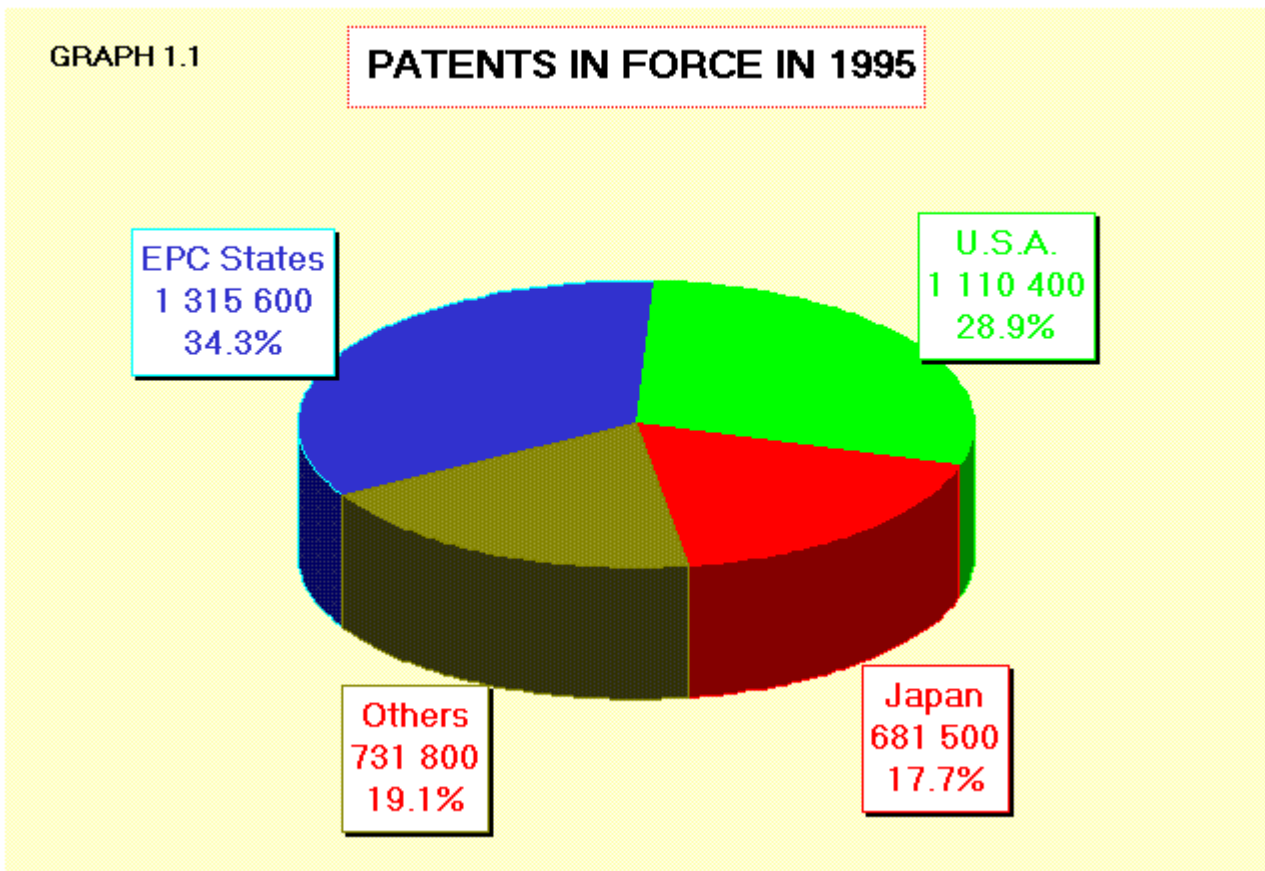


## 1 INTRODUCTION

Intellectual property rights are not all of the same nature. A distinction is made between:

- \* patents of invention;
- \* utility model patents;
- \* industrial design patents;
- \* trademarks.

This report concerns the first kind, patents of invention. Patent rights are well-used throughout the world. At the end of the year 1995, a total of 3.84 million patents were in force. The Contracting States of the European Patent Convention, the JPO and the USPTO, respectively, cover about 81% of the total patents world-wide. Patents in EPC States have been granted by the national Office in these States and since 1980 in a gradually increasing share by the EPO.



