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# IP RECORD

*Your Annual Source for Intellectual Property Trends*  
7th Edition

**OVER 1,000 AIA  
PATENT PETITIONS  
FILED**

**NEW THIS YEAR:**

- Delaware Tops Eastern District of Texas for Most Patent Suits Filed
- Top 100 University Patent Owners
- Federal Circuit Caseload Declines for First Time in 3 Years

**2014**





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42<sup>ND</sup> ANNUAL MEETING

September 7-9  
*Vancouver*  
VANCOUVER CONVENTION CENTER

2014  
CANADA



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### FEATURED SPEAKERS



**Hon. Mr. Justice  
Marshall Rothstein**  
Supreme Court of  
Canada



**Dr. Nathan Myhrvold**  
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10-14  
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CREDITS

Join your colleagues at this premier event. IPO's Annual Meeting offers a mix of educational programs led by distinguished presenters, committee meetings, exhibits, and networking functions.

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Any questions about this publication, please contact Robin Muthig ([rmuthig@ipo.org](mailto:rmuthig@ipo.org))

**Dear Colleagues,**

Those of us who have dedicated our careers to working in the field of intellectual property spend our time in many complex arenas. Corporate and law offices, intellectual property offices, legislative offices, and court rooms worldwide each face sets of ever changing laws, rules, and procedures. IPO works to help ensure that these laws, rules, and procedures are fair, clearly defined, and do not place undue burdens on the owners of IP. IPO also works to educate its members on changes taking place in IP. One way IPO does this is through the IP Record.



In this year's publication you will find statistics on activities at the USPTO and other major IP offices throughout the world. There are reports on activities in U.S. District Courts and the Court of Appeals for the Federal Circuit. One of IPO's primary tools for promoting the rights of IP owners is amicus briefs. The IP Record includes summaries of the nine amicus briefs IPO filed in the past year.

This year, for the first time, we are publishing the IP Record electronically. This format allows you to interact with the material in ways that will hopefully help you gain a better understanding of the issues and the services IPO provides. For example, a link to the full text of each amicus brief is embedded in the text. You can also view the winning videos from last year's IP Video Contest. We hope this new format proves to be useful and look forward to hearing your feedback.

Finally, registration for the IPO Annual Meeting is in full swing! September 7-9, IPO members will meet in Vancouver, BC, Canada for three days of panel discussions, keynote speakers, and networking with colleagues from around the world. We hope to see you there!

Sincerely,

A handwritten signature in dark ink, appearing to read "Phil Johnson", written in a cursive style.

Philip S. Johnson  
IPO President





Presents:

# IP Video Contest



make it



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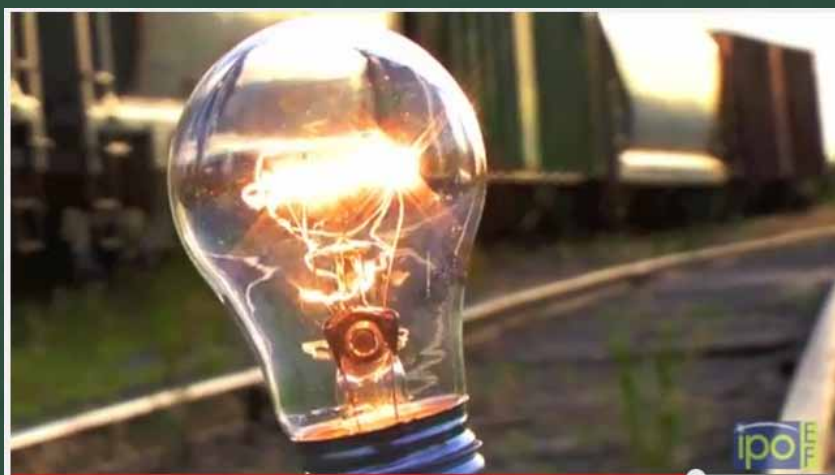
win it!

Every year the IPO Education Foundation hosts a video contest to promote the importance of the patent system. Winners from various age categories are awarded cash prizes and scholarships!

View the introductory video below as well as last year's winners!



## 2013 IP Video Contest Winners!



For more information on the IP Video Contest and to learn how you can get involved, please visit <http://www.ipvideocontest.com>

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### Topics Include:

- AIA of 2011 (Patent Reform)
- Biotech/Pharmaceutical
- Design Patents
- Ethics
- Federal Circuit and Other Appellate Decisions
- International
- Legal Department and Law Firm Management
- Licensing
- Patent Litigation
- Patent Prosecution and PTO Practice
- Trademarks/Internet/Copyright
- Trade Secrets/Employment
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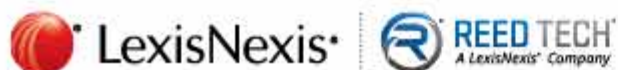
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# Top 300 Organizations Granted U.S. Patents in 2013

Are more patents better?

*IPO does not attempt to answer the question above. IPO publishes patent owner lists as an information service for IPO members.*

*This list of organizations that received the most U.S. utility patents is being published by IPO for the 31st consecutive year. It is based on data obtained from the U.S. Patent & Trademark Office.*

*Patents granted to parent and subsidiary companies are combined in many instances. See the end notes for more information. IPO makes reasonable efforts to avoid errors, but cannot guarantee accuracy.*

*June 6, 2014*

## 2013 Patent Owners Numerical Listing

Use care in interpreting the “percent change from 2012” column. The total number of patents granted by the USPTO in 2013 was 277,835, up 9.7 percent from 2012. The percent change for an individual organization could be affected by mergers, acquisitions, divestitures, inconsistent treatment of subsidiaries in 2012 and 2013, and many other factors.

Rank	Organization	2013 Patents	Percent Change From 2012	Rank	Organization	2013 Patents	Percent Change From 2012
1	International Business Machines Corp.	6,788	5.1	39	Hong Fu Jin Precision Industry (Shenzhen) Co., Ltd.	922	17.9
2	Samsung Electronics Co., Ltd.	4,652	-7.8	40	Cisco Technology, Inc.	910	-7.2
3	Canon K.K.	3,918	18.5	41	Boston Scientific Corp.	904	10.1
4	Sony Corp.	3,316	-8.1	42	Medtronic Inc.	893	4.6
5	LG Electronics Inc.	3,117	16.2	43	Robert Bosch GmbH	884	19.0
6	Microsoft Corp.	2,814	4.1	44	Electronics and Telecommunications Research Institute	868	40.9
7	Toshiba Corp.	2,679	3.0	45	Renesas Electronics Corp.	866	-15.4
8	Panasonic Corp.	2,649	-6.4	46	Fujifilm Corp.	863	-19.1
9	Hitachi, Ltd.	2,399	-11.9	47	Oracle Corp.	863	-6.1
10	Google, Inc.	2,190	90.3	48	Research in Motion Ltd.	817	-17.1
11	Qualcomm, Inc.	2,182	48.3	49	Covidien	800	41.6
12	General Electric Co.	2,086	2.3	50	Boeing Co.	798	17.5
13	Siemens AG	1,828	-8.6	51	Fuji Xerox Co., Ltd.	795	16.4
14	Fujitsu Ltd.	1,802	-6.3	52	United Technologies Corp.	767	-14.4
15	Apple, Inc.	1,775	56.3	53	Texas Instruments, Inc.	739	-13.5
16	Intel Corp.	1,730	34.4	54	STMicroelectronics, Inc.	733	46.9
17	AT&T Corp.	1,658	17.9	55	Mitsubishi Denki K.K.	720	4.2
18	General Motors Corp.	1,621	18.0	56	Ford Global Technologies, LLC	714	11.0
19	Seiko Epson Corp.	1,488	2.3	57	BASF Corp.	697	27.9
20	Ricoh Co., Ltd.	1,469	4.4	58	Schlumberger Technology Corp.	689	17.2
21	Hewlett-Packard Co.	1,459	1.0	59	Huawei Technologies Co., Ltd.	685	28.8
22	Toyota Jidosha K.K.	1,355	-9.1	60	Verizon Communications Inc.	668	44.6
23	Micron Technology, Inc.	1,280	40.2	61	Alcatel Lucent	648	1.9
24	Samsung Display Co., Ltd.	1,259	431.2	62	Denso Corp.	644	-8.5
25	NEC Corp.	1,168	11.9	63	Marvell International Ltd.	642	8.3
26	Xerox Corp.	1,163	-4.1	64	Olympus Corp.	640	-2.9
27	Telefonaktiebolaget LM Ericsson	1,149	36.3	65	Western Digital Technologies, Inc.	625	12.4
28	Sharp Corp.	1,113	1.5	66	Kyocera Corp.	622	20.8
29	Johnson & Johnson	1,107	10.7	67	SAP AG	617	1.8
30	Broadcom Corp.	1,083	-6.4	68	Airbus Operations S.A.S.	612	15.0
31	Honda Motor Co., Ltd.	1,070	-0.4	69	Nokia Corp.	610	0.8
32	DuPont	1,045	-0.2	70	Sprint Corp.	589	-3.9
33	Semiconductor Energy Laboratory Co., Ltd.	1,033	20.0	71	Dow Chemical Co.	573	40.4
34	Brother Kogyo K.K.	1,026	1.4	72	Procter & Gamble Co.	546	12.8
35	Hon Hai Precision Ind. Co., Ltd.	1,004	-1.0	73	3M Innovative Properties Co.	532	26.4
	Koninklijke Philips N.V.	1,004	9.5	74	Amazon Technologies, Inc.	530	84.7
37	Honeywell International Inc.	961	-8.2	75	Blackberry Ltd.	515	new
38	Taiwan Semiconductor Manufacturing Co., Ltd.	933	43.8	76	EMC Corp.	500	50.2



2013 Patent Owners  
Numerical Listing

Rank	Organization	2013 Patents	Percent Change From 2012	Rank	Organization	2013 Patents	Percent Change From 2012
77	Hynix Semiconductor Inc.	490	-27.1	120	Murata Manufacturing Co., Ltd.	283	6.0
78	Abbott Laboratories	489	-0.8	121	Massachusetts Institute of Technology	281	30.1
79	Industrial Technology Research Institute, Taiwan	485	-10.2	122	Nike, Inc.	273	22.4
80	Symantec Corp.	467	18.5		ZTE Corp.	273	170.3
81	Konica Minolta Business Technologies, Inc.	466	3.3	124	SK Hynix Inc.	271	new
82	Hoffmann-La Roche Inc.	458	9.3	125	Schaeffler Technologies AG & Co. KG	270	11.6
83	Freescale Semiconductor, Inc.	457	3.2	126	Merck & Co.	268	-2.9
84	Monsanto Technology, LLC	427	34.3	127	Nitto Denko Corp.	266	11.8
85	Applied Materials, Inc.	423	1.7	128	Rolls-Royce PLC	265	5.2
86	Infineon Technologies AG	415	-22.6	129	Nissan Motor Co., Ltd.	263	7.8
87	Nikon Corp.	400	17.6	130	Bank of America Corp.	262	58.8
	Raytheon Co.	400	-0.2	131	Globalfoundries Inc.	253	54.3
89	LSI Corp.	399	30.0		Illinois Tool Works Inc.	253	14.0
	United States of America, Navy	399	12.4	133	Invention Science Fund I, LLC	252	-15.4
	University of California, The Regents of	399	11.8	134	Stats Chippac Ltd.	247	4.7
92	Hyundai Motor Co.	398	26.8	135	Sumitomo Electric Industries, Ltd.	245	30.3
93	Tokyo Electron Ltd.	397	-5.7	136	Avaya Inc.	240	-2.4
94	Eastman Kodak Co.	395	-7.7	137	Sanofi-Aventis	238	7.2
	Halliburton Energy Services, Inc.	395	31.2	138	ZF Friedrichshafen, AG	237	20.3
96	NTT Docomo, Inc.	388	11.5	139	Red Hat, Inc.	235	36.6
97	ExxonMobil Corp.	383	24.4		TDK Corp.	235	-20.3
98	AU Optronics Corp.	382	-3.0	141	Casio Computer Co. Ltd.	234	19.4
99	TE Connectivity	377	-1.0	142	Deere & Co.	233	22.0
100	Baker Hughes Inc.	368	0.0	143	Saint-Gobain	227	46.5
	Samsung SDI Co., Ltd.	368	23.5	144	Thales	226	20.9
102	Thomson Licensing S.A.	367	9.6	145	Advanced Micro Devices, Inc.	224	25.8
103	Corning Inc.	356	10.6	146	Mediatek Inc.	212	-19.7
104	NXP B.V.	352	15.0	147	Dell Products, L.P.	209	-10.7
105	Adobe Systems, Inc.	345	3.9	148	Ebay Inc.	205	47.5
106	Samsung Electro-Mechanics Co., Ltd.	343	-3.9	149	ASML Netherlands B.V.	204	4.1
107	Fujitsu Semiconductor Ltd.	340	new	150	Xilinx, Inc.	201	-13.4
108	International Game Technology	335	21.8	151	Allergan, Inc.	196	76.6
109	Sanyo Electric Co., Ltd.	334	-27.7	152	United Microelectronics Corp.	195	42.3
110	Caterpillar Inc.	332	4.1	153	Bridgestone Corp.	194	6.0
	Lockheed Martin Corp.	332	-4.0	154	Analog Devices, Inc.	193	17.7
112	Mitsubishi Heavy Industries, Ltd.	315	40.6		Tsinghua University	193	29.5
113	Yahoo, Inc.	312	15.6	156	Marvell World Trade Ltd.	189	52.4
114	Commissariat A L'Energie Atomique	309	38.6		Shell Oil Co.	189	41.0
115	Seagate Technology, LLC	304	-16.3		Whirlpool Corp.	189	37.0
116	Juniper Networks, Inc.	295	3.1		WMS Gaming, Inc.	189	-10.0
117	Altera Corp.	292	17.3	160	Rohm Co., Ltd.	186	8.8
118	Nvidia Corp.	290	8.6		Sandisk Technologies Inc.	186	6.3
119	Novartis AG	287	-9.5	162	InterDigital Technology Corp.	184	-12.0
				163	Empire Technology Development LLC	182	83.8
					Netapp, Inc.	182	2.8

