

Record Number of Patents Granted in 2010

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An unprecedented grant of patents occurred in 2010. Up significantly from 2009, the USPTO issued approximately 220,000 utility patents in 2010. This represents a 31% increase in patent grants (an all-time record) and contrasts sharply with the years between 2003 and 2009, where there was relatively little variance in Annual Patent Grants for utility patents.

This extraordinary growth may be attributed to several factors including an increase in patent filings. Experts suggest, however, that the most significant factor is related to the new policies instituted by the recently appointed USPTO Director, David Kappos.

Upon entering office in 2009, Kappos instituted several new directives, which he credits with streamlining the patent issuance process and increasing productivity. These processes include significant improvements to the USPTO's technical processes, which have reduced the backlog of new applications to be processed from 100,000 in 2009 to 13,000 in 2010 and increased the number of new applications processed to over 257,000.

In addition, the new policies also contributed to significantly reducing the average wait between the time of application for and issuance of the patent. In 2009, the average wait was 50 calendar days for 165,212 applications. In 2010, that time was reduced to 51 calendar days for 207,915 applications.

All of these improvements contributed to the significant increase in patents granted in 2010. Further, as additional improvements are introduced and perfected, the USPTO expects patent issuance to continue to grow at record rates.

Though a positive development, the increase in patent grants raises legitimate concerns about whether patent litigation will also increase. Historically, the annual number of patents issued has directly corresponded with the number of patent cases filed. See Chart I below. In fact, the number of patent infringement cases have continued to increase at a steady rate since the early nineties. If these current trends continue, it is not unreasonable to anticipate that patent litigation will also significantly increase in the coming years.

Gray Plant Mooty's Patent Litigation team vigorously represents its clients in several types of matters, ranging from substantive issues—infringement, invalidity, unenforceability, inequitable conduct, and false patent marking—to procedural questions, including declaratory relief, motions to dismiss, and mediation. For more information on the firm's patent litigation expertise, contact GPM principal John Krenn at 612.632.3222 or john.krenn@gpmlaw.com.

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