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Description of document: The Most Recent Version of three US Patent and Trademark Office (USPTO) Budgeting Models: Patent Model, Trademark Model and Patent Trial and Appeal Board (PTAB) Model 2023

Requested date: 16-March-2024

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Source of document: FOIA Request
USPTO FOIA Officer
United States Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450
Email: FOIARequests@uspto.gov

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United States Patent and Trademark Office

Office of the General Counsel

May 15, 2024

VIA EMAIL

Re: Freedom of Information Act (FOIA) Request No. F-24-00150

This is in response to your March 06, 2024 Freedom of Information Act (FOIA) request seeking:

A copy of the most recent available Patent Model (for budgeting), the most recent available Trademark Model, and the most recent available PTAB Model. If the "current" quarter model is not available then the next most current quarter model for each would be fine. I also request a copy of a general description of each model.

You later clarified on April 9, 2024, that you were seeking production models for Patents, Trademarks, and PTAB.

The USPTO identified data that is responsive to your request. A copy of this material is enclosed. Portions of this data were redacted per Exemption 5, the deliberative process privilege.

Exemption 5, 5 U.S.C. 552(b)(5), protects an agency's deliberative process privilege. *Mapother v. Dep't of Justice*, 3 F.3d 1533, 1537 (D.C. Cir. 1993). This privilege applies to documents, which reflect "advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated." *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 150 (1975), quoting *Carl Zeiss Stiftung & Co. v. V.E.B. Carl Zeiss, Jena*, 40 F.R.D. 318, 324 (D.D.C. 1966).

Here, the withheld information consists of notes regarding proposed agency actions, i.e., antecedent to the adoption of an agency position (*Judicial Watch, Inc. v. U.S. Dep't of Commerce*, 337 F.Supp.2d 146, 172 (D.D.C. 2004)), and are deliberative, i.e., a direct part of the deliberative process in that it makes recommendations or expresses opinions on legal or policy matters. *Skinner v. U.S. Dep't of Justice*, 2010 WL 3832602 (D.D.C. 2010)(quoting *Vaughn v. Rosen*, 523 F.2d 1136, 1143-44 (D.C. Cir. 1975). Facts expressed in these deliberative communications are not reasonably segregable, and thus are not suitable for disclosure.

Pre-decisional, deliberative documents or comments "are at the heart of Exemption 5, and sanctioning release of such material would almost certainly have a *chilling effect* on candid expression of views by subordinates ." *Schell v. Dep't of HHS*, 843 F.2d 933, 942 (6th Cir. 1988) (emphasis added). In particular, disclosure of documents or comments reflecting the positions discussed, but not ultimately adopted as agency decisions are deliberative, and thus exempt from disclosure. *Arthur Andersen & Co. v. Internal Revenue Service*, 679 F.2d 254, 258 (D.C.Cir. 1982).

Also, please note the following explanations for the data contained herein:

Patent model:

The Patent model is a simulation tool that generates production output measures based on actual historical data and input assumptions based on historical patterns and forecasts.

Trademark model:

The Trademark model is a simulation tool that generates production output measures based on actual historical data and input assumptions based on historical patterns and forecasts.

PTAB model:

The PTAB model is a simulation tool that generates production output measures based on actual historical data and input assumptions based on historical patterns and forecasts.

You have the right to appeal this initial decision to the Deputy General Counsel, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, or you may submit an appeal electronically to FOIARequests@USPTO.gov. An appeal must be received within 90 calendar days from the date of this letter. The appeal must be in writing. You must include a copy of your original request, this letter, and a statement of the reasons why the information should be made available and why this initial denial is in error. If you submit your appeal by mail, both the letter and the envelope must be clearly marked "Freedom of Information Appeal."

You may contact the FOIA Public Liaison at 571-272-9585 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

The cost of this request was less than \$20.00 and is therefore waived. *See* 37 C.F.R. § 102.11(d)(4).