## EUROPEAN PATENT OFFICE

The European Patent Office (EPO) is an example of successful economic and political co-operation among the States of Europe, providing patent protection in up to 23 European countries on the basis of a single patent application and a unitary grant procedure. The following 18 States were in 1996 members of the European Patent Organisation: **Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Liechtenstein, Luxembourg, Monaco, Portugal, The Netherlands, Spain, Sweden, Switzerland, The United Kingdom.** The following States agreed with the EPO to allow extension of European patents to their territory: **Albania, Latvia, Lithuania, Romania, and Slovenia.** Together these States build a market of over 410 million people.

**TABLE 1.1: PRODUCTION INFORMATION EPO**

<b>PRODUCTION FIGURES FOR 1995 AND 1996</b>					
				<b>1995</b>	<b>1996</b>
<b>Filings</b>					
Total including Euro-PCT international phase				79 245	86 547
Total including Euro-PCT regional phase				60 078	64 035
<b>Production</b>					
<b>Search</b>					
European searches (Euro+Euro-PCT suppl.)				42 472	40 125
PCT searches (PCT-SAE+PCT-SA)				20 457	25 334
Searches on behalf of national Offices				14 238	14 733
Other searches				4 943	5 101
<b>Total production search</b>				<b>82 110</b>	<b>85 293</b>
<b>Examination (final actions)</b>					
European examination				55 182	52 862
PCT Ch. II				13 065	15 680
Opposition (final actions)				2 125	2 331
<b>Total final actions examination/opposition</b>				<b>70 372</b>	<b>70 873</b>
<b>Appeal</b>					
Technical appeals				930	862
Legal appeals				8	5
Other appeals				46	44
<b>Total decisions appeal</b>				<b>984</b>	<b>911</b>

The mission of the European Patent Organisation is to promote the use of patent protection in Europe in order to enhance the innovative strength and competitiveness of European industry by providing an efficient and high quality regional system for patent protection exploiting the potential for synergy between national offices and the EPO.

During 1996 the Office continued its efforts to make its own contribution to promoting innovation in Europe by lowering the cost for the users of the European patent system. In December the Administrative Council of the Organisation decided, on proposal of the President of the Office, to make a substantial reduction in the fees levied by the EPO. This measure is also a response to the worldwide call for the reduction of the cost of patenting, in particular for small and medium-sized companies and for independent inventors.

From 1 July onwards, the fee for an average European patent will be cut by about 20%. The fees payable in the early stages of the procedure will be reduced by over 60%, an designation fees will only fall due after the applicant has received the search report

The main task of the European Patent Office is to perform the European patent grant procedure according to the European Patent Convention. Besides this, the EPO acts as receiving, searching and examining authority under the Patent Co-operation Treaty.

A further task of the EPO is to perform, on behalf of national Patent Offices, novelty searches for the purpose of national procedures and to carry out state of the art searches for industry and others requesting this service. In table 1.1 production figures for search (European, PCT and national searches), for examination (European and PCT Ch. II) and for opposition and appeal in the European procedure are given for the years 1995 and 1996.

In 1996, 85 300 searches have been completed (82 100 in 1995), the final actions in examination and opposition increased by 1 % up to 70 900 and 911 decisions in appeal have been completed (7% less than in 1995).

At the end of 1996, the documentation collection of the EPO comprised 24 500 000 patent documents and 2 500 000 technical or scientific articles. This means 1 100 000 new documents added to the collection - i.e. an increase of 4% - including 660 000 patent documents, 106 500 technical and scientific articles and 327 000 English-language abstracts of patents from Japan and the former Soviet Union. The classification system used by the EPO is for the most part identical with the IPC. However, the EPO has created approximately 51 800 additional sub-categories which make it easier to keep the collection up-to-date by adapting it to the latest state of the art. This also ensures maximum efficiency in searching. 620 300 documents were reclassified in 1996, resulting in 99 200 additional classifications of documents already in the collection.

The completion of the electronic query system EPOQUE II has set the stage for a fully computer-based patent search. In combination with computerized tools for creating search reports, the EPOQUE system ensures that EPO novelty searches are performed speedily and are of high quality.

It is also the policy of the Organisation to intensify the awareness of patenting in Europe and to facilitate access to patent information.

