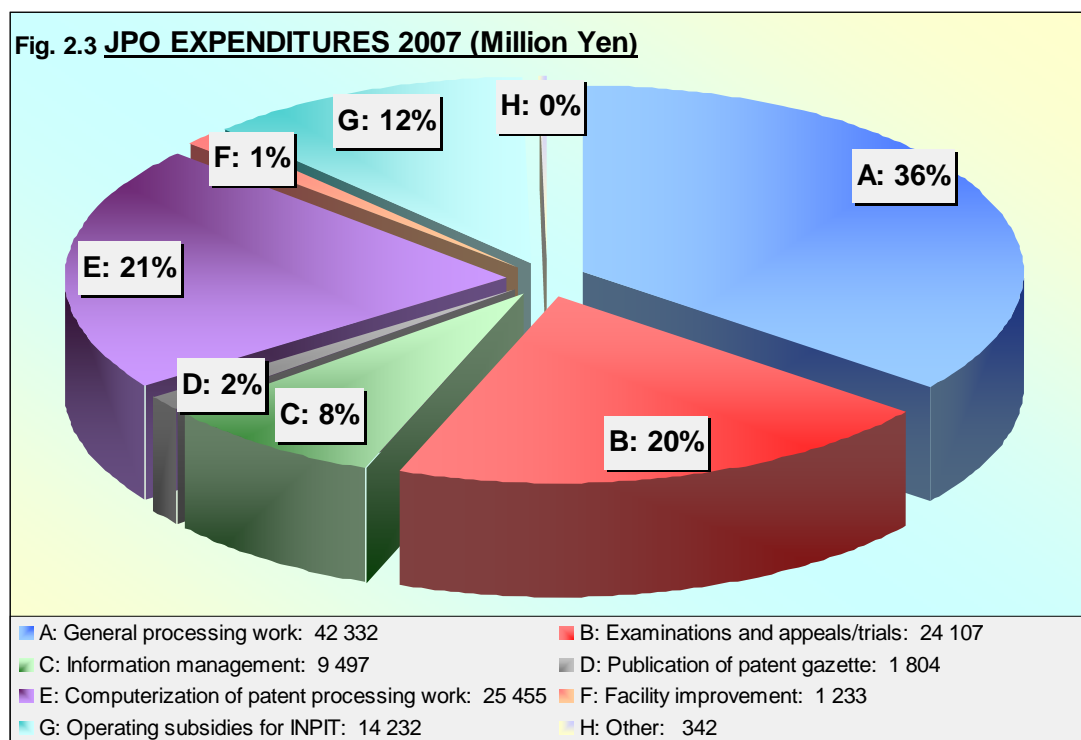
The JPO Fiscal Year (FY) 2007 budget totalled approximately 119 002 million yen. The breakdown of expenditures is as follows:

- 42 332 million yen for general processing work (includes personnel expenses)
- (32 145 million yen for existing personnel)

¹⁴ The period of JPO's FY 2007 is from April 1, 2007 to March 31, 2008.

- 24 107 million yen for examinations and appeals/trials, etc.
- 9 497 million yen for information management
- 1 804 million yen for publication of patent gazette, etc.
- 25 455 million yen for computerization of patent processing work
- 1 233 million yen for facility improvement
- 14 232 million yen for operating for INPIT¹⁵ (subsidy)
- 342 million yens for other expenses.

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



JPO Staff Composition

As of the end of FY 2007, the JPO employed a total of 2 800 staff. This includes 98 new fixed-term examiners to further cut the time required for examination.

Examiners:	Patent / Utility model:	1 567
	Design:	52
	Trademark:	149
Appeal examiners:		386
General staff:		646
Total:		2 800

More information

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

¹⁵ National Center for Industrial Property Information and Training

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 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 and registering trademarks.

