

TPAC

Annual Report

2024



Trademark Public
Advisory Committee



UNITED STATES
PATENT AND TRADEMARK OFFICE ®



TRADEMARK PUBLIC ADVISORY COMMITTEE OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

November 26, 2024

The President of The United States
The White House
Washington, D.C. 20500

Dear Mr. President:

On behalf of the Trademark Public Advisory Committee (TPAC) of the United States Patent and Trademark Office (USPTO), I am honored to present TPAC's Annual Report for Fiscal Year 2024. Now in our 25th year, TPAC is the statutorily authorized committee representing the interests of diverse users of the USPTO with respect to trademarks. Our duties are to review the policies, goals, performance, budget, and user fees of the USPTO with respect to trademarks, and to advise the Under Secretary of Commerce for Intellectual Property and Director of the USPTO on these matters.

We appreciate the opportunity to serve the USPTO over the past fiscal year.

Very truly yours,

A handwritten signature in blue ink that reads "Adraea M. Brown".

Adraea M. Brown, Chair
Trademark Public Advisory Committee

cc: The Honorable Gina Raimondo, U.S. Secretary of Commerce
The Honorable Kathi Vidal, Under Secretary of Commerce for Intellectual Property
and Director of the U.S. Patent and Trademark Office
Committee on the Judiciary of the Senate
Committee on the Judiciary of the House of Representatives

Enclosure: TPAC Annual Report for Fiscal Year 2024

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I. Introduction

Trademarks are vital to businesses and consumers, playing a key role in the intellectual property (IP) ecosystem. They provide essential source information for products and services while also symbolizing the goodwill and values that trademark owners cultivate within their consumer base.

As the most common form of IP, trademarks significantly impact economic growth, innovation, and culture. Per the latest research from United States Patent and Trademark Office (USPTO), [Intellectual property and the U.S. economy: Third edition](#), trademark-intensive industries contribute nearly \$7 trillion to the United States annual gross domestic product (GDP) and support over 56+ million jobs.

The USPTO is at the center of U.S. innovation, providing entrepreneurs and businesses of all sizes with the platform and resources to register their trademarks and secure national and global protection. Federal trademark registration helps brand owners protect their IP interests and goodwill, guarding against unauthorized use of their marks, counterfeit goods, and infringing products.

A. About this report

This twenty-fifth annual report of the Trademark Public Advisory Committee (TPAC) summarizes the USPTO's trademark performance for fiscal year (FY) 2024. In preparing this year's report, we reviewed USPTO policies, goals, performance, budget, and user fees, as required by the American Inventors Protection Act of 1999 (AIPA). We are honored to send this report to the President of the United States, the Secretary of Commerce, the Judiciary Committees of the Senate and House of Representatives, and to publish it in the USPTO's Official Gazette and on the USPTO website, where it will be available to the public.

The members of TPAC extend our heartfelt gratitude to Charles (Chet) Joyner, Chief of Staff to the Commissioner for Trademarks, for his invaluable assistance in preparing this report.

B. Overview of FY 2024

FY 2024 was a year of evolution and significant change at the USPTO. Key highlights include:

- Selecting winners of the Trademarks for Humanity Award, the USPTO's first trademark-specific award
- Lowering first-action trademark pendency timelines for the first time since FY 2022
- Completing the migration of all data and system functions from the decades-old Trademark Reporting and Monitoring (TRAM) mainframe system to cloud servers
- Launching new platforms to replace the Trademark Electronic Search System (TESS) and the Trademark Electronic Application System (TEAS)
- Creating a new Office of Public Engagement (OPE) to increase participation in the innovation ecosystem and educate people about the purpose and value of IP and available resources

II. About TPAC

Established under the AIPA, TPAC is composed of nine voting members appointed by the Secretary of Commerce and three non-voting union members who advise the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office on trademark policies, goals, performance, budget, and user fees.

TPAC voting members



Adraea M. Brown
Chair

Adraea is the assistant general counsel of trademarks at Harley-Davidson Motor Company in Milwaukee, WI

Term ends: December 1, 2024



Dana Brown Northcott

Dana is the vice president and associate general counsel of intellectual property for Amazon.com in Seattle, WA.

Term ends: December 1, 2024



Rodrick J. Enns

Rod is a co-founding partner of Enns & Archer LLP in Winston-Salem, NC.

Term ends: December 1, 2024



Amy Hsiao
Vice Chair

Amy is a founding partner and chair of the Asia Trademark Practice of Eligon IP in Atlanta, GA.

Term ends: December 1, 2025



Deborah R.

Deborah is the Paul B. Eaton distinguished professor of law at the UNC School of Law in Chapel Hill, NC.

Term ends: December 1, 2025



Donna Griffiths

Donna is a senior trademark specialist at Schneider Electric in Andover, MA.

Term ends: December 1, 2025



Valerie L. Calloway

Valerie is an associate general counsel, managing intellectual property attorney, and chief trademark counsel for IBM in Armonk, NY.

Term ends: December 1, 2026



Nehal Madhani

Nehal is an attorney and the CEO of Alt Legal in New York, NY.

Term ends: December 1, 2026



Douglas N. Masters

Doug is the managing partner of the Chicago, IL, office of Loeb & Loeb, LLP.

