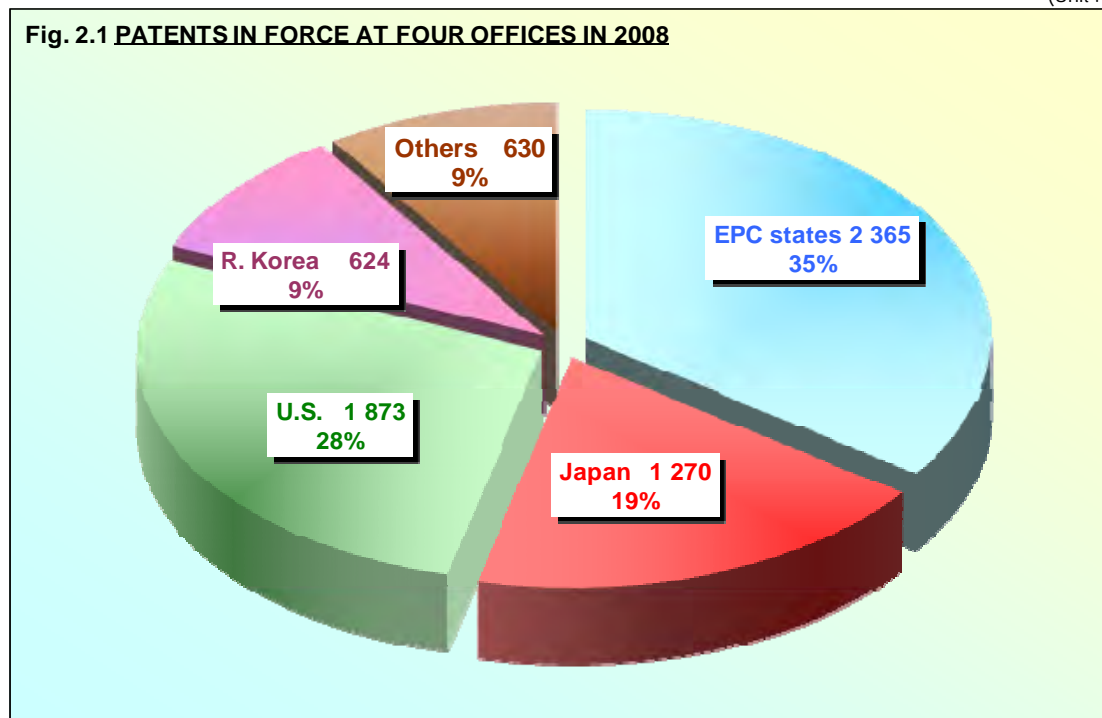


Chapter 2

THE FOUR OFFICES

Patents are recognized throughout the world as a measure of innovative activity. The EPO, JPO, KIPO and USPTO are among the largest IP Offices in terms of the volume of patent applications they handle. The following figure shows the prominent role played by the Four Offices in terms of the numbers of patent in force at the end of 2008.

(Unit : thousands)



Based on the most recent information on worldwide patents available from the WIPO Patent Statistics and from some other Offices, it appears that at the end of the year 2008, 91 percent of the 6.8 million patents in force¹, were valid in the Four Offices jurisdictions.

¹ Data for 2008 are missing for some countries in WIPO data, in which case data for 2008 in each annual report of such countries or WIPO data for 2006 or 2007 were substituted as the best available estimates for 2008.

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 2009 in up to 39 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 2009, the 36 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 | Fyr of Macedonia | Netherlands | Norway |
| Poland | Portugal | Romania | San Marino | 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 2009, such extensions of European patents could be requested for:

Albania Bosnia-Herzegovina Serbia.

Together, the above states build a market of about 605 million people.

On May 1, 2010, Albania became the 37th member of the European Patent Organisation. On October 1, 2010, Serbia became the 38th member of the European Patent Organisation.

On March 1, 2010, an extension agreement with Montenegro entered into force.

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.

In 2009, the EPC regulations were amended to require as from January 1, 2011, applicants to provide the EPO with search results from national patent Offices within the European Patent Network.

