

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



USPTO financial update

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Patent Public Advisory Committee

UNITED STATES
PATENT AND TRADEMARK OFFICE



Agenda

- FY 2020 summary
- FY 2021 status
- FY 2022 budget
- Fee rulemaking and fee review

FY 2020 summary: Patent financial results

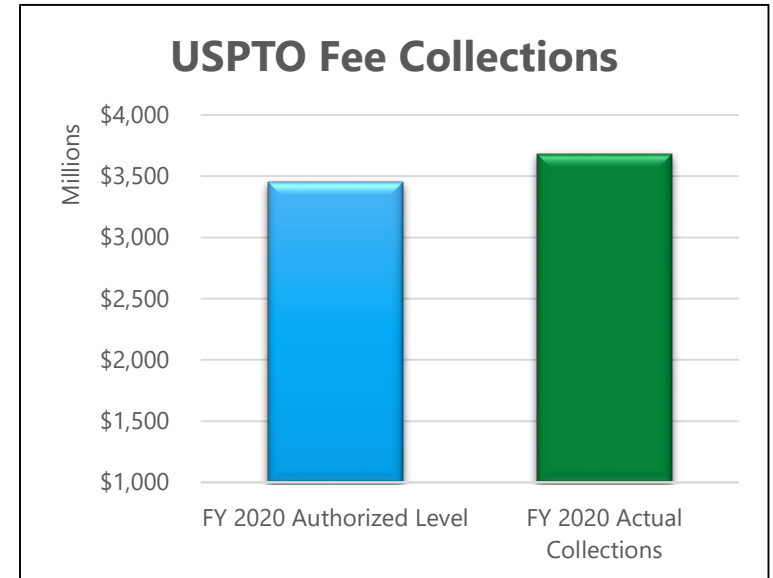
<i>\$ in millions</i>	Patent Adjusted Fee Collections	Patent Expenses	Contribution to Operating Reserve
FY 2020 Plan (FY 2021 PB)	\$3,400	\$3,256	\$144
FY 2020 Actuals	\$3,325	\$3,151	\$174
<i>Variance (Actuals vs. FY 2021 PB Plan)</i>	-\$75	-\$105	-----

- Actual fee collections exceeded the USPTO's appropriated level due to the timing of the fee rule implementation (January 1, 2021 vs October 2, 2020).
- Actual expenses are lower than planning estimates due to changes in production assumptions, reduction in costs as a result of contingency planning, and under execution of plans.