## 2013 Patent Owners Numerical Listing

Rank	Organization	2013 Patents	Percent Change From 2012	Rank	Organization	2013 Patents	Percent Change From 2012
165	Fraunhofer-Gesellschaft Zur Foerderung Der Angewandten Forschung E.V.	181	4.0				
	Kimberly-Clark Worldwide, Inc.	181	-11.3	208	L'Oreal S.A.	143	45.9
	Okidata Corp.	181	-2.7		Bosch Siemens Hausgerate GmbH	142	46.4
168	Cadence Design Systems, Inc.	178	13.4	209	Hoya Corp.	140	10.2
	Cree, Inc.	178	57.5	210	United Services Automobile Association (USAA)	139	19.8
	Tessera, Inc.	178	42.4	211	Disney Enterprises, Inc.	137	21.2
171	Sumitomo Chemical Co., Ltd.	175	-14.2		Rockwell Collins, Inc.	137	29.2
172	Stanley Black & Decker, Inc.	173	3.6	213	Harris Corp.	136	12.4
173	Shin Etsu Chemical Co., Ltd.	172	3.0	214	Kao Corp.	135	0.0
	Synopsys Inc.	172	22.0		Nuance Communications, Inc.	135	11.6
	Stryker Corp.	172	new	216	Boehringer Ingelheim International GmbH	134	new
176	Cook Medical Technologies LLC	170	6.3	217	CA, Inc.	133	new
	Stanford University	170	-6.6		Zamtec Ltd.	133	new
178	University of Texas	169	19.9	219	NTN Corp.	132	-12.0
179	Continental Automotive GmbH	162	-25.7		Realtek Semiconductor Corp.	132	-3.6
180	Eaton Corp.	161	23.8	221	Yamaha Corp.	131	-26.8
	Seiko Instruments Inc.	161	1.3	222	Alstom Technology Ltd.	130	28.7
	Rambus, Inc.	161	-11.0		Bristol-Myers Squibb Co.	130	9.2
183	Asahi Glass Co., Ltd.	160	27.0	224	Aisin Aw Co., Ltd.	129	-9.8
	Wisconsin Alumni Research Foundation	160	3.2		Fu Tai Hua Industry (Shenzhen) Co., Ltd.	129	new
185	Jtekt Corp.	158	5.3		GlaxoSmithKline LLC	129	-23.2
	Macronix International Co., Ltd.	158	-14.6		Intermolecular Inc.	129	new
	Accenture PLC	158	31.7	228	Daikin Industries Ltd.	128	-5.2
188	Futurewei Technologies, Inc.	157	60.2		Nestec, S.A.	128	new
	NGK Insulators Ltd.	157	29.8		Sharp Laboratories of America, Inc.	128	-24.7
190	Cypress Semiconductor Corp.	155	4.0	231	ABB Technology AG	127	new
	HTC Corp.	155	29.8		Facebook, Inc.	127	new
	Merck Patent GmbH	155	20.2		Salesforce.Com, Inc.	127	new
	United States of America, Army	155	-9.9	234	ARM Ltd.	126	31.3
194	Aisin Seiki K.K.	154	18.5		Kobe Steel, Ltd.	126	12.5
	Yazaki Corp.	154	46.7		Rockwell Automation Technologies, Inc.	126	5.0
196	Motorola Solutions, Inc.	153	-25.4	237	Citrix Systems, Inc.	125	16.8
	Shenzhen Futaihong Precision Industry Co., Ltd.	153	-30.1		Vertex Pharmaceuticals, Inc.	125	30.2
198	LAM Research Corp.	151	-7.9	239	Nokia Siemens Networks Oy	123	new
	Nintendo Co., Ltd.	151	10.2		Wistron Corp.	123	new
200	Chevron U.S.A. Inc.	148	-5.1	241	Funai Electric Co., Ltd.	122	-23.8
201	California Institute of Technology	147	8.1	242	Delphi Technologies, Inc.	121	9.0
202	Air Liquide Corp.	146	28.1		Symbol Technologies, Inc.	121	2.5
	BAE Systems Inc.	146	-2.7	244	Ibiden Co., Ltd.	120	-14.9
	United States of America, Department of Health & Human Services	146	11.5	245	Centurylink Intellectual Property LLC	119	new
205	Becton, Dickinson & Co.	143	32.4		France Telecom	119	28.0
	Intuit, Inc.	143	19.2		Headway Technologies, Inc.	119	32.2
					NGK Spark Plug Co., Ltd.	119	8.2



2013 Patent Owners  
Numerical Listing

Rank	Organization	2013 Patents	Percent Change From 2012	Rank	Organization	2013 Patents	Percent Change From 2012
249	Centre National de la Recherche Scientifique - CNRS	117	25.8	290	Agilent Technologies, Inc.	97	-19.8
250	Bally Gaming, Inc.	116	30.3		University of Michigan	97	0.0
	Chunghwa Picture Tubes, Ltd.	116	-28.0	292	Krones AG	96	new
	Dai Nippon Printing Co. Ltd	116	2.7		Life Technologies Corp.	96	new
	Spansion LLC	116	2.7		University of Illinois	96	new
254	Amgen, Inc.	115	12.7	295	Avago Technologies General Ip (Singapore) Pte. Ltd.	95	new
	Bayer Cropsience AG	115	-22.3		Komatsu Ltd.	95	new
256	Delta Electronics Inc.	113	-1.7		National Taiwan University	95	-22.1
	MStar Semiconductor, Inc.	113	22.8		Nippon Telegraph & Telephone Corp.	95	new
258	Nippon Steel & Sumitomo Metal Corp.	112	new		Sandia Corporation	95	3.3
	The Math Works, Inc.	112	6.7		University of South Florida	95	new
260	Advantest Corp.	111	0.0		Yamaha Motor Co., Ltd.	95	-49.7
261	Hamamatsu Photonics K.K.	110	new				
	Toyoda Gosei K.K.	110	new				
263	Baxter International Inc.	109	16.0				
	Evonik Degussa GmbH	109	21.1				
	Idemitsu Kosan Co. Ltd.	109	new				
266	Acushnet Co.	108	-29.4				
	Fuji Electric Co., Ltd.	108	5.9				
	Omron Corp.	108	18.7				
	Stanley Electric Co., Ltd.	108	new				
270	Pacesetter, Inc.	107	-25.2				
	Pfizer Inc.	107	-31.4				
	ST-Ericsson SA	107	new				
273	Cheil Industries, Inc.	105	new				
274	American Express Travel Related Services Co., Inc.	104	-20.0				
	Atmel Corp.	104	10.6				
	Columbia University	104	new				
	Dolby Laboratories, Inc.	104	new				
	Koch Industries, Inc.	104	new				
	Societe Nationale d'Etude et de Construction de Moteurs D' Aviation	104	-26.8				
280	JP Morgan Chase Bank, N.A.	103	new				
	Shenzhen China Star Optoelectronics Technology Co., Ltd.	103	new				
282	Chimei-Innolux Corp.	102	-40.7				
283	Shimadzu Corp.	101	-3.8				
284	Aristocrat Technologies Australia Pty. Ltd.	99	new				
	Sumitomo Wiring Systems, Ltd.	99	8.8				
286	Georgia Tech Research Corp.	98	new				
	Silicon Laboratories Inc.	98	new				
	Trading Technologies International, Inc.	98	new				
	Via Technologies, Inc.	98	new				

## 2013 Patent Owners

### Alphabetical Listing

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73	3M Innovative Properties Co.	532	26.4	254	Bayer Cropscience AG	115	-22.3
231	ABB Technology AG	127	new	205	Becton, Dickinson & Co.	143	32.4
78	Abbott Laboratories	489	-0.8	75	Blackberry Ltd.	515	new
185	Accenture PLC	158	31.7	216	Boehringer Ingelheim International GmbH	134	new
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224	Aisin Aw Co., Ltd.	129	-9.8	217	CA, Inc.	133	new
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151	Allergan, Inc.	196	76.6	3	Canon K.K.	3,918	18.5
222	Alstom Technology Ltd.	130	28.7	141	Casio Computer Co. Ltd.	234	19.4
117	Altera Corp.	292	17.3	110	Caterpillar Inc.	332	4.1
74	Amazon Technologies, Inc.	530	84.7	249	Centre National de la Recherche Scientifique - CNRS	117	25.8
274	American Express Travel Related Services Co., Inc.	104	-20.0	245	Centurylink Intellectual Property LLC	119	new
254	Amgen, Inc.	115	12.7	273	Cheil Industries, Inc.	105	new
154	Analog Devices, Inc.	193	17.7	200	Chevron U.S.A. Inc.	148	-5.1
15	Apple, Inc.	1,775	56.3	282	Chimei-Innolux Corp.	102	-40.7
85	Applied Materials, Inc.	423	1.7	250	Chunghwa Picture Tubes, Ltd.	116	-28.0
284	Aristocrat Technologies Australia Pty. Ltd.	99	new	40	Cisco Technology, Inc.	910	-7.2
234	ARM Ltd.	126	31.3	237	Citrix Systems, Inc.	125	16.8
183	Asahi Glass Co., Ltd.	160	27.0	274	Columbia University	104	new
149	ASML Netherlands B.V.	204	4.1	114	Commissariat A L'Energie Atomique	309	38.6
17	AT&T Corp.	1,658	17.9	179	Continental Automotive GmbH	162	-25.7
274	Atmel Corp.	104	10.6	176	Cook Medical Technologies LLC	170	6.3
98	AU Optronics Corp.	382	-3.0	103	Corning Inc.	356	10.6
295	Avago Technologies General Ip (Singapore) Pte. Ltd.	95	new	49	Covidien	800	41.6
136	Avaya Inc.	240	-2.4	168	Cree, Inc.	178	57.5
202	BAE Systems Inc.	146	-2.7	190	Cypress Semiconductor Corp.	155	4.0
100	Baker Hughes Inc.	368	0.0	250	Dai Nippon Printing Co. Ltd	116	2.7
250	Bally Gaming, Inc.	116	30.3	228	Daikin Industries Ltd.	128	-5.2
130	Bank of America Corp.	262	58.8				
57	BASF Corp.	697	27.9				
263	Baxter International Inc.	109	16.0				



