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Description of document: US Patent and Trademark Office (USPTO) Financial Advisory Board (FAB) Meeting Minutes 2015

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USPTO FOIA Officer  
United States Patent and Trademark Office  
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Alexandria, VA 22313-1450  
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# United States Patent and Trademark Office

Office of the General Counsel

April 09, 2024

**VIA EMAIL**

**Re: *Freedom of Information Act (FOIA) Request No. F-24-00151***

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

A copy of the meeting minutes and agendas for the earliest 20 meetings of the USPTO Financial Advisory Board for which records can be retrieved without undue effort or search time.

The USPTO identified 77 pages of documents that are responsive to your request. A copy of this material is enclosed. However, information has been redacted pursuant to Exemption (b)(5).

The USPTO has identified pages of documents that are responsive to your request and are releasable. Portions of these documents however have been redacted pursuant to Exemption (b)(5) of the FOIA.

Exemption (b)(5) of the FOIA, 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 opinions and recommendations 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 (b)(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).

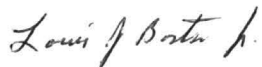
You may contact the FOIA Public Liaison at 571-272-9585 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services 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](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Your request is considered complete with full disclosure. However, 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](mailto: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."

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

Sincerely,

Louis J. Boston Jr.



USPTO FOIA Officer  
Office of General Law

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
November 10, 2015

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- |   |                      |
|---|----------------------|
| A. Opening Remarks  | <i>3:00pm-3:05pm</i> |
| B. Budget Execution Status, includes fees and spending status | <i>3:05pm-3:15pm</i> |
| C. Patent Production Model                                    | <i>3:15pm-4:05pm</i> |
| D. Trademark Production Model                                 | <i>4:05pm-4:55pm</i> |
| E. Wrap-up and Future Meeting(s)                              | <i>4:55pm-5:00pm</i> |

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
July 07, 2015

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- |   |                       |
|---|-----------------------|
| A. Opening Remarks  | <i>9:00am-9:05am</i>  |
| B. Concepts Fee Review Briefing – Proposals                             | <i>9:05am-9:20am</i>  |
| C. Budget Formulation – Continued Prioritization<br>Timeline Discussion | <i>9:20am-9:55am</i>  |
| D. Wrap-up and Future Meeting(s)  | <i>9:55am-10:00am</i> |

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
July 14, 2015

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- |   |               |
|---|---------------|
| A. Opening Remarks  | 3:00pm-3:05pm |
| B. Budget Execution Status, includes fees and spending status | 3:05pm-3:15pm |
| C. Wrap-up and Future Meeting(s)                              | 3:15pm-3:20pm |

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
July 24, 2015

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- |   |               |
|---|---------------|
| A. Opening Remarks  | 2:00pm-2:05pm |
| B. Concepts Fee Review Briefing – Proposals               | 2:05pm-2:15pm |
| C. Budget Formulation – Recommendation for OMB Submission | 2:15pm-2:45pm |
| D. Updated Prioritization Schedule                        | 2:45pm-2:55pm |
| E. Wrap-up and Future Meeting(s)                          | 2:55pm-3:00pm |

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
July 28, 2015

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- |                                       |               |
|---------------------------------------|---------------|
| A. Opening Remarks                    | 2:00pm-2:05pm |
| B. Fee Review – Comprehensive Package | 2:05pm-2:30pm |
| C. Fee Review – High Level Timeline   | 2:30pm-2:55pm |
| D. Wrap-up and Future Meeting(s)      | 2:55pm-3:00pm |



**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
August 11, 2015

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- |   |               |
|---|---------------|
| A. Opening Remarks  | 3:00pm-3:05pm |
| B. Budget Execution Status, includes fees and spending status | 3:05pm-3:15pm |
| C. Concepts Fee Review Briefing – Revised Group 5 Proposals   | 3:15pm-3:40pm |
| D. Biennial Fee Rule Considerations                           | 3:40pm-3:45pm |
| E. Budget Review Timeline – Revised                           | 3:45pm-3:50pm |
| F. Financial Adjustment Process                               | 3:50pm-3:55pm |
| G. Wrap-up and Future Meeting(s)                              | 3:55pm-4:00pm |

# USPTO Financial Advisory Board Meeting Summary

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*Kick-off Meeting, 2/10/2015*

## Participants

**FAB Chair, Co-Chairs, and Vice-Chair:** Tony Scardino, Peggy Focarino, Mary Denison, and Brendan Hourigan

**FAB Members:**

- **Patents:** Bruce Kisliuk and Jennifer Jacobs
- **Trademarks:** Tom Vlcek and Karen Strohecker
- **CFO:** Frank Murphy and Michelle Picard
- **CIO:** Tony Chiles and Keith VanderBrink

**Non-FAB Members:** Mark Krieger, Bonita Royall, Dianne Buie, Scott Ewalt, Sarah Brown, Candice Goodman, Dana Lane

## Background

- Concept for the Financial Advisory Board (FAB) was briefed last week to Management Council
  - Although the concept was agreed upon, how to implement was not

## Membership

- Some USPTO Business Units (BUs) are not part of FAB membership, but not excluded from participation
  - It was shared that during Management Council concerns were expressed by non-member BUs regarding transparency
  - A meeting calendar will be shared with Management Council so that Non-FAB members can attend to listen in on FAB meetings
- FAB will be chaired by the CFO and Co-Chaired by the Commissioners for Patents and Trademarks
  - One voting representative, each, from Patents, Trademarks, CFO, and CIO
  - Chairs will only vote if there is a tie
- The challenge is for each member to represent USPTO as opposed to their specific BU
  - Role should be to assess what makes the most sense
  - Discuss issues and make recommendations through Executive Committee to the Director/Deputy Director

## Concurrent Budget Activities

- Handouts demonstrate that there are several concurrent budget activities

- USPTO does more activities concurrently than other Federal agencies due to the consideration of revenue
- There will be times where the FAB may need to meet more frequently than monthly

## Rules of the Road

- The FAB will be a large time commitment
  - Encourage members to complete “homework” in advance to increase productivity of the meetings
- Current plan is to provide meeting materials one week in advance when allowable
  - Decisions on meeting material timeframes are not concrete and may require adjustment as these meetings evolve
- Meeting minutes/summary will be made available
  - Includes all recommendations considered, even if not agreed upon
  - Comments will not be attributed to a particular member or BU.
- FAB is a recommending body and should be voting on a recommendation
  - The goal is to reach a unanimous recommendation. If not, and a majority is achieved, the recommendation should encompass the entire FAB’s views.
  - If there is a tie, the matter will be presented to the three FAB Chairs for a vote.
  - Methods of voting should be transparent
    - Should be documented and formal, not via email
    - Dissenting opinions should be noted so that points of view are understood
  - Suggested that voting members can designate in writing a substitute or representative in their absence
- For Budget Execution, thresholds should be established for approval at different levels (i.e. OPB approval, CFO approval, FAB approval)
  - Thresholds should be relative to BU size (e.g., a percentage of budget)
  - OPB will draft a proposal for the FAB to discuss at a future meeting
  - Suggestion that if we establish a higher threshold to address an item at the FAB, a monthly report is made available to the group for items that do not meet the FAB threshold
    - Smaller items that get approved add up
    - Reports will give the FAB the ability to identify trends
  - Recommendation that increases in staffing should always be addressed by the FAB
- A SharePoint site will be established to house all material
  - All BUs will have access
    - All access requests will be confirmed by BU Heads
  - A working area for in-process work will be established for the FAB members only
- SMEs will be invited to FAB meetings by their BU’s FAB member
  - All non-member SMEs will be invited by CFO
- Agenda recommendations will be sent to the Vice Chair
  - Recommendations will be accepted from all BUs

- Agenda's will be posted to SharePoint in advance of the meetings
- Criteria for FAB recommendations cannot be strictly defined
  - Suggests a criteria includes impact to other BUs
  - Recommendations should document the reason for its recommendation

### **Additional Items Discussed**

- The FAB's integration with ERB
  - Typically positions approved through this forum are funded internally
- Labor Management Forum
  - Recognize that decisions may be handed down and the FAB will be tasked with how to implement
  - Discussion about whether Management proposals to the Labor Unions with a financial impact should be discussed with FAB
- Suggestion that BUs prepare and present business plans
- The FAB should encourage more strategic thinking on financial consequences, create a new culture, and encourage more financial discipline
- The biggest challenge for the FAB will be prioritizing
- Strawman for the Charter should be available within a week

### **Future Meetings**

- The next meeting is scheduled for Tuesday February 17th at 1:00pm
  - Agenda will be to review Fee Concept Proposals and make recommendations for those that we think should go to the next detailed analysis stage.
- A follow-on logistics meeting will occur
- Monthly meetings will commence in March

# USPTO Financial Advisory Board Meeting Summary

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*Fee Concept Recommendations, 2/24/2015*

## Participants

**FAB Chair, Co-Chairs, and Vice-Chair:** Tony Scardino, Mary Denison, and Brendan Hourigan

### FAB Members:

- **Patents:** Bruce Kisliuk and Jack Buie
- **Trademarks:** Tom Vlcek and Karen Strohecker
- **CFO:** Frank Murphy and Michelle Picard
- **CIO:** Tony Chiles and Keith VanderBrink

**Non-FAB Members:** Rob Clarke, Bob Barr, George Elliot, Kyu Lee, Nick Oettinger, Alan Marco, Dan Hunter, Adam Ramsey, Patrick Washington, David Fitzpatrick, Jennifer Jacobs, Mark Krieger, Matthew Lee, Bonita Royall, Scott Ewalt, Dianne Buie, Sarah Brown, Candice Goodman, Mike Shaver, Melissa Stagnaro, Gerard Torres, Lauren Ailes, Gilda Lee, Rachel Hong, Rick Brenner, Daniel Saenz, Dana Lane

## Opening Remarks

- Last week we distributed background material
- Next week we will discuss unfunded requirements
- This week the goal is to finalize recommendations for fee concepts to move forward to phase 2.
  - Started with 45, down to 17 for review. 24 of the original 45 were relatively minor in impact and scope and are already in the detailed analysis phase. For the other 4 there is an option to pursue a separate track or tabled for another time because they were unclear and statutory authority may need to be researched.
- The FAB is voting whether to proceed to the detailed analysis stage

## Major Fee Concepts

**Delayed Search, Exam and Surcharge Fees Vote: Proceed to Phase 2 (4/0)**

- (b)(5) Delib Proc Priv  
  - Firms with both types of applicants would have to have separate docketing procedures
- Can we get an estimate of the pre-first action dropout?

- Gut is that the behavioral change would be so minimal that it wouldn't be worth the temporary hit on fees.
- Concern with adding fee delay on top of reduced revenue from lower filings
- If moving forward to phase 2, we would want to see data/estimates on how big the impact would be.
- In addition to drop outs, you might also have opt ins (who would be more likely to opt out) because of the delayed fee.

**Immersive Prosecution** *Vote: Proceed to Phase 2 (4/0)*

- Should have a minimal impact to revenue

**Face to Face Interview** *Vote: Proceed to Phase 2 (4/0)*

- This is part of the Patent Quality initiative
  - Patents has already shared this publically
  - The detailed analysis phase should include options on cost recovery

**Tiered Issue Fees** *Vote: Proceed to Phase 2 (3/1)*

- Could have revenue impact when we implemented so we would want to consider prioritization in phase 2 analysis.
- This would be the carrot that goes with the stick of the increased RCE fee.
- The dissenting vote centered around the concern that if we provide a discount to incentivize behavior, that means we would have to raise the existing issue fee a lot in order to make the discount appealing
  - Raising the issue up to a level above the 1<sup>st</sup> stage maintenance fee contradicts our philosophy in the last fee setting round.

**Reduce Issue fee for Patent Prosecution Highway (PPH) users** *Vote: Proceed to Phase 2 (3/1)*

- In practice, the discount really applies to US applicants
- How does this fit in with treaty obligations?
- The revenue risk here is lower than the Tiered Issue Fee concept
- The dissenting vote was for reasons consistent with dissent for the Tiered Issue Fee.