Sincerely,

Caitlin Trujillo

USPTO FOIA Officer
Office of General Law

FY2025 PB V1.1 10/18/2023

Model Inputs	Actual		Estimate				
	2023	2024	2025	2026	2027	2028	2029
Total Hires (IP and traditional)	652	800	850	900	725	700	700
OT hours per year per examiner	73	73	73	73	73	73	73
Manual Productivity Adjmts	0	10000	15000	15500	15500	15500	15500
Change in Serialized Filings (ESTIMATED)	1.2%	1.5%	1.5%	1.0%	1.0%	1.0%	1.0%
Percent RCEs of Disposals (RCE filings/Disposals)	25%	24%	24%	24%	24%	23%	23%
Track 1 Filings	14512	15000	15000	15000	15000	15000	15000
Examiner Attrition Rate	6.8%	6.0%	5.5%	4.5%	4.0%	4.0%	4.0%
Details (FTE's worth)	200	185	185	180	180	180	180
%Special/out of turn	6%	6%	6%	6%	6%	6%	6%
Change in Promotion Rates	0%	0%	5%	0%	0%	0%	0%
Reduction in PU / examiner (e.g. quality initiatives)	-0.5%	-0.5%	-1.0%	0.0%	-0.5%	0.0%	0.0%
Staffing Information							
Beginning of FY Examiner Staff	8204	8240	8500	8833	9276	9589	9867
Attritions	583	518	486	418	386	398	409
Utility Examiner Hires (from above)	652	800	850	900	725	700	700
Design GS-15 Hires							
EOY Examiners before subtracting new SPEs	8273	8522	8863	9316	9615	9892	10159
EOY GS15 Manager	726	748	777	817	843	868	891
Change in GS15 Manager	1	22	30	40	26	24	23
EOY Utility Examiner Staff	8240	8500	8833	9276	9589	9867	10135
OVERTIME - Eqv. FTE contribution	531	548	572	599	620	638	655
AWARDS - Eqv. FTE contribution	868	881	911	944	960	1011	1040
Track 2 Exmr Work Years (effective yearly staff)	7686	7911	8202	8590	8986	9284	9557
Average Examiner Grade	12.8	12.7	12.6	12.5	12.5	12.5	12.6
Net Change in Examiner Positions	36	260	334	443	313	278	268
Filing Information							
Total UPR Filings (no design)	594,374	596,815	609,417	615,442	623,598	629,596	642,167
RCE Filings	131,115	126,895	132,448	133,703	137,042	138,174	145,831
Total Serialized Filings	463,259	469,920	476,969	481,739	486,556	491,422	496,336
Track 1 Filings (from above)	14,512	15,000	15,000	15,000	15,000	15,000	15,000
Track 2 Serialized (non-RCE) Filings	448,464	454,920	461,969	466,739	471,556	476,422	481,336
Track 2 Filings	579,579	581,815	594,417	600,442	608,598	614,596	627,167
Total Net Track 2 Serial Filings (non RCE)	436,697	442,984	449,854	454,503	459,198	463,940	468,729
% RCE of Total Filings	22.1%	21.3%	21.7%	21.7%	22.0%	21.9%	22.7%
Productivity & First Action Information							
Total OT Worked	571,870	591,656	612,949	644,794	670,142	691,910	711,843
Track 1 OT Worked	13,696	14,179	14,179	14,253	14,179	14,179	14,179
Track 2 OT Worked	557,208	577,477	598,770	630,541	655,964	677,731	697,664
Total PUs	537,905	543,516	556,964	577,254	602,275	621,098	638,970
Total Disposals	542,019	538,231	550,460	553,839	584,657	602,915	638,970
Total FA	533,792	548,801	563,467	600,868	619,893	639,281	638,970
Track 1 FA	14,512	15,000	15,000	15,000	15,000	15,000	15,000
Total Track 2 FA	519,280	533,801	548,467	585,868	604,893	624,281	623,970
RCE FA	136,914	126,895	132,448	133,703	137,042	138,174	145,831
Track 2 Serialized FA	382,366	406,906	416,019	452,165	467,851	486,107	478,139
Allowance Information							
Traditional Allowance rate	63.0%	60.5%	60.1%	59.9%	60.3%	60.5%	60.5%
Total Allowances	341,318	325,389	330,577	331,571	352,337	365,011	386,886
Total Patents Printed	310,405	314,143	312,412	314,679	328,171	342,764	360,643
Pendency & Inventory Information							
Unexamined UPR inventory (BOY)	689,466	747,975	784,053	817,888	820,226	811,572	789,405
RCE Inventory Beginning of FY	12,980	12,221	12,221	12,221	12,221	12,221	12,221
Unexamined UPR Inventory per examiner (EFY)	90.4	92.0	92.3	88.0	84.4	79.8	76.8
Backlog Firepower (FA vs. Filings)	88%	92%	92%	99%	102%	105%	102%
Unexamined UPR inventory (EOY)	747975	784053	817888	820226	811572	789405	779995
Fiscal Year First Action Pendency	17.5	19.1	20.7	20.7	21.0	20.6	21.4
Fiscal Year Total Pendency	25.2	25.2	26.1	27.2	26.6	26.4	25.7
Total PTA Compliance, all mailed actions	81%	80%	80%	80%	80%	80%	80%
Total PTA Compliance, remaining inventory	82%	81%	81%	80%	80%	80%	81%