To keep the European patent system fit for purpose in the long term, the EPO prepared a set of adjustments to be implemented as from Spring 2010. The aim is to enhance the

quality of incoming applications, to improve the coordination between search and substantive examination and to tighten some time limits. On the longer perspective, further projects are elaborated to affect the patent system in its global dimension, in cooperation with European and non-European patent Offices.

The EPO felt the effects of the worldwide economic recession in 2009. The number of filed applications decreased markedly compared to 2008. In Table 2.1, 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 2008 and 2009.

In 2009, the Office production increased substantially. The number of searches completed increased by 9 percent to about 203 500. While the examination work under the PCT further reduced, the number of final actions in examination at EPO increased by 2 percent to about 102 200. However, as will be shown below in Chapter 4, this did not coincide with an increased number of grant actions. In 2009, about 1 980 decisions in appeal were completed (9 percent more than in 2008). On average in 2009, a patent granted by the EPO was designating 19 countries (17 in 2008).

Table 2.1: EPO PRODUCTION INFORMATION

| PRODUCTION FIGURES | 2008 | 2009 |
|---|----------------|----------------|
| Patent filings (Euro-direct & PCT international phase) | 226 319 | 211 324 |
| Searches carried out | | |
| European (including PCT supplementary) | 87 667 | 99 105 |
| PCT international | 82 063 | 81 463 |
| On behalf of national Offices and other | 17 104 | 22 941 |
| Total production search | 186 834 | 203 509 |
| Examination - Opposition (final actions) | | |
| European examination | 99 053 | 102 178 |
| PCT Chapter II | 10 430 | 9 601 |
| Oppositions | 1 982 | 2 314 |
| Total final actions examination-opposition | 111 465 | 114 093 |
| Appeals settled | | |
| Technical appeals | 1 737 | 1 893 |
| PCT protests | 45 | 25 |
| Other appeals | 67 | 61 |
| Total decisions | 1 849 | 1 979 |

The EPO main database publicly available for search, esp@cenet, was further expanded in 2009 to include 69 million documents from 96 countries and patent authorities. To date, 96 million documents for both patent and non-patent literature are now accessible.

The EPO citation database currently contains more than 97 million references relating to 13.5 million applications or publications. Quality control resulted in 700 000 corrections in 2009, related to 9.7 million cited documents.

The bibliographic database was augmented with more than 3 million documents to 70 million and around one million corrections were made.

The electronic filing tool epoline® continued to become increasingly popular with its users. In 2009, 60 percent of 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 various EPO patent information products were improved and expanded to cover more data and to offer more functionalities. A new product, Global Patent Index, went into production. It supersedes the previous products that had effectively restricted the on-line search tools. The old products were stopped at the end of 2009.

International Cooperation

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

During 2009 and in partnership with the European Union (EU), two new projects were launched to strengthen IP system in candidate and potential candidate countries to the EU. The EU-China IPR2 project continued to support IP dialogue between the EU and China. In September an EU-funded co-operation project with Russia was launched to support closer economic relations between Russia and the EU.

The Five IP Offices have set up a governance structure of their joint initiative on changes to the global patent system. Ten cooperative Foundation Projects have been launched and will be run by three working groups. The existing Trilateral Cooperation will run in parallel to the Five IP Offices cooperation, at least in the short term. There has been further progress on the Patent Prosecution Highway (PPH) projects, which have expanded to include requests based on PCT international work.

EPO Budget

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.