**Add 3rd Tier Request for Continuation Examination (RCE) Fee** *Vote: Proceed to Phase 2 (4/0)*

- The structure is already in place so it is not hard to add another
- Analysis should consider how many would really be involved in a 3<sup>rd</sup> stage RCE
- Need to consider that in CONs and CIPs are priced lower than RCEs, applicants will use these to achieve the same objectives they would with an RCE
- Need to consider that if you raise it too high, it could incentivize filing new applications, instead

**Increase RCE Fees** *Vote: Proceed to Phase 2 (4/0)*

- Discussion similar to 3<sup>rd</sup> Tier RCE

**Increase Continuations (CON) & Continuations In Part (CIP) Fees** *Vote: Proceed to Phase 2 (4/0)*

- Discussion similar to 3<sup>rd</sup> Tier RCE

**Additional Reply Prior to Filing a RCE** *Vote: Proceed to Phase 2 (3/1)*

- Suggested by PPAC In its 2014 Annual Report
- We should be thoughtful on how this is presented and how the analysis is approached
- The benefit is that instead of doing 2 full examinations, one would be a middle level of effort
- Referenced as RCE light ~ ½ the cost of an RCE
- Could be a ladder for increased RCE fees
- The dissenting vote relates to the lack of guarantee that this initiative will reduce the level of RCE work

**Restructure Information Disclosure Statement (IDS) Policy/Process and Institute Tiered Fees** *Vote: Proceed to Phase 2 (4/0)*

**New Interview Option at Appeal Conference** *Vote: Proceed to Phase 2 (4/0)*

- Labor Relation challenges could exist
- Operational challenge – longer interviews take managers away from work

**Expedited Track for Ex Parte Appeals** *Vote: Proceed to Phase 2 (4/0)*

- Similar to track one: goal is 12 months
- It was asked what they average time for appeal decision, today

**Fee increase for Appeals in Ex Parte Applications and Ex Parte Reexamination Proceedings** *Vote: Proceed to Phase 2 (3/1)*

- During fee setting, conscious decision not to set at full cost recovery
  - Look at fees in the aggregate
- Impetus for increase is based on the volume of work and the cost to accomplish it
- Need to consider fee rates for this in context with RCE fees.
- The dissenting vote was related to considerations about needing to increase this fee at all since it had been an conscious policy decision to not make this fee cost recovery so that the USPTO is not making it appear that we are discouraging appeals.

**Increase Inter Partes Review (IPR), Post Grant Review (PGR) and Covered Business Method (CBM) Petition Filing Fees** *Vote: Proceed to Phase 2 (4/0)*

**Increase IPR, PGR, CBM Excess Claims Fees** *Vote: Proceed to Phase 2 (4/0)*

- Agreed that we should take a more detailed look at these fee amounts given that we didn't have actual data to set fees in the last round – need to compare original estimates to actual cost.

**Lower Re-exam Fee for Streamlined Submissions** *Vote: Proceed to Phase 2 (4/0)*

- There was comment that the descriptions of this fee did not appear to be accurate.
- Note that the fee was raised significant during the 2013 patent fee rule, not lowered.

**Randomized Discounting for Elasticity** *Vote: Table (2), Move to separate track (2)*

- Obtain a cross-sectional variation to assess behavior. Separate behavior from exposure to a fee change from change to economic conditions
  - Applicants could feel that we are playing games with them
- Requires a vote by Chair and Co-Chairs

## Other Fee Concepts

- Two maintenance fee proposals recommended to be removed and placed on separate track -  
*Vote: Move to separate track (4/0)*
- Targeted proposals with smaller impact - *Vote: Proceed to Phase 2 (4/0)*

## Additional Items Discussed

- During phase 2 analysis, consider how we are calculating cost recovery
- If we table a fee concept, the item will have to wait until the next round
  - Fee setting will be every two years but we could lose authority
- Recommendation memo will be issued for review by the FAB
- Next meeting will be Tuesday, March 3, 2015



# USPTO Financial Advisory Board Meeting Summary

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*Foundation Documents, 3-3-2015*

## Participants

**FAB Chair, Co-Chairs, and Vice-Chair:** Tony Scardino, Peggy Focarino, Mary Denison, and Brendan Hourigan

## FAB Members:

- **Patents:** Bruce Kisliuk and Jack Buie
- **Trademarks:** Tom Vlcek and Karen Strohecker
- **CFO:** Frank Murphy and Michelle Picard
- **CIO:** Tony Chiles and Keith VanderBrink

**Non-FAB Members:** Mark Krieger, Scott Ewalt, Bonita Royall, Dianne Buie, Sarah Brown, Candice Goodman, Michelle Rahn, Jennifer Richter, Dana Lane

## Charter Discussion

- Recommendation to add a section titled "Council Support" to document where the administrative support is coming from
- How does the FAB handle unfunded requests?
  - Is the role to determine that things are good ideas or just to assess if funds are available
    - FAB should be the body to recommend whether or not requests make sense
    - Everything is associated with money
  - CFO takes the initial look to see if requests are a zero sum game.
    - FAB ensures the agency "stays within the rails" and we don't dip into the operating reserve
  - Work with the Director's office to ensure that requests are being referred to the FAB.
    - Often decisions have already been made so it should be the job of the FAB to assess how to implement
      - When this is the case, the FAB should know that is the case up front.
  - In order to prioritize, FAB needs to know the "why"
    - BUs should put forth a business case so we understand where the request comes from

- FAB could also review base budgets and assess whether there is a need to take funding from the operating reserve or adjust something in the base budget to accomplish a new, high priority item
- The FAB needs to communicate the overall financial status on fees and spending on a monthly basis so people don't operate on incorrect assumptions
  - There will be a monthly report to the FAB and a quarterly report to management council
  - After reviewing and discussing the monthly report to the FAB, the FAB will flag items to be addressed to management council ahead of the quarterly management council report, if necessary
    - This recommendation will be updated in the Charter
- The Charter does not clearly outline who is considered a member of the FAB
  - There are 12 members: one chair, one vice-chair, two co-chairs, four voting members, and four non-voting members
  - A chart with names, titles, and who votes may help us articulate roles
- Within the subsection discussion on non-BU members, language should be added that "BUs not part of FAB shall designate a point-of-contact for the FAB when collaboration is needed"
- In section VI, we need to add specific roles and responsibilities for the chair, co-chairs, and vice chair.
- Roles and responsibility section should be updated with what was documented in the meeting minutes for the kick-off meeting
- There was a recommendation that the normal order of business of FAB meetings be added to the charter and not just be in the Rules of the Road.
  - For the normal order of business, suggest that we do not spend time reviewing the previous meeting minutes. Changes can be conducted via email
  - For the normal order of business, suggest reviewing revenue and execution review at the beginning
    - Defines the meeting and provides a framework for discussions
- Management Council will receive regular quarterly budget updates and more frequent updates on major changes as required.
- Executive Committee clears recommendations
  - Section IV, change to Director and/or Deputy Director
  - How is a final decision documented and communicate back to the FAB?
    - Communication of decisions could be posted and tracked on SharePoint
    - Suggestions that either:
      - A) the Chair is responsible for communicating back to the group
        - The Chair could issue a memo for the record
      - B) Suggestion that the Director or delegate signs off on the recommendation memo

- Suggested that, when the chairs meet with Michelle Lee to discuss the fee memo, they solicit her preference RE how final decisions are recorded/communicated.

## Unfunded Request Process

- Current process
  - OPB works with BUs to capture the requirement, including criticality, funding options, and resources
    - Authority is currently with the CFO to weigh the impacts for the current and outyears
- Proposed process
  - Vehicle to document initiatives for multi-year support, including revalidating initiatives and documenting budget formulation requests
  - Three criteria for coming to the FAB
    - Multi-year
    - 0.25% of operating reserve to come to the FAB
      - This allows for flexibility. \$1M means more when the reserve is low than it does when the reserve balance is high
      - Threshold is based on analysis of past history
    - If the CFO determines that it is of enough significance
  - FAB will receive report on all below-threshold increases.
  - OPB will continue to be the tracker of this information and can provide status reports
  - BUs can propose their business case to the FAB. If it is rejected, BU can look to fund within its base

## Closing Comments

- Additional comments on the foundation documents can be sent to Brendan and Candice.
- We will review pending unfunded request packages at the next FAB meeting.

# USPTO Financial Advisory Board Meeting Summary

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*Unfunded Requests, 3-10-2015*

## Participants

**FAB Chair, Co-Chairs, and Vice-Chair:** Tony Scardino, Mary Denison, and Brendan Hourigan

### FAB Members:

- **Patents:** Bruce Kisliuk and Jack Buie
- **Trademarks:** Tom Vlcek and Karen Strohecker
- **CFO:** Frank Murphy and Michelle Picard
- **CIO:** Toby Bennett

**Non-FAB Members:** Fred Steckler, Wynn Coggins, John Hassett, Susan Bradberry, Dianne Campbell, Rob Meckley, Linda Osler, Todd Elmer, Patrick Ross, Paul Rosenthal, David Fitzpatrick, Jennifer Jacobs, Gita Zoks, Greg Eslinger, Mark Krieger, Scott Ewalt, Bonita Royall, Dianne Buie, Sarah Brown, Candice Goodman, Michelle Rahn, Jennifer Richter, Jonathan Rupp, Dana Lane

## Material Fiscal Change

### Review of Checkbook

- Current actual collections will be about \$350M below the appropriation
- A straight line estimate of patent fees projects collections to be \$60M below the working estimate
- Spending through end of Feb = \$1.355B; projected remaining requirement \$1.964B
  - Planned total spend is \$3.3 billion
- Numbers will be adjusted- we're seeing some surpluses that will show in the midyear report when it is released in about a month.
- Unfunded summary only shows FY15 impact; does not show out-year impact
  - Requested that we include the FY16 status in the table as well.

## Unfunded Requests

- In the future comments will be given to the presenters further in advance of the meeting so they have enough time for review
- The PTAB request will not be reviewed during this meeting
  - Revisited at a later date

- OCAO request for two positions: a GS 13 for Executive Resources Division (ERD) and a GS 15 for the Strategic Human Capital Division (SHCD)
  - ABI chart demonstrates the growth of USPTO compared to the stagnant growth of OHR
    - CAO will be returning with more staffing requests
    - Growth in USPTO trickles down to HR; for each hire, there are workload impacts throughout OHR
  - SHCD was established during a recent realignment
    - Initial plan to pull position vacancy for branch chief from another division
      - Position is no longer available due to external matters
    - **Vote:** 3/1 recommended for approval
    - Dissenting view: Hiring increase should be part of the normal budget process as a known need to support the direction of the agency
  - ERD has been staffed at four employees since 2010
    - With the growth of the APJ staff and other executives, workload has doubled
    - **Vote:** 3/1 recommended for approval
    - Dissenting view: Hiring increase should be part of the normal budget process as a known need to support the direction of the agency
- OCFO request for Concur helpdesk contractor support
  - Concur (travel system) was implemented in May 2014, a paradigm shift for the agency, and we provided continuous service delivery.
  - The move to Concur was not optional and the system is not as smooth as we would like.
    - Didn't anticipate workload due to software quality provided by vendor.
    - It has required resources to work through issues and to maintain.
    - The plan had been to have full time support during the transition; that transition has been more extended than expected.
    - Currently the resource is pulled from Momentum, causing Momentum work to not get done.
    - Helpdesk statistics: in 2013, 512 helpdesk calls. In 2014, 1653 calls. So far in 2015, 250 helpdesk calls.
  - Request is for \$350k through FY2016
  - **Vote:** 4/0 recommended for approval
- OCCO requests an increase in FTE
  - Request has been in process before the establishment of the FAB. Michelle Lee has worked directly with OCCO to shape this office.
  - There is a need to meet the public attention we are getting.
  - Every time there's a major spurt of innovation there is more litigation and more attention on USPTO.
  - Can't wait 20 months to go through the budget formulation process
    - Demand is already too high
  - The issue is not one of training – retraining staff will not fix the issue

- Employees already have the skillset. The issue is the number of “hats” each person is attempting to wear
- Concern expressed that, by nearly doubling the staff, there is a risk of growing too quickly without ensuring a cohesive team
  - The risk of growth is eclipsed by the existing risk from being understaffed
  - Hiring plan does stagger the hires, with some starting in FY2016
- OCCO wants to be more responsive. The current SLA is to complete activities is 10 business days. Would like to get down to 7 days, or maybe 5 days, to address requests
- Quantifiable aspect: comparison to other DoC agencies.
  - NOAA has 34 people in its communication shop with 9 social media people.
  - BEA has 400 people total in its agency and 20 people in its communication shop
- Despite the increase in staff, OCCO will still have to rely on BUs to provide substantive content for speeches, since they are not the experts in those areas
- Vote: 4/0 recommended for approval

### **Closing Comments**

- Everyone has now commented that wants to comment on the foundation documents.
- The next meeting is March 20, 2015

# USPTO Financial Advisory Board Meeting Summary

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*Operating Reserve, 3-20-2015*

## Participants

**FAB Chair, Co-Chairs, and Vice-Chair:** Tony Scardino and Brendan Hourigan

### FAB Members:

- **Patents:** Bruce Kisliuk
- **Trademarks:** Tom Vlcek
- **CFO:** Frank Murphy
- **CIO:** Tony Chiles

**Non-FAB Members:** Jack Buie, Jennifer Jacobs, Karen Strohecker, Keith VanderBrink, Michelle Picard, Scott Ewalt, Dianne Buie, Bonita Royall, Sarah Brown, Candice Goodman, Dana Lane

## Update

- Executive Committee received a briefing on the status of the FAB
  - Michelle Lee blessed the Biennial Fee Review proposal recommendations and the three unfunded proposals.
  - It was explained that there have been bumps in the road: we are essentially building the plane as we are flying it so there has been some turbulence.
  - Feedback given to the Chair on the FAB includes:
    - Only BU heads should present to BU heads
    - We shouldn't waste our time if decisions are already fait accompli
    - Opinions on who should be a member
  - Everyone has thoughts: feedback to the FAB is appreciated. We are working on improving things and weighing all feedback.
- The Directors office has agreed not to green light anything without going through the FAB process.