Term ends December 1, 2026

TPAC union representatives

- **Jay Besch**, President of National Treasury Employees Union (NTEU), Chapter 245
- **Harold Ross**, President of NTEU, Chapter 243
- **Pedro Fernandez**, member of Patent Office Professional Association (POPA)

A. Subcommittees

For FY 2024, TPAC maintained these subcommittees:

Subcommittee	Chair	Members
Operations and TM Systems	Adraea M. Brown	Amy Hsiao
Office of Policy and International Affairs	Dana Brown Northcott	Valerie L. Calloway
Budget and Finance	Donna Griffiths	Rodrick J. Enns
Trademark Trial and Appeal Board (TTAB)	Rodrick J. Enns	Douglas N. Masters
Innovation (including IT and anti-counterfeiting)	Deborah R. Gerhardt	Nehal Madhani

B. Public meetings

In 2024, TPAC held public meetings on May 10, August 2, and November 22. We appreciate the significant time and effort the USPTO dedicated to informing TPAC and the public at these meetings.

III. Trademarks for Humanity

In FY 2024, the USPTO selected the winners of its first trademark-specific recognition, the [Trademarks for Humanity award](#). This award celebrates brand owners who use their trademarks to help solve humanitarian challenges, and this first award was dedicated to U.S. trademark owners who use their marks in connection with products, services, or business practices that improve the environment. The winners will be announced publicly and honored at a ceremony in FY 2025.

TPAC is particularly proud of this award, which we proposed to the USPTO in 2022, and we commend Under Secretary Kathi Vidal and the USPTO for making it a reality.

IV. Pendency

In TPAC's FY 2023 annual report, we projected that the USPTO would begin decreasing pendency times in FY 2024. We are pleased to report that the downward trend has begun.

In December 2023, the USPTO implemented a new pendency reduction plan to reduce the time between initial trademark application filing and USPTO examination. This plan included additional IT support for newly introduced examination tools, a shifting of office action standards, and new productivity incentives for examining attorneys.

As a result, average first-action pendency times decreased for the first time since 2022. We applaud both the USPTO for implementing these meaningful actions and the trademark examining corps for executing the plan. We encourage the office to sustainably continue this trajectory.

A. Trademark applications

Trademark applications may be filed for goods or services in one or more classes. Because examining attorneys review each class separately, the USPTO measures trademark application filing volume by the number of classes, not the number of applications.

In FY 2024, USPTO customers filed 767,138 new trademark application classes – higher than the 740,000 classes projected earlier in the year. The chart below shows the number of trademark classes filed in each of the last four fiscal years, followed by the percentage change from the previous year.

New trademark application classes per year

Fiscal year	Total number of classes filed	Percentage change year-over-year*
2024	767,138	+ 4.1%
2023	737,018	- 6.4%
2022	787,795	- 16.5%
2021	943,928	+ 27.9%

*The percentages presented in this table may not add up due to rounding.

B. First-action pendency

First-action pendency is the average time from when a trademark application is filed until the USPTO issues its first examination action. Typically, the first examination action is an office action or an approval for publication in the Trademark Official Gazette. When setting pendency goals for FY 2024, the USPTO considered workload, filing projections, and anticipated challenges, such as transitioning to new IT systems and retirement of the TRAM mainframe.

Due to an unexpected and unprecedented increase in the number of trademark applications filed in FY 2021, the USPTO fell short of its pendency goals in both FY 2021 and FY 2022. By the end of FY 2023, average first-action pendency stabilized at 8.5 months, and by the end of FY 2024, first-action pendency was reduced to 7.5 months, surpassing the goal of 8.4 months.

First-action pendency at end of fiscal year

Fiscal year	Pendency goal	End-of-year pendency
2024	8.4 months	7.5 months
2023	8.5 months	8.5 months
2022	2.5–7.5 months	8.3 months

The USPTO maintains a [Trademark processing wait times page](#) to allow applicants to estimate when their trademark application will be examined. The page is updated bi-weekly with the date range of applications currently being examined and monthly with the average first-action and disposal pendency processing time.

C. Disposal pendency

Disposal pendency is the average time between the date a trademark application is filed and its final disposition by the USPTO.

Disposal pendency may be unusually long if the USPTO suspends an application while awaiting the outcome of another matter, such as an earlier-filed application that may bar registration, a litigation, a TTAB proceeding, or an appeal. In such cases, suspension may last until the related matter is resolved.

The USPTO ended FY 2024 with a disposal pendency of 14.1 months — beating its 14.4-month goal.

D. USPTO actions to reduce first-action pendency

In FY 2024, the USPTO implemented a pendency reduction plan to reduce first-action pendency. Under the plan, the USPTO:

- Increased IT resources supporting the internal TM Exam system and conducted training programs for more efficient searching processes to support trademark examining attorneys
- Shifted the “exceptional” office action standard from the first action to the final action to increase efficiency
- Offered new incentives to increase examining attorney performance
- Hired 56 trademark examining attorneys and optimized the Trademark Academy training program for new examiners
- Continued directing anti-scam and bad faith filing review to the Register Protection Office (RPO)
- Continued working with the unions to determine where assistance from additional trademark professionals may contribute to pre-registration review¹

TPAC thanks USPTO leadership for collaborating with the union leaders and members to deliver transformative results under the pendency reduction plan, and we encourage the agency to continue exploration of professional development opportunities for all USPTO personnel. These opportunities fulfill the USPTO’s strategic goals of creating inclusive and impactful employee experiences while also increasing efficiency.