The EPO is a producer of patent information products and systems and has set up databases that are not only available for internal use, but also for dissemination by national Offices. EPIDOS products and services are available both directly to users and to commercial data suppliers. Under the acronym EPIDOS (European Patent Information and Documentation - former INPADOC) the Office presents its range of patent information products. The linking up of national patent libraries to form an information network (PATLIB) is one of the key elements to the effective transfer of knowledge in Europe. These information centres are equipped with CD-ROM workstations, which facilitate user access to patent documents. Since 1995, information about patent products and the European grant procedure is available on the EPO World Wide Web site on Internet.

The EPO, supported by the legal knowledge and experience available in the Offices, sees a further important task to contribute to the harmonization of patent practice and patent law in particular in Europe, but also-worldwide.

In the year under review, Poland, Slovakia, the Czech Republic and Hungary filed requests to be allowed to accede to the EPC, in fulfilment of their agreement with the European Union. Bulgaria and Romania have undertaken to seek membership of the EPC within 1997. The requests for accession are a matter for decision by the Administrative Council of the European Patent Organisation.

Bosnia-Herzegovina and the Former Yugoslav Republic of Macedonia joined the Regional intellectual Property Programme (RIPP), which now covers 13 countries. The EPO supports this program by providing assistance and financial support. The common Software was installed in Romania, Bulgaria and the three Baltic republics. The Czech and Eurasian Patent Offices also decided to adopt this software. The TACIS programmes of national assistance to Ukraine and Uzbekistan were continued; and the Ukraine project was completed in November.

Co-operation with ASEAN countries was intensified by providing training for patent attorneys and installing on-line connections between national offices and the patent database at EPO's Vienna sub-office. Progress were also made in co-operation projects with Argentina, Mexico, the Philippines and Thailand. In the EPO's co-operation with the Chinese Patent Office, the focus was on setting up technical information and documentation systems and preparing for the installation of EPOQUE.

### **EPO's budget**

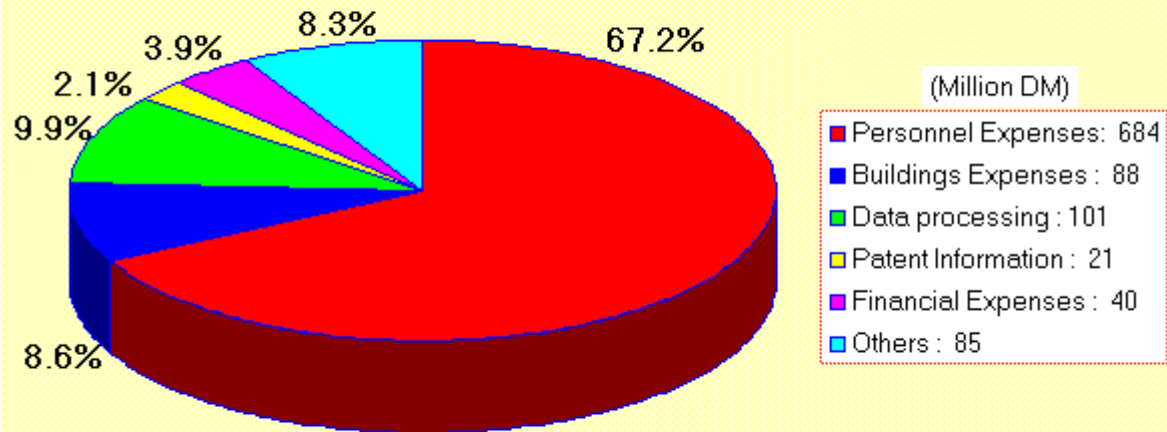
The Office is financially autonomous. Expenditure is met entirely out of income, mainly consisting of fees paid by applicants and patentees. Procedural fees such as the filing, search, examination and appeal fees and renewal fees for European patent applications are paid to the Office directly. Renewal fees for European patents, on the other hand, are collected by the designated Contracting States and determined by national law. From these renewal fees, 50 % is kept by the National Offices and 50 % is made available to the EPO.

Total expenditure 1996 (excluding investments) were DEM 1 019 million. Thereof DEM 684 million (67.1%) for Personnel Expenses, DEM 88 million (8.6%) for Buildings and Equipment (including depreciation), DEM 101 million (9.9%) for Data Processing (including depreciation), DEM 21 million (2.1%) for Patent Information, and DEM 40 million (3.9%) for Interest and Bank Charges and DEM 85 million (8.4%) for Others were expended.

Total income to the Office in 1996 amounted to DEM 1 135 million of which DEM 116 million constituted the operating surplus.