2013 Patent Owners  
Alphabetical Listing

Rank	Organization	2013 Patents	Percent Change From 2012	Rank	Organization	2013 Patents	Percent Change From 2012
142	Deere & Co.	233	22.0	82	Hoffmann-La Roche Inc.	458	9.3
147	Dell Products, L.P.	209	-10.7	35	Hon Hai Precision Ind. Co., Ltd.	1,004	-1.0
242	Delphi Technologies, Inc.	121	9.0	31	Honda Motor Co., Ltd.	1,070	-0.4
256	Delta Electronics Inc.	113	-1.7	37	Honeywell International Inc.	961	-8.2
62	Denso Corp.	644	-8.5	39	Hong Fu Jin Precision Industry (Shenzhen) Co., Ltd.	922	17.9
211	Disney Enterprises, Inc.	137	21.2	209	Hoya Corp.	140	10.2
274	Dolby Laboratories, Inc.	104	new	190	HTC Corp.	155	29.8
71	Dow Chemical Co.	573	40.4	59	Huawei Technologies Co., Ltd.	685	28.8
32	DuPont	1,045	-0.2	77	Hynix Semiconductor Inc.	490	-27.1
94	Eastman Kodak Co.	395	-707	92	Hyundai Motor Co.	398	26.8
180	Eaton Corp.	161	23.8	244	Ibiden Co., Ltd.	120	-14.9
148	Ebay Inc.	205	47.5	263	Idemitsu Kosan Co. Ltd.	109	new
44	Electronics and Telecommunications Research Institute	868	40.9	131	Illinois Tool Works Inc.	253	14.0
76	EMC Corp.	500	50.2	79	Industrial Technology Research Institute, Taiwan	485	-10.2
163	Empire Technology Development LLC	182	83.8	86	Infineon Technologies AG	415	-22.6
263	Evonik Degussa GmbH	109	21.1	16	Intel Corp.	1,730	34.4
97	ExxonMobil Corp.	383	24.4	162	InterDigital Technology Corp.	184	-12.0
231	Facebook, Inc.	127	new	224	Intermolecular Inc.	129	new
56	Ford Global Technologies, LLC	714	11.0	1	International Business Machines Corp.	6,788	5.1
245	France Telecom	119	28.0	108	International Game Technology	335	21.8
165	Fraunhofer-Gesellschaft Zur Foerderung Der Angewandten Forschung E.V.	181	4.0	205	Intuit, Inc.	143	19.2
83	Freescall Semiconductor, Inc.	457	3.2	133	Invention Science Fund I, LLC	252	-15.4
224	Fu Tai Hua Industry (Shenzhen) Co., Ltd.	129	new	29	Johnson & Johnson	1,107	10.7
266	Fuji Electric Co., Ltd.	108	5.9	280	JP Morgan Chase Bank, N.A.	103	new
51	Fuji Xerox Co., Ltd.	795	16.4	185	Jtekt Corp.	158	5.3
46	Fujifilm Corp.	863	-19.1	116	Juniper Networks, Inc.	295	3.1
14	Fujitsu Ltd.	1,802	-6.3	214	Kao Corp.	135	0.0
107	Fujitsu Semiconductor Ltd.	340	new	165	Kimberly-Clark Worldwide, Inc.	181	-11.3
241	Funai Electric Co., Ltd.	122	-23.8	234	Kobe Steel, Ltd.	126	12.5
188	Futurewei Technologies, Inc.	157	60.2	274	Koch Industries, Inc.	104	new
12	General Electric Co.	2,086	2.3	295	Komatsu Ltd.	95	new
18	General Motors Corp.	1,621	18.0	81	Konica Minolta Business Technologies, Inc.	466	3.3
286	Georgia Tech Research Corp.	98	new	35	Koninklijke Philips N.V.	1,004	9.5
224	GlaxoSmithKline LLC	129	-23.2	292	Krones AG	96	new
131	Globalfoundries Inc.	253	54.3	66	Kyocera Corp.	622	20.8
10	Google, Inc.	2,190	90.3	198	LAM Research Corp.	151	-7.9
94	Halliburton Energy Services, Inc.	395	31.2	5	LG Electronics Inc.	3,117	16.2
261	Hamamatsu Photonics K.K.	110	new	292	Life Technologies Corp.	96	new
213	Harris Corp.	136	12.4	110	Lockheed Martin Corp.	332	-4.0
245	Headway Technologies, Inc.	119	32.2	205	L'Oreal S.A.	143	45.9
21	Hewlett-Packard Co.	1,459	1.0	89	LSI Corp.	399	30.0
9	Hitachi, Ltd.	2,399	-11.9	185	Macronix International Co., Ltd.	158	-14.6
				63	Marvell International Ltd.	642	8.3
				156	Marvell World Trade Ltd.	189	52.4

# 2013 Patent Owners Alphabetical Listing

Rank	Organization	2013 Patents	Percent Change From 2012	Rank	Organization	2013 Patents	Percent Change From 2012
121	Massachusetts Institute of Technology	281	30.1	87	Raytheon Co.	400	-0.2
146	Mediatek Inc.	212	-19.7	219	Realtek Semiconductor Corp.	132	-3.6
42	Medtronic Inc.	893	4.6	139	Red Hat, Inc.	235	36.6
126	Merck & Co.	268	-2.9	45	Renesas Electronics Corp.	866	-15.4
190	Merck Patent GmbH	155	20.2	48	Research in Motion Ltd.	817	-17.1
23	Micron Technology, Inc.	1,280	40.2	20	Ricoh Co., Ltd.	1,469	4.4
6	Microsoft Corp.	2,814	4.1	43	Robert Bosch GmbH	884	19.0
55	Mitsubishi Denki K.K.	720	4.2	234	Rockwell Automation Technologies, Inc.	126	5.0
112	Mitsubishi Heavy Industries, Ltd.	315	40.6	211	Rockwell Collins, Inc.	137	29.2
84	Monsanto Technology, LLC	427	34.3	160	Rohm Co., Ltd.	186	8.8
196	Motorola Solutions, Inc.	153	-25.4	128	Rolls-Royce PLC	265	5.2
256	MStar Semiconductor, Inc.	113	22.8	143	Saint-Gobain	227	46.5
120	Murata Manufacturing Co., Ltd.	283	6.0	231	Salesforce.Com, Inc.	127	new
295	National Taiwan University	95	-22.1	24	Samsung Display Co., Ltd.	1,259	431.2
25	NEC Corp.	1,168	11.9	106	Samsung Electro-Mechanics Co., Ltd.	343	-3.9
228	Nestec, S.A.	128	new	2	Samsung Electronics Co., Ltd.	4,652	-7.8
163	Netapp, Inc.	182	2.8	100	Samsung SDI Co., Ltd.	368	23.5
188	NGK Insulators Ltd.	157	29.8	295	Sandia Corporation	95	3.3
245	NGK Spark Plug Co., Ltd.	119	8.2	160	Sandisk Technologies Inc.	186	6.3
122	Nike, Inc.	273	22.4	137	Sanofi-Aventis	238	7.2
87	Nikon Corp.	400	17.6	109	Sanyo Electric Co., Ltd.	334	-27.7
198	Nintendo Co., Ltd.	151	10.2	67	SAP AG	617	1.8
258	Nippon Steel & Sumitomo Metal Corp.	112	new	125	Schaeffler Technologies AG & Co. KG	270	11.6
295	Nippon Telegraph & Telephone Corp.	95	new	58	Schlumberger Technology Corp.	689	17.2
129	Nissan Motor Co., Ltd.	263	7.8	115	Seagate Technology, LLC	304	-16.3
127	Nitto Denko Corp.	266	11.8	19	Seiko Epson Corp.	1,488	2.3
69	Nokia Corp.	610	0.8	180	Seiko Instruments Inc.	161	1.3
239	Nokia Siemens Networks Oy	123	new	33	Semiconductor Energy Laboratory Co., Ltd.	1,033	20.0
119	Novartis AG	287	-9.5	28	Sharp Corp.	1,113	1.5
219	NTN Corp.	132	-12.0	228	Sharp Laboratories of America, Inc.	128	-24.7
96	NTT Docomo, Inc.	388	11.5	156	Shell Oil Co.	189	41.0
214	Nuance Communications, Inc.	135	11.6	280	Shenzhen China Star Optoelectronics Technology Co., Ltd.	103	new
118	Nvidia Corp.	290	8.6	196	Shenzhen Futaihong Precision Industry Co., Ltd.	153	-30.1
104	NXP B.V.	352	15.0	283	Shimadzu Corp.	101	-3.8
165	Okidata Corp.	181	-2.7	173	Shin Etsu Chemical Co., Ltd.	172	3.0
64	Olympus Corp.	640	-2.9	13	Siemens AG	1,828	-8.6
266	Omron Corp.	108	18.7	286	Silicon Laboratories Inc.	98	new
47	Oracle Corp.	863	-6.1	124	SK Hynix Inc.	271	new
270	Pacesetter, Inc.	107	-25.2	274	Societe Nationale D'Etude Et De Construction De Moteurs D'Aviation "s.N.E.C.M.A."	104	-26.8
8	Panasonic Corp.	2,649	-6.4				
270	Pfizer Inc.	107	-31.4				
72	Procter & Gamble Co.	546	12.8				
11	Qualcomm, Inc.	2,182	48.3				
180	Rambus, Inc.	161	-11.0				



2013 Patent Owners  
Alphabetical Listing

Rank	Organization	2013 Patents	Percent Change From 2012	Rank	Organization	2013 Patents	Percent Change From 2012
4	Sony Corp.	3,316	-8.1	178	University of Texas	169	19.9
250	Spanion LLC	116	2.7	60	Verizon Communications Inc.	668	44.6
70	Sprint Corp.	589	-3.9	237	Vertex Pharmaceuticals, Inc.	125	30.2
176	Stanford University	170	-6.6	286	Via Technologies, Inc.	98	new
172	Stanley Black & Decker, Inc.	173	3.6	65	Western Digital Technologies, Inc.	625	12.4
266	Stanley Electric Co., Ltd.	108	new	156	Whirlpool Corp.	189	37.0
134	Stats Chippac Ltd.	247	4.7	183	Wisconsin Alumni Research Foundation	160	3.2
270	ST-Ericsson SA	107	new	239	Wistron Corp.	123	new
54	STMicroelectronics, Inc.	733	46.9	156	WMS Gaming, Inc.	189	-10.0
173	Stryker Corp.	172	new	26	Xerox Corp.	1,163	-4.1
171	Sumitomo Chemical Co., Ltd.	175	-14.2	150	Xilinx, Inc.	201	-13.4
135	Sumitomo Electric Industries, Ltd.	245	30.3	113	Yahoo, Inc.	312	15.6
284	Sumitomo Wiring Systems, Ltd.	99	8.8	221	Yamaha Corp.	131	-26.8
80	Symantec Corp.	467	18.5	295	Yamaha Motor Co., Ltd.	95	-49.7
242	Symbol Technologies, Inc.	121	2.5	194	Yazaki Corp.	154	46.7
173	Synopsys Inc.	172	22.0	217	Zamtec Ltd.	133	new
38	Taiwan Semiconductor Manufacturing Co., Ltd.	933	43.8	138	ZF Friedrichshafen, AG	237	20.3
139	TDK Corp.	235	-20.3	122	ZTE Corp.	273	170.3
99	TE Connectivity	377	-1.0				
27	Telefonaktiebolaget LM Ericsson	1,149	36.3				
168	Tessera, Inc.	178	42.4				
53	Texas Instruments, Inc.	739	-13.5				
144	Thales	226	20.9				
258	The Math Works, Inc.	112	6.7				
102	Thomson Licensing S.A.	367	9.6				
93	Tokyo Electron Ltd.	397	-5.7				
7	Toshiba Corp.	2,679	3.0				
261	Toyoda Gosei K.K.	110	new				
22	Toyota Jidosha K.K.	1,355	-9.1				
286	Trading Technologies International, Inc.	98	new				
154	Tsinghua University	193	29.5				
152	United Microelectronics Corp.	195	42.3				
210	United Services Automobile Association (USAA)	139	19.8				
190	United States of America, Army	155	-9.9				
202	United States of America, Department of Health & Human Services	146	11.5				
89	United States of America, Navy	399	12.4				
52	United Technologies Corp.	767	-14.4				
89	University of California, The Regents of	399	11.8				
292	University of Illinois	96	new				
290	University of Michigan	97	0.0				
295	University of South Florida	95	new				