E. Challenges to pendency progress

The USPTO’s success in reducing pendency is noteworthy considering some of the challenges it faced, including:

¹ TPAC uses the term “trademark professional” to refer to USPTO Trademarks employees, whether or not they have a law degree.

- **Fraud monitoring:** The USPTO works diligently to protect the integrity of the trademark register. Any increase in potentially fraudulent filings adds time to substantive examination.
- **Lengthy custom identifications:** It takes longer to examine applications with long lists of goods and services. When applicants draft their own identifications instead of using those in the Trademark ID Manual, examining attorneys must take more time to ensure the identification is acceptable.
- **New IT systems:** In connection with the TRAM mainframe retirement, USPTO employees had to acclimate to multiple new systems, including the examination platform, internal search system, application filing system, and more. While these new platforms were designed to increase long-term efficiency, training requires time and resources that may decrease short-term productivity.
- **CrowdStrike outage:** From July 19–25, 2024, the nationwide CrowdStrike outage effectively halted the majority of USPTO operations. The USPTO acted rapidly to restore functionality and avoid significant long-term impacts.

F. Flexible response periods

In December 2022, the USPTO implemented flexible office action response periods under the Trademark Modernization Act of 2020 for pre-registration office actions (except those applications filed under Section 66(a)). This change shortened response times from six months to three months, with the option to obtain one three-month extension for a fee.

The USPTO planned to implement the same three-month extendible response period for post-registration office actions in FY 2024. In July 2024, however, the USPTO determined that this change was unnecessary as any potential benefits were minimal compared to the potential burden to USPTO stakeholders.

TPAC supports the USPTO’s decision to maintain current post-registration deadlines and appreciates the USPTO’s effort to balance the efficient delivery of reliable IP services with stakeholder impact.

G. Post-registration pendency

Post-registration pendency is the average time between the filing of post-registration maintenance documents and USPTO review.

In FY 2024, the USPTO fell short of its post-registration pendency goals for affidavits of use and amendments but exceeded its goals for processing renewals.

FY 2024 post-registration pendency

Type of filing	FY 2024 goal	FY 2024 actual
Affidavits of Use/incontestability	90 days	191 days
Renewals	90 days	69 days
Amendments/corrections	90 days	158 days

All post-registration employees also transitioned to new IT systems. While these new platforms were designed to increase long-term efficiency, training required extensive time and resources that may have decreased short-term productivity.

In the third quarter of FY 2024, the USPTO hired seven new post-registration specialists to address the backlog of post-registration maintenance filings. TPAC expects that these new specialists will help shorten post-registration pendency.

H. TTAB pendency

TTAB pendency is the average time between when an appeal, contested motion, or trial record is ready for decision and when the decision issues.

The TTAB set the same pendency goals in FY 2024 as in the previous three years. The TTAB met its annual pendency goals in FY 2021 and FY 2022 but did not fully meet these goals in FY 2023 primarily due to the flow-through effects of the trademark application filing surge in FY 2021. Those effects continued to be felt in FY 2024:

FY 2024 TTAB average pendency

Type of decision	FY 2024 goal	FY 2024 actual
Final decisions — Appeals	12 weeks or less	15.9 weeks
Contested motions — Trials	12 weeks or less	7.3 weeks
Final decisions — Trials	15 weeks or less	16.7 weeks

These “average pendency” figures exclude cases in which:

- The TTAB issued a precedential order or decision
- The TTAB considered issuing a precedential order or decision but ultimately did not
- The docket contained anomalous prosecution history, such as lengthy suspensions or remands

The noteworthy reduction in average pendency for contested motions reflects hard work by the Board’s interlocutory attorneys as well as a continued emphasis on case management to identify and resolve discovery and other interlocutory disputes before they become protracted.

Two primary factors contributed to the continued elevated pendency in appeals and trial cases in FY 2024:

1. The high volume of trademark applications filed in the last several years resulted in more trial cases on the TTAB docket. Because processing time averages three or more years, an unusually high proportion of these trial cases became ready for decision in FY 2023 and FY 2024. Trial cases require more time and resources to decide.
2. New TTAB matters in FY 2024 remained at approximately the same elevated volume as FY 2023.

Due to the length and complexity of TTAB proceedings, managing pendency is a long-term process. As a result, the impact of efforts to reduce pendency may not be evident for several months or years after implementation.

TTAB leadership continues to be focused on bringing pendency in trial and appeal cases down to or below the goal, using the following strategies:

- **Additional judges:** The Board added six judges in FY 2024, representing a net gain of two positions after attrition. Four additional judges are planned for FY 2025.
- **Final Pretrial Conferences:** The Final Pretrial Conference pilot is still in its early stages, but it shows promise for streamlining trial cases and facilitating efficient dispositions.
- **Efficient decision writing:** Judges continue to refine and share decision-writing techniques to improve time efficiency without compromising on quality.
- **Improved data analysis:** The Board expects to add a full-time data analyst in FY 2025, which should enable improved management insights. For example, it may be possible to identify relationships between Trademarks data and TTAB docket trends that would permit planning for changes further in advance.