GRAPH 1.2

**COMPOSITION EPO EXPENDITURE 1996**



**Composition of personnel**

At the end of 1996, the total staff was 3 671, thereof 1 929 (52.5%) involved in the patent grant procedures (including appeal), mainly in search, examination and opposition (1 851) and members of Boards of Appeal (78).

**JAPANESE PATENT OFFICE**

With the recent expansion of and trend toward borderless exchanges in the world trade and economy, the JPO is required to play an initiative role in internationally harmonizing and extending cooperation to developing nations in the field of intellectual property. To achieve this goal, the JPO have implemented the following activities in 1996.

The JPO places high priority on speeding up the examination and appeal process for patents, designs and trademarks. In order to reduce the period of the first official action to 12 months of the filing date( in the case of patent applications or demand for trial, from the date of the request for examination or of the demand for trial, respectively) for any patent, industrial design or trademark application, the JPO will implement such measures as the further development of the Paperless system and the utilization of experts to conduct prior art searches.

The recent dramatic progress in computer and information technology has led to a technological and social environment with a standardized information network contributing to cost reduction. In response to this situation, the JPO has developed a plan to improve its administrative and examination process through automation.

Currently the first generation of the on-line patent application system is in use in the JPO. However, the software for electronic filing does not yet run on standard personal computers. The second generation system will start operation in April 1988, which will allow us to file applications by using personal computers. The JPO plans to distribute the second generation software for electronic filing to the public. Moreover, with the aim of expanding the Paperless system still further, the JPO has started to develop a prototype of the third generation system.

The JPO started accepting electronic filing of applications for patent and utility models in December, 1990. A new project for the electronic application system for design, trademark, trial, and PCT has been set up. The new system is scheduled to come into operation by around the year 2000.

The JPO has started a project to improve the search system with full text retrieval of Japanese patent publications and document linkage function. The adoption of this new client-and-server system will improve search efficiency and contribute to cost reduction.

The APEC Intellectual Property Rights Symposium was held by the JPO in Tokyo on August 28 and 29, 1997. After two-day discussion among 18 intellectual property leaders from all the APEC economies, "the Joint Statement" was adopted. It was the first time that all the top-level APEC officials who work in the field of intellectual property rights (IPR) met together.

With the cooperation from private enterprises and other IPR-related organizations, the JPO has been implementing such programs as receiving of trainees and dispatching of experts. In 1996, the Asia-Pacific Industrial Property Center was established by the Japan Institute of Invention and Innovation with the aim of expanding its scope of activities. Then, the JPO started a project targeted at receiving the total of 1,000 trainees from governments and private sectors of other countries, mainly the Asia-Pacific economies, by the year 2000, the time limit for the developing nations to implement the TRIPs Agreement. In fiscal year 1996, the total of 227 trainees from 22 economies were received. With this rate, the target of this program will be achieved earlier than planned.

With the rapid global-scale development and prevalence of the Internet services, it has been made easier to provide or access to wider range of information. To keep up with this trend, the JPO opened its homepage both in Japanese and English.

The JPO will positively participate in international conferences and meetings and make efforts to contribute to the establishment of an internationally harmonized system and rules in the field of industrial property.

**TABLE 1.2: PRODUCTION INFORMATION JPO**

<b>PRODUCTION FIGURES 1995 AND 1996</b>		
	<b>1995</b>	<b>1996</b>
<b>Applications Filed</b>		
Domestic	334 612	340 101
Foreign	34 603	36 514
<b>Total</b>	<b>369 215</b>	<b>376 615</b>
<b>Grants</b>		
Domestic	94 804	187 681
Foreign	14 296	27 419
<b>Total</b>	<b>109 100</b>	<b>215 100</b>
<b>Applications in appeals</b>	<b>19 223</b>	<b>13 667</b>