## END NOTES:

1. “New” in the percent change column indicates that the company was not on the Top 300 list in 2012.
2. The number of patents granted does not necessarily indicate the value of a company’s technology, the effectiveness of its R&D, or whether it will be profitable. The number of patents per company varies widely from industry to industry and from company to company within an industry.
3. This report was compiled by IPO from data provided by the U.S. Patent and Trademark Office. Patents reported are utility patents granted during calendar year 2013 that listed the organization or a subsidiary as the owner on the printed patent document. If an assignment of rights to an organization or its subsidiary was recorded after the patent document was printed, the patent was not counted. Patents in the name of a majority-owned subsidiary are included with patents of the parent organization if the organization asked IPO to include subsidiaries. Patents in the names of more than 5,000 subsidiaries are included in the 2013 list. Patents that were granted to two or more organizations jointly are attributed to the organization listed first on the patent document.
4. The number of utility patents granted by the USPTO increased to 277,835 in 2013 from 253,155 in 2012, and the average number of patents per organization listed increased.
5. IPO has published this report annually since 1984 as a service to its members. For annual lists, go to [www.ipo.org/top300](http://www.ipo.org/top300).
6. Next year IPO will list patents under the name of the parent organization that are granted to majority-owned subsidiaries if the organization provides the names of its majority-owned subsidiaries to IPO by March 1, 2015.



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# Top 100 Worldwide Universities Granted U.S. Utility Patents in 2013

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1	UNIVERSITY OF CALIFORNIA, THE REGENTS OF.....	399	27	PURDUE RESEARCH FOUNDATION .....	63
2	MASSACHUSETTS INSTITUTE OF TECHNOLOGY .....	281	27	KOREA ADVANCED INSTITUTE OF SCIENCE AND TECHNOLOGY .....	63
3	TSINGHUA UNIVERSITY .....	193	29	MAYO FOUNDATION FOR MEDICAL EDUCATION AND RESEARCH .....	60
4	STANFORD UNIVERSITY .....	170	29	RESEARCH FOUNDATION OF STATE UNIVERSITY OF NEW YORK .....	60
5	UNIVERSITY OF TEXAS .....	169	31	UNIVERSITY OF UTAH RESEARCH FOUNDATION .....	59
6	WISCONSIN ALUMNI RESEARCH FOUNDATION .....	160	32	UNIVERSITY OF MASSACHUSETTS .....	57
7	CALIFORNIA INSTITUTE OF TECHNOLOGY .....	147	33	UNIVERSITY OF MINNESOTA, THE REGENTS OF .....	55
8	COLUMBIA UNIVERSITY .....	104	33	UNIVERSITY OF PITTSBURGH .....	55
9	GEORGIA TECH RESEARCH CORP. ....	98	35	RAMOT AT TEL AVIV UNIVERSITY LTD. ....	54
10	UNIVERSITY OF MICHIGAN .....	97	35	NEW YORK UNIVERSITY/POLYTECHNIC INSTITUTE OF NEW YORK UNIVERSITY .....	54
11	UNIVERSITY OF ILLINOIS .....	96	37	ARIZONA STATE UNIVERSITY .....	53
12	UNIVERSITY OF SOUTH FLORIDA .....	95	38	UNIVERSITY OF CENTRAL FLORIDA .....	51
12	NATIONAL TAIWAN UNIVERSITY .....	95	38	UNIVERSITY OF MARYLAND .....	51
14	UNIVERSITY OF FLORIDA RESEARCH FOUNDATION, INCORPORATED .....	93	40	UNIVERSITY OF NORTH CAROLINA .....	50
15	NATIONAL TSING HUA UNIVERSITY .....	91	40	ACADEMIA SINICA .....	50
16	NATIONAL CHIAO TUNG UNIVERSITY .....	89	42	THE UNIVERSITY OF TOKYO .....	48
17	UNIVERSITY OF PENNSYLVANIA .....	87	43	FLORIDA STATE UNIVERSITY .....	47
18	UNIVERSITY OF WASHINGTON .....	84	44	DUKE UNIVERSITY .....	46
19	KING FAHD UNIVERSITY OF PETROLEUM AND MINERALS .....	83	45	NATIONAL CHENG KUNG UNIVERSITY .....	44
20	JOHNS HOPKINS UNIVERSITY .....	82	45	SNU R& DB FOUNDATION .....	44
20	UNIVERSITY OF SOUTHERN CALIFORNIA .....	82	47	YEDA RESEARCH AND DEVELOPMENT CO., LTD. ....	43
22	NORTHWESTERN UNIVERSITY .....	78	48	NATIONAL TAIWAN UNIVERSITY OF SCIENCE AND TECHNOLOGY .....	42
23	INSTITUTE OF MICROELECTRONICS, CHINESE ACADEMY OF SCIENCES .....	75	49	POSTECH ACADEMY-INDUSTRY FOUNDATION .....	41
24	CORNELL UNIVERSITY/CORNELL RESEARCH FOUNDATION, INC. ....	73	50	RUTGERS UNIVERSITY .....	39
25	OHIO STATE UNIVERSITY/THE OHIO STATE UNIVERSITY RESEARCH FOUNDATION .....	71	50	UNIVERSITY OF COLORADO, THE REGENTS OF ..	39
26	HARVARD COLLEGE, PRESIDENT AND FELLOWS .....	69	50	UNIVERSITY OF ROCHESTER .....	39

53	DARTMOUTH COLLEGE.....	38	74	YISSUM RESEARCH DEVELOPMENT COMPANY OF THE HEBREW UNIVERSITY OF JERUSALEM..	27
53	VANDERBILT UNIVERSITY.....	38	80	UNIVERSITY OF TENNESSEE RESEARCH FOUNDATION.....	26
53	NATIONAL CENTRAL UNIVERSITY .....	38	81	TEXAS A AND M UNIVERSITY .....	25
56	SCIENCE & TECHNOLOGY CORPORATION AT UNIVERSITY OF NEW MEXICO .....	36	81	UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY.....	25
57	PENN STATE RESEARCH FOUNDATION, INC.....	35	81	UNIVERSITY OF VIRGINIA ALUMNI PATENTS FOUNDATION.....	25
58	NORTH CAROLINA STATE UNIVERSITY .....	34	81	OSAKA UNIVERSITY.....	25
58	TUFTS UNIVERSITY .....	34	81	PEKING UNIVERSITY .....	25
58	WASHINGTON UNIVERSITY .....	34	86	EMORY UNIVERSITY.....	24
61	CARNEGIE-MELLON UNIVERSITY.....	33	86	IOWA STATE UNIVERSITY RESEARCH FOUNDATION INC.....	24
61	UNIVERSITY OF MISSOURI .....	33	86	UNIVERSITY OF KENTUCKY RESEARCH FOUNDATION.....	24
63	CASE WESTERN RESERVE UNIVERSITY.....	32	89	BRIGHAM YOUNG UNIVERSITY .....	23
63	WILLIAM MARSH RICE UNIVERSITY .....	32	89	YALE UNIVERSITY .....	23
63	SUNGKYUNKWAN UNIVERSITY FOUNDATION FOR CORPORATE COLLABORATION .....	32	91	PRINCETON UNIVERSITY .....	22
66	UNIVERSITY OF BRITISH COLUMBIA.....	31	91	BEN GURION UNIVERSITY OF THE NEGEV RESEARCH AND DEVELOPMENT AUTHORITY ....	22
67	HONG KONG POLYTECHNIC UNIVERSITY .....	30	91	CHUNG YUAN CHRISTIAN UNIVERSITY .....	22
68	DREXEL UNIVERSITY .....	29	91	INDUSTRY-ACADEMIC COOPERATION FOUNDATION YONSEI UNIVERSITY .....	22
68	UNIVERSITY OF ARKANSAS .....	29	91	THE CHINESE UNIVERSITY OF HONG KONG .....	22
68	UNIVERSITY OF SOUTH CAROLINA.....	29	91	TOHOKU UNIVERSITY .....	22
68	KYOTO UNIVERSITY.....	29	97	AUBURN UNIVERSITY.....	21
72	UNIVERSITY OF AKRON.....	28	97	INDIAN INSTITUTE OF SCIENCE.....	21
72	ECOLE POLYTECHNIQUE, FEDERALE DE LAUSANNE.....	28	97	NATIONAL TAIPEI UNIVERSITY OF TECHNOLOGY .....	21
74	INDIANA UNIVERSITY RESEARCH AND TECHNOLOGY CORPORATION .....	27	100	INDUSTRY-UNIVERSITY COOPERATION FOUNDATION HANYANG UNIVERSITY .....	20
74	MICHIGAN STATE UNIVERSITY .....	27	100	KWANGJU INSTITUTE OF SCIENCE AND TECHNOLOGY .....	20
74	KING SAUD UNIVERSITY .....	27			
74	KOREA UNIVERSITY RESEARCH AND BUSINESS FOUNDATION .....	27			
74	THE HONG KONG UNIVERSITY OF SCIENCE & TECHNOLOGY .....	27			

*This report listing the Top 100 Worldwide Universities that received the most U.S. utility patents is published by the National Academy of Inventors and the Intellectual Property Owners Association. The information provided in the list is based on data obtained from the U.S. Patent and Trademark Office. Patents reported are utility patents granted during the 2013 calendar year. When a patent is assigned to one or more entities, credit is given to the first named entity. For inquiries, or if you have a research foundation that should be combined with your university assignment in the future, contact [aturlley@academyofinventors.org](mailto:aturlley@academyofinventors.org).*

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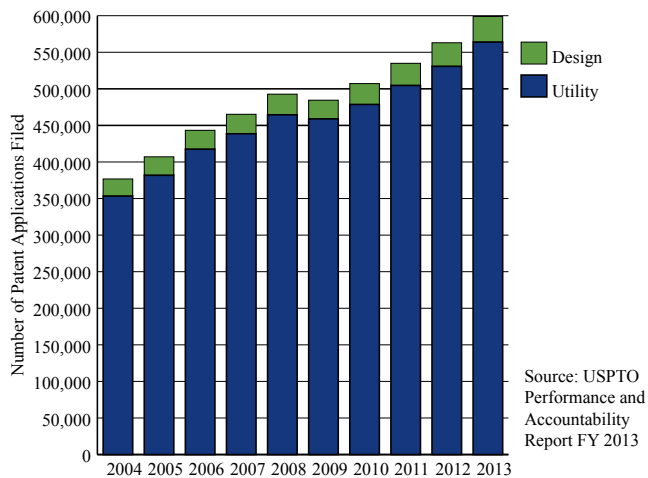
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# Graphs and Tables:

