Board of Patent Appeals and Interferences

State of the Board

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Board Conference
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Board of Patent Appeals and Interferences

- Our Accomplishments
- Our Challenge
- Strategies

Major Accomplishments

Interferences

	FY2008	FY2009	FY2010 (Mid-Year)
Pendency of Terminated Interferences	11.9 months	10.1 months	11.6 months
Interferences Terminated ≤ 2 years	87.8%	93.7%	89.7%
Interferences Declared	66	55	26
Interferences Terminated	74	63	29
Interferences Pending	52	44	41

Major Accomplishments

Ex Parte Appeals

	FY2008	FY2009	FY2010 (Mid-Year)
Pendency	6.4 months	7.7 months	10.8 months
Disposals	4,899	6,734	3,237
Docketed	6,295	15,344	5,222
Inventory	3,897	12,507	14,492

Major Accomplishments

Ex Parte Reexamination Appeals

	FY2008	FY2009	FY2010 (Mid-Year)
BPAI Pendency	7.0 months	5.9 months	11.0 months
Pendency of BPAI Decided Appeals from Date of Reexamination Filing at USPTO	60.4 months	58.2 months	64.0 months
Disposals	40	109	57
Docketed	86	119	48
Inventory	55	65	56

Major Accomplishments

Inter Partes Reexamination Appeals

	FY2008	FY2009	FY2010 (Mid-Year)
BPAI Pendency	8.1 months	7.0 months	11.8 months
Pendency of BPAI Decided Appeals from Date of Reexamination Filing at USPTO	50.9 months	67.3 months	64.3 months
Disposals	1	10	6
Docketed	4	15	13
Inventory	4	9	16

Challenges

- Provide timely *ex parte* appeal decisions
- Provide timely reexamination appeal decisions

Provide Timely Decisions

Ex Parte Appeals

	FY2007 Actual	FY2008 Actual	FY2009 Actual	FY2010 Actual (Mid-Year)	*FY2010 Projected*
Appeals Docketed	4,639	6,295	15,344	5,222	*11,100*
Appeals Decided	3,485	4,899	6,734	3,237	*7,200*
Pendency (months)	5.4	6.4	7.7	10.8	*14*
Inventory	2,511	3,897	12,507	14,492	*16,500*
Board Production Months Inventory	8.6	9.5	22	24	*28*

Provide Timely Decisions

- Why an increase in *ex parte* appeals docketed in FY 2009 compared to FY 2008 of 15,483 compared to 6,385?
  - Added new status codes to assist with application tracking
  - Increase in the size of the Corps
  - Increase in the number of examiner's answers per examiner

Provide Timely Decisions

	FY2005	FY2006	FY2007	FY2008	FY2009
# of Examiners	4,258	4,883	5,477	6,055	6,242
# of Answers	3,281	5,597	7,464	10,638	9,758
Answers per Examiner	0.8	1.1	1.4	1.7	1.6

Provide Timely Decisions

- Factors contributing to the number of examiner's answers per examiner

(1) Changes in appellate practice

- Genuine dispute
- Inability of examiner and applicant to understand each other's position

(2) Landmark changes in patent law

For example:

- *KSR Inter. Co. v. Teleflex Inc.*
- *Bilski v. Kappos*
- *Ariad Pharmaceuticals, Inc. v. Eli Lilly & Co.*

Provide Timely Decisions

Ex Parte Reexamination Appeals

	FY2008 Actual	FY2009 Actual	FY2010 Actual (Mid-Year)
Appeals Docketed	86	119	48
Appeals Decided	40	109	57
Pendency (months)	7.0	5.9	11.0
Inventory	55	65	56
Board Production Months Inventory	16.5	7.2	6.2

Provide Timely Decisions

Inter Partes Reexamination Appeals

	FY2008 Actual	FY2009 Actual	FY2010 Actual (Mid-Year)
Appeals Docketed	4	15	13
Appeals Decided	1	10	6
Pendency (months)	8.1	7.0	11.8
Inventory	4	9	16

Provide Timely Decisions

Strategy for *Ex Parte* Appeals

- Reduce Number of Appeals

Strategy

Reduce Number of Appeals

- Inventory review of appeals
- Board provides quality feedback so that Patents improves patentability determinations
- Strengthen Appeal Conferences
- Magistrate Program

Provide Timely Decisions

Strategies for *Ex Parte* and Reexamination Appeals

- Increase Board productivity
- Increase Board production capacity
- Optimize Board appeals workflow

Provide Timely Decisions

Increase Board Productivity

- Develop and implement plans for more efficient chamber operations
- Develop and implement approaches to allow for shorter opinions
- Develop and implement rules to improve appellate practice to allow for efficient decision making
- Improve Examiner's Answers
- Develop and implement Judges' new productivity goals

Provide Timely Decisions

Increase Board Production Capacity

- Hire additional Patent Attorneys
- Expand chambers program Board-wide
- Hire additional Judges

Provide Timely Decisions

- Hire 21 Judges and 29 Patent Attorneys in FY2011 (start April 2011)
  - Additional hires in FY2012 – FY2014
- Cost in FY2011: $8,251,000
- Impact of FY2011-FY2015 hiring plan

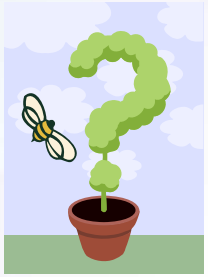
	FY2011	FY2012	FY2013	FY2014	FY2015
Hires – Judges	21	4			
Hires – Patent Attorneys	29	14	15	13	
End of Year Inventory	17,500	15,400	12,400	7,400	1,500
Pendency (months)	17.4	18.7	18.1	12.9	7.1

Provide Timely Decisions

Optimize Board Appeal Workflow

- Develop and implement approaches to reduce administrative returns
- Conduct process analysis from Notice of Docketing to mailing Board Decision on Appeal
- Review analysis and identify efficiencies
- Implement optimized processes

State of the Board



Questions