Budget Request Summary		FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	Comments
Assumptions	Economic Outlook	1.6%	1.1%	1.4%	1.4%	1.5%	1.5%	(b)(5) Delib Proc Priv
	EA Productivity	2,100	2,163	2,173	2,240	2,240	2,240	
	Pendency	3.4	7.5	6.3	5.9	5.5	4.5	
Filings & Workloads	TM Application Filings	740,000	774,000	817,000	863,000	912,000	964,000	
	Filings Growth Rate	0.4%	4.6%	5.6%	5.6%	5.7%	5.7%	
	SCU & Extensions	230,000	228,800	236,900	247,500	258,700	270,600	
	Affidavits & Renewals	177,800	186,100	190,300	213,200	239,700	223,300	
	Others (Petitions)	40,400	38,900	39,600	41,400	43,600	45,600	
	Other Filings Growth Rate	-4.8%	1.2%	2.9%	7.6%	7.9%	-0.5%	
Capacity Planning	Input Processing (PreExam, ITU...) New Hire	17.0	0.0	1.0	4.0	6.0	5.0	
	Input Processing Staffing (EOY)	78.0	78.0	79.0	83.0	89.0	94.0	
	EA Attrition & Transfers	49	49	52	54	56	58	
	EA Details	31.4	45	45	45	45	45	
	EA New Hires	66	82	87	89	93	91	
	EA OT (Hrs)	77,416	82,061	86,985	92,204	97,736	103,600	
	EA Staffing Levels (EOY)	773	806	841	878	913	948	
	EA Staffing Growth	2.2%	4.3%	4.3%	4.2%	4.2%	3.8%	
	Law Offices	31	31	32	34	35	37	
	Support (TQR, Policy...) New Hires	14	13	35	13	19	15	
	Post Reg. New Hires	0	0	0	0	2	0	
	Information Resources New Hires	0	3	0	3	0	0	
	Total TM Hires	88	104	126	113	119	115	
	Total TM Staffing (EOY)	1221	1266	1333	1384	1439	1490	
	TM Staffing Growth	8.1%	3.7%	5.2%	3.8%	4.0%	3.5%	
	Input Staffing Budget Request	13,981,988	14,947,754	15,565,168	16,606,942	18,041,043	19,635,021	
	Examination Budget Request	245,661,721	259,178,989	273,021,266	293,675,692	314,847,973	336,653,576	
	Post Reg. Budget Request	7,335,893	7,435,726	7,769,985	8,127,205	8,828,655	9,552,291	
	Information Resources Budget Request	10,749,204	11,616,955	12,436,730	13,325,477	14,245,685	15,012,087	
	TM Management Budget Request	15,941,894	15,306,679	15,470,689	15,213,849	16,698,305	16,404,690	
FY25 PB Budget Request	293,453,688	308,486,103	324,263,837	346,948,164	372,661,660	397,257,685		
	TM Compensation	273,916,516	292,395,163	309,964,892	333,502,027	357,540,763	383,346,827	
	TM Non-Compensation	19,537,171	16,090,940	14,298,945	13,447,137	15,120,897	13,911,338	
FY25 OMB OPB	297,180,000	306,156,000	325,784,000	343,534,000	367,485,000	392,015,933		
	TM Compensation	274,511,500	286,545,800	308,087,000	326,393,000	349,792,500	373,416,076	
	TM Non-Compensation	22,638,500	19,612,600	17,697,000	17,141,000	18,092,500	18,599,857	
Variance	FY25 OMB Variance	(5,726,311)	2,326,163	(11,520,163)	2,415,164	4,776,660	5,200,732	
	CHANGE FROM FY2025 OMB	-1.3%	0.8%	-0.5%	1.0%	1.3%	1.3%	