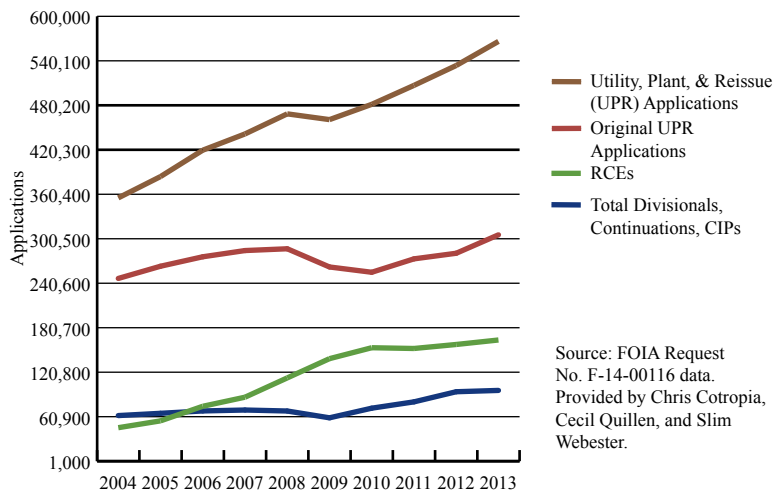
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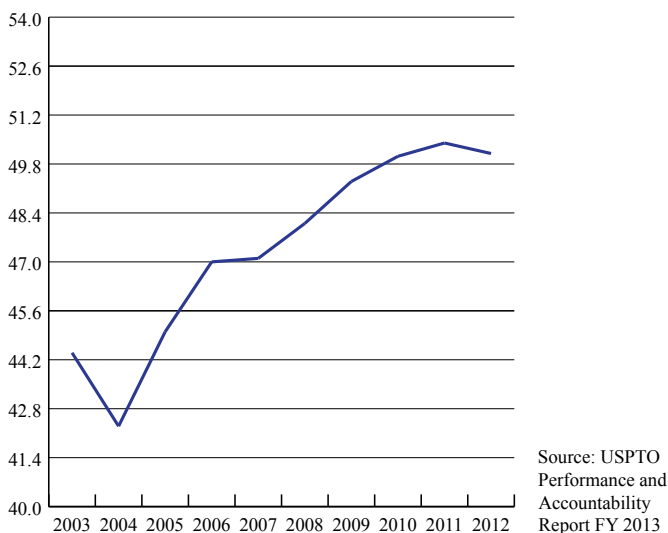
### 1) Applications for U.S. Patents Filed, Utility and Design



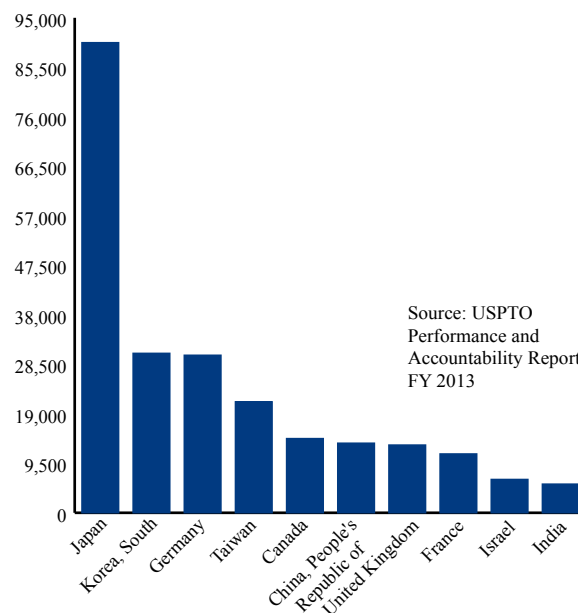
### 2) USPTO Patent Applications by Type



### 3) Percentage of Applications for U.S. Patents Filed by Non-U.S. Residents

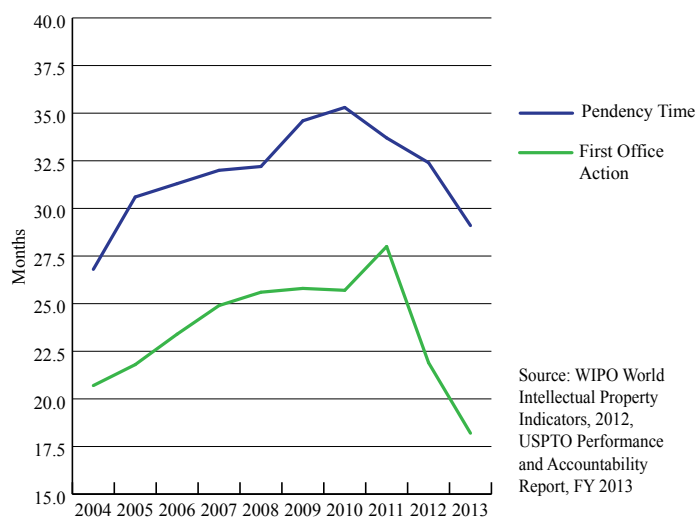


### 4) Non-U.S. Countries with the Most U.S. Patent Applications Filed (2012)

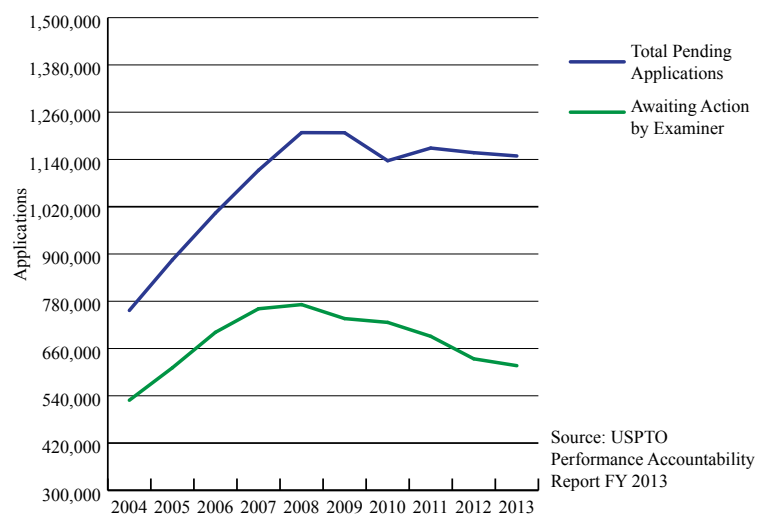


## USPTO Data

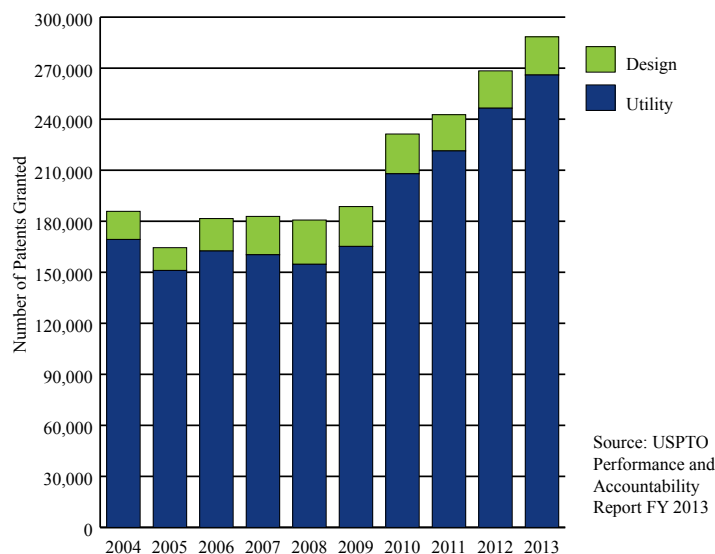
## 5) Average Patent Pendency Time at USPTO



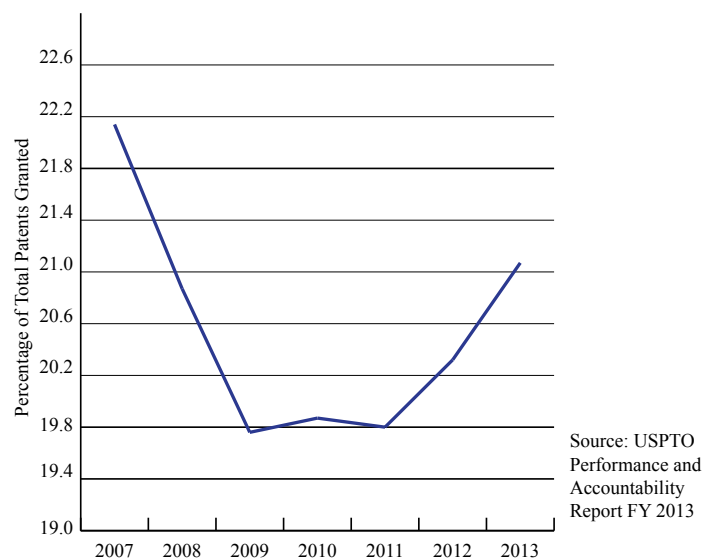
## 6) Pending Patent Applications at USPTO



## 7) U.S. Patent Grants, Utility and Design



## 8) U.S. Utility Patents Granted to Small Entities

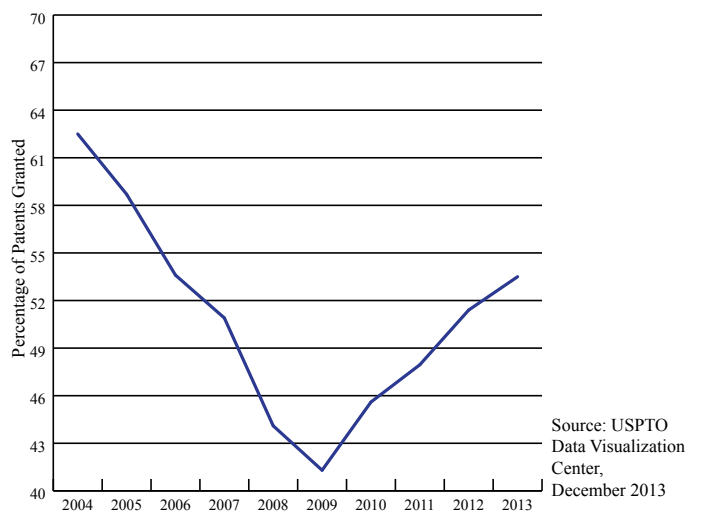


## 9) Companies Granted the Most U.S. Design Patents in 2013

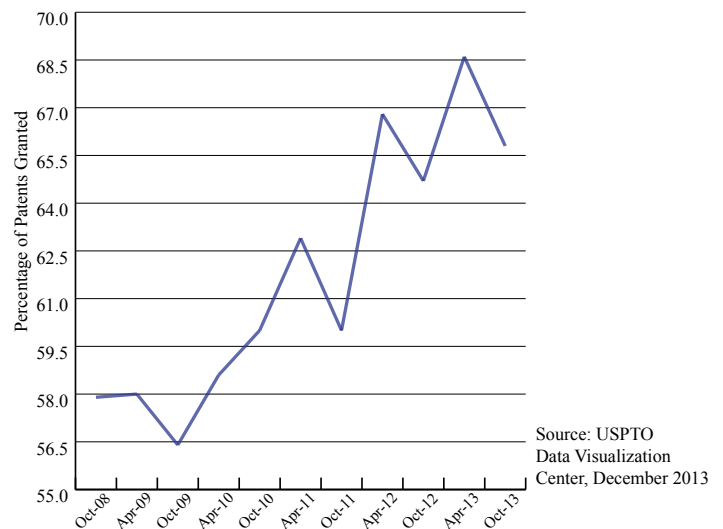
Rank	Company	Grants
1	Samsung Electronics Co., Ltd.	515
2	Microsoft Corp.	409
3	Nike, Inc.	281
4	Apple, Inc.	171
5	LG Electronics	162
6	Procter & Gamble Co.	159
7	Panasonic Corp.	155
8	Research in Motion Ltd.	145
9	3M Innovative Properties Co.	134
10	Ford Motor Co.	118
11	Masco Corp. of Indiana	110
12	Honda Motor Co., Ltd.	108
	Toyota Jidosha K.K.	108
14	Koninklijke Philips Electronics N.V.	104
15	Sony Corp.	100
16	Target Brands, Inc.	92
17	Nissan Motor Co., Ltd.	76
18	Diamler AG	74
19	Otter Products, LLC	73
20	Steelcase Inc.	72
21	Colgate-Palmolive Co.	71
22	Bayerische Motoren Werke AG	63
	S.C. Johnson & Son Inc.	63
24	Koninklijke Philips N.V.	59
25	Hewlett-Packard Development Co., L.P.	57
	Hon Hai Precision Ind. Co., Ltd.	57
27	GM Global Technology Operations LLC	56
28	Gillette Co.	55
29	Brother Industries, Ltd.	54
30	Black & Decker Inc.	49
31	Kohler Co.	49
32	Beifa Group Co., Ltd.	47
	Innovation First, Inc.	47
34	Bridgestone Corp.	46
	LG Hausys, Ltd.	46
	Mitsubishi Denki K.K.	46
37	Blackberry Ltd.	42
	Cheng Uei Precision Industry Co., Ltd.	42
	Cree, Inc.	42
	Goodyear Tire & Rubber Co.	42
	Robert Bosch GmbH	42
42	BSH Home Appliances Corp.	38
	Nikon Corp.	38
	Seiko Epson Corp.	38
45	Dart Industries Inc.	37
46	Becton, Dickinson and Co.	36
	Nokia Corp.	36
48	CJ Cheiljedang Corp.	35
49	Motorola-Mobility, Inc.	34
50	Hitachi Construction Machinery Co., Ltd.	33
	Kimberly-Clark Worldwide, Inc.	33