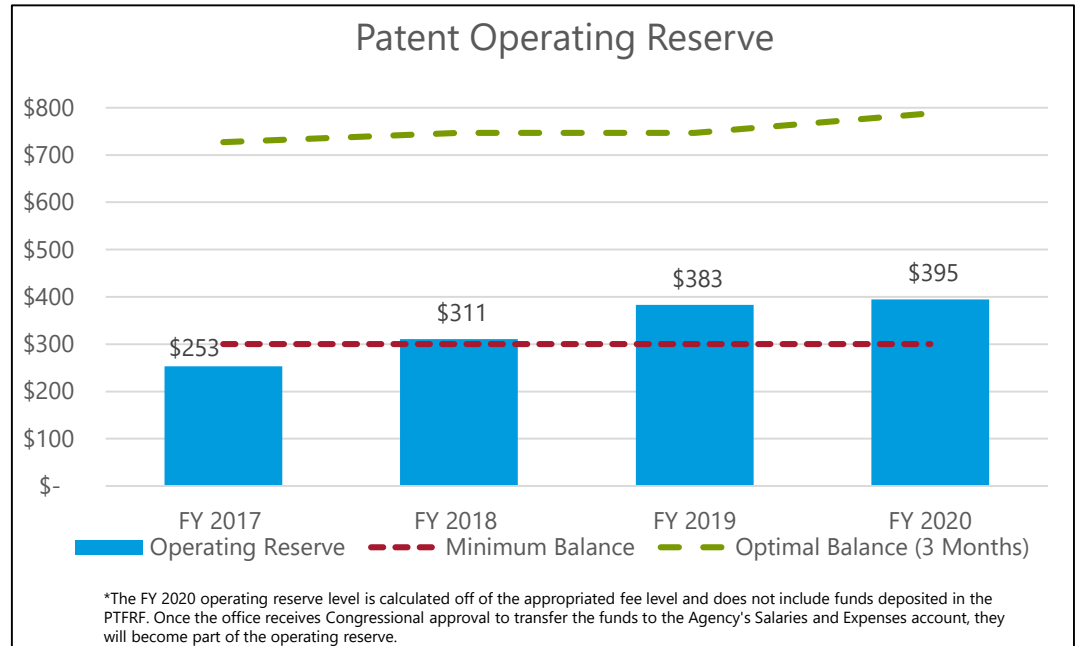
FY 2020 summary: Patent fee collections

- Total collections are \$3.68B, which is \$231.9M in excess of the FY 2020 spending authority of \$3.45B (appropriated amount).
- The excess fees have been deposited in the Patent and Trademark Fee Reserve Fund (PTFRF) and are comprised of:
 - Patents: \$215.5M
 - Trademarks: \$16.4M



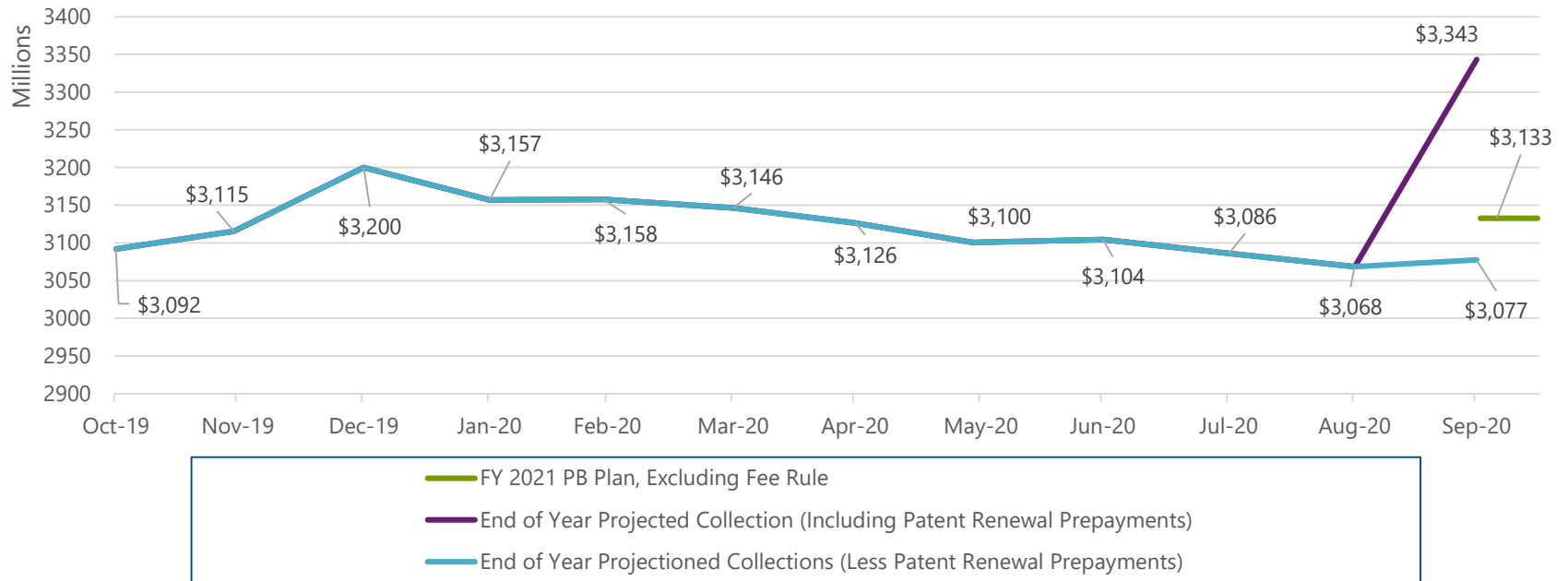
FY 2020 summary: operating reserve balances

- Patents operating reserve at the end of FY 2020 was \$395M.
- The reserve increased by \$12M from FY 2019 end of year.
- FY 2020 reserve targets were:
 - Minimum = \$300M
 - Optimal = three months of requirements



FY 2020 summary: Patent seasonally adjusted revenue rate

Patents: End of Year Projections



FY 2020 summary: Patent application filing revenue above/below plan

Patent Applications: Above/Below (%) of Daily Collections vs End of Year Projections 20 Day Moving Averages



*Above Below Difference between FY2021 President's Budget Planning Assumption, excluding Fee Rule (\$3.133B) and Daily Collections.