## Operating Reserve Policy

- During fee setting, the initial plan was to set a three month and a four to six month reserve target for Patents and Trademarks, respectively
- In FY2014, we thought we would have a high reserve, so we started to spend
  - Now fee projections are lower

- This shows we are living in a very variable climate
- So far, patent fee collections are about \$60m lower than expected.
- We have always said there are four areas to look to reduce spending: PCT, IT, overtime, and hiring.
- We should be sure to clarify in the policy that the operating reserve is to mitigate *immediate* risk from *immediate* lack of resources.
- The draft policy document was circulated in September to Patents and Trademarks
  - Since then, the concept of a minimum has come up, which requires a redraft of the policy.
- We still need to define what we mean by operational risk
  - What is the worst case scenario we are trying to protect against?
- USPTO has already decided that to target an “optimal” level that is pretty sizeable and takes into account risk.
  - Goal is to find an end point that is reasonable enough that stakeholders won’t prematurely request that we lower fees
- Should the minimum acceptable balance be a percentage? Should we add to it in any given year?
  - Example: the cost to cover a one month shutdown, payroll for X number of months.
  - Could be dollar amount or percent
- Should PT and TM min be different? Yes; we have a fence and the needs of the business lines are different
  - For Trademarks the minimum has to be at least 2 months. They are more vulnerable because a higher percentage of TM revenues go to supporting other parts of the office
  - For Patents, they have talked internally about a 10% minimum, but they could go lower
- Minimum could be based off of everything, including operations and improvements
- We should make decisions so that in the budget, we are not below the minimum
- We should be careful about planning to protect ourselves against something designed government-wide
- The policy should make a statement that the FAB will discuss whether to adjust the minimum up for a given year
- Suggestion that we look at the minimum for three years and not for the entire five years.
  - Because of the variability of collections and spending, it is foolish to adjust your spending plans three years in advance
- Suggestion that we look two years out, but are informed by the third year.
- Suggestion that we look at a rolling 24 month period.
- How does fee setting fit in?
  - Comprehensive fee review takes about 2 years. Rule-making takes 18 months
- Would we raise fees to meet a minimum or to complete operations?
  - Has to be for both. We need to communicate that we want to both accomplish things and maintain a minimum reserve level that will ensure we can continue operations



- It was noted that Patent stakeholders will never accept a reserve that looks like a billion dollars; the three months target is too big
- Once you reach a maximum, is that a trigger to reduce fees?
  - We consider our options including reducing fees, structural changes, etc.
- We should not spend money based on projections, but when we have it
- We should determine the minimal acceptable balance now (i.e. 2nd quarter, before formulation kicks off)
- If we are not at the minimum, we need to have different standards for the unfunded request process.
  - This will be assessed during working group meetings on Financial Adjustments documents.

## **Lessons Learned**

- It is unclear to people who is on FAB – recommendation for place cards
- This is a new process and it will have to be socialized. Suggestion that we invite more people to come and watch so they see how things work and what to expect
  - We need to educate the working level folks in the BUs who will be prepping their BU heads.
- Others have suggested that we should clear the room after the presentations for the FAB to discuss and decide

## **Outstanding Charter Issues**

- The group decided that FAB should be “lean and mean” and just have members and their alternate/advisor and not a voting and non-voting member?
  - This would make it cleaner for non-member BUs to understand
  - Charter will be updated to reflect eight members instead of 12.
- A FAB member should not present an unfunded request for its BU

## **Next Steps**

- The draft operating reserve policy will be updated and sent to the FAB

# USPTO Financial Advisory Board Meeting Summary

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*Monthly Meeting, 4-8-2015*

## **Participants**

### **FAB Members:**

FAB Chair, Co-Chairs, and Vice-Chair: Tony Scardino, Peggy Focarino, and Brendan Hourigan

### **FAB Members:**

- Patents: Bruce Kisliuk
- Trademarks: Tom Vlcek
- CFO: Frank Murphy
- CIO: Keith VanderBrink

### **Non-FAB Members:**

Jack Buie, Karen Strohecker, Michelle Picard, Mark Krieger, Scott Ewalt, Bonita Royall, Jennifer Jacobs, Sarah Brown, Candice Goodman, Michelle Rahn, Jennifer Richter, Mike Shaver, Dana Lane, Bill Stryjewski, Debbie Stevens

## **Budget Execution Status**

- Since last status, we have incorporated a status to FY 2016 and FY 2017 into the monthly report.
  - Financial “adjustments” incorporated into FY15 status only; FY16 and FY17 haven’t been materially adjusted; will do that once we do budget revalidation
  - Potential adjustments for FY15 for fees: \$58.2M further reduction on top of previous \$315 downward adjustments
  - There is an adjustment for hiring. Any lapse in hiring for FY15 will compound in the FY16 outlook.
    - Exact numbers will be determined through revalidation and hiring plans
- The report does not factor in any sort of potential sequestration impacts
  - For consideration, two different sequestration approaches were discussed—setting aside funds as a more conservative approach vs a “wait and see” approach.
    - Setting money aside for a worst case scenario would require spending cuts now. As a conservative approach, this would essentially be “self-sequestering”
    - A risk of the “wait and see” approach is that sequestration would not hit at the beginning of the year so there is less time to make decisions
    - No decisions or preferences were expressed

- USPTO will work to get on the exempt list.
  - Odds of the Administration approving a single agency to get on the exempt list are slim. We would need to get all fee funded agencies exempt, which is a bigger lift.
- Are we trying to start identify things to cut in case of sequestration for next fiscal year?
  - Going through a what if scenario makes since the impact will be a harder hit in outwears
  - If we adjust something in FY16, it could have an impact on FY15
- Given where we are right now, do we foresee the need to adjust spending for FY15?
  - We'll have more information next month when mid-year is completed
- Regarding fee adjustment, do we have more information on whether the RCE reduced filing will continue?
  - Not yet. We have two things happening--applicants impacted by the Alice vs. CLS decision that have been kicked back into prosecution that could still go into RCEs, and then we have initiatives that are also having an impact.

## Unfunded Requests

### Proposal for Piloting Pre-Grant Publication (PG-PUB) Process

- Patents can fund this internally so it is not an unfunded request
  - Treating it as if it is an unfunded because it is so large and was not in Patents plan
  - Not sure if it would obligate in late FY15 or early FY16.
- This is one of largest contracts at the agency
  - Support includes quality check for incoming applications, pre-grant publications, patent grant publications, and certificates of correction
  - Contract has existed for about 35 years
  - Current period of performance is 10 years from 2005-2015 at average of \$154M per year
- Patents just renegotiated and launched a bridge contract to allow more time to better understand ability to inject competition.
  - Risks associated with the contract: monopoly of a single vendor
- Patents has the ability to modernize the pre-grant and patent grant data capture to fullest maturity.
- The \$4.5M budget need for the pilot process could recoup more in future savings if competition is introduced
  - Estimate 10% savings in publication costs
- Recommendation: 4:0 vote to move forward

## FAB Foundation Documents

- Charter

- Language on page 5 regarding arriving at a consensus recommendations should be softened from “will” to “will strive”
  - *Decision: Change will be incorporated into the document*
- Language should be added to roles and responsibilities regarding who will relay information back to impacted BUs of a decision made based on a FAB recommendation
  - *Decision: Change will be incorporated into the document*
- Operating Reserve Policy:
  - Document will circulate for review and a working group will be established to discuss some of the details on the “rails”

## Budget Formulation and Fee Schedule

- Budget Schedule
  - Schedule is typically given to budget org managers at the working level
  - Policy guidance and technical guidance will go out Friday, April 10th
  - The first thing the FAB will see as an out-put of the process will be new concepts for FY17 (traditional initiatives)
    - This is a cursory review before the individual BUs draft business case
  - The second meeting will be a review of assumptions used by modelers
  - The third meeting will be preview of revalidated IT spending
    - Completed product won't be ready until later, but estimates will come to the FAB to determine if there are course corrections needed
  - The fourth meeting will be preliminary look at a 5 year plan with fee projections and requirements.
  - By July 7 the FAB will get a read-ahead with final numbers; will review those at the July 14th meeting.
    - The goal is for recommendations to be presented to executive committee by July 24th
- Fee Review Schedule
  - FAB meetings to review are overlaid with the formulation schedule

# USPTO Financial Advisory Board Meeting Summary

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*Monthly Meeting, 5/12/2015*

## **Participants**

### **FAB Chair, Co-Chairs, and Vice-Chair:**

Mary Denison, Peggy Focarino, and Brendan Hourigan

### **FAB Members:**

- Patents: Bruce Kisiuk
- Trademarks: Tom Vlcek
- CFO: Frank Murphy
- CIO: Tony Chiles

### **Non-FAB Members:**

Jack Buie, Karen Strohecker, Michelle Picard, Keith VanderBrink, Mark Krieger, Scott Ewalt, Bonita Royall, Dianne Buie, Jennifer Jacobs, Sarah Brown, Candice Goodman, Michelle Rahn, Jennifer Richter, Mike Shaver, Dana Lane, Melissa Stagnaro, Lauren Ailes, Gerard Torres, Mike Shaver, Gilda Lee, Rick Brenner, Daniel Saenz, Gerard Rogers, Cheryl Butler, Rob Clarke, Susan Richey

## **Budget Execution Status**

- The patent hiring plan has changed from 450 to 400 examiners
  - Plan will change to 353 examiners in the May report
- There is one pending unfunded for Invent Now (National Inventors Hall of Fame).
  - Received approval prior to the establishment of the FAB
  - Recurring cost increase
- Reported fee amounts are still the current working estimate and do not reflect model changes
  - \$60 million in surpluses identified during the midyear review. CIO and CFO CIFs have been retained.

## **Operating Reserve Minimum Threshold Assessment**

- Objective of meeting: recommend a minimum reserve level that we can apply to the FY 2017 budget formulation process. Will give us a basis to build scenarios
- Context: The “minimum” is in the context of the operating reserve policy, which means it’s a planning minimum for a 2 year horizon
  - We will build our plans around the minimum for the upcoming execution year and the budget formulation year

- If, when executing, we dip below the minimum, it should trigger a conversation about what our options are going forward
- We will revisit the minimums during each formulation cycle
- Two scenarios provided for the threshold analysis
  - Alternative 1- three categories of spending based on projected FY 2015 and FY 2016 projections. Drills down to monthly burn rate for Patents and Trademarks
    - fixed costs/non-discretionary: includes onboard compensation, post-retirement benefits, workers comp cost, rent, and utilities
    - mission critical/production/ limited: includes production contracts; examiner new hires, awards, overtime; and international agreements
    - non-mission critical/non-production/discretionary: includes fixed costs/non-discretionary: includes CIF, travel, training, and non- production awards and overtime
  - Alternative 2 – looks at historical risk factors that have impacted operations as well as anticipated risk factors in the future
    - Examines how we manage first quarter requirements, which is when the majority of the discrete budget events have occurred, and how much we have to dip into the operating reserve. Typically the agency recovers its collections in the second quarter
- Analyses show that we should have funds to cover at least one month of requirements
- Threshold does not have to be the same for Patent and Trademark
  - It may be difficult to manage to a fluctuating number
  - We need to work from a number, not a percentage
  - The Operating Reserve Policy establishes the process to determine the minimum only
- Because the ABI splits can have a bigger impact as a percentage of the Trademarks reserve, the Trademark reserve should be a higher percentage/month minimum than the Patent reserve
- Recommendation: Base of 1 month minimum (\$265M) plus a contingency (\$35M) for sequestration for the Patent reserve for a total of approximately **\$300M** and a 2 month minimum for Trademarks (**approximately \$55M**), for FY 2016/FY2017. Vote: All concur

## Fee Review Briefing – Proposals

- Some of the CIO changes were revenue gains while some were revenue neutral
  - Regarding the PFW Electronic Medium Fees, we are not certain how much elasticity there would be if there is a set fee vs. a volume-based fee.
    - Proposed fees were set to give some assurance that we at least won't lose money.
  - Comment given that if we incorporate elasticity on the cost side as well as the revenue side in the analysis, then the net is positive
- Recommendation: All fee changes move forward as proposed by the working group. Vote: All concur

# USPTO Financial Advisory Board Meeting Summary

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*Concept Fee Review Briefings & Budget Formulation Concept Papers, 5/26/2015*

## Participants

### **FAB Chair, Co-Chairs, and Vice-Chair:**

Tony Scardino, Mary Denison, and Brendan Hourigan

### **FAB Members:**

- Patents: Bruce Kisliuk
- Trademarks: Tom Vlcek
- CFO: Frank Murphy
- CIO: Toby Bennett