Source: U.S. Patent and Trademark Office

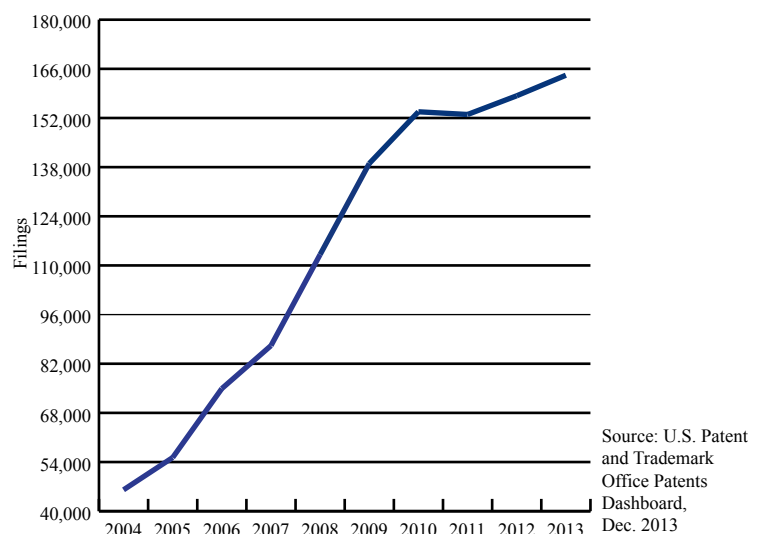
## 10) USPTO Patent Application Allowance Rate Including Requests for Continued Examination



## 11) USPTO Patent Application Allowance Rate Excluding Requests for Continued Examination

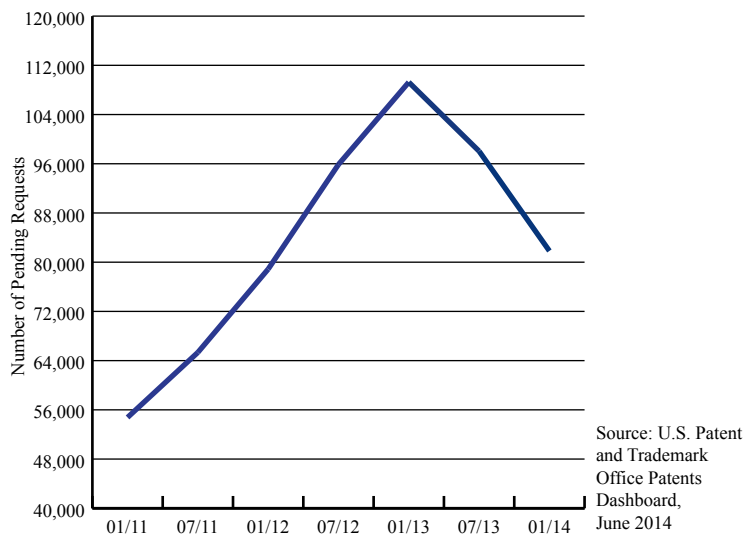


## 12) Request for Continued Examination (RCE) Filings

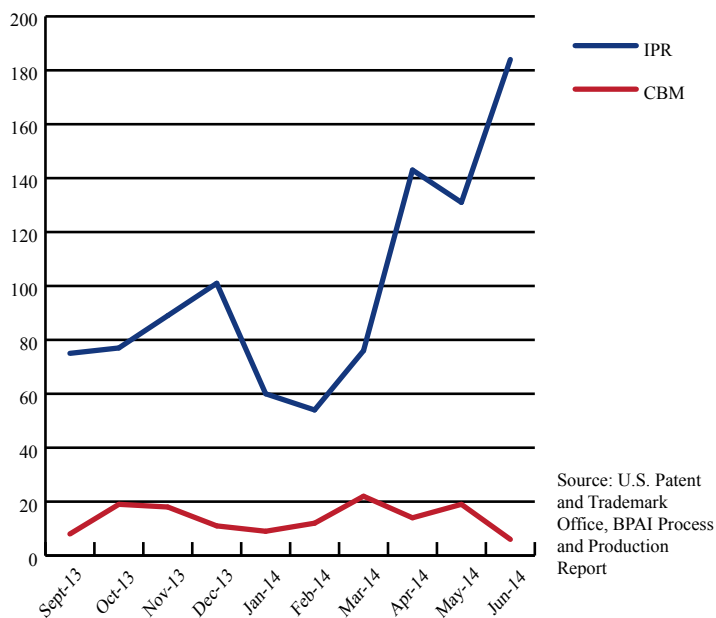


## USPTO Data

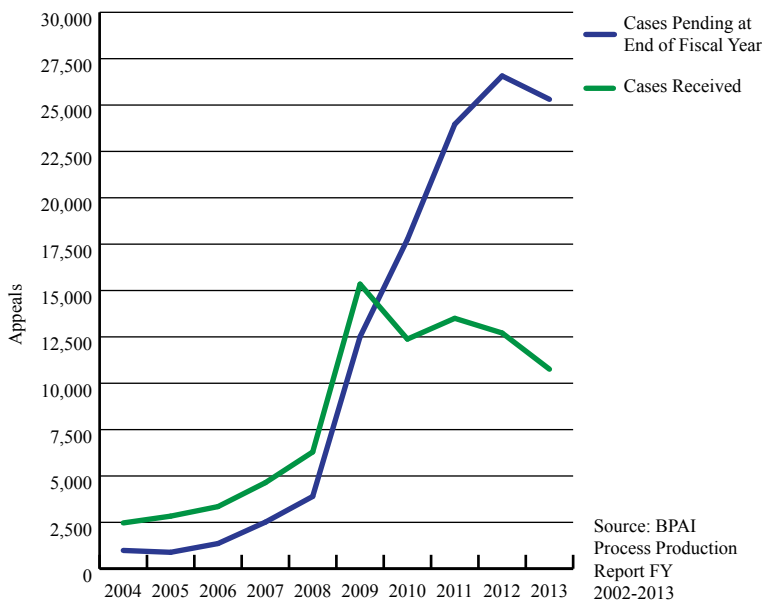
## 13) Request for Continued Examination (RCE) Backlog



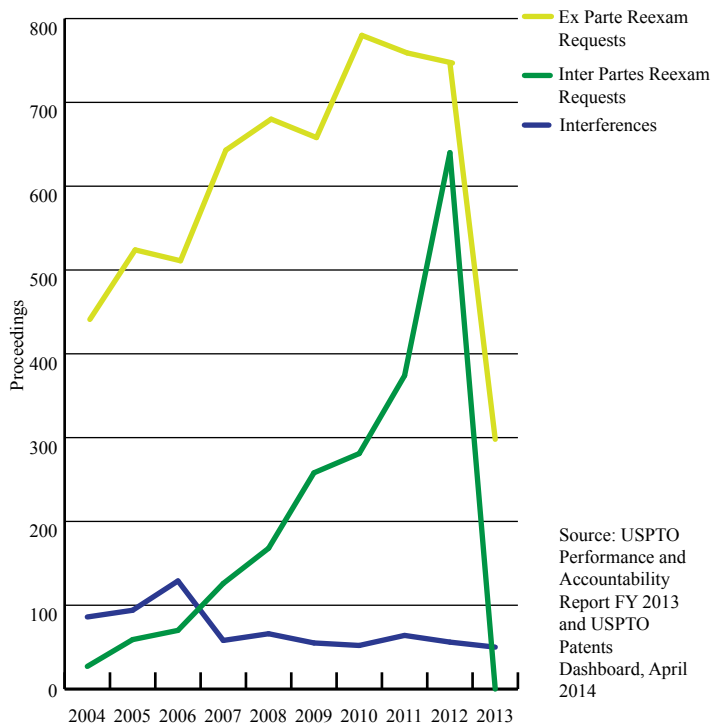
## 14) Monthly Inter Partes Review and Covered Business Method Petitions Filed