TPAC applauds the efforts of the TTAB administrative judges, interlocutory attorneys, paralegals, and other staff and believes measures are underway that will improve pendency in FY 2025.

Users may visit the TTAB’s webpage to learn more about its [incoming filings and performance measures](#).

V. Examination quality

In addition to pendency, the USPTO tracks the quality of trademark examination through two² performance measures:

- **First action compliance:** Assesses whether the USPTO made the right decision when initially examining the trademark application
- **Final action compliance:** Examines whether the USPTO made the right decision at the examining attorney’s final action

² Prior to FY 2024, the USPTO also used the “exceptional” office action standard to measure whether the first office action met the USPTO’s quality standards for the likelihood of confusion search, supporting evidence, written clarity, and substantive decision-making. As a result of the USPTO’s pendency reduction plan, the first action standard is now a prima facie case, and the exceptional standard has been moved to the final action. The change does not affect the standards for decisions but increases efficiency by requiring examiners to prepare a full record only in cases requiring a final refusal.

Trademarks quality performance measures in FY 2024

Performance measure	FY 2024 target	FY 2024 actual
First action compliance	95.5%	96.0%
Final action compliance	97.0%	98.7%

As shown the chart above, the USPTO exceeded its examination quality metrics for FY 2024.

VI. TTAB initiatives

A. Final Pretrial Conference pilot

The TTAB's [Final Pretrial Conference pilot](#) entered its second year in FY 2024. The program intends to require final pretrial conferences only in selected cases that would benefit from judicial guidance before the trial phase. The goals of the pilot are to:

- Save time and resources for the parties and the TTAB
- Foster effective and efficient presentation of evidence

Any administrative trademark judge or interlocutory attorney may recommend cases to include in the pilot. A planning team of five administrative trademark judges and one interlocutory attorney reviews each recommendation and assesses whether participation in the pilot is likely to be effective. Cases can involve a phone conference, which introduces the possibility a case may be selected for the pilot; an orientation conference in which the parties are informed of their responsibilities; and the Final Pretrial Conference when the Board considers the joint plan for trial.

To date, nine trial cases have been selected for the pilot. One case settled after the conference, one stipulated to an accelerated case resolution, and a third proceeded to trial after the parties agreed to many issues, which narrowed the scope of the trial. One case was divided into two parts and another was suspended pending resolution of a civil action. The remaining cases are still in process. While the pilot is in its early stages, the TTAB is encouraged by these results.

Currently, parties may not join the pretrial conference pilot unless they are selected. Parties may, however, seek assistance from the TTAB by calling the interlocutory attorney assigned to a case and requesting a phone conference. An administrative trademark judge or interlocutory attorney will participate in a settlement or discovery planning conference upon request of either party.

TPAC believes that pretrial conferences will increase efficiency by enabling the TTAB to resolve issues expeditiously to settle more cases and streamline proceedings that go to trial.

B. Case citation pilot

In FY 2024, the TTAB launched an internal pilot program to review how TTAB decisions are cited in its opinions and orders.

Previously, the TTAB cited to the United States Patent Quarterly (USPQ) reporter when available. In FY 2024, the TTAB decided not to renew its USPQ subscription due to increased costs and incomplete coverage. As a result, TTAB staff lost access to the USPQ on June 21, 2024.

This situation prompted TTAB management to review how its decisions should be reported and cited by the Board and by parties. Currently, no single comprehensive repository of all TTAB decisions exists that the Board, the parties and their attorneys, and the public can access reliably and cost effectively.

The TTAB is reviewing options for citations, including using private legal research services and publishers; expanding existing TTAB tools, such as the [TTAB Reading Room](#) or [TTABVue](#); or developing a new comprehensive decision database. TPAC is providing input on the many considerations involved, including comprehensiveness, reliability, accessibility, and costs of development and access.

The TTAB welcomes input from all interested parties. Input may be submitted to TTABInfo@USPTO.gov.

In the meantime, practitioners and parties do not need to change how they cite to TTAB decisions. [Section 101.3](#) of the Trademark Trial and Appeal Board Manual of Procedure allows citation to any reliable source.

VII. IT updates

A. TRAM

On May 31, 2024, the USPTO officially retired TRAM, its antiquated mainframe technology. For 42 years, TRAM functioned as the foundation for Trademarks' application processing and reporting. Over its life span, the system became increasingly vital to the success of Trademarks' mission, as various business logic, workflows, data, and reporting requirements were embedded in the system.

Retiring TRAM took several years and became Trademarks' highest IT priority over the last 18 months, requiring the creation of new solutions to replace nearly 1,500 processes — including a new trademark search system and application filing platform. Completing this monumental task will save the USPTO \$10 million in future operations and maintenance expenditures and allow for further IT investments. The transition away from TRAM also provides Trademarks with the flexibility to move forward with cutting-edge modernization and migration to the cloud and sets the stage for new, more stable and secure trademark systems in the future.