### **Non-FAB Members:**

Jack Buie, Michelle Picard, Mark Krieger, William Griffin, Adam Ramsey, Linda Horner, Scott Boalick, Peter Pappas, Dianne Buie, Bonita Royall, Candice Goodman, Mike Shaver, Lauren Ailes, Frances Michalkewicz, Moon Lao, John Yandziak, Jen Richter, Michelle Rahn, Melissa Stagnaro, Gerard Torres, Katrina Anwar, Daniel Saenz, Rick Brenner, Dana Lane

## Opening Remarks

- The potential for sequestration next fiscal year is there
- USPTO should plan for the worst and hope for the best

## Fee Review Briefings

- OED proposals include setting several fees between the current fee and full cost recovery.  
Includes:
  - Increase Non-Refundable Application Fee
  - Registration Process-Limited Recognition
  - Increase Reinstatement/Restoration Fee
  - Increase Certificate of Good Standing Suitable for Framing Fee
- PTAB – withdrawing proposal for Expedited, Ex Parte Appeals
  - PTAB is instead moving forward with a pilot that is different than what was submitted as part of fee proposal
  - Is this a pilot with no fee? Yes, but no refunds are given if applicant withdraws
    - No increase in revenue. Less work is required but no second payment

- By withdrawing, applicant still has the option to do RCE. Concern that this pilot may increase RCEs. We need to pay attention to how this works with the current RCE proposals and assess any impact:
  - This is limited to 200 appeals so it likely will not cause a great disturbance to RCEs.
  - Can that RCE become an appeal later? Yes, but it won't come back immediately.
  - The pilot should reduce PTAB inventory by having appeals withdrawn. Another benefit is the applicant must waive any hearing that have requested – hearings have fees
- Vote: All concur
- Suggested that we look at potentially raising fees across the board later

## **FY 2017 Concept Papers**

- Background
  - Draft FY 2017 budget needs to go to PACs and Commerce in late August
  - U/S office will review draft budget in July or August
  - Administration's guidance is to cut spending by 5%, although we don't always follow this since we manage more to our revenue and an operating reserve level
  - Memo has been sent to executive committee on the operating reserve minimum thresholds
  - If we change fees rates, FY 2017 first year take effect
  - Concept papers should be reviewed for optics and policy considerations
    - At a high level. More details will be provided for business cases
  - CIO portfolio projects have not been submitted through this process
  - Should ensure that a BU's IT initiative is not double counted by including it as a business case and with CIO's portfolio projects
- Items that BU's should address when developing the Business Cases:
  - CFO – EDW Center of Excellence: It is noted that this seems like a lot of requested FTEs to support an IT project
  - CAO – Leadership Academy Program Manager: Noted that this is a new initiative that will be established before FY 2017. How is the BU able to fund this out of the base for FY 2015 and FY 2016?
  - CAO – 2 Positions for OHR/Strategic Consulting Team: More background should be provided on the work performed in this division
  - CAO – Restructure HRIS Division and 2 positions: This needs to address the reporting analytics branch and how they might interact with the agencies data warehouse. Also noted that BUs have expressed pain around staffing and classification. Are there any improvement plans on this?
  - CAO – Suggestion Zone and 2 positions: More information about the program is requested as well as the value to the agency



- CAO – Resources and Planning: More information is requested on the type of workload growth
- CAO – Advertising Support: Is this just for IT recruiting?
- CAO – Alternative Dispute Resolution Specialists: Are there any NAPA report implications?
- MGE – Physical Security: Does this include satellite offices or just the main campus?
- MGE – Conversion of Patent Training Academy: This seems to be a lot of money in one year. Clarification is required
- U/S – Innovation Education Center: Additional information regarding the space requested for the center is needed
- Also noted that CFO’s 3rd party credit card authorizer budget concept is not in lieu of pay.gov. this will improve electronic payments
  - Filing dates are very important and payment system can be critical
- There is not enough information to stop a concept from moving forward to the next step. All concept papers should be documented in a business case.
  - Vote: All concur
- For future consideration, for both fees and formulation, it has been expressed that concept papers do not provide enough information. Do concept papers make sense? Do these add value or not?
  - Assumption that we can request better information. Proposals and initiatives would likely be cut if there is not enough information
  - This can be revisited after the FAB starts reviewing business cases

## Other Funding Discussion

- Suggested that FAB takes a look at vacancies for three years and fill rate to determine whether people should still ask for more positions. Also consider is if a low fill rate is tied to an HR issue
- Agency should not focus on just the larger organization to garnish the most funding. Suggestion that we treat all organizations fairly with an “equity perspective”.
- Do we prioritize now through the formulation process or the execution process?
  - We should put our best foot forward now, knowing we have other bites at the apple
- It is up to us to write the storyboard to have a discussion with PPAC on fees. If they want us to accomplish priorities, we may have to raise fees. Initiatives takes us from good to great, but may require higher fees to accomplish everything
- Suggested that FAB involves management council or executive committee to discuss prioritization. We need to look beyond the strategic plan since it encompasses everything
- FAB is interested to learn more on agency outreach
- Are we doing enough on financial status reporting? Do we want to provide fee updates quarterly instead of the current, twice a year update?
  - Suggested that we update the outlook for two to three years.
    - We will still provide only a one year outlook to external parties

o Vote: All concur

# USPTO Financial Advisory Board Meeting Summary

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*Concept Fee Review Briefings & Workload and Production Models, 6/9/2015*

## **Participants**

### **FAB Chair, Co-Chairs, and Vice-Chair:**

Tony Scardino, Peggy Focarino, Mary Denison, and Brendan Hourigan

### **FAB Members:**

- Patents: Bruce Kisliuk
- Trademarks: Tom Vlcek
- CFO: Frank Murphy
- CIO: Tony Chiles

### **Non-FAB Members:**

Jack Buie, Karen Strohecker, Keith VanderBrink, Michelle Picard, Mark Krieger, Scott Ewalt, Bonita Royall, Dianne Buie, Sarah Brown, Candice Goodman, Jennifer Jacobs, Gerard Torres, Daniel Saenz, Melissa Stagnaro, Lauren Ailes, Michelle Rahn, , Moon Lao, John Yandziak, Gilda Lee, Frances Michalkewicz, Curtis Gilmore, Amanda Myer, Nabil Chbouki, Greg Mills, Michael Tierney, Scott Boalick, Peter Pappas, Troy Tyler, Patrick Martinez, Jawad Syedain, Remy Yucel, Dana Lane, Paige Jugan, Cristina Farias-Gomez, Jonathan Rupp

## **Opening Remarks**

- Purpose of reviewing the models is to review the assumptions
  - They all affect us so there is a benefit to their transparency and to an open discussion
- Fees and spending are both lower than planned for the year
  - A lot of the spending will come back but fees likely won't

## **Budget Execution Status**

- Checkbook update
  - Projected fees have decreased since the last update, with a \$30M change
    - Last month we were showing a \$60M downward adjustment: now it's about \$91M
  - We have preliminary fee data for FY 2016 and FY 2017
  - We have highlighted the gap between our current projected operating reserve levels and the operating reserve minimums recommended by the FAB last month

- Numbers do not include any assumptions around sequestration
- Appropriation update
  - House marked up entire bill at sequestered level
    - USPTO is set at a level above the FY 2016 President's Budget (PB) request
  - Senate subcommittee has the bill now

## Fee Proposals

- A total of seven proposals were reviewed by the working group
  - The working group recommended three to not go forward
  - Four were recommended to proceed
- Delayed Search and Exam is more advantageous when we have a higher operating reserve
  - It is too risky without a healthier reserve
- Noted that the working group recommends that proposals move forward knowing that rates will be refined
- Vote: 4/0 concur with working group recommendations

## Budget Formulation Revalidation Results

- Snapshot of where we are in the process
  - These are preliminary estimates as OPB will continue to scrub numbers
  - We still may get guidance from OMB/DOC
- Suggested that the FAB review the handout for trends instead of actual numbers
  - Required spending level is essentially the same as in the PB
  - Fees are projected to be lower
  - Next week the FAB will review IT spending which is still being refined therefore may not be the same as in the handout
  - OPB will update the model summary to align with the updated IT numbers

## Budget Formulation – PTAB Model

- Model has been updated based on previous assumptions and current data
- PTAB has lowered the number of APJ hires required in hires in FY 2015 and outyears
  - This is based on the lower number of appeals predicted and on a decrease in AIA trial rates (growth rate currently at 13%)
- Question: Do we know what the impact is from things that are not yet in the model?
  - Attrition rates are currently fixed, which is a limitation of the model
    - Currently PTAB is under 5% but 5% represents a reasonable rate
  - The PTAB model has a similar limitation when looking at the variable rates of AIA filings
    - PTAB would like to improve its model in the future by tailoring the growth rate instead of using one rate

- PTAB has not yet modeled a very recent change to the patent attorney operating structure
  - It could potentially impact the decision output: it could increase
- Also have not taken in account additional paralegal growth to support the office. PTAB is taking a cautious approach to hiring them.
- Observation that the number of hires and attritions does track in the model for the current year (actual vs model numbers)
  - The model shows 5% for attrition but in reality is a percent. PTAB will review this and update as needed.
  - This could impact compensation projections
- Question: Is the output from the patent corp part of the model assumptions? Yes, it is
  - PTAB has reduced workload assumptions based on reductions in patent filings
- Question: Is PTAB operating model changing? Are they getting an ideal staffing mix?
  - Yes, PTAB is hiring attorneys as a future pipeline/source for judges
  - Law clerks are brought in through a pilot program for a two year internship
    - Looking for ways to assist judges to be more productive
    - Hopefully they will return as patent attorneys
  - Both attorneys and law clerk opportunities may be expanded to the satellite offices
  - Hiring will slow in the next few years
- Question: Does planned PTAB IT capability have any impact on the model?
  - No. It's an important support piece, but doesn't really impact the model in terms of PTAB's hiring
- Question: Did AIA inventory increase based on redistribution of judges from AIA to appeals?
  - No. It is an evolving process so PTAB is still learning the workload requirements
- Productivity
  - Production is in the model: hoping to find efficiency and improve operations
  - Does PTAB have the capacity to hire if workload increases?
    - Although filings have been relatively flat, PTAB doesn't want to assume zero growth
- Question: What is the target for the appeals pendency?
  - Currently striving for 12 months. Model shows PTAB achieving this close to FY 2019
  - PTAB has not reached out to the public for comments on the optimal level

## **Budget Formulation – Patent Model**

- Big change from this time last year in UPR growth rate. We'd planned for 5% growth; we are currently experiencing negative growth. Hoping to end the year at -1.8% this year, 1% next year, and 1.5% the following year. Assuming we'll get back to our 30 year historical average of 5% eventually
- Reduced examiner hires to 353 for FY 2015, 125 for FY 2017, and FY 175 for FY 2017.
  - Outyear hires are enough to staff the satellite offices

- Still on target to achieve pendency goals of 10 months for first action and 20 months for total by FY 2019
- Quality is a big variable. Patents has not finished processing public comments/planning. We have put some assumptions in the model
  - The amount of time invested in quality is lower in FY 2016 and FY 2017
- Anticipates examiner attrition is. With fewer hires, there are fewer attritions
- Note: Numbers on the right hand side of the model correlate to the FY 2016 PB numbers. They are out of date at the moment since we have lower growth, staffing, and fees
- There are savings in compensation and non-compensation from fewer hires and from renegotiated contract cost savings
- Compensation cost for the TCs is 76% of Patents budget
- Cost of electronic translations has decreased
- 93% of Patents budget is driven by production model
  - This doesn't mean we can't make choices or have discussions about it items
- Biggest part of training: non-duty legal studies, which should decrease due to lower demand
  - Training hours are given to examiners which takes away from production hours
- Initiatives
  - Data Capture Pilot will be obligated either late FY 2015 or early FY 2016
    - Presumably there will be other pilots in future years for other items which are may lead to cost savings
  - There may be a proposal to increase front end classification work to an expert level
- What has changed most from prior years?
  - Attrition: most attrition comes from the first two/three years an examiner is on board
    - Patents is done with bulk hiring so we won't see as much
    - Economic factors could impact attrition levels, but this is hard to project
- The Trademark model shows that in FY 2019 – FY 2021, the economy is doing poorly. Patent's model does not. Do we want to have a consistent perspective?
  - Trademark's and Patent's landscape are different with factors that impact one and not the other
- Has patents been able to identify what factors have caused filings to decrease?
  - RCEs are down significantly and new applications are down slightly
  - We have had several years of filing disturbances such as AIA, economic change, fee changes and Alice so it is hard to determine
- Adjusted PUs for examiners allows Patents to adjust the time allotted based on things like the changing technology contained in the patent applications (not technology being used by the corps)
  - Examples include CPC training and quality changes: anything that may impact production
  - The impact from PE2E is not a current model assumption
    - Suggested that Patent notes this on their model
- Changes due to quality