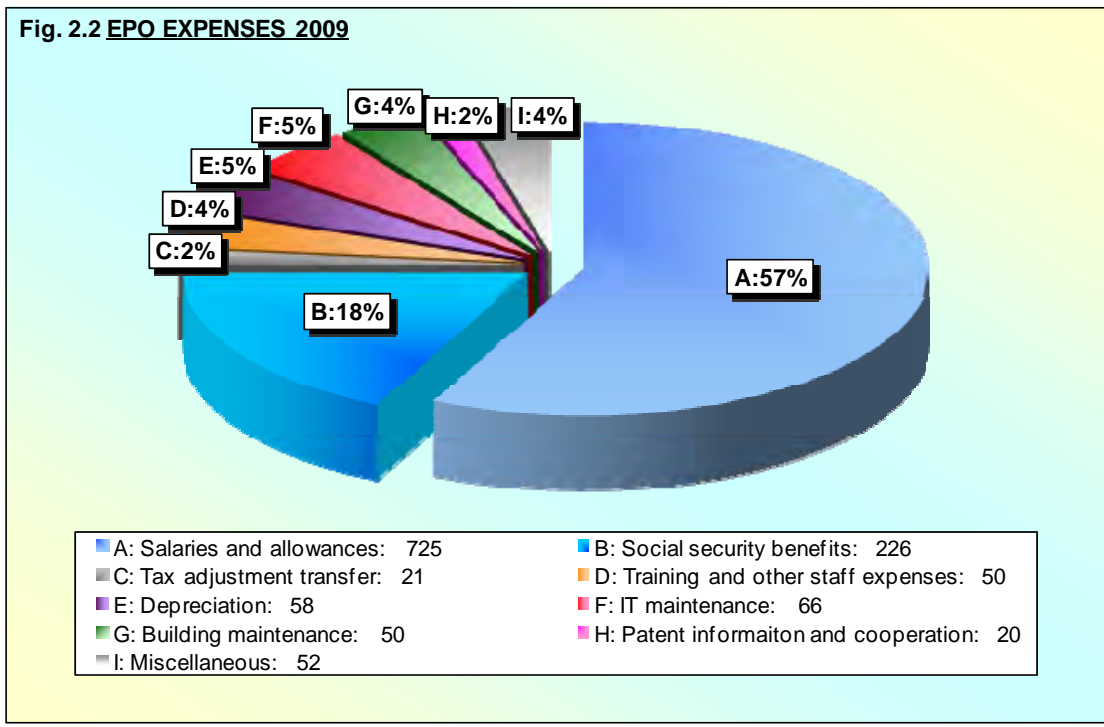
Under IFRS, procedural fees are not recorded automatically as revenue in the accounting year in which they are received, but instead are treated as deferred income, to be included as revenue in the year during which the relevant task is actually performed. A similar concept is applied also for all other types of income. In 2009, the total operating income amounted to EUR 1 288 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. Operating expenses totalled EUR 1 268 million.

The financial result was negatively affected by the turmoil on the financial markets and closed with a deficit of EUR 93 million.

(Unit : Million EURO)



A detailed description of the items in Fig. 2.2 can be found in Annex 1.

EPO Staff

In 2009, 220 employees were recruited of which 170 were examiners. By the end of the year, the staff complement reached a total of 6 818, including 3 969 examiners in search, examination, opposition, and 155 members of Board of Appeal.

More information

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

JAPAN PATENT OFFICE

Development of Intellectual Property Policy

The Intellectual Property Strategy Headquarters headed by the Prime Minister has drafted the “Intellectual Property Strategic Program 2009” in order to strengthen global IP competitiveness.

- Strengthening IP strategy to promote innovation
- Strengthening global IP strategy
- Enhancing growth strategy for soft power industry
- Securing stability and predictability of intellectual property rights (IPR)
- Building IP systems meeting user needs

JPO intends to implement relevant measures to promote and crystallize these five challenges in a comprehensive and unified manner.

Recent Improvements to Japan’s IP System

JPO has been implementing various measures in order to support applicants’ IP strategies such as acquiring patent rights regarding multiple aspects of products, acquiring patent rights rapidly and strategically from the global perspective. In order to promote the Research and Development (R&D) of green technology, the JPO added applications of “Green inventions” with effects such as energy saving and CO² reduction etc., as eligible applications for the accelerated examinations on a pilot basis, on November 1, 2009, while promoting utilization of the accelerated examination system continuously. Since January 2009, the Online Submission of Information became available, added to the previous system only for the submission of written information in order for the Submission of Information to be more easily used and thus its utilization further enhanced. Also, as an emergency measure for reducing corporate financial burdens in the recent recession, it was decided that the payment of examination request fees can be deferred, on and after April 1, 2009, provided that the payment should be made within one year from the date of request for examination and that the wish to make a deferred payment is shown on the examination request form.