## 15) Ex Parte Patent Application Appeals

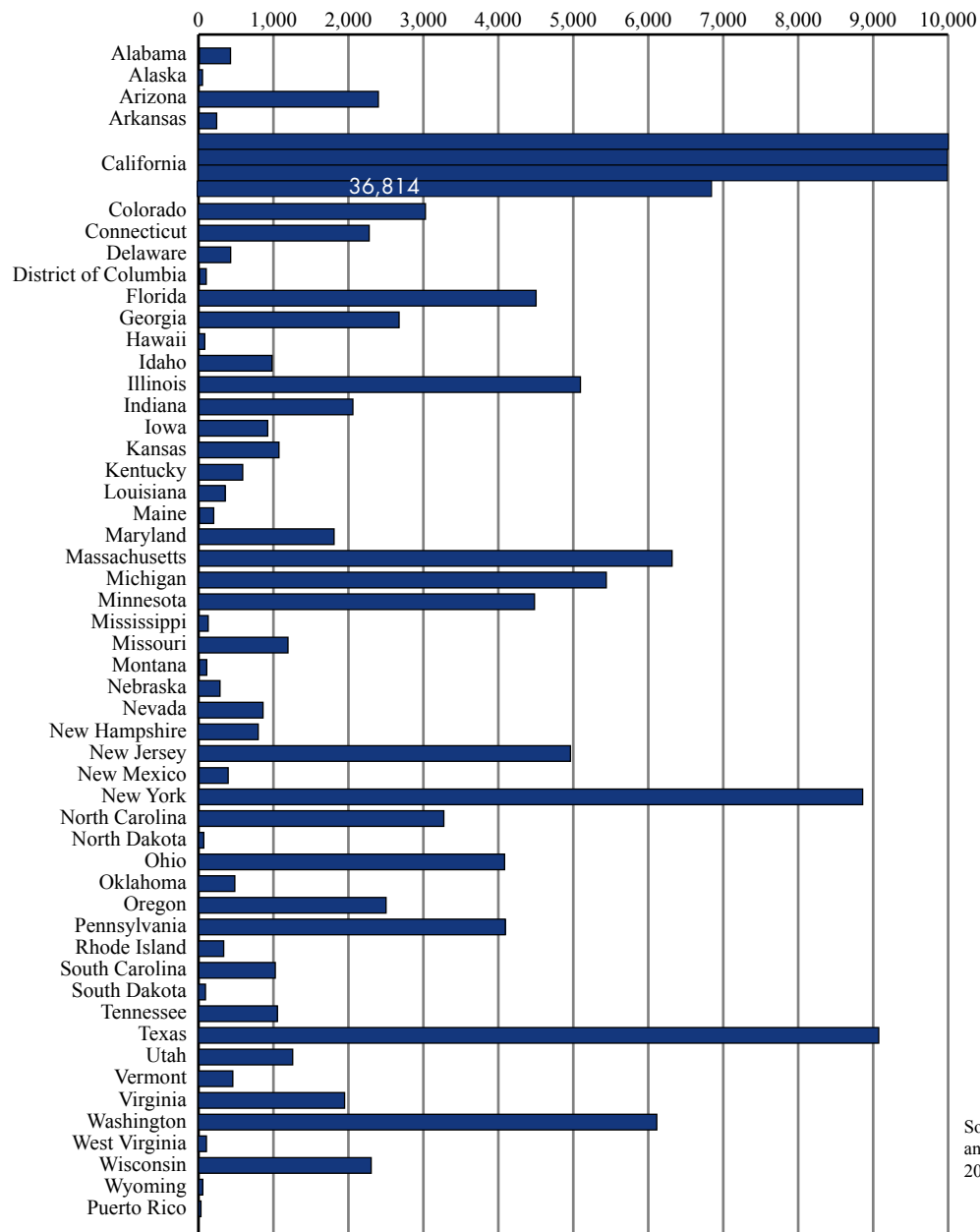


## 16) Filings in Pre-AIA After-Grant Proceedings





## 17) U.S. Patents Granted by State of Residence (2013)



Source: USPTO Performance and Accountability Report FY 2013

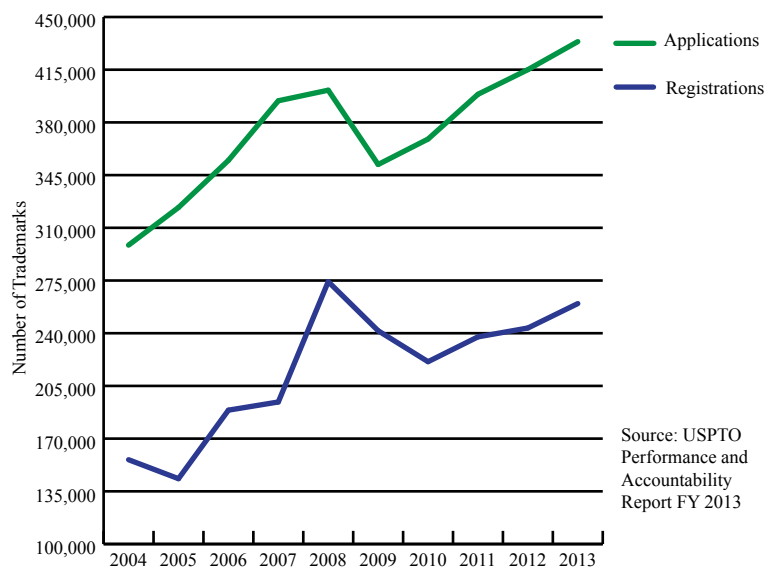
## 18) Top 25 States Ranked by Patents Granted per Capita (2013)

Rank	State	Patents per 100,000 Inhabitants	Rank	State	Patents per 100,000 Inhabitants
1	California	97.67	14	Utah	49.41
2	Massachusetts	96.38	15	New York	45.28
3	Washington	90.32	16	Wisconsin	41.21
4	Minnesota	85.24	17	Rhode Island	40.05
5	Vermont	80.62	18	Illinois	39.61
6	Oregon	66.01	19	Kansas	37.51
7	Connecticut	64.57	20	Arizona	37.08
8	New Hampshire	62.59	21	Texas	36.18
9	Idaho	61.07	22	Ohio	35.65
10	Colorado	58.67	23	Nevada	34.37
11	New Jersey	55.81	24	North Carolina	33.68
12	Michigan	54.93	25	Pennsylvania	32.44
13	Delaware	51.70			

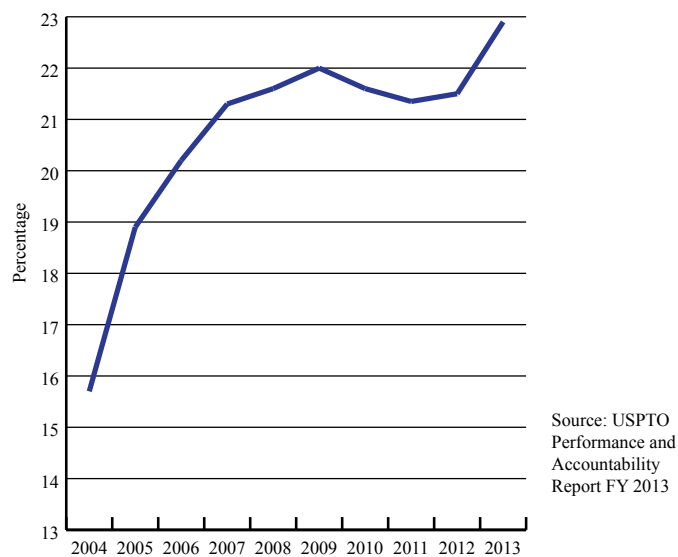
Calculated using patent counts for FY 2013 and U.S. Census Bureau Population Estimates 2013

## USPTO Data

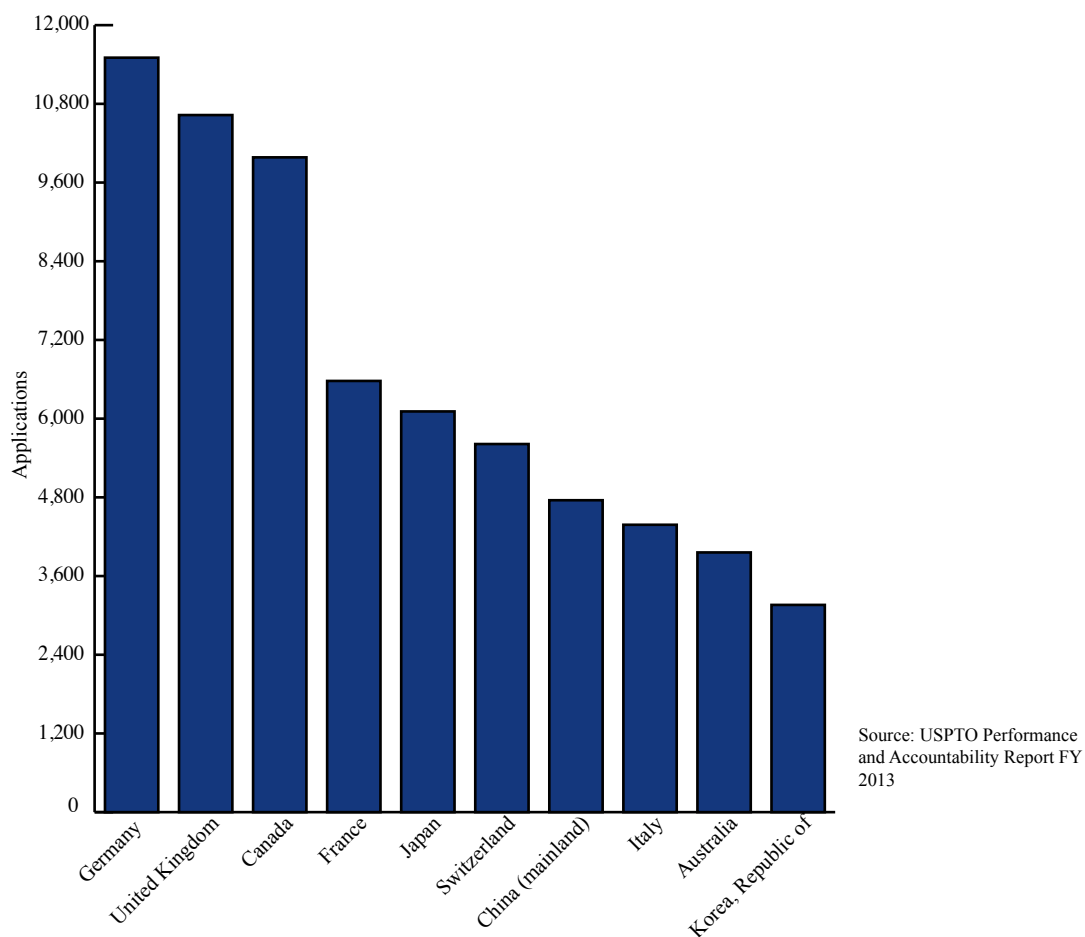
## 19) Trademark Applications and Registrations at the USPTO



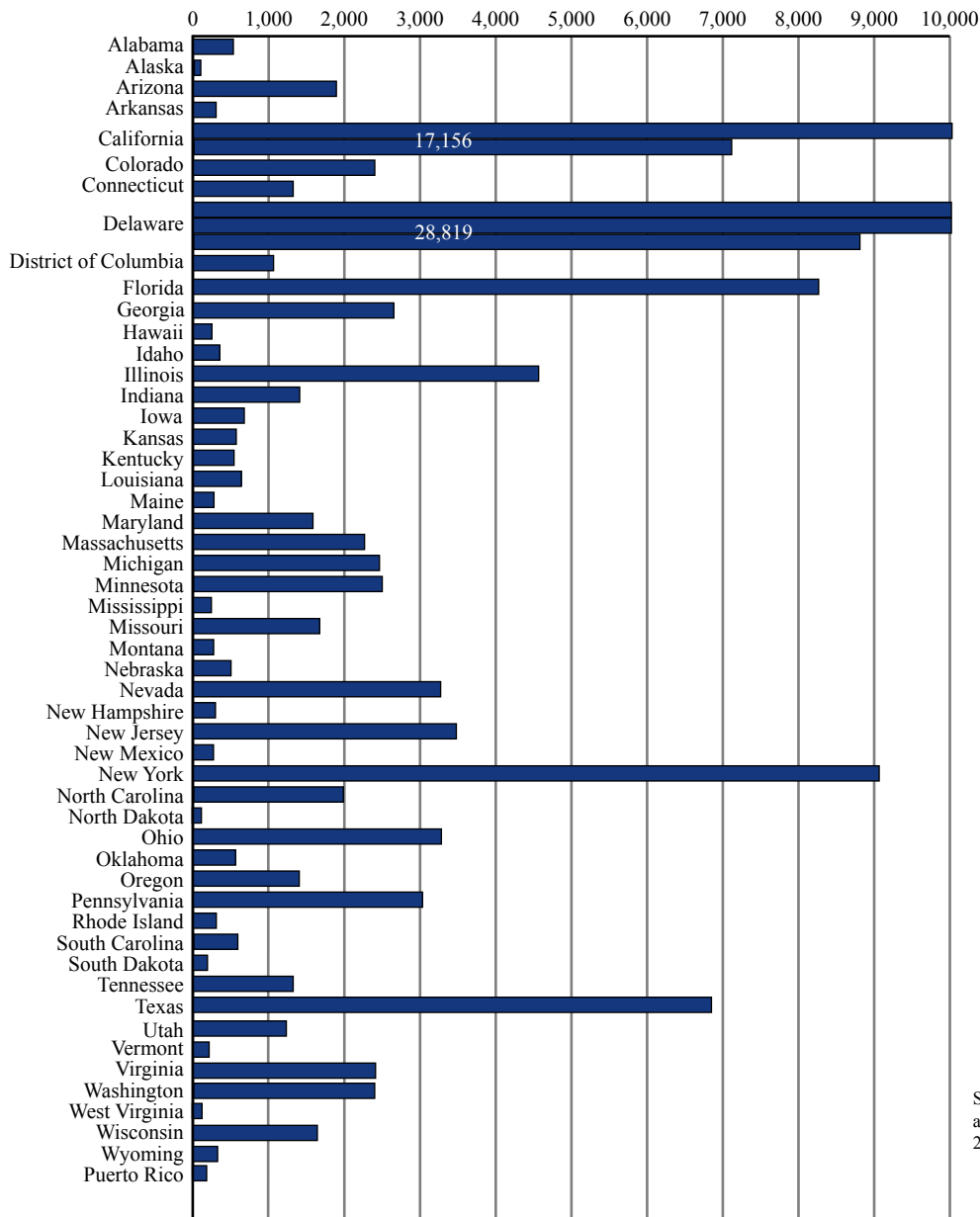
## 20) Applications to Register U.S. Trademarks Filed by Non-U.S. Residents