- There are three components Patents believes will happen related to the quality initiative
  - FTEs will come offline to work on quality to review work instead of doing work
  - Patents will train examiners on improvement areas
  - With more time spent to improve quality of deliverables, more time may need to be spent on every application
- Question: Publicly we've been telling Congress/OMB/others that we're not going to find efficiencies through PE2E because it's going to give examiners more time which will improve quality. From a messaging perspective, how do we reconcile that?
  - It is two different things. Tools will allow us to keep pace with the growth and volume of data examiners have to work with. Without it, quality would decrease
- When investing in quality, the cost of production goes up
  - If the cost per PU increases, a conversation may need to occur regarding fees
- Org assessment initiative is an investment into OPIM

## Budget Formulation – Trademark Model

- Trademarks has two major models: New Applications and Maintenance/Post Registration
- New Application Model
  - Key driver is economic activity
  - Model reflects a scenario worked on by Trademarks and OPB
    - Last year we expected 6% growth. Trademarks is seeing growth closer to 10%
  - Productivity assumption is that we will obtain and maintain optimal levels
    - Driven by a combination of base production and incentive award to achieve levels
  - Two unknowns factors that are not included in the model are the impact of the recent fee change and IT productivity enhancements
  - Attrition level is very low: 2% or less a year for the past 5 or 6 years
    - A lot of attritions are internal transfers within USPTO
  - Trademarks adjusts production levels using a balancing act between award, overtime, and hiring levels
  - Non-compensation is a very small part of the direct budget
  - Trademarks recently completed a specimen pilot where they gathered random samples
    - Asked trademark holders to provide more information to prove registered marks have been used in the market
  - There will be a pilot in FY 2016 where examiners will look at marks from the Paris Convention and Madrid (post registration)
- Question: Is 55 a lot for Trademarks to hire?
  - Yes. It takes a lot of people off production and requires a lot of management's time
- Trademarks is able to break out the overtime/awards into FTE equivalents
  - Union agreements allow them to adjust incentives

# USPTO Financial Advisory Board Meeting Summary

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## Participants

### FAB Chair, Co-Chairs, and Vice-Chair:

Tony Scardino, Peggy Focarino, Mary Denison, and Brendan Hourigan

### FAB Members:

- Patents: Bruce Kisliuk
- Trademarks: Tom Vlcek
- CFO: Frank Murphy
- CIO: Tony Chiles

### Non-FAB Members:

Jack Buie, Karen Strohecker, Keith VanderBrink, Michelle Picard, Mark Krieger, Nabil Chbouki, Dianne Buie, Scott Ewalt, Bonita Royall, Candice Goodman, Sarah Brown, Jennifer Jacobs, John Yandziak, Katrina Anwar, Moon Lao, Dana Lane

## Opening

- Resources are less than what we have seen in the past so spending has to reflect this
- When looking at prioritizing, we need to look at what we need vs. what we would like
  - Not everything can be a top priority
- FAB members must represent the agency and not their respective BU

## Proposed Prioritization Criteria

- The handouts are a strawman – nothing is final
- Noted that the current options would work well in a situation where we don't have to make tough decisions. In situation where we have to make tough decisions, this doesn't go far enough into budgets
  - Need to look at base funding, including vacancies
  - Suggested that if something can't tie specifically to an outcome or results it isn't a priority
- Comment that there may be pushback if USPTO has \$355M in reserves and we're cutting base funding
  - FAB needs to ensure that we have Executive Committee buys in and support for the minimum operating reserve levels
- Suggested that option 2 looks like a good starting point since it recognizes fixed costs



- Some examples from option 1 fit in to the a/b/c elements in option 2
- Comment in support of BU heads coming in to present their business plans to the FAB once a year
  - This could give context and allow the FAB to critically examine the budgets and identify things that don't align with agency priorities
- Comment that the structure of option 2 is good but may need more specific examples similar to option 1
  - Suggested that BUs look at their base and do tradeoffs
  - Suggested that training shows up in two categories as technical/required and discretionary
- Comment that calling out IT may be treating it differently than other existing, supporting operations
- Suggested that ITIRB and the FAB should be more integrated. It doesn't make sense to have one body approve investments without considering funding
  - Often when investment starts, funds are already in the budget
    - May need a check box in ITRB to ensure the project already has funds
  - Annual updates with cost increases should go through the FAB
  - A draft integration plan for the ITIRB and the FAB should be documented for review/recommendation by the FAB to then be shared with CRB
- More details are required in option 2 regarding base funding
  - Suggested that we have a category that the FAB doesn't have to review. Category A should be anything that we must pay for to maintain basic, essential operations
  - Some items may fall into multiple categories with a portion falling into each category
- Suggested that we do not use the term "non-discretionary" since it seems like the items are prejudged
  - If labeled as "non-discretionary" we likely wouldn't look at them when really we should
- Suggested that the FAB figures out a way to integrate labor relations into the process. A discussion should occur before the agency is committed to funding something
- OPB will provide an updated prioritization option based on the discussion and provide it to the FAB for review

### **OCIO Financial Adjustment Notification: VPN**

- There have been some VPN issues regarding stability
- It has been observed that the majority of people impacted by the disruption to the VPN software didn't have a SOHO router
  - SOHO router can minimize disruption as well as provide OCIO with more information on issues
- The project is accelerated from FY 2016 to FY 2015. Funding can be found in FY 2015 from existing base resources
- Question: will we have to find funding in FY 2016 for projects that we diverted funds from in FY 2015?
  - OCIO is not certain. However, OCFO says it is likely, based on prior discussions with BU

- This has been presented to deputies

### **Follow-up to Model Briefings**

- Request was made for a version of the patent model without the quality initiative elements so that we can figure out what the difference in revenue would be. This may allow us to put a cost to the quality initiative
- Patents will run a new model
- Budget snapshot has been updated to include adjusted IT revalidation numbers

### **Follow-up to Outreach Discussion (5/26)**

- Outreach activities list was presented
- Comment that some activities cost very small dollars but provide a very large impact

### **Next Steps**

- The three co-chairs meet with the Under Secretary and/or the Deputy Under Secretary to discuss items that will need to occur at Executive Committee

# USPTO Financial Advisory Board Meeting Summary

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*Prioritization Criteria and Fee Concept Proposals 6-23-15*

## **Participants**

### **FAB Chair, Co-Chairs, and Vice-Chair:**

Peggy Focarino, Mary Denison, and Brendan Hourigan

### **FAB Members:**

- Patents: Bruce Kisliuk
- Trademarks: Karen Strohecker
- CFO: Michelle Picard
- CIO: Tony Chiles

### **Non-FAB Members:**

Keith VanderBrink, Jack Buie, Brian Casler, Dmitry Suhol, Timothy Callahan, Tariq Hafiz, Greg Mills, Dennis Detar, Bonita Royall, Dianne Buie, Candice Goodman, Sarah Brown, Frances Michalkewicz, Moon Lao, Nabil Chbouki, Lauren Ailes, John Yandziak, Gilda Lee, Rachel Hong, Melissa Stagnaro, Dana Lane

## **Budget Formulation – Proposed Prioritization Criteria**

- Should projects that have minimal remaining investments remain in category C or move to category B?
  - Just because something has a little left to fund doesn't mean it's a priority to complete
  - However, the project may not be mission critical, but it makes sense to complete a project instead of throwing away all prior investments
- Clarification that the purpose of the categories is so you don't have to focus on everything at once
  - If something is in category C, it will be discussed
  - Recommended process: 1) do we agree with categorizations? Then 2) can we afford all of A and B? Then 3) discuss items in C
- Question: are we asking BU's to identify items by category (A/B/C) or by elements (A1/ A2/B1 etc.)?
  - By element. We should ask for the more detailed information now
    - This will help to identify the more detailed category during review
    - The sub-numbering is not a prioritization order and only serves as identification
  - If it turns out to be too onerous of a process, we can reassess this next year

- This will be an iterative process. We can refine the process as we go
- Question: what is category B giving us as a category?
  - Are we talking about just patent and trademark production or does this include helpdesk/invoice support, etc.?
  - The point is not to take category B items off the table.
  - It identifies less discretionary items
- Question: If an item is in category A, do we have to validate the amount?
  - It may not time be well spent
- Suggest that hires, overtime, and awards are broken out as separate items in category B and C
- Suggest omitting B3 's reference to awards
- OPB will make updates and recirculate for a vote via email

### **Concept Fee Review Briefings – Proposals**

- The working group recommends that all four proposals move forward
- Regarding the in-person interview proposal - if the Front Office decides to move forward with this fee proposal, Patents would need to go out with a request for comment to determine how to structure the pilot. This would then help determine the associated fee
  - Comment that we need to be conscious of the timeline
  - If the quality initiative doesn't move forward before fee setting, cost-recovery fees would remain an option
  - Vote:4/0 concur with the recommendations

# USPTO Financial Advisory Board Meeting Summary

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*Fee Briefings and Budget Formulation 7-24-15*

## **Participants**

### **FAB Chair, Co-Chairs, and Vice-Chair:**

Andy Faile, Mary Denison, Tony Scardino and Brendan Hourigan

### **FAB Members:**

- Patents: Jack Buie
- Trademarks: Tom Vlcek
- CFO: Frank Murphy
- CIO: Tony Chiles

### **Non-FAB Members:**

Michelle Picard, Keith VanderBrink, Bonita Royall, Dianne Buie, Scott Ewalt, Mike Shaver, Jen Richter, Michelle Rahn, Katrina Anwar, Gerard Torres, Gilda Lee, Candice Goodman, Sarah Brown, Daniel Saenz, John Yandziak, Jennifer Jacobs, Moon Lao, Frances Michalkewicz, Mike Tierney, Amanda Myers, Rick Miller, Rob Clark, Bob Bahr, George Elliot, Tariq Hafiz, Remy Yucel, Dana Lane

## **Opening**

- We are entering the “budget crunch” period where we need to start categorizing/prioritizing spending for the next few years
  - More detailed guidance will be sent out.
  - The Deputy Director is serious about budget discipline so we need to do this right

## **Concept Fee Review Briefings – Proposals**

- We are continuing to look at the Group 5 proposals related to RCE appeal area of patent fees
  - This include a tiered IDS fee structure, additional reply fee, increasing the 2nd RCE fee and creating a tired RCE fee
  - Also provided two different scenarios for discussion where appeal fees are adjusted to account for changes in demand based on RCE changes
- Fee numbers should not be the primary guide to determine whether we go forward with these proposals
  - We should consider how a fee change will impact behavior as well as the number of appeals for the board

- There is a potential downside to the IDS fee proposal: There may be pushback from the 70,000 users who currently don't have to pay a fee for IDS
  - Vote: 4/0 are in agreement to recommend the IDS proposal
- Additional Reply Fee is the same in both scenario
  - This would reduce RCEs. An estimate of 45% of first RCEs will use the additional reply program
  - Vote has been tabled until Tuesday's FAB meeting (7/28/15)

### **Budget formulation – OMB Submission**

- The FAB tasked OPB to arrive at a valid budget "scenario" for the FY 2017 OMB budget submission
  - Scenario would show the agency with a positive reserve level for all five years
  - Accomplished through an adjustment to the patent compensation line, reducing it by \$30M and a reduction the MGE org by \$107M
  - This is not an operating plan decision
    - Suggested that this is noted in the budget document
  - The budget will include narrative that the agency will continue to examine its requirements with the goal of bringing up operating reserves for the President's Budget submission
  - Vote: 4/0 are in agreement with this approach
  - Vote: 4/0 are in agreement that the models presented in June will be used as is

### **Budget Formulation – Prioritization Timeline**

- The prioritization criteria memo went to the Executive Committee and the Director with a due date of today (7/24/2015) for comments
- The datacall and guidance will go out to business units today
- Suggestion to add a date for OCIO to present on items not owned by other business units
- Suggestion to condense the FAB review schedule to two or three full day sessions
  - OPB noted that September could be difficult to schedule this condensed review since there is a lot of prep work required

# USPTO Financial Advisory Board Meeting Summary

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*Fee Proposals 7-28-15*

## **Participants**

### **FAB Chair, Co-Chairs, and Vice-Chair:**

Andy Faile, Mary Denison, Tony Scardino and Brendan Hourigan

### **FAB Members:**

- Patents: Bruce Kisliuk
- Trademarks: Tom Vlcek
- CFO: Michelle Picard
- CIO: Tony Chiles

### **Non-FAB Members:**

Keith VanderBrink, Jack Buie, Bonita Royall, Dianne Buie, Scott Ewalt, Moon Lao, Jennifer Richter, Michelle Rahn, Debbie Stephens, Bob Bahr, Rob Clark, Michael Tierney, Frances Michalkewicz, Nick Oettinger, Kyu Lee, Timothy Rooney, Daniel Saenz, Rick Brenner, Gerard Torres, Lauren Ailes, Melissa Stagnaro, Alan Marco, George Elliot, Gilda Lee, Rachel Hong, Candice Goodman, Sarah Brown, Dana Lane

## **Opening**

- A meeting was held with the Deputy Director where the additional reply proposal was discussed and taken off the table
- The next step is to see how this decision impacts the rest of the Group 5 proposals
  - The Patent team will relook at the proposals and connect with the working group in a week

## **Comprehensive Fee Package**

- We are still reviewing proposals so some of the assumptions in the fee review summary will change
- Noted that the fee changes are from an operational/ policy perspective
  - We need to figure out what our message will be. For example, why we just lowered Trademark fees and now we are proposing to raise them
- Noted that we may want to separate the fee packages for Trademarks and Patents

- Separating them may keep us below the \$100M threshold. We would not have to complete the full regulatory impact assessment
- The workload for OMB and DoC would be very different if we have two packages instead of one
- Separate packages could allow us to send a package forward earlier. This could help expedite review of the later package through OMB, especially if OMB gets hit with numerous regulatory packages before the end of the Administration
- However, we may want to consider sending one package forward to present a unified front. Two packages could come across as though we operate as two separate agencies
- This is our second attempt to set fees and we may not get another opportunity
- We need to be thoughtful in what we prepare since Congress is still debating the possible extension of our fee setting authority
- Suggested that FAB reviews and recommends the pros and cons for each approach
- If we think we need to increase revenue, we may need to do an across the board CPI type increase
- Noted that when we set fees last time, we set them to recover costs that included inflationary increases. That increase covered five years and by the time this fee change would be in effect, four years will have passed. It would be time to increase fees.