Efforts related to Patents

JPO has been expanding the number of outsourcing prior-art searches to increase examination efficiency. Regarding maintenance and improvement of the quality of examination, each art unit at which applications of each technical field are examined strives to perform quality control of examinations by, for example, unifying the application of judgment standards between each examiner, and based on a concept of the quality management cycle (PDCA² cycle), JPO sets a quality management system under which examination results are post-measured and analyzed objectively, and then the results are reflected on the next implementation plan to maintain and improve examination quality continuously.

² PDCA means “Plan”, “Do”, “Check” and “Act”

Moreover, JPO has been enhancing international cooperation for patent examination through the Patent Prosecution Highway (PPH) and JP-First Information Release Strategy (JP-First).

Further efforts toward expeditious and efficient patent examination

JPO has employed 98 fixed-term patent examiners each fiscal year (FY)³ from FY2004 to FY2008, to give a total of 490 as of the end of FY2008, added to regular examiners. The number of the fixed-term patent examiners remained unchanged in 2009 and is to be kept for some more years.

Ahead of the other countries, JPO has established a paperless system for all procedures, from filing an application to receiving an examiner's decision. This enables active promotion of the world's first outsourcing of prior art searches to private sectors, enhancing efficiency to a significant degree.

Table 2.2: JPO NUMBER OF PATENT EXAMINERS

| Examiners | FY 2008 | FY 2009 |
|------------|--------------|-------------|
| Regular | 1 190 (+15) | 1 202 (+12) |
| Fixed-term | 490 (+98) | 490 |
| Total | 1 680 (+113) | 1 692 (+12) |