## 21) Non-U.S. Countries with the Most U.S. Trademark Applications Filed (2013)



## 22) U.S. Trademark Registrations by State of Residence (2013)



Source: USPTO Performance and Accountability Report FY 2013

## 23) Top 25 States Ranked by Trademark Registrations per Capita

Rank	State	Trademarks per 100,000 Inhabitants
1	Delaware	3,176.93
2	District of Columbia	166.18
3	Nevada	118.61
4	Wyoming	60.72
5	Colorado	47.69
6	Minnesota	47.17
7	New York	46.50
8	Utah	45.68
9	California	45.52
10	Florida	43.70
11	New Jersey	39.41
12	Connecticut	38.04
13	Oregon	36.78
14	Washington	35.71
15	Illinois	35.70
16	Rhode Island	34.15
17	Massachusetts	34.13
18	Vermont	33.84
19	Wisconsin	30.95
20	Virginia	30.35
21	New Hampshire	29.66
22	Maryland	29.39
23	Missouri	29.13
24	Arizona	29.09
25	Nebraska	28.93

Calculated using trademark counts for FY 2013 and U.S. Census Bureau Population Estimates July 2013

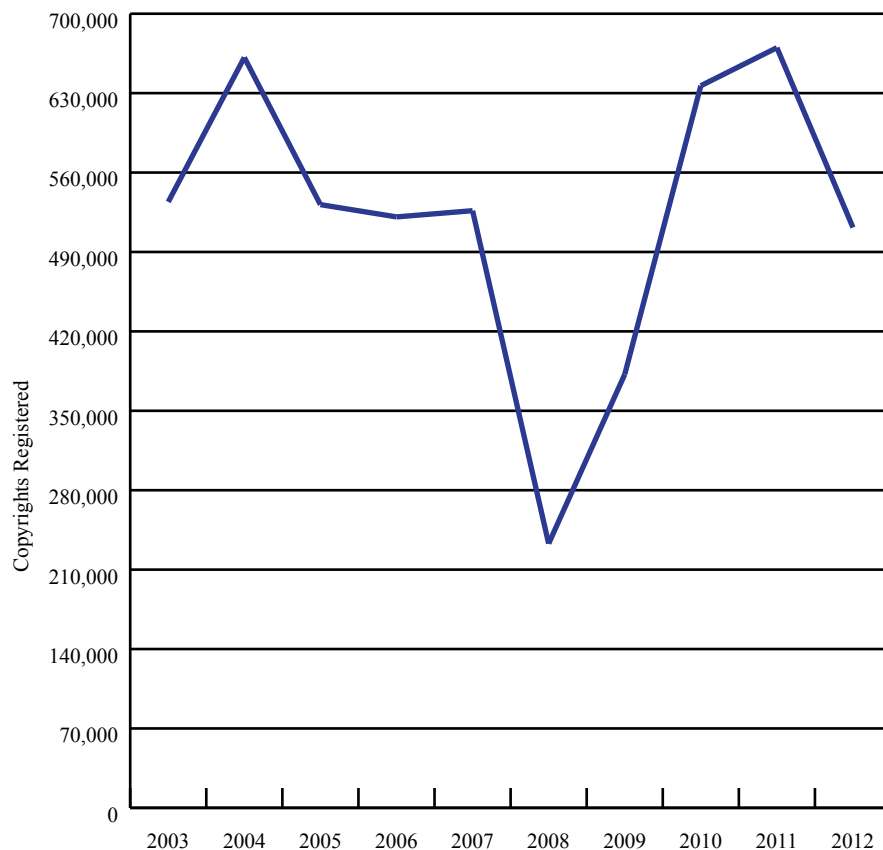
## USPTO Data

## 24) Top 50 Trademark Registrants in USPTO (2013)

Rank	Company	Trademarks			
1	Mattel, Inc.	346	27	AGC, LLC	53
2	LG Electronics Inc.	183	28	Mars, Inc.	53
3	Johnson & Johnson	169	29	Topco Holdings, Inc.	53
4	Disney Enterprises, Inc.	156	30	Huawei Technologies Co., Ltd.	52
5	The Procter & Gamble Co.	136	31	Konami Gaming, Inc.	52
6	Boehringer Ingelheim International GmbH	129	32	Lidl Stiftung & Co. KG	52
7	Twentieth Century Fox Film Corp.	104	33	Koninklijke Philips Electronics N.V.	51
8	Target Brands, Inc.	98	34	Samsung Electronics Co., Ltd.	51
9	Societe de Produits Nestle S.A.	96	35	The Saul Zaentz Co.	50
10	Novartis AG	86	36	UHS of Delaware, Inc.	49
11	L'Oreal	77	37	Nintendo of America, Inc.	48
12	Sears Brands, LLC	73	38	Advance Magazine Publishers Inc.	46
13	Columbia Insurance Co.	71	39	Amorepacific Corp.	46
14	Conair Corp.	71	40	Aristocrat Technologies Australia Pty Lt	46
15	L'Oreal USA Creative, Inc.	71	41	Microsoft Corp.	46
16	Discovery Communications, LLC	65	42	Viacom International Inc.	46
17	IGT	65	43	Vtech Electronics North America, LLC	46
18	HEB Grocery Co., LP	63	44	AOL Inc.	45
19	Bally Gaming, Inc.	62	45	Conopco, Inc.	45
20	OMS Investments, Inc.	61	46	Diageo North America, Inc.	45
21	Walgreen Co.	61	47	Home Box Office, Inc.	45
22	Summit Entertainment, LLC	60	48	K. Hansotia & Co., Inc.	45
23	General Motors	57	49	Wal-Mart Stores, Inc.	45
24	Playtika Ltd.	56	50	U.S. Marine Corps	44
25	UnitedHealth Group Inc.	55			
26	Siemens AG	54			

Source: USPTO Performance and Accountability Report  
FY 2013.

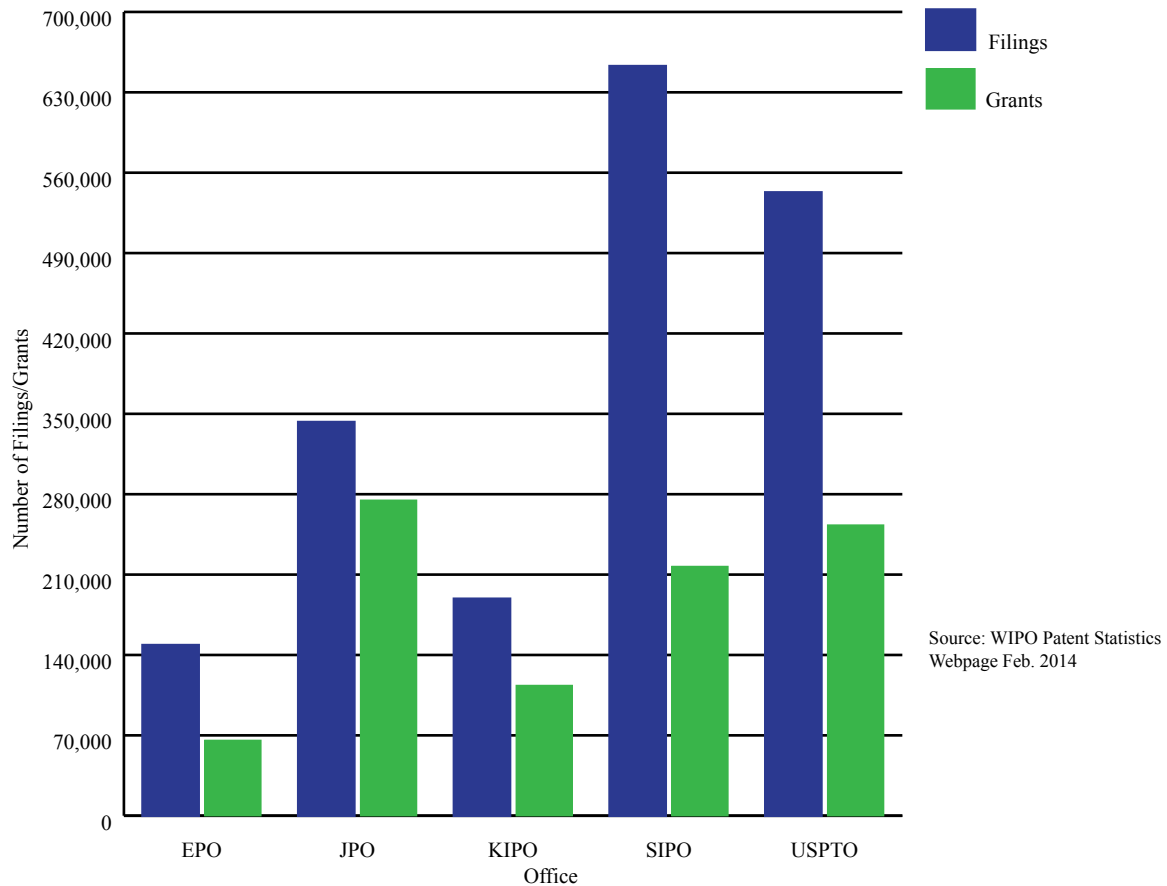
## 25) U.S. Copyright Registrations



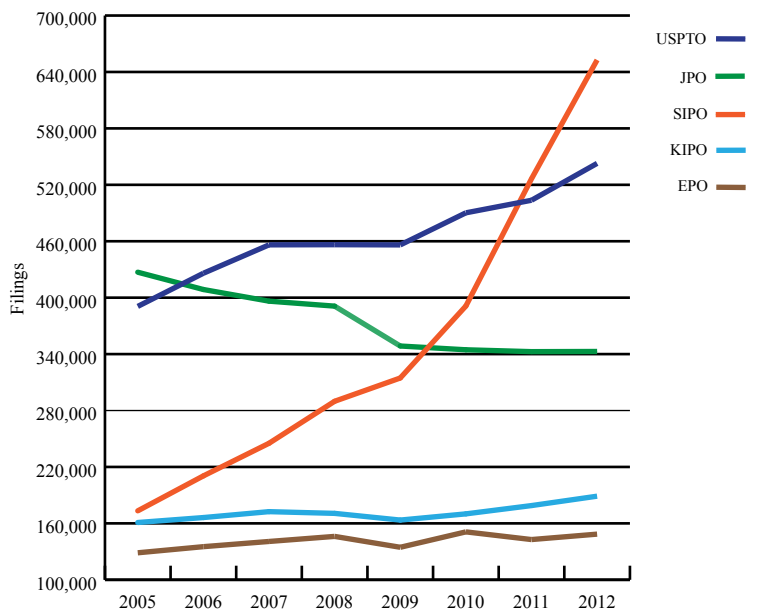
Source: Annual Report of the  
Librarian of Congress 2012  
\*Most recent data available



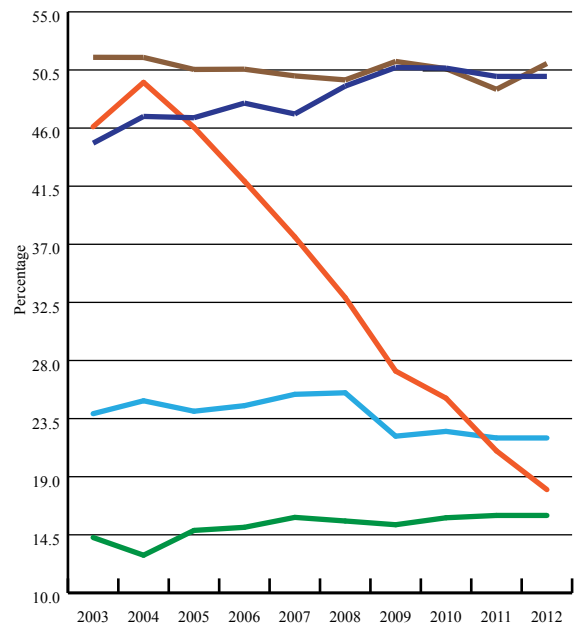
## 26) Patent Filings v. Grants in Five Patent Offices (2012)