## Fee Review Timeline

- This timeline is ambitious
- It assumes that the FAB's recommendations on the comprehensive package is presented to executive committee and that decisions are made by mid-September
- PAC hearings are proposed for October
  - Noted that the timing of the PAC hearings overlap with when they will be writing their annual reports
    - This was briefed to them during their quarterly briefing so they are aware of the proposed schedule
    - A lot of the preparation for the hearing falls on USPTO
- OMB would like the rules notice completed and submitted to them by December
  - The fee team thinks a more realistic timeframe to target is February
- This schedule allows us to incorporate feedback into the NPRM



# USPTO Financial Advisory Board Meeting Summary

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*Monthly Meeting 8-11-15*

## **Participants**

### **FAB Chair, Co-Chairs, and Vice-Chair:**

Andy Faile, Mary Denison, and Brendan Hourigan

### **FAB Members:**

- Patents: Jack Buie
- Trademarks: Tom Vlcek
- CFO: Michelle Picard
- CIO: Tony Chiles

### **Non-FAB Members:**

Keith VanderBrink, Karen Strohecker, Scott Ewalt, Mark Krieger, Dianne Buie, Dana Lane, Candice Goodman, Sarah Brown, Gerard Torres, Mike Shaver, Katrina Anwar, Jennifer Richter, Frances Michalkewicz, Jennifer Jacobs, Rob Clarke, Rick Brenner, Rick Miller, Gilda Lee, Rachel Hong, Daniel Saenz, David Fitzpatrick, Moon Lao, John Yandziak, Nick Oettinger, Matt Zender, Mike Tierney, Remy Yucel

## **Opening**

- An email went out notifying BUs that the Deputy Director is scheduling meetings to review spend plans
  - Patents, CIO, CFO and CAO are scheduled for next week
  - Summary sheets will go to BUs for review later this week

## **Execution Status**

- Estimated fee collection projections have changed from prior month
- Requirements have come down by about \$20M from prior month
- There is an additional line below potential adjustment that shows potential surpluses
  - We expect another \$30M by the end of year
- Operating reserve outlook has changed for FY 2015 through FY 2017.
  - FY 2016 Patent level now has a \$170M variance from the minimum level. Last month it was \$210M

## Concepts Fee Proposals

- The working group has revised the options for the Group 5 proposals
  - The additional reply fee has been dropped, which impacts RCE filing assumptions
  - Includes a restructure to IDS proposals to encourage early disclosure so that rework is limited
    - Option for consideration: 1. eliminate certification, which simplifies things but requires everyone to pay a fee, or 2. maintain certification, where if the IDS is submitted during period 2 and is certified, there is no fee
  - RCE proposal increases 1st and 2nd fee and create a 3rd tier fee
    - Restructuring of IDS will decrease all RCE filings by 9.1%
    - Objective is to provide better avenues to resolve issues instead of going toward RCE
    - Noted that during the FY 2013 fee restructure, feedback was that 1st RCE was much more essential than the 2nd or 3rd, which is why we tiered the fees
    - Good message to communicate is that there are other options to choose besides RCE. We need to present a continuous story regarding all our fee proposals so it's not seen as "we are raising RCEs"
  - Noted that a lot of the stuff we're doing related to this have LR implications
  - Notice of Appeal and Appeal Forwarding fees
    - If we do increase RCE fees, appeals may seem like a good alternative option. If we increase appeal fees, it won't incentivize behavior to go this route
    - The proposals to increase these fees are to manage this behavior
    - It is estimated that not raising these fees will cause a 4% increase in fee estimates equaling \$1.7M
    - It is estimated that raising fees will increase fee estimates equality \$9.8M
- Total impact of fee proposal changes in FY 2017: \$79.9M
  - The proposals do consider elasticity
  - This puts us close to the \$100M threshold
    - If we proposal over \$100M in the NPRM and we don't proceed with all of it, we likely would not have to move forward with RIA
- Votes:
  - IDS proposal to eliminate certification: 4/0 agreed
  - Increase 1st RCE fee: 4/0 agree
  - Increase 2nd RCE fee: 4/0 agree
  - Increase 3rd RCE fee: 4/0 agree
  - Notice of Appeal fee and Appeal Forwarding fee increases: 4/0 agree

## Fee Review Considerations

- Documentation was provided on the pros and cons of one consolidated fee rule and of separate fee proposals

- Even if submitting separating proposals, Patents could meet the \$100M threshold on its own
- Noted that Trademarks prefers separate proposals; Patents agrees
  - The sheer complexity of explaining the options on the patent side was noted. The TM story is far simpler
- Vote: 4/0 agree with submitting separate fee rules

## **Budget Review Timeline**

- Trademarks has requested an adjustment to their review since the Commissioner will not be available during the current, proposed presentation date
- OCIO's session will cover infrastructure and OCIO BU specific items only
- Concern expressed that BUs may require more time if IT requirements need to be discussed, too
- Noted that the FAB should provide some guidance up front to include expectations and the level of detail required
  - FAB members will send suggestions to OPB for inclusion by end of the week

## **Financial Adjustment Process**

- OPB will adjust the Unfunded Request template to reflect "Request for Additional Funds" for clarity
  - No other concerns were noted

# USPTO Financial Advisory Board Meeting Summary

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*Fee Proposals 9-1-15*

## **Participants**

### **FAB Co-Chairs, and Vice-Chair:**

Drew Hirshfeld, Mary Denison, and Brendan Hourigan

### **FAB Members:**

- Patents: Debbie Stephens
- Trademarks: Tom Vlcek
- CFO: Michelle Picard
- CIO: Tony Chiles

### **Non-FAB Members:**

Karen Strohecker, Jack Buie, Gerard Torres, Keith VanderBrink, Mark Krieger, Bonita Royall, Mike Shaver, Sarah Brown, Dana Lane, Candice Goodman, Daniel Saenz, Rick Brenner, Lauren Ailes, William Griffin, Nabil Chbouki, Bob Bahr, Remy Yucel, Mike Tierney, Nick Oettinger, Rachel Hong, Melissa Stagnaro, Alan Marco, Kathy Matecki, Jawad Syedain

## **Opening**

- Last FAB meeting was on the fee review
- Deputy Director provided input and the fee team has completed additional analysis based on the feedback

## **Summary of Fee Proposals**

- Items shaded in green on the handout are suggestions and thoughts from Deputy Director.
  - Items in red font are adjustments from the fee team necessary if the agency proceeds with the Deputy Director's proposals
  - Deputy Director's recommendations are relatively simple
- No major concerns with individuals proposals
- This would expand focus of fee rule, focusing on front end fees instead of back end changes
- Do we want to go with a more targeted approach?
- Consideration: tight timeline

- Inquiry: are we increasing filing fees and then reducing others? No, just laying out what was completed in 2013 for context
- Global comment: total on patent side – increase by \$180M in FY 2018? So same amount for each year?
  - Could build operating reserve in 3 years. Likely not a slow growth. Does this seem “money hungry”?
  - Comment: quality initiative will cost more money as well as IT investments. May require these funds
  - Deputy had concerns with maintenance fee structure and raising RCE
- Is there a balance to back end vs front end fees?
  - Raising front end fees wouldn’t create a significant change
- IT investments: outyear costs could be lower than appetite. But is our appetite too great?
  - Systems are so antiquated that the special requirements needed could cost triple
  - Everyone asks us to improve ourselves – management, PACs so no expectation to stay still
  - Also regional offices are not at their final levels so we can expect them to grow and change
- Are there any targeted items that are too risky to put out to the public?
- Message: last time asked to raise fees to hire, decrease pendency and improve IT. Now asking for more money so we may be asked to put dollars to performance
  - There are reasons we didn’t meet our goals, but difficult to explain.
  - Counter thought: comments that we increase fees in areas people don’t want us to, but we are also in a position where we need the revenue and we have fee setting so if we do nothing about that we may be asked why didn’t we use this tool?
  - FY 2013 message was focused a lot on pendency and we were asked about quality. Good transition to focus on quality now
- Suggestions were made to raise some correction surcharge fees; working group recommends adjusting all
- What is the point of the changes being suggested? Are these changes looking to increase revenue? Yes, Deputy’s changes have been around adjusting revenue
- Timing of when we have to bring this to PACs is at the same time we are making spending decisions. Suggest right sizing against OMB estimate
- Suggest at hearing, give examples of improvements without committing but does make messaging difficult
- Concern with issue fee due to comments last time
- Design community may have issue with their issue design fee increase
- What is the rationale if we have a lot less claims filed with applications to increase excess claims greater than 3
- Inflationary increase takes us to FY 2017. Can explain increases as continuing inflationary increases in FY 2018 and beyond
- RCE concerns from PPAC and deputy

- Do we have a strong message for increasing fees?
  - Public perspective could have less issue with 3rd tier since fewer will use this. May receive more issue with increase to 1st
- Noted that appeal fee increase is independent of decision to change RCE fees. May receive pushback to increase this fee since its seen as a quality function
- Change to corrective fees: not huge revenue makers but message may be easier to look at all instead of just a few
- PPAC has already expressed an opinion that we should not increase RCE fees
- Suggest not increasing 1st RCE
- Suggest not increasing design fee
- Comment that IDS reform will increase RCE fees and will lower RCEs
- Consider waiting for public input before changing current proposals

# USPTO Financial Advisory Board Meeting Summary

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*Monthly Meeting 9-8-15*

## **Participants**

### **Co-Chairs and Vice-Chair:**

Drew Hirshfeld, Mary Denison, and Brendan Hourigan

### **FAB Members:**

- Patents: Debbie Stephens
- Trademarks: Tom Vlcek
- CFO: Frank Murphy
- CIO: Tony Chiles

### **Non-FAB Members:**

Karen Strohecker, Keith VanderBrink, Jack Buie, Michelle Picard, Sarah Brown, Candice Goodman, Scott Ewalt, Mark Krieger, Bonita Royall, Jen Richter, Michelle Rahn, Jennifer Jacobs, Dana Lane

## **Financial Status**

- Preliminary estimates provided and may not match the August SPR that will be released this month
- The FY 2016/2017 fee collections and budget requirements have not changed from last month
- Changes from last month:
  - Preliminary Adjustment to estimated collections has changed by about \$35M (from \$90M to \$126M)
  - Operating reserve variances from minimum have increased slightly from July

## **Operating Reserve Policy**

- Part of policy is to assess the size of reserve, so the Patent and Trademark reserve sizing worksheets were provided
- Intention of policy is to provide guidance and to create trigger points for conversation. This allows for flexible implementation
- The document has been brought to the FAB earlier and is ready to be finalized
- No comments from any voting members
  - A memo will be issued to recommend this policy document to Executive Committee

## Closing

- OPB is finalizing read ahead documents for the FAB for prioritization meetings
  - Read-ahead material will not have BU presentations in advance
- Noted that decisions may have impact beyond FY 16 and FY 17
  - OPB can include the impact of these decisions for outyears on unfundeds, new initiatives, and IT project spending
- Suggest sending consolidated email to FAB with all documents so it's in one place
- Suggest that, since the Patent and Trademark meetings are first, note lessons learned so the other BU meetings can run more smoothly
- FAB should look at not just why an item is a priority for the BU, but for the agency
- Recommendation that the FAB standardizes the type of information to take note of
- Recommendation that the FAB be as prepared as possible for the meetings.
- Recommendation that the FAB not making final decisions until all BUs have been heard
- FAB has a holistic view of the agency so there is some fairness that can be applied to all of the BUs. Intent is for the BUs to walk away feeling that this is applied to them
- FAB advisors will meet this week to establish a standard checklist/criteria for use in review meetings.