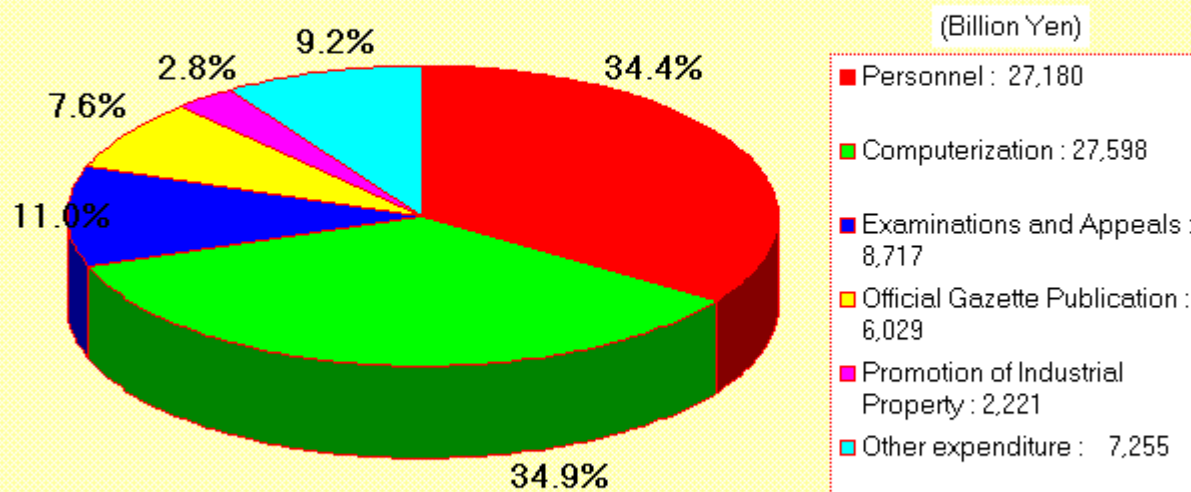
### **JPO's budget**

In July 1984, the JPO introduced a new accounting system, in which all expenditures are covered by its revenues. This system made it possible for the JPO to take comprehensive measures, such as the Paperless Project, to speed up its clerical procedures.

The JPO's budget for fiscal 1996 was approximately 79.0 billion yen, of which 27.598 billion yen was allocated for developing the computerization of patent processing, 8.717 billion yen for examinations and appeals, 2.221 billion yen for promoting the internationalization of industrial property administration, 2.127 billion yen for utilization of patent information, 6.029 billion yen for official gazette publications, and 27.180 billion yen for personnel.

GRAPH 1.3

**COMPOSITION JPO EXPENDITURE 1996**



**Composition of personnel**

In order to speed up the examination and appeal procedures, the JPO increased the number of examiners and other relevant officials by 42. As a result, at the end of fiscal 1996, there was a total of 2 521 JPO examiners and other officials: 1 249 examiners (1 073 patent and utility model examiners, 45 design examiners, and 131 trademarks examiners), 358 appeal examiners in the Appeal Department and 914 clerical officials.

**THE UNITED STATES PATENT AND TRADEMARK OFFICE**

The mission of the U.S. Patent and Trademark Office (USPTO) is to promote industrial and technological progress in the United States and strengthen the national economy by : administering the laws relating to patents and trademarks; advising the Secretary of Commerce, the President of the United States, and the Administration on patent, trademark, and copyright protection; and, also on the trade-related aspects of intellectual property. This mission is accomplished: by examining patent and trademark applications, by issuing and registering patents and trademarks; by disseminating patent and trademark information to the public; and by encouraging a domestic and international climate in which intellectual property can flourish.

The USPTO is committed to "employing better processes " through Business Process Reengineering (BPR). The goal of "employing better processes " is directed towards changing the way we process our work in order to provide the highest quality products and services in a cost effective manner. A number of BPR efforts are currently underway within the USPTO, including those looking at the Patent and Trademark examination processes.



As one of the early participants in the Government Performance and Results Act (GPRA) pilot project, (which began in fiscal year 1994) the PTO has had the opportunity to re-examine, explore, and create performance measurements that are more aligned with agency mission and strategic goals and that provide a more balanced assessment of program performance. Assessing major program performance in areas other than input and output allowed the PTO to look at the result or outcome of its efforts and to monitor performance from all perspectives (e.g., customer and employee satisfaction, effectiveness, efficiency, innovation and quality). The Office has also evaluated private and public leaders in performance measurement data collecting, monitoring, and evaluating systems to use in improving the overall performance management system at the PTO.

PTO's decision to participate in the GPRA pilot test program stemmed from its historical experience in monitoring major program performance through performance measurements, and its many customer outreach efforts to gather feedback and comments on the PTO's performance.

As a participant in the GPRA project, the PTO test-piloted three of the five components of GPRA: annual performance plans, annual performance reports, and managerial flexibility and accountability waivers. Since FY 1995, the PTO has submitted three performance plans and two performance reports to the Office of Management and Budget. In FY 1996, the PTO sought and was granted managerial flexibility and accountability waivers. However, simultaneous revisions of Federal administrative and procedural regulations such as the OMB Circular A-76 (Performance of Commercial Activities) and Federal Acquisition Reform Act of 1995 negated any benefits PTO may have derived from testing this phase of the pilot project.