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 USPTO operates with two major business lines, Patents (consisting of patents of invention, referred to as utility, design, reissue, and plant 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, the USPTO released its *2007-2012 Strategic Plan* in March 2007. 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 organisational 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 need in capital driven markets. In 2007 the USPTO increased its already high level of quality and hired and trained large numbers of new examiners to address its growing patent pendency.

Other efforts to meet these goals included enhanced reviews of allowed patent applications in selected technologies and centralized processing of appeals to ensure compliance with formal requirements for appeals. Also in 2007, partnerships with industry, especially in the areas of nanotechnology, biotechnology, and business methods taxation, were expanded to keep patent examiners' knowledge current.

In addition, the USPTO continued to transition to an end-to-end, text based patent prosecution system, and increased the number of examiners able to work from home while providing them better electronic tools to perform their work. The USPTO continued the development of a text based Patent File Wrapper system, with a goal of replacing the current image based system. The USPTO also piloted an improved collaboration tool for work at home examiners which allows them to submit their work for review and have it credited electronically.

Trademark Quality and Timeliness

In 2007 the Trademark organisation continued to demonstrate excellence and met and exceeded all its agency performance targets which advanced all of the objectives outlined in the 2007-2012 *Strategic Plan*. Although production has increased, pendency has improved and become more consistent on a monthly basis, due to changes in performance plans and incentive awards. Increased use of electronic forms, particularly Trademark Electronic Application System Plus filings, has improved the efficiency of examination and contributed to an increase in applications approved for publication.

Searching and examination quality continued to show improvement in 2007. Advances have also been made to improve the workflow process to better manage and track performance and improve training.

Intellectual Property Protection

The USPTO expanded delivery of IP information and education worldwide in 2007. While the USPTO has long provided IP rights assistance and training, the recently completed Global Intellectual Property Academy allowed the USPTO to expand IP training for foreign judges, enforcement officials, and administrators. In 2007, the academy trained several hundred foreign officials on how to strengthen their IP rights and enforcement and implemented a Foreign Examiner-in-Residence training program. The USPTO also continued posting IP experts at American embassies in key locations around the world.

The USPTO established broad cooperative agreements with several countries for increased cooperation including: India's Department of Industrial Policy and Promotion, to cooperate in capacity building activities, human resource development,

and public awareness programs; IP Australia (IPAU), to establish a second phase of a pilot project to determine the feasibility of having IPAU perform search and examination functions under the PCT for the USPTO; the IP office of the Republic of the Philippines, for increased technical cooperation between the two Offices; and the Ethiopian IP Office, wherein the USPTO agreed to provide technical assistance to improve the administration of IP systems and develop professional skills.

In 2007, the USPTO continued with Strategy Targeting Organized Piracy (STOP!)¹⁶, the most comprehensive U.S. government-wide initiative created to combat trade in pirated and counterfeit goods. As part of STOP!, the USPTO manages a hotline that helps small and medium-sized businesses leverage U.S. Government resources to protect their IP.

Table 2.4: USPTO PRODUCTION INFORMATION

PRODUCTION FIGURES	2006	2007
Applications filed		
Utility	425 967	456 154
Plant	1 151	1 049
Reissue	1 285	1 054
<i>Total Patents of Invention</i>	<i>428 403</i>	<i>458 257</i>
Design	25 515	27 752
Provisional	124 425	136 046
TOTAL	578 343	622 055
PCT Chapter I Searches	53 094	55 500
PCT Chapter II Examination	4 053	3 107
First actions	323 379	394 492
Grants (Total)	173 771	157 283
	U.S. residents	89 823
	Foreign	83 948
	Japan	36 807
	EPC states	22 043
	Others	25 098
Applications in appeal and interference proceedings		
Ex-parte appeal contested	3 383	5 078
Ex-parte appeal disposed	2 939	3 757
Inter-partes appeal contested	111	61
Inter-partes appeal disposed	107	83
Patent cases in litigation		
Cases filed	64	51
Cases disposed	59	58
Pending cases (end of calendar year)	58	43

USPTO budget

The USPTO utilizes an activity based cost accounting methodology to allocate costs across the three strategic goals in order to provide transparency to the program's operational performance in identifying various factors that drive program costs. In FY 2007¹⁷, USPTO expenditures totalled \$1 766 million.