TPAC commends the USPTO for achieving this milestone and looks forward to the new IT developments to come.

B. New trademark search system

On December 1, 2023, the USPTO officially launched a new trademark search system, replacing TESS, which had been in use for nearly 23 years. The new search system offers an updated interface and functionality similar to internet search engines.

The new system provides a modern search experience and averages over 1 million searches per week. To support its rollout, the USPTO created comprehensive help documentation and provided extensive training, including separate sessions for groups with varying degrees of knowledge within the trademark community.

The new search system significantly advances the USPTO's strategic goal of creating impactful, efficient, and modern customer experiences. TPAC applauds the USPTO's thoughtful approach to soliciting customer feedback through direct outreach, social listening, and employee engagement and its commitment to incorporating that feedback.

C. Trademark Center

For more than two decades, the public has relied on TEAS for filing electronic trademark applications.

As part of its commitment to modernizing its IT infrastructure and public-facing applications, the USPTO launched Trademark Center. The USPTO tested Trademark Center with a wide range of customers, aiming to provide an enhanced filing experience.

The USPTO plans for Trademark Center to support all initial trademark applications by calendar year 2025. Until then, the TEAS initial application forms will operate concurrently with Trademark Center. Over the next few years, there will be a gradual transition of all TEAS filing functionality to Trademark Center, and Trademark Center will become the central hub for all trademark-related filings.

D. TTAB Center

TTAB Center is a new electronic filing system for TTAB proceedings that will eventually replace the Electronic System for Trademark Trials and Appeals (ESTTA). Initially, both systems will run concurrently. When fully developed, TTAB Center will provide filing functionality for all TTAB matters, including oppositions, cancellations, and appeals.

A new Notice of Opposition filing tool was released for closed beta testing in the first half of FY 2024. TPAC members and other approved filers participated in the closed beta and feedback was positive. In August 2024, the TTAB released the tool publicly for a six-month open beta period, allowing all filers to try it. At the same time, the USPTO continues to develop new functionality allowing users to file Petitions to Cancel in TTAB Center as well.

Unlike ESTTA, users will need a USPTO.gov account to file documents in TTAB Center. This requirement provides two-factor authentication for added security, which should decrease the number of mistaken or fraudulent filings. Additionally, with TTAB Center, only the person who requested an extension of time can file a Notice of Opposition for the matter. These requirements will help secure parties' dockets from unauthorized interference.

Once fully implemented, TTAB Center will also improve the TTAB's ability to collect and analyze data. Currently, ESTTA requires that data about filings, pendency, and dispositions be assembled manually, a laborious and inefficient process.

We enthusiastically support the TTAB Center implementation, which will advance the USPTO's strategic goals of increasing efficiency and protecting IP against new and persistent threats.

VIII. Financial performance

A. Framework

Like most federal agencies, the USPTO operates on an annual budget and may only spend funds appropriated by Congress through the budgeting process. Unlike many federal agencies, however, it is entirely funded by user fees and is not reliant on the taxpayer.

Though the USPTO depends on revenues generated by its operations, it must still begin planning its budget 18 months in advance, and it submits this budget up to 10 months before the beginning of each fiscal year for congressional appropriation. Actual performance can vary with even the best forecasts because of this long timeline, and unpredictable global trends and economic conditions can impact the number of trademark applications.

The USPTO manages this variability by maintaining an operating reserve of unspent funds appropriated and collected in prior years. The reserve gives the USPTO a longer planning horizon, allowing it to draw on reserve funds to maintain operations at optimal levels regardless of unexpected revenue or expenditure changes.

B. FY 2024 performance

The appropriation authorizing the USPTO to spend trademark fees for FY 2024 operations was approximately \$500 million. As summarized in the following chart, actual fee collections were lower than budgeted amounts.

\$ in millions	Patents	Trademarks	USPTO
USPTO FY 2024 appropriated level	\$ 3,696.1	\$ 499.7	\$ 4,195.8
Variance from appropriation	(39.2)	(28.1)	(67.3)
USPTO FY 2024 actual fee revenue	3,656.9	471.6	4,128.6
Operating reserve and other revenue	1,001.3	208.6	1,209.9
Total FY 2024 funds available	4,658.2	680.3	5,338.5
Total end of year spending	(3,677.8)	(518.8)	(4,196.6)
End of year operating reserve	\$ 980.4	\$ 161.5	\$ 1,141.9

*The numbers presented in this table may not add up due to rounding.

Trademark fee revenues were about 6% below the amount appropriated. This was primarily due to total filings being below projections as actual demand for trademark applications was lower than expected.

As reflected in the table, Trademarks spending exceeded fee revenue. The USPTO expected this result and accounted for it in the budget.

Rising costs, including mandated federal employee pay increases, impacted expenditures. Trademarks also continued to invest in multiple IT infrastructure upgrades to meet critical long-term needs.

These factors resulted in a net revenue shortfall of \$46 million for FY 2024, which was funded by drawing from the operating reserve and generally consistent with budget assumptions.