**Above Below Difference between end of year Patent projections and FY2021 President's Budget Planning Assumption, excluding Fee Rule (\$3.133B).

Measure Names

■ 20 Day MA Above/Below Plan in % (*)

■ EOY Projection 20 Day MA (**)

FY 2020 summary: Patent renewal fees above/below plan

Patent Renewals: Above/Below Plan Moving Averages in %



*Above Below Difference between FY2021 President's Budget Planning Assumption, excluding Fee Rule (\$3.133B) and Daily Collections.

* Note that the spike in the moving average values for the end of September are due to patent maintenance fee prepayments in anticipation of the Oct 2, 2021 Fee Rule effective date.

Measure Names

■ 20 Day MA Above/Below Plan in % (*)

■ 40 Day MA Above/Below Plan in %

FY 2020 summary: accelerated payments

- The agency received approximately \$266M in accelerated payments in FY 2020 in advance of the fee increases that took effect on October 2, 2020.
 - \$25M in accelerated payments were received in FY 2021 on October 1, 2020. This is a total of \$291M in accelerated payments, which is 65.4% of planned levels.
 - The USPTO anticipates that any accelerated payments that were not received will be paid in FY 2021 at the higher fee rate.
 - The agency is monitoring patents that were eligible for accelerated payment to measure the rate of payment after the fee change date.

Accelerated payment totals

Accelerated collections	Planned accelerated collections	Difference
\$291M	\$445M	-\$154M

FY 2021 status

<i>\$ in millions</i>	USPTO	Patents
FY 2021 PB Requested Authority	\$3,695.3	\$3,250.7
FY 2020 Enacted Level	\$3,450.7	\$3,109.3
<i>CR level (19.7% of FY 2020 Enacted)</i>	<i>\$680.8</i>	<i>\$613.5</i>
<i>+ Carryover and other income</i>	<i>\$523.2</i>	<i>\$405.4</i>
Total FY 2021 Spending Authority	\$1,204	\$1,018.9

- The current Continuing Resolution (CR) is through December 11, 2020.
 - The USPTO is held to an adjusted spending level calculated from the FY 2020 \$3.45B (plus carryover and other income).
- The USPTO closely monitors its spending. Where possible, the agency:
 - Defers requirements to later in the fiscal year
 - Incrementally funds contracts
- FY 2020 excess fees have been deposited in the PTFRF. \$215.5M of Patent fees will be available after the reprogramming request is approved.

FY 2021 status:

Patent financial outlook

- Patent revenues forecast is \$2.86B, based on the FY 2021 projection developed this past summer.
 - \$266M in accelerated payments were received in FY 2020 that would have otherwise been paid in FY 2021.
 - Assumes **-4.5%** UPR growth and **-5.0%** serialized growth
 - The agency projects that patent fee collections will be higher than this level, anticipating that that most of the “missing” accelerated payments from FY 2020 will be made closer to the due date in FY 2021.
 - The USPTO will reevaluate estimates for the FY 2022 President’s Budget (due in February).
- Patent expenses are \$3.38B in FY 2021
 - Note: Spend plan was premised on FY 2020 accelerated payments + FY 2021 revenues

FY 2021 status: staffing

- The Patents organization has approximately 10,200 employees
- Patents plans to hire by the end of FY 2021:
 - 500 patent examiners
 - 355 additional staff

FY 2022 budget

- The FY 2022 President's Budget request should be submitted to Congress on February 8, 2021.
- The USPTO expects that appropriation hearings will be held for DoC's FY 2022 budget by the House and Senate Commerce, Justice, Science (CJS) subcommittees.

Fee rulemaking and fee review

- The new patent fee rates took effect October 2, 2020.
- The agency is currently conducting a biennial fee review. The review incorporates recent assessments of fees to ensure they:
 - Generate sufficient multi-year revenue to recover the aggregate cost of maintain patent related operations, and
 - Support accomplishing the USPTO's patent-related strategic goals.



Thank you!

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