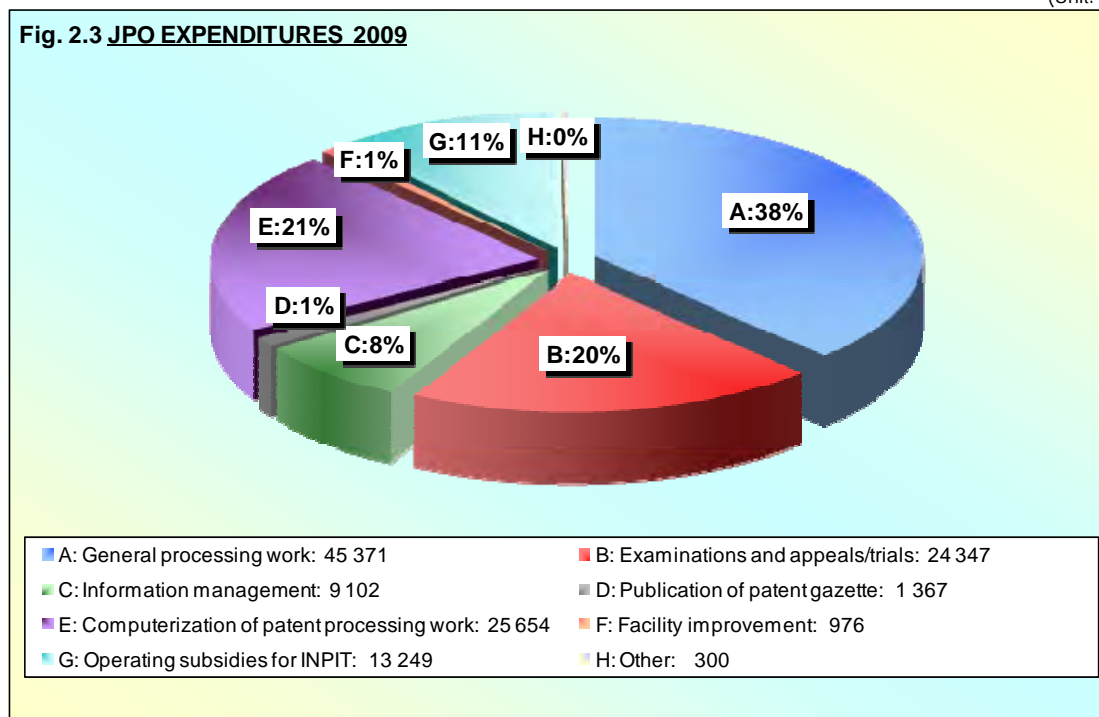
Table 2.3: JPO PRODUCTION INFORMATION

| PRODUCTION FIGURES | 2008 | 2009 |
|---|-------------|-------------|
| Applications filed | | |
| Domestic | 330 110 | 295 315 |
| Foreign | 60 892 | 53 281 |
| Total | 391 002 | 348 596 |
| Examination | | |
| Requests | 347 836 | 254 368 |
| First actions | 342 654 | 361 439 |
| Final actions | 318 903 | 354 792 |
| Grants | | |
| Domestic | 151 765 | 164 459 |
| Foreign | 25 185 | 28 890 |
| Total | 176 950 | 193 349 |
| Appeals/Trials | | |
| Demands for Appeal against examiner's decision of refusal | 31 019 | 24 137 |
| Demands for Trial for invalidation | 292 | 257 |
| PCT activities | | |
| International searches | 26 523 | 28 927 |
| International preliminary examinations | 2 321 | 2 173 |

³ The fiscal year time periods vary within the Four Offices. At EPO and KIPO the fiscal year begins in January. At JPO the fiscal year begins in April. At USPTO the fiscal year begins in October. Each Office's fiscal year lasts twelve months.

JPO Budget

(Unit: Million Yen)



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 2009, the total number of staff at JPO was a total of 2,904 staff. This includes 490 fixed-term patent examiners.

| | | | |
|-------------------|-------------------------|-------|-----|
| Examiners: | Patent / Utility model: | 1,692 | |
| | Design: | 52 | |
| | Trademark: | 150 | |
| Appeal examiners: | | 387 | |
| General staff: | | | 623 |
| Total: | | 2,904 | |

More information

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

KOREAN INTELLECTUAL PROPERTY OFFICE

Mission Statement

The Korean Intellectual Property Office (KIPO) is the government agency in charge of IP matters in Korea. KIPO's mission statement 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.

KIPO strives to enhance technological innovation and industrial development by facilitating the creation, utilization, and protection of IP and by implementing diverse policies focused on timely, high-quality examinations.

Major Developments in 2009

In 2009, KIPO received 163 523 patent applications and the requests for international search soared from 735 in 2006 to 13 978 in 2009. At the same time, KIPO undertook various measures to make its IP system more customer-oriented. For instance, a set of revisions to the Patent Act, which came into effect in July 2009, simplified the patent procedures with the aim of enhancing convenience of customers.

KIPO also implemented various measures to ensure that its examination service is of the highest quality. For instance, to harmonize the examination standards with those of other major patent Offices, KIPO established 39 examination guidelines on the basis of a comparative study of the examination standards and practices of the five major IP Offices (EPO, JPO, KIPO, SIPO of P.R. China, USPTO).

International Cooperation

Laying the groundwork for expanded international cooperation on examinations has been another major objective KIPO focused on in 2009. Following the success of establishing a Patent Prosecution Highway (PPH) with the JPO in 2006 and with the USPTO in 2008, KIPO further implemented bilateral PPH agreements with Denmark, the UK, Canada, and Russia in 2009. KIPO also formed a partnership with the USPTO in implementing a project called Strategic Handling of Applications for Rapid Examination (SHARE). A one-year trial of the SHARE project commenced on September 1, 2009.