C. Implications

The FY 2024 revenue shortfall by itself is not concerning because the operating reserve enables Trademarks management to handle short-term downturns without compromising operations. At the end of FY 2024, the trademark operating reserve stood at \$161.5 million. Although the reserve is less than it was at the beginning of FY 2024, it remains above the targeted minimum of \$135 million.

Over the longer term, the most recent projections forecast that the operating reserve will continue to decrease unless fee rates change.

As set forth in the next section on fee setting, the USPTO is taking prudent steps to manage costs and adjust fees.

D. Fee setting

The USPTO is required by statute to set overall fees at levels that will recover anticipated aggregate costs. Reduced projected demand, inflation, and higher salaries are expected to impact operating costs. As a result, fee adjustments are necessary to meet the statutory obligation.

This process began in FY 2023. At that time, TPAC conducted a public hearing on the proposed fees and provided feedback to the USPTO in the [TPAC Report on Fee Proposal](#). Overall, our report found that the fee proposal was appropriate and well-supported, while recommending some changes and clarifications.

On March 26, 2024, the USPTO issued a [Notice of Proposed Rulemaking](#) (NPRM) to set or increase certain trademark fees as authorized by the Leahy-Smith America Invents Act of 2011 (AIA). The NPRM set out the USPTO's revised proposal after considering TPAC's report and all other public input. It solicited further written comments from the public by May 28, 2024.

After reviewing and considering those comments, the USPTO anticipates publication of the final rule in Q1 FY 2025 and that most fee adjustments will go into effect in January 2025. The adjustment to fees for filing applications under Section 66(a) will go into effect later in FY 2025.

The fee adjustments are projected to increase Trademark revenues by about \$150 million each year, with a cumulative impact through FY 2029 of about \$685 million, enabling the USPTO to recover anticipated aggregate costs as mandated by statute.

We commend the Office of the Chief Financial Officer and Trademarks management for their proactive long-term planning and responsible financial stewardship in serving the USPTO's strategic goal of protecting IP rights while maximizing agency efficiency.

E. Ensure fee setting authority for the future

The fee setting authority conferred by the AIA is a critical tool for the USPTO's responsible fiscal planning. As the above discussion illustrates, without the ability to adjust fees, it would be impossible for the USPTO to meet its statutory obligation to ensure that overall fees recover anticipated aggregate costs.

The AIA originally granted fee setting authority to the USPTO for a limited period of seven years. In 2018, Congress extended that authority for another eight years. Absent further congressional action, it will expire in 2026.

TPAC believes that fee setting authority, exercised according to prescribed notice and comment rulemaking procedures, should be a core management function of the USPTO and should not be subject to expiration. The prospect that Congress might, for unforeseen reasons, fail to extend the authority creates uncertainty and undermines the USPTO's long range planning abilities.

TPAC recommends that Congress take appropriate action, before the USPTO's fee setting authority expires in 2026, to give the USPTO permanent fee setting authority.

F. Avoiding fee revenue diversion

Fundamental fairness and sound management principles require that USPTO user fees support USPTO operations. This principle was a key tenet of the AIA and a primary reason why it created the framework for USPTO budgeting, planning, and fee setting that has served the agency well in the years since its enactment.

Sequestration was introduced by the Balanced Budget and Emergency Deficit Control Act of 1985 and was reinstated by the Fiscal Responsibility Act of 2023 (FRA). It is automatically triggered if overall federal spending exceeds the limits established by Congress, imposing permanent and uniform reductions to all appropriated budgets across the government. Congress avoided sequestration for FY 2024, but it could be triggered for FY 2025, which would threaten to deprive the USPTO of access to critically needed funds from user fees.

- **Unjustified:** The purpose of the FRA was to establish statutory discretionary spending limits that would discourage deficit spending and, if necessary, enforce limits on it. But USPTO spending is funded entirely

by user fees and cannot contribute to the federal deficit. Sequestering USPTO spending neither incentivizes fiscal responsibility (which is already mandated for the USPTO by the AIA), nor does it mitigate deficit spending (which the USPTO does not and cannot do).

- **Operational impact:** Sequestration would mean that up to 9% of USPTO FY 2025 user fees would be diverted from supporting USPTO operations. Worse, sequestration would not be triggered before April, halfway through the fiscal year. Consequently, the full year of spending reductions would have to be recovered in the second half of the year, doubling the impact.

The law includes an exception to sequestration for “voluntary payments to the Government for goods or services to be provided for such payments.” See 2 U.S.C. § 905(g)(1)(A). USPTO fees would appear to fall squarely within this exception, but administrative determinations to date have concluded otherwise.

Ironically, the USPTO has just completed a painstaking and thorough review of its fee structure. The resulting fee increases, which are essential to keep operations on sound fiscal footing, are expected to be implemented early in calendar 2025. If sequestration occurs and is applied to USPTO appropriations, it will mean that the additional fees, though still collected, will become immediately and permanently unavailable to support critical USPTO needs, such as reducing pendency and improving IT.

TPAC is concerned that subjecting the USPTO’s appropriated spending to sequestration in FY 2025 would be unjustified and could seriously impact operations.

IX. Register protection

In FY 2023, the USPTO established the RPO to protect the integrity of the trademark register from scams and other fraudulent activities. RPO oversees post-registration audits, ex parte non-use expungement and reexamination proceedings, and the administrative sanctions program.