The PTO's vision "to lead the world in providing customer-valued intellectual property rights that spark innovation, create consumer confidence, and promote creativity" is an integral component of the Department of Commerce's mandate to promote job creation, economic growth, sustainable development, and improve living standards for all Americans by working in partnership with business, universities, communities, and workers to (1) build for the future and promote U.S. competitiveness in the global market place by strengthening and safeguarding the nation's economic infrastructure; (2) keep America competitive with cutting-edge science and technology and an unrivalled information base; and (3) provide effective management and stewardship of our nation's resources and assets to ensure sustainable economic opportunities.

The USPTO is building an open system standards-based information technology infrastructure to support the examination of patent and trademark applications and to support information dissemination and administrative functions. The infrastructure includes the ability to electronically search the text of U. S. patents issued since January 1971 and the more than 1.5 million trademark registrations and applications. The USPTO plans to replace the existing text search system with Commercial-Off-The-Shelf (COTS) products, expand the content of PTO data bases, and provide greater access to external data bases.

The USPTO disseminates a wide range of information products to the public. Sources of information available to the public which are located at the USPTO's headquarters include the Patent and Trademark Search Rooms: the Scientific and Technical Information Centre (STIC); and the Patent and Trademark Assignment Search Libraries: Members of the public who wish to access information without travelling to the USPTO's headquarters can go to a Patent and Trademark Depository Library (PTDL). There are currently over 81 of these independent organizations operating in 49 States, the District of Columbia and Puerto Rico. Many public libraries also subscribe to the Official Gazette, which is published weekly and contains information on patents, registered trademarks, and trademark applications.

**TABLE 1.3 : PRODUCTION INFORMATION USPTO**

<b>PATENT PRODUCTION INFORMATION 1995 AND 1996</b>				
	<b>1995</b>		<b>1996</b>	
<b>Applications filed*</b>	212 377		195 187	
<b>First actions</b>	186 269		174 843	
<b>GRANTS</b>				
U.S. resident	55 739	55.0%	61 107	55.7%
Foreign	45 680	45.0%	48 539	44.3%
Japan	21 764	21.5%	23 052	21.0%
EPO	16 758	16.5%	17 319	15.8%
Others	7 158	7.0%	8 168	7.5%
<b>Total</b>	<b>101 419</b>	<b>100.0%</b>	<b>109 646</b>	<b>100.0%</b>
PCT Chapter II	8 078		8 945	
<b>Applications in appeals and interference proceedings</b>				
	Appeals	Interference	Appeals	Interference
Contested	4 900	123	3 500	116
Disposed	3 315	197	3 067	135
Not allowed	2 451	N/A	2 297	N/A
Pending at EOY	4 443	388	6 042	314
<b>Number of patent cases in litigation</b>				
Total Cases Filed	87		53	
Total Cases Disposed	93		61	
Total EOY Cases Pending	48		34	

\* For utility patents only

The public has access to patent and trademark information through a variety of media. Copies of trademark applications, registered trademarks, and patents are sold to the public, and are made available as paper search files and on microfilm in the Patent and Trademark public search facilities. Additionally, CD-ROM's, now distributed by the USPTO, contain information on patents, registered and pending trademarks, patent and trademark assignments, and full images for U.S. patents. Searchable patent bibliographic information is available on the USPTO Web site.

The USPTO is committed to maintaining low pendency rates for patent issuance and for trademark registration. The current pendency rate as of December 31, 1996 was at 21.5 months. The pendency goals for trademark applications is 13 months to registration or abandonment. The USPTO has reorganized the administrative processing function for Patent Cooperation Treaty applications to better respond to Treaty obligations and to our users. The table 1.3 highlights some relevant USPTO utility patent workload measures.

## USPTO's budget

The USPTO funding is depending upon fees collected from its users. During 1996 the USPTO's income was comprised of patent expenditures of \$623,991,675 and the trademark expenditures of \$76,813,325. The USPTO incurred \$700,805,000 in expenditures in 1996. Expenditures for salaries and benefits constituted the largest cost at 48.6% of overall expenditures. A breakdown by major spending categories is shown in the following chart.

GRAPH 1.4

### COMPOSITION USPTO EXPENDITURE 1996