Intellectual Property Protection

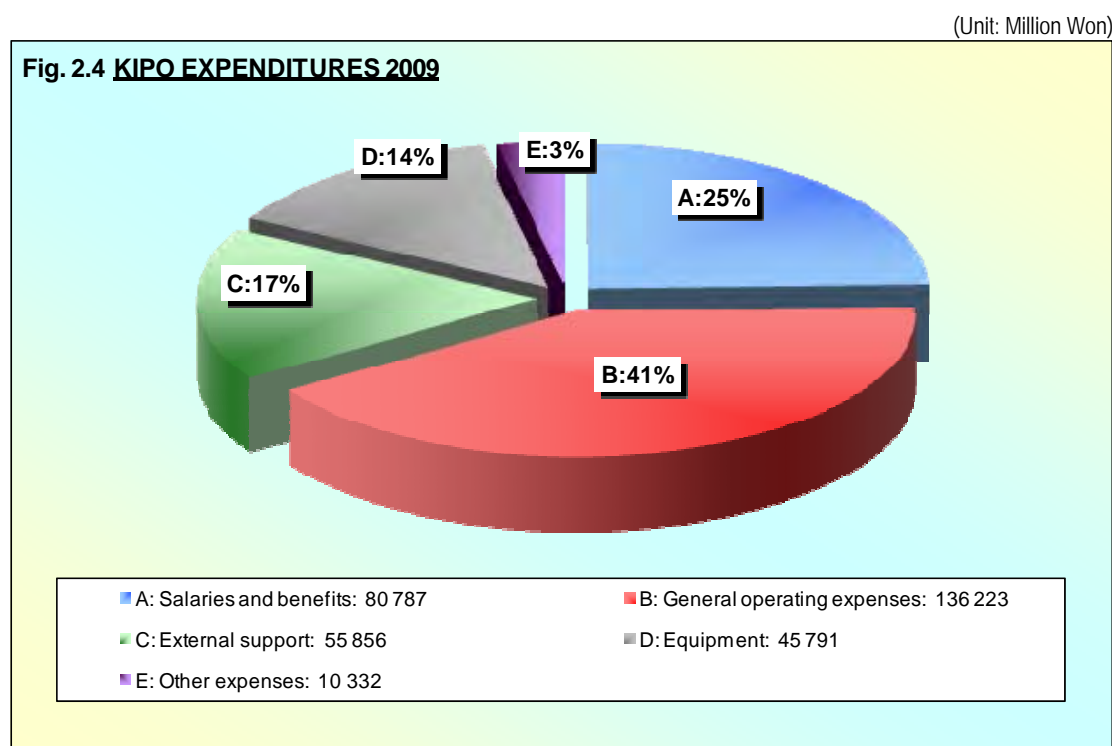
With stronger IP protection as a top priority, KIPO strengthened anti-counterfeiting measures in a variety of ways. For example, KIPO expanded the regional anti-counterfeiting Offices; implemented a system of monitoring online distribution of counterfeit goods; and conducted campaigns in conjunction with civic consumer groups to raise public awareness of IP issues and IP protection systems.

Table 2.4: KIPO PRODUCTION INFORMATION

| PRODUCTION FIGURES | 2008 | 2009 |
|--|-------------|-------------|
| Applications filed | | |
| Domestic | 127 114 | 127 316 |
| Foreign | 43 518 | 36 207 |
| Total | 170 632 | 163 523 |
| Examination | | |
| Requests | 143 916 | 132 773 |
| First actions | 95 504 | 94 300 |
| Final actions | 108 897 | 89 272 |
| Grants | | |
| Domestic | 61 115 | 42 129 |
| Foreign | 22 408 | 14 603 |
| Total | 83 523 | 56 732 |
| Applications in appeal | 12 238 | 10 571 |
| PCT activities | | |
| International searches | 12 936 | 16 926 |
| International preliminary examinations | 474 | 362 |

KIPO Budget

In calendar year (CY) 2009, KIPO expenditures totalled 328 989 million won. Agency-wide, 25 percent of expenditures were allocated to salaries and benefits; 41 percent to general operating expenses; 17 percent to external support; 14 percent to equipment; and 3 percent was allocated to other expenses.