# USPTO Financial Advisory Board Meeting Summary

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*Fee Estimates and Budget Formulation 6-30-15*

## **Participants**

### **FAB Chair, Co-Chairs, and Vice-Chair:**

Tony, Scardino and Brendan Hourigan

### **FAB Members:**

- Patents: Bruce Kisliuk
- Trademarks: Meryl Hershkowitz
- CFO: Frank Murphy
- CIO: Tony Chiles

### **Non-FAB Members:**

Jack Buie, Keith VanderBrink, Michelle Picard, Karen Strohecker, Scott Ewalt, Jennifer Richter, Michelle Rahn, John Yandziak, Moon Lau, Katrina Anwar, Greg Mills, Bonita Royall, Dianne Buie, Melissa Stagnaro, Nabil Chbouki, Candice Goodman, Sarah Brown, Dana Lane

## **Updated Fee Estimates**

- Preview of estimates before assumptions/estimates are finalized
- Largest changes in assumptions are on the Patent side. Decrease of about \$136M in FY 2016 and \$146M in FY 2017
  - Filing growth rate lowered
  - Slight change in allowances
  - Maintenance fee category for FY 2016: Allowance of petitions after a payment is overdue for a year for an unavoidable reason was eliminated with the Hague Treaty and will affect the maintenance fee estimates going forward
  - Changes in PTAB as we work to better estimate workload
  - OPB has yet to have discussions with Patents on renewal rates
- Slight changes to the Trademark estimate. Decrease of \$3.3M in FY 2016 and less than a million in FY 2017
- Assumptions do not include anything associated with the fee review/fee setting
- OPB will add a note to the "monopoly sheet" in the maintenance fee line related to the petitions/Hague Treaty-related assumption change
- Final assumptions will be brought back to the FAB for concurrence

- Noted that renewal rates have been fairly steady. We've seen "unsteadiness" in fees because of timing, but the true rates are steady.
  - 705-related renewal rates (business methods) are down but represent only a small portion

## **Budget Formulation**

### 5 year Outlook

- 5 year outlook provides a snapshot of where we are as an agency
- We shouldn't submit an OMB budget where we are negative
  - Noted that we have submitted a negative OMB submission in the past, with an explanation that USPTO is still working to reduce requirements
- If we at least reach the minimum reserve level in FY 2016, we should be positive in the out-years
- Reductions required to the Patent business line will likely impact the Trademark business line
  - Suggested that these should be true reductions instead of a deferral of spending
  - Noted that it is probably not realistic for the agency to take true cuts

### Budget Snapshot

- OPB is in the process of revising compensation projections. The final results should not have a significant impact on the numbers
- OCIO will have an updated set of numbers on July 10th
  - With more information becoming available, numbers have been lowered
- Budget Snapshot will be continuously updated for the FAB

### Proposed Prioritization Timeline

- We cannot do a full review in time for the OMB submission
  - It would take a minimum of 3 weeks to gather responses through a data call. This accounts for time for BU's to conduct internal discussions
- Concern raised that we are running out of time to truly prioritize FY 2016
  - Noted that if we don't have the true prioritization before the start of FY 2016, we end up getting "stuck" with arbitrary placeholders put in for the OMB submission
  - Suggestion to freeze BUs at their FY 2015 levels and to start true FY 2016 operating plans December 1st
    - This would require conversations about items that start October and November
- Noted that If we make all these cuts, we may not have money during midyear to sweep
- The shortfall is not on the Trademark side, but they should be involved with IT discussions since it does impact them

## **Wrap-up**

- Will continue discussion of prioritization timeline at the next meeting

# USPTO Financial Advisory Board Meeting Summary

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*Fee Proposals and Prioritization Timelines 07-07-15*

## Participants

### FAB Chair, Co-Chairs, and Vice-Chair:

Tony Scardino, Andy Faile, Mary Denison, and Brendan Hourigan

### FAB Members:

- Patents: Bruce Kisliuk
- Trademarks: Tom Vlcek
- CFO: Frank Murphy
- CIO: Tony Chiles

### Non-FAB Members:

Jack Buie, Karen Strohecker, Keith VanderBrink, Michelle Picard, Mark Krieger, Bonita Royall, Dianne Buie, Sarah Brown, Candice Goodman, Jennifer Jacobs, Curtis Gilmore, Gerard Torres, Daniel Saenz, Melissa Stagnaro, Mike Shaver, Michelle Rahn, Frances Michalkewicz, Jennifer Richter, George Elliot, Greg Mills, Amanda Myers, Bob Bahr, Alan Marco, Remy Yucel, Rob Clarke, Kathy Matecki, Dana Lane

## Opening Remarks

- Co-chairs, or co-chair representatives, met with the Deputy Director to provide a briefing on the agency's financial outlook
  - All BU's will have to "tighten their belts"
    - Reducing spending may be one of the FAB's toughest responsibilities
    - Funding for projects makes the difference between a good state and a great state, but the agency needs to be able to live within its means.
  - Regarding the concept of raising fees, the Deputy Director is not opposed to the idea of it but wants impacts to be considered carefully
    - Some fee increases may reduce demand so we may not generate more revenue

## Fee Review Proposals

- The proposals are to change existing fees or to add new fees
  - They won't bring in a lot of additional income
    - Trademark side: estimate of a \$36M increase
    - Patent side, estimate of a \$16M increase

- Group 5 Proposals
  - Comment that there may be a typo on the Trademark portion of the handout (*NOTE: The fee team later reviewed the handout and noted there is no issue*)
  - Working group recommends not moving forward on two proposals
    - Increase RCE fee and increase continuation and CIP fees
  - Working group continues to look at the Additional Reply Prior to Filing a RCE
    - If someone did an additional reply and then a RCE, they would forfeit the ability to get the lower, first RCE fee and must pay the second RCE fee instead
  - Scenario 1 increases 2nd and 3rd RCE fee
  - Scenario 2 also increases Notice of Appeal fee
    - Currently not set at cost recovery. This was intentional to not appear punitive
    - Concern expressed regarding the message behind increasing the Notice of Appeal fee, given the response that we got to proposals to increase it last time
    - Noted that a lot of applicants will use the notice of appeal as an extension of time. If the extension of time fee increases, we would need to keep it balanced with the notice of appeal fee
  - These proposals will be back after more analysis. No vote is required

## Budget Formulation

- We need a story for FY 2017 budget and we need to kick off FY 2016 in October
  - FY 2016 is our immediate concern
  - We can submit the FY 2017 OMB submission using existing information
    - Submission will be a story that can be briefed to DOC in August
    - OPB would need to notify all impacted BUs that the OMB submission will not be their execution level
  - Suggestion that we put a ranges in for presentation purposes to the U/S around revenue and requirements
  - Fee proposals will be reflected in the President's Budget not OMB so it will be ok if the story is inconsistent with fee proposals
  - Noted that we should address all initiatives in the OMB submission so they are not new in the President's Budget.
    - OMB and PACs will have an opportunity to review new requirements
  - The FAB concurs with this approach for the OMB budget submission
- FY 2016 Operating Plans
  - Suggest that we submit a datacall for operating plans earlier than usual and request categorization
    - If an item is categorized as non-mission critical and needs to be funded early in the year, BU's will need to provide justification
    - BUs and OCIO will need to work together to categorize IT projects IT projects?
  - OPB will continue to work on the process and will provide more information for FAB review

# USPTO Financial Advisory Board Meeting Summary

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*Monthly Status Meeting 7-14-15*

## **Participants**

### **FAB Chair, Co-Chairs, and Vice-Chair:**

Andy Faile, Mary Denison, and Brendan Hourigan

### **FAB Members:**

- Patents: Bruce Kisliuk
- Trademarks: Tom Vlcek
- CFO: Frank Murphy
- CIO: John Owens

**Non-FAB Members:** Jack Buie, Karen Strohecker, Keith VanderBrink, Scott Ewalt, Bonita Royall, Dianne Buie, Candice Goodman, Jennifer Richter, Michelle Rahn, Frances Michalkewicz, John Yandziak, Jennifer Jacobs, Katrina Anwar, Dana Lane

## **Execution Status**

- CFO wants to share the execution status with the FAB before it is released to management council
- CFO is still working on the information required for the prioritization datacall that will be used to gather information for the FY 2016 operating plans and for the FY 2017 requirements
- The checkbook reflects an update to estimated collections
  - Shows the potential fee adjustment that is a total of \$93M less than the initial estimate
  - \$3,048M is our new fee projection level for FY 2015
  - These are requirements as of today. There are no forecasts regarding any prioritization that may occur
- The current projection is that operating reserve variance from the minimum reserve threshold is -\$210M in Patents in FY 2016
  - In FY 2017 Patents is -\$479M and Trademarks is -\$23M
  - Results are a bit better than what was projected in May
- Not included in the checkbook is an anticipated end of year jump in the operating reserve since funds will be returned from the IT project risk contingency (PRC). However, these funds will be required in FY 2016
  - This is not a savings, but a project contingency that moves from year to year
  - OCFO may report the PRC funds separately from the operating reserve

# USPTO Financial Advisory Board Meeting Summary

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*Patent and Trademark Model Update, 11-10-15*

## **Participants**

### **FAB Chair, Co-Chairs, and Vice-Chair:**

Tony Scardino, Andy Faile, Meryl Hershkowitz, Brendan Hourigan

### **FAB Members:**

- Patents: Debbie Stephens
- Trademarks: Tom Vlcek
- CFO: Frank Murphy
- CIO: Tony Chiles

### **Non-FAB Members:**

Jack Buie, Karen Strohecker, Keith VanderBrink, Micelle Picard, Mark Krieger, Bonita Royall, Scott Ewalt, Dianne Buie, John Yandziak, Greg Mills, Jennifer Richter, Michelle Rahn, Jennifer Jacobs, Nabil Chbouki, Alexis Hirsch, Jim Nosal, Candice Goodman, Cristina Farias-Gomez, Paige Jugan, Frances Michalkewicz, Katrina Anwar,

## **Opening Remarks**

- Feedback at from Executive Committee regarding the FAB's work so far has been without a doubt positive

## **Budget Execution Status**

- Current checkbook has a few assumptions and caveats that should be shared
  - Any adjustments from the new Patent and Trademark models are not in this version, but will be updated soon
  - Includes a correction for the PTAB IT initiatives. It was accidentally stripped out when the funds should have been reallocated to other end to end projects
    - It is added back in so reserve levels are down a little
  - Some minor discrepancies that had to be reconciled
  - Still working through adjustments in plans for comp. Projections will be submitted to the formulation division today and will reflect FAB decisions

- There have been transfers that aren't included, such as regional office funding. Funds will shift due to ECR splits.
  - Since operations aren't currently supporting TMs, would hope that allocation stays the same
  - Agency will have to work with those assumptions
  - Should ensure right PPA codes are being used properly

## Patent Production Model

- Reflects slightly different hiring levels from the FY 2017 OMB model, but application growth rates are unchanged
- Examiner attrition rate is bumped from 5.5% in FY 2015 to 5% in FY 2016 and 4% in out years
  - Attrition is slightly higher in FY 2016 than in outyears due to all the new hires we have recently completed. The first couple of years are always higher but is lower over the next few years
- The current model does not hire at the same rate as attrition
- For filing amounts, the base is higher so a bit more are coming in
- The impact of the Quality initiative is seen in manual productivity adjustments
  - Some training and offline hours need to be given
  - At the end of 2016 they get 2 hours more a case
- Reduction in Production Units per examiner – if we make a quality investment in FY 2016, that will carry forward in outyears
- Question: Why is track 1 going down?
  - In a higher pendency world, it is more attractive. With a lower pendency level expected in the outyears, it won't be needed as much
- Manual changes are specific to that specific year
- Adjustment in PUs for FY 2015 is to adjust for FY 2014 change from CPU training – back to status quo
- General everyday training is built in. There is outyear training related to Alice, refresher training, etc.
- The benefits of training hours will be reflected in quality; training also brings up level of understanding
  - Investment and cost avoidance
- RCE filings used to be modeled as a percent of total filings. It would go up even when workload was flat and implied more cases would be RCEs which is not what we want to do. Instead, it is now estimated based on total disposals – it is now relatively constant
  - It's a result and not a driver – A bi-product
- Question: In FY 2022 it looks like backlog goes back up. Should Patents hire more in FY 2021 to adjust that?
  - Patents doesn't want to bottom out too much but can adjust the model to engineer the soft landing

- Outyears are just a guesstimate
- Revenue change will be in the President's Budget (PB) but may not account for model changes which would adjust cost
- If we think something will fall out from the fee proposals from the hearings, USPTO may want to reflect that in the PB
  - More concerns on the impact of IDS and RCEs on the model. IDS could reduce RCE filings by 10% but would need POPA negotiation. It could be a total wash on the workload side, but not the fee side
- In the Patent summary FY 2016 requirement level is unchanged. FY 2017 will go up due to higher production contracts, change in staffing, and adjustments for a few errors
  - Also transferred \$2M to U/S office for regional office realignment

## Trademarks Production Model

- Compared to last model, major assumptions haven't changed much.
- Captured most recent GDP and venture capital data.
- Saw a surge in filings – almost 11%, compared to FY 2014
  - Couldn't see it in GDP, but seen in activity, which is the highest level in the last decade. Went from \$10B a quarter to \$17B a quarter
- End up with 10.7%. Question to ask: is this going to continue? Looked at financial market and the turmoil seen last year
  - Most likely will not continue. It is likely there will be a decline in venture capital activity
  - Trademark returned to a normal increase of 7% activity
- Need to capture these changes and adjust hiring to maintain the dependency
- Expected 13 attritions in FY 2015 and ended up with 16.
- Between FY 2016 and FY 2017, looked at hiring with a certain constraint based on how many people can be hired and trained. The upward bound is 60 in FY 2016 and FY 2017. This requires an adjustment in overtime
- 7% growth in filings is still significant. With the fee change, ideally we'll see a conversion of paper to electronic. Should see a small decrease in extensions of time if the fees increase by the proposed amount.
- Nothing changed in attrition or details in the model. There is a spike this year in attritions. A lot are internal transfers
- IT changes won't change fundamental way examiners do work. Will impact other areas since so much is already electronic
- Measuring quality has always been difficult – ROI isn't measurable as quality



## FOIA Search Request

**Date:** Tuesday, March 12, 2024

**To:** Office of the Chief Financial Officer

**From:** Traci Alexander, FOIA Specialist, 571-272-4251

**Re:** Freedom of Information Act (FOIA)/Privacy Act Request F-24-00151

The Agency received the attached request for records under the Freedom of Information Act (FOIA) and/or Privacy Act of 1974. The USPTO FOIA Office must collect all records responsive to this request and determine whether they may be released to the requester. If you have any questions regarding the scope of the request, please contact me at the above telephone number. Unless otherwise stated in the request, the cutoff date for responsive records is the date of the request.