It is important to note that the USPTO is not a law enforcement or consumer protection agency. However, Trademarks continues to support and engage with agencies who do have civil and criminal law enforcement authority, including the Federal Bureau of Investigations and the Federal Trade Commission. Additionally, Trademarks has expanded its scam awareness campaign to reach individuals that are not typical customers and continues to address scams involving violations of USPTO rules, systems, and websites through its administrative sanctions program.

A. Post-registration audits

Auditing registrations helps preserve the accuracy and integrity of the trademark register as a reliable source of trademarks actually being used in commerce. Since 2017, the USPTO has audited over 10,000 trademark registrations annually. In FY 2024, the USPTO audited 4,723 registrations.

The USPTO randomly selects trademark registrations to audit if a section 8 or section 71 post-registration declaration of use was timely filed and the registration includes at least one class with four or more goods or services or two classes with two or more goods or services.

The post-registration audit program promotes the USPTO strategic goal of efficient delivery of reliable IP rights by assessing and maintaining the accuracy and integrity of the trademark register.

B. Ex parte non-use cancellation proceedings

Since December 2021, the USPTO has been accepting petitions to reexamine or expunge trademark registrations. These proceedings help declutter the trademark register and further the USPTO’s strategic goal to promote the efficient delivery of reliable IP rights.

Members of the public or the Under Secretary can initiate both types of proceedings.

- **Expungement proceeding:** A proceeding to cancel some or all the goods and services in a trademark registration on the basis that the registrant never used the trademark in commerce with those goods or services.
- **Reexamination proceeding:** A proceeding to cancel some or all the goods and services in a use-based registration on the basis that the trademark was not in use in commerce with those goods or services on or before the date by which use was required for the registration to be valid.

The number of petitions filed in FY 2024 is shown in the chart below.

Reexamination and expungement proceedings filed in FY 2024

Instituting party	Petitions instituted	Number of goods and services canceled
Public	100	874
USPTO	603	7,484*

*Includes proceedings instituted in FY 2024 that were terminated and goods/services cancelled in FY 2025

C. Administrative sanctions program

In FY 2024, USPTO customers reported increasingly sophisticated scams in two categories: solicitation scams and impersonation scams.

1. Solicitation scams targeting attorneys:

- **Sponsorship scams:** A firm or trademark filing business “hires” an attorney and asks them to sponsor USPTO.gov accounts for people who are not the attorney’s support staff to file submissions.
- **Filing firm scams:** A filing firm uses an attorney’s name and bar information to offer legal services or legal work without the attorney’s knowledge.
- **Fake correspondence scams:** A filing business or registration service uses an attorney’s name and bar information in correspondence with scam victims to falsely suggest expertise and credibility they do not have. These scams have occurred with and without attorney consent.

2. Impersonation scams targeting applicants and potential applicants:

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- **False association scams:** A filing business or registration service falsely suggests it is associated with the USPTO to trick trademark owners by mailing misleading solicitations.
 - **Government impersonation:** A filing business or registration service falsely acts as a government official or from a government agency to trick trademark owners, such as with caller ID spoofing, fake office action letters, fraudulent letterhead, and fake conference calls with USPTO employees.

The USPTO works diligently to combat scams by expanding scam awareness and evaluating submissions and account activity for possible sanctions. Actions include:

- Requiring ID verification for USPTO sponsored accounts
- Raising public awareness of scams and the possibility of a filer being targeted by a scam through a media campaign, recurring webinars, and a [webpage](#) that teaches users how to recognize common scams
- Adding conspicuous warnings of scams in the trademark application platform and in the application filing receipt
- Maintaining a webpage of administrative sanctions and order on the [administrative sanctions and orders](#) webpage
- Increasing scam reporting to the Federal Trade Commission and the FBI to support civil and criminal prosecution of scammers on the [what to do if you've been scammed webpage](#)
- Collaborating with search engine companies to report misleading trademark filing ads

Additionally, the USPTO reviews submissions tied to scam activity and evaluates possible sanctions against parties who violate the USPTO Rules of Practice or the terms of use for USPTO websites, filing systems, or USPTO.gov accounts.

As a sanction, the USPTO may:

- Disregard the affected submission
- Terminate the proceeding, which can include terminating an application³
- Preclude a person from submitting any documents in trademark matters before the USPTO
- Deactivate affected USPTO.gov accounts
- Refer individuals to USPTO's Office of Enrollment and Discipline

The sanctions program has resulted in over 329 orders for sanctions terminating over 20,196 invalidly filed applications and sanctioning over 3,298 invalid registrations.

³ Currently, the USPTO doesn't terminate a registration as a sanction but may update the electronic record to show that the registration is subject to a sanctions order.

X. Anti-counterfeiting

Counterfeit products, like fake airbags and medicine, can cause serious harm. In FY 2024, the USPTO employed multiple strategies to reduce the illicit trade in counterfeit goods. Although the USPTO is not authorized to enforce anticounterfeiting laws, it is deeply engaged in helping those who do.