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

KIPO Staff Composition

At the end of CY 2009, the total staff at KIPO was 1 511. Patent examiner totalled 675; 33 design examiners; 88 trademark examiners; and appeal examiners totalled 99. Managerial, administrative and technical support staff totalled 616.

| | | |
|------------------|-------|-----|
| Examiners | | |
| Patents | | 675 |
| Designs | 33 | |
| Trademarks | 88 | |
| Appeal examiners | 99 | |
| 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:

Fostering innovation and competitiveness and economic growth, domestically and abroad to deliver 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, with a highly skilled, diverse workforce.

The USPTO is pivotal to the success of innovators. In fulfilling the mandate of Article 1, Section 8, Clause 8, of the U.S. Constitution, “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” the USPTO is on the cutting edge of the United States’ technological progress and achievement.

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. 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 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 2009 the USPTO continued to implement the *2007-2012 Strategic Plan* that was formally released in March 2007. In support of the DOC’s strategic objective to “protect IP and improve patent and trademark systems,” the USPTO established three strategic goals and a management goal to guide its policies and operations:

- 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.

These goals and related objectives, initiatives, and performance measures were established with a focus on 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. The USPTO works closely with the public and its stakeholders to find the best ways to ensure that the U.S. patent system continues to promote innovation and U.S. competitiveness in the global economy.

In 2009, the USPTO began to lay the groundwork for new measures to address its biggest challenge – dramatically reducing the time it takes to process patent applications. The USPTO will reduce first action pendency to 10 months and overall pendency to 20 months. Shortening pendency time is imperative to improve predictability and clarity in the patent system.

Despite the Agency's financial challenges in 2009 and an increase in Patents of Invention (utility, plant, and re-issue) filings, the USPTO increased first action productivity which led to a 4 percent reduction in the overall backlog. Had funding been available to continue hiring and to allow overtime for patent examiners, that reduction in the backlog could have been much larger. The USPTO maintained a strong focus on quality while reducing the backlog, continued expansion of work sharing efforts such as the Patent Prosecution Highway, and began exploring a range of innovative concepts to address the timeliness challenge.

Intellectual Property Protection

The USPTO plays a leadership role in promoting effective domestic and international protection and enforcement of IPR by advocating U.S. Government IPR policy, working to develop unified standards for international IPR, providing policy guidance on domestic IPR issues, and fostering innovation. The USPTO advises the President and Federal agencies on national and international IPR policy matters and trade-related aspects of IPR, and conducts technical assistance and capacity-building programs for foreign governments seeking to develop or improve their IPR regulatory and enforcement mechanisms.

In 2009, the USPTO continued protecting IP and curbing IP theft by supporting other U.S. Government agencies in international negotiations and consultations; working to unify international IP practice through multilateral and bilateral efforts including increasing the number of work sharing partnerships with other IP Offices and establishing cooperative agreements for increased technical cooperation; giving domestic IP policy guidance; and delivering IP education worldwide through the USPTO Global Intellectual Property Academy.

