



Highlights of [GAO-05-1008T](#), testimony before the Subcommittee on Courts, the Internet, and Intellectual Property, Committee on the Judiciary, House of Representatives

Why GAO Did This Study

The United States Patent and Trademark Office (USPTO) is responsible for issuing patents that protect new ideas and investments in innovation and creativity. However, the volume and complexity of patent applications to the agency have increased significantly in recent years, lengthening the time needed to process patents and raising concerns about the validity of the patents that are issued. Annual applications have grown from about 185,000 to over 350,000 in the last 10 years and are projected to exceed 450,000 by 2009. Coupled with this growth is a backlog of about 750,000 applications. Further complicating matters, the agency has faced difficulty in attracting and retaining qualified staff to process patent applications.

USPTO has long recognized the need to automate its patent processing and, over the past two decades, has been engaged in various automation projects. More recently, in its strategic plan, the agency articulated its approach for accelerating the use of automation and improving workforce quality. In two reports issued in June 2005, GAO discussed progress and problems that the agency faces as it develops its electronic patent process, its actions to attain a highly qualified patent examination workforce, and the progress of the agency's strategic plan initiatives.

At the Committee's request, this testimony summarizes the results of these GAO reports.

www.gao.gov/cgi-bin/getrpt?GAO-05-1008T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Anu Mittal at (202) 512-3841 or mittala@gao.gov or Linda Koontz at (202) 512-6240 or koontzl@gao.gov.

INTELLECTUAL PROPERTY

Improvements Needed to Better Manage Patent Office Automation and Address Workforce Challenges

What GAO Found

As part of its strategy to achieve an electronic patent process, USPTO had planned to deliver an operational patent system by October 2004. It has delivered important capabilities, for example, allowing patent applicants to electronically file and view the status of their applications and the public to search published patents. Nonetheless, after spending over \$1 billion on its efforts from 1983 through 2004, the agency has not yet developed the fully integrated, electronic patent process articulated in its automation plans, and when and how it will achieve this process is uncertain. Key systems that the agency is relying on to help reach this goal—an electronic application filing system and a document imaging system—have not provided capabilities that are essential to operating in a fully electronic environment. Contributing to this situation is the agency's ineffective planning for and management of its patent automation initiatives, due in large measure to enterprise-level, systemic weaknesses in its information technology investment management processes. Although the agency has begun instituting essential investment management mechanisms, such as its enterprise architecture framework, it has not yet finalized its capital planning and investment control process, or established necessary linkages between the process and its architecture to guide the development and implementation of its information technology. The Under Secretary of Commerce for Intellectual Property and the agency's chief information officer have acknowledged the need for improvement.

USPTO has taken steps to attract and retain a highly qualified patent examination workforce by, for example, enhancing its recruiting efforts and using many of the human capital benefits available under federal personnel regulations. However, it is too soon to determine the long-term success of the agency's efforts because they have been in place only a short time and have not been consistently sustained because of budgetary constraints. Long-term uncertainty about the agency's hiring and retention success is also due to the unknown impact of the economy. In the past, the agency had more difficulty recruiting and retaining staff when the economy was doing well. Further, USPTO faces three long-standing challenges that could undermine its efforts: the lack of an effective strategy to communicate and collaborate with examiners, outdated assumptions in production quotas that it uses to reward examiners, and the lack of required ongoing technical training for examiners. Patent examiners said the lack of a collaborative work environment has lowered morale and created an atmosphere of distrust between management and patent examiners.

Overall, USPTO has made more progress in implementing its strategic plan initiatives aimed at increasing its patent processing capability through workforce and process improvements than in its initiatives to decrease patent pendency and improve electronic processing. It has fully or partially implemented all 23 capability initiatives, but only 8 of 15 initiatives to reduce patent pendency and improve electronic processing. The agency cited a lack of funding as the primary reason for not implementing all initiatives.