The USPTO and National Crime Prevention Council's [Go for Real Campaign](#) has had continued success in educating young people about the potentially harmful consequences of using counterfeit goods. To reach multiple audiences, the campaign launched additional public service announcements, including videos, interactive web content, handouts, and posters. The content is shared through social media, online advertising, radio, and in schools. To attract the attention of youth audiences, the campaign focuses on the importance of avoiding counterfeit products that are relevant to their lives, like sports helmets and cosmetics. Although the Go for Real campaign is only in its fifth year, its effectiveness is reflected in data showing:

- 56% of teens who recalled the campaign engaged with campaign material they encountered
- 67% of teens exposed to the campaign ensure the products they purchase are not fake
- 62% of teens know how to spot a fake (up from 39% when the campaign began)
- The campaign has garnered more than 2 billion impressions

XI. Outreach efforts

A. Office of Public Engagement

In March 2024, the USPTO created the [OPE](#) to advance the USPTO's mission of increasing participation in the innovation ecosystem. OPE oversees the strategy, promotion, and implementation of outreach, education, and local engagement with underrepresented communities. OPE uses evidence-based strategies to continually reassess where its services are most needed and how its programs may be further developed to help the targeted communities.

OPE consolidated many of the USPTO's outreach programs under a single office to allow the agency to maximize efforts as a single cohesive team, including:

- **The Council of Inclusive Innovation:** Strategizes new ways to expand American innovation by tapping into the strength of U.S. diversity to increase opportunities for all
- **Regional Outreach Offices:** Focuses on maintaining, expanding, and increasing outreach activities to underserved groups
- **Strategic Engagement Office:** Leads OPE and the USPTO in defining, monitoring, and guiding implementation of the USPTO's engagement, outreach, education, and customer experience strategies
- **Community Engagement Office:** Coordinates the implementation of the USPTO's engagement strategy across community outreach programs and public resources

Notable OPE initiatives include:

- Programs for veterans, military teachers, rural communities, and tribal nations through educational training and technology resources
- An IP champions program to provide additional IP literacy assistance

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- Opportunities for pro bono trademark legal services through an expanded law clinic certification program

B. Trademarks exhibit at the NIHF Museum

On May 8, 2024, the National Inventors Hall of Fame (NIHF), with support from the USPTO, unveiled a new trademark exhibit space within the NIHF Museum located on the USPTO campus. This public museum features additional ways for the public to learn about trademarks in a fun and interactive way. TPAC provided feedback into the exhibit’s development and is pleased to see how well the exhibit features brands as a core element of innovative success.

XII. Look ahead

In FY 2025, the USPTO will continue its efforts to reduce pendency timelines. We expect that the new Trademark Center platform, which features the new application, and the adjusted fee structure will incentivize and encourage complete applications with focused goods and services, making examination more efficient.

Both the public and USPTO personnel may need additional time to learn the USPTO’s new IT systems within FY 2025, including Trademark Center, the new search system, TM Exam, etc. As USPTO employees continue to gain proficiency, we hope to see application pendency continue to trend downward.

The USPTO is also exploring ways in which its operations may increase efficiencies through targeted, responsible use of artificial intelligence (AI). The USPTO is deeply committed to maintaining its high quality of trademark application review, which necessitates nuanced human analysis. The USPTO is exploring ways in which AI may add to its current capabilities by helping to detect fraudulent specimens, streamline goods and services descriptions, or assist its internal search capabilities.

As the fee increases take effect in January 2025, we expect that the new fees will reduce and eventually eliminate the revenue gap that has existed for the past several years. Thanks to prudent planning, the USPTO operating reserve provides sufficient funds to sustain the USPTO until the new fees take effect.

With Under Secretary Vidal’s leadership, the USPTO has been especially effective in its outreach and educational programming. The new OPE demonstrates the USPTO’s dedication to inclusive innovation by improving and expanding access to the USPTO for all.

Finally, we look forward to the next round of applications for the Trademarks for Humanity award. We applaud the USPTO for continuing to highlight how brands can be a powerful force in achieving humanitarian goals.

TPAC's 25th anniversary

This year marks the 25th anniversary of TPAC and the Patent Public Advisory Committee (PPAC). We recognize and thank all former TPAC members for their contributions.

Former TPAC Members

Miles Alexander
Robert Anderson
Stephanie Bald
William G. Barber
Cheryl L. Black
Anne H. Chasser
David J. Cho
James G. Conley
Kathleen Cooney-Porter
Makan Delrahim
Mary Boney Denison
Tracy Deutmeyer
Ayala Deutsch
Lisa A. Dunner
Jody Haller Drake
Elizabeth Roth Escobar
John B. Farmer
Dinisa Hardley Folmar
Jomarie Fredericks
Deborah Hampton

Jonathan Hudis
James H. Johnson, Jr.
Christopher Kelly
Siegrun D. Kane
Helen M. Korniewicz
Jennifer Kovalcik
Anne Gilson Lalonde
Loralei Ritchie de Larena
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Van H. Leichliter
Jacqueline A. Leimer
B. Parker Livingston
Timothy J. Lockhart
Leslie Lott
Tricia McDermott-Thompkins
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David C. Stimson
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Donna A. Tobin
Kelly D. Walton
Joseph Welch, II
Dee Ann Weldon-Wilson
Brian Winterfeldt