Please complete the following no later than **Tuesday, March 19, 2024**:

- **SEARCH:** Conduct a thorough search of all records systems that you believe may contain the requested records and retrieve paper or electronic copies of these records. You do not need to provide records that are available in public patent or trademark files. **You do not need to create records or prepare answers in response to requests.** Only identify existing records. Please also advise if you believe that there may be responsive records maintained by other Business Units.
- **IDENTIFY:** If you believe that any of the responsive records contain sensitive information or are exempt from disclosure, communicate this (we recommend including a short narrative or using sticky notes – do not write on the documents). We will consider your comments regarding non-disclosure when determining whether records can and should be withheld under the FOIA. You may be asked to articulate why disclosure would harm the Agency or is otherwise prohibited by law.
- **SIGN:** Please complete and sign the attached search sheet.
- **SEND:** Send one clean copy of any responsive records, including records you believe should be withheld, and the completed search sheet (attached) to my attention at the FOIA Office, Madison West, Room 8C45, or via email.
- **Do not proceed with your search if you believe search time will exceed two hours.** If search time is likely to exceed two hours, contact me to discuss whether the FOIA Office should issue a fee estimate. If you expect the search time to be less than two hours, please proceed with the search.

Enclosure

# FOIA Search Sheet

FOIA Request No. F-24-00151

Requester: Michael Ravnitzky

## TO BE COMPLETED BY EACH SEARCHER

I, Candice Goodman, declare that the following is true and accurate to the best of my knowledge and belief:

Name: Candice Goodman

Official Title: Management and Program Analyst

E-mail Address: Candice.goodman@uspto.gov

**If search time is expected to exceed two hours, do not search yet!**

Estimated search time: 1 hour

Grade/step (for calculating search fees): 14/9

### *Areas searched:*

Check if searched	System
<input checked="" type="checkbox"/>	Electronically Stored Information (ESI) on my USPTO computer/laptop or Agency databases.
<input type="checkbox"/>	ESI on my personal computer, PDA, zip drive, flash drive, CD/DVDs, Right Fax, Voice Messages, web-based e-mail or online storage, or other storage device or location.
<input type="checkbox"/>	Hard copy documents
<input type="checkbox"/>	Other – please specify:

### *Check all that apply:*

I have no responsive records.

I have responsive records and they are enclosed; I have no concerns about release of these records.

I have responsive records and they are enclosed, including notes indicating which records I believe should not be disclosed.

I believe responsive records exist, but these records are held at off-site archiving locations.

I believe the following individuals may have relevant records: \_\_\_\_\_

Date: \_\_\_\_\_

Users,  
Goodman,  
Signature: Candice

Digitally signed by Users,  
Goodman, Candice  
Date: 2024.03.18  
14:52:57 -04'00'

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
September 1, 2015

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- |                                       |                       |
|---------------------------------------|-----------------------|
| A. Opening Remarks                    | <i>9:00am-9:05am</i>  |
| B. Fee Review – Comprehensive Package | <i>9:05am-9:55am</i>  |
| C. Wrap-up and Future Meeting(s)      | <i>9:55am-10:00am</i> |

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
September 8, 2015

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- |   |               |
|---|---------------|
| A. Opening Remarks  | 3:00pm-3:05pm |
| B. Budget Execution Status, includes fees and spending status | 3:05pm-3:15pm |
| C. Operating Reserve Policy – Final Review                    | 3:15pm-3:55pm |
| D. Wrap-up and Future Meeting(s)                              | 3:55pm-4:00pm |

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
February 10, 2015

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- A. FAB Concept of Operations (Handout)
- B. Overview of Concurrent Budget Activities (Handout)
- C. FAB Charter and Rules of the Road Discussion (Discussion)
  - a. Proposed Charter Elements
    - i. Purpose and Objective
    - ii. Scope
    - iii. Definitions
    - iv. Membership and Voting
    - v. Roles and Responsibilities
    - vi. Meetings
    - vii. Correlation with Other Policies, Processes, and Guidance
  - b. Rules of the Road
    - i. Meeting preparation – handouts in advance
    - ii. Minutes – type of information included
    - iii. Method for voting
    - iv. Criteria for recommendations
    - v. Thresholds for decisions (e.g., unfundeds and operating plan changes)
    - vi. Non-FAB members attending meetings
    - vii. SharePoint access
    - viii. Meeting process for inviting SMEs
    - ix. Creating Agendas
- D. Wrap-up and Future Meeting(s)

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
February 24, 2015

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A. Opening Remarks

B. Determine FAB Fee Concept Recommendations

- a. Major Fee Concepts -- Voting Options: 1) Move forward to phase 2 for further analysis/development, 2) Table, or 3) Place on a separate track outside phase 2 of this fee review cycle
  - i. Delayed Search, Exam and Surcharge Fees
  - ii. Immersive Prosecution
  - iii. Face to Face Interview
  - iv. Tiered Issue Fees
  - v. Reduce Issue fee for Patent Prosecution Highway (PPH) users
  - vi. Add 3rd Tier Request for Continuation Examination (RCE) Fee
  - vii. Increase RCE Fees
  - viii. Increase Continuations (CON) & Continuations In Part (CIP) Fees
  - ix. Additional Reply Prior to Filing a RCE
  - x. Restructure Information Disclosure Statement (IDS) Policy/Process and Institute Tiered Fees
  - xi. New Interview Option at Appeal Conference
  - xii. Expedited Track for Ex Parte Appeals
  - xiii. Fee increase for Appeals in Ex Parte Applications and Ex Parte Reexamination Proceedings
  - xiv. Increase Inter Partes Review (IPR), Post Grant Review (PGR) and Covered Business Method (CBM) Petition Filing Fees
  - xv. Increase IPR, PGR, CBM Excess Claims Fees
  - xvi. Lower Re-exam Fee for Streamlined Submissions
  - xvii. Randomized Discounting for Elasticity
- b. Maintenance Fee Concepts – Voting Options: 1) Concur with Separate Track, 2) Oppose
- c. Targeted Fee Concepts – Voting Options: 1) Concur with Moving Forward, 2) Oppose
- d. Tabled Fee Concepts – Voting Options: 1) Concur with Tabling, 2) Oppose

C. Wrap-up and Future Meeting(s)

# AGENDA

## USPTO FINANCIAL ADVISORY BOARD (FAB)

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- A. Opening Remarks
- B. Review Draft Charter
- C. Review Rules of the Road
- D. Draft Financial Adjustments/Unfunded Request
  - a. Financial Adjustment Process
  - b. Business Case Template
  - c. Content of Unfunded Requests Template
  - d. Unfunded Process Flow
- E. Review SharePoint site
  - a. Existing Structure
  - b. Proposed Structure
- F. Wrap-up and Future Meeting(s)

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
March 10, 2015

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- A. Opening Remarks
- B. Material Fiscal Change from the Prior Meeting (first update)
- C. Unfunded Requests
  - a. Chief Administrative Officer - additional positions request
  - b. Chief Financial Officer - contractor support of Concur Helpdesk
  - c. Office of the Chief Communication Officer - additional positions request
  - d. Patent Trial and Appeal Board - travel request
- D. Status Check for Foundation Documents
- E. Wrap-up and Future Meeting(s)



**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
March 20, 2015

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- |  |                       |
|--|-----------------------|
| A. Opening Remarks                         | <i>9:00am-9:05am</i>  |
| B. Operating Reserve Policy                | <i>9:05am-9:35am</i>  |
| a. Policy Document Discussion Points       |                       |
| b. Decision Tree                           |                       |
| C. Lessons Learned from March 10th Meeting | <i>9:35am-9:45am</i>  |
| D. FAB Charter and Rules of the Road       | <i>9:45am-9:55am</i>  |
| E. Wrap-up and Future Meeting(s)           | <i>9:55am-10:00am</i> |

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
April 8, 2015

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- |   |               |
|---|---------------|
| A. Opening Remarks  | 1:00pm-1:05pm |
| B. Budget Execution Status, includes fees and spending status | 1:05pm-1:15pm |
| C. Patent Internal Funding Adjustment                         | 1:15pm-1:35pm |
| D. Foundation Documents                                       | 1:35pm-1:45pm |
| E. Budget Formulation and Fee Review Schedule Overview        | 1:45pm-1:55pm |
| F. Wrap-up and Future Meeting(s)                              | 1:55pm-2:00pm |

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
May 12, 2015

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- |   |               |
|---|---------------|
| A. Opening Remarks  | 3:00pm-3:05pm |
| B. Budget Execution Status, includes fees and spending status | 3:05pm-3:15pm |
| C. Operating Reserve Minimum Threshold Assessment             | 3:15pm-3:30pm |
| D. Fee Review Briefing – Proposals                            | 3:30pm-4:25pm |
| E. Wrap-up and Future Meeting(s)                              | 4:25pm-4:30pm |

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
May 26, 2015

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- |  |               |
|--|---------------|
| A. Opening Remarks                                 | 1:00pm-1:05pm |
| B. Concepts Fee Review Briefing – Proposals        | 1:05pm-1:45pm |
| C. Budget Formulation – FY 2017 Budget Initiatives | 1:45pm-2:25pm |
| D. Wrap-up and Future Meeting(s)                   | 2:25pm-2:30pm |

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
June 9, 2015

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- |   |               |
|---|---------------|
| A. Opening Remarks  | 3:00pm-3:05pm |
| B. Budget Execution Status, includes fees and spending status | 3:05pm-3:15pm |
| C. Concepts Fee Review Briefing – Proposals/Recommendations   | 3:15pm-3:50pm |
| D. Budget Formulation – Revalidation Results                  |               |
| • FY 2017 PTAB Model  | 3:50pm-4:15pm |
| • FY 2017 Patent Model  | 4:15pm-4:55pm |
| • FY 2017 Trademarks Model (time permitting)                  |               |
| E. Wrap-up and Future Meeting(s)                              | 4:55pm-5:00pm |

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
June 11, 2015

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- |  |               |
|--|---------------|
| A. Opening Remarks   | 2:30pm-2:35pm |
| B. Budget Formulation – FY 2017 PTAB/Patent Fee Model<br>Additional Discussion (continued from June 9 meeting) | 2:35pm-2:55pm |
| C. Budget Formulation – FY 2017 Trademarks Fee Model<br>(continued)  | 2:55pm-3:25pm |
| D. Budget Formulation – Proposed Prioritization Criteria   | 3:25pm-3:45pm |
| E. USPTO Outreach Activities   | 3:45pm-3:55pm |
| F. Wrap-up and Future Meeting(s)   | 3:55pm-4:00pm |

**AGENDA**  
**USPTO FINANCIAL ADVISORY BOARD (FAB)**  
June 30, 2015

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- |  |               |
|--|---------------|
| A. Opening Remarks   | 1:00pm-1:05pm |
| B. Updated Fee Estimates for the FY 17 OMB Budget<br>(Monopoly Sheet and Fee Estimate Changes) | 1:05pm-1:15pm |
| C. Budget Formulation  |               |
| a. Five Year Outlook   | 1:15pm-1:30pm |
| b. Updated Revalidation Results  | 1:30pm-1:35pm |
| c. Proposed Budget Review and Prioritization Timeline  | 1:35pm-1:55pm |
| D. Wrap-up and Future Meeting(s)   | 1:55pm-2:00pm |