¹⁶ www.stopfakes.gov/

¹⁷ The period of USPTO's FY 2007 is from October 1, 2006 to September 30, 2007.

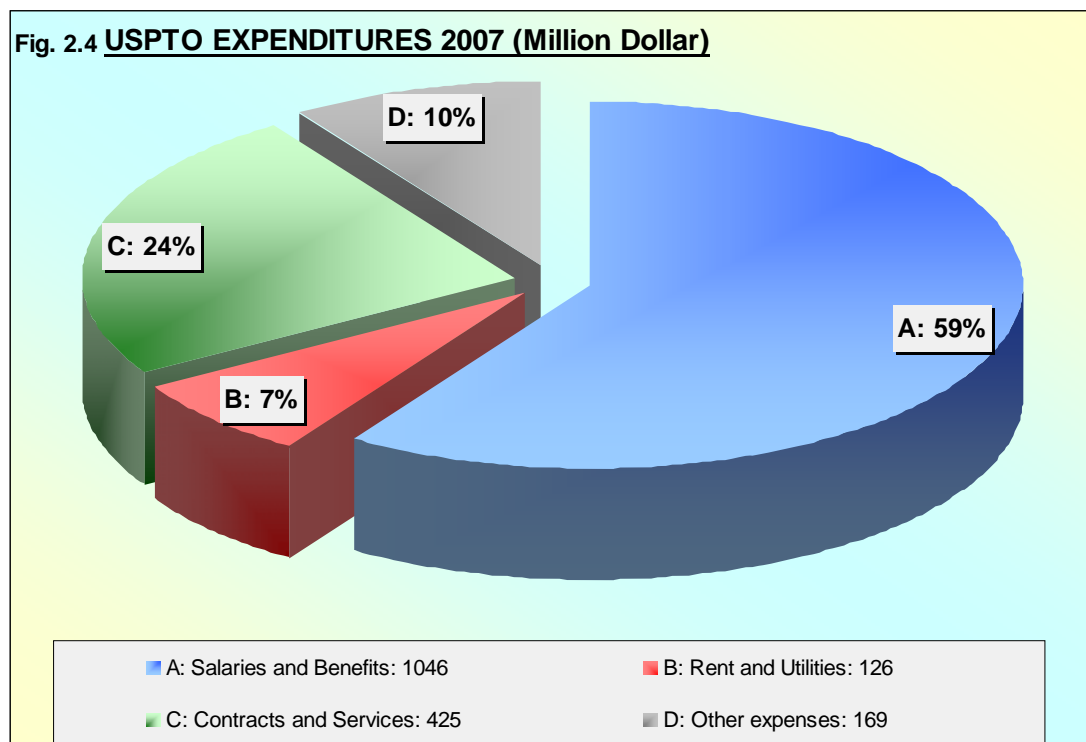
Goal 1 -	Optimize patent quality and timeliness	\$1 523 million
Goal 2 -	Optimize trademark quality and timeliness	\$196 million
Goal 3 -	Improve IP protection and enforcement domestically and abroad	\$47 million

Agency-wide, 17 percent of expenditures were 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 2007 were attributed to the USPTO's labour force. Salaries and benefits accounted for 59 percent of overall expenditures, or about \$1 046 million. Contracts and services were the second major expenditure, which represented about 24 percent of expenditures. Rent and utilities were the third largest at 7 percent. A breakdown of the major spending categories is shown in Fig. 2.4.

USPTO Expenditures 2007

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



USPTO Staff Composition

In FY 2007, the total staff at the USPTO was 8 913. Patent examiner staff totalled 5 477; 5 376 Utility, Plant and Reissue examiners, and 101 Design examiners.

Trademark examiner attorney staff totalled 404. Managerial, administrative and technical support staff totalled 3 032.

More Information

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