Table 2.5: USPTO PRODUCTION INFORMATION

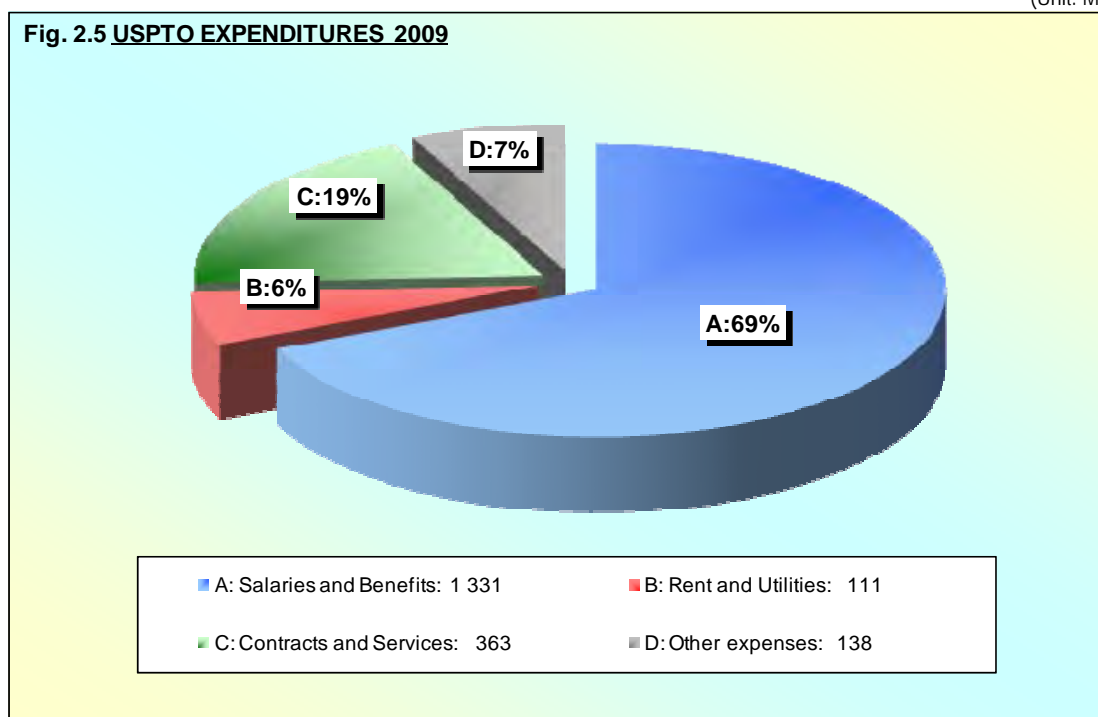
| PRODUCTION FIGURES | 2008 | 2009 |
|--|-------------|-------------|
| Applications Filed | | |
| Utility | 454 270 | 456 437 |
| Plant | 1 209 | 959 |
| Reissue | 761 | 1 019 |
| Total Patents of Invention | 456 240 | 458 415 |
| Design | 27 782 | 25 806 |
| Provisional | 141 475 | 133 803 |
| TOTAL | 625 497 | 618 024 |
| PCT Chapter I Searches | 52 433 | 46 670 |
| PCT Chapter II Examination | 3 087 | 1 930 |
| First Actions | 436 947 | 466 403 |
| Grants (Total) | 161 563 | 167 349 |
| U.S Residents | 80 171 | 82 382 |
| Foreign | 81 392 | 84 967 |
| Japan | 33 912 | 35 501 |
| EPC States | 24 007 | 23 677 |
| R. Korea | 7 572 | 8 762 |
| Others | 15 901 | 17 027 |
| Applications in appeal and interference proceedings | | |
| Ex-parte Appeal Contested | 7 550 | 14 773 |
| Ex-parte Appeal Disposed | 4 876 | 7 071 |
| Inter-parte Appeal Contested | 63 | 54 |
| Inter-parte Appeal Disposed | 74 | 60 |
| Patent Cases in Litigation | | |
| Cases filed | 79 | 173 |
| Cases disposed | 62 | 73 |
| Pending cases (end of calendar year) | 63 | 167 |

USPTO Budget

USPTO utilizes an activity based information methodology to allocate resources in and indirect costs that support programs and activities within each of the three strategic goals. In FY 2009⁴, USPTO expenditures totalled \$1 864 million. Agency-wide, 13.1 percent of expenditures was allocated to information technology (IT) security and associated IT costs.

| | |
|--|-----------------|
| Goal 1 - Optimize patent quality and timeliness | \$1 635 million |
| Goal 2 - Optimize trademark quality and timeliness | \$185 million |
| Goal 3 - Improve IP protection and enforcement domestically and abroad | \$44 million |

(Unit: Million Dollar)



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

USPTO Staff Composition

At the end of FY 2009, the total staff at the USPTO was 9 716. Patent examiner staff totalled 6 242; 6 143 Utility, Plant and Reissue examiners, and 99 Design examiners. Trademark examiner attorney staff totalled 388. Managerial, administrative and technical support staff totalled 3 086.

More Information

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

⁴ The period of USPTO's FY 2009 is from October 1, 2008 to September 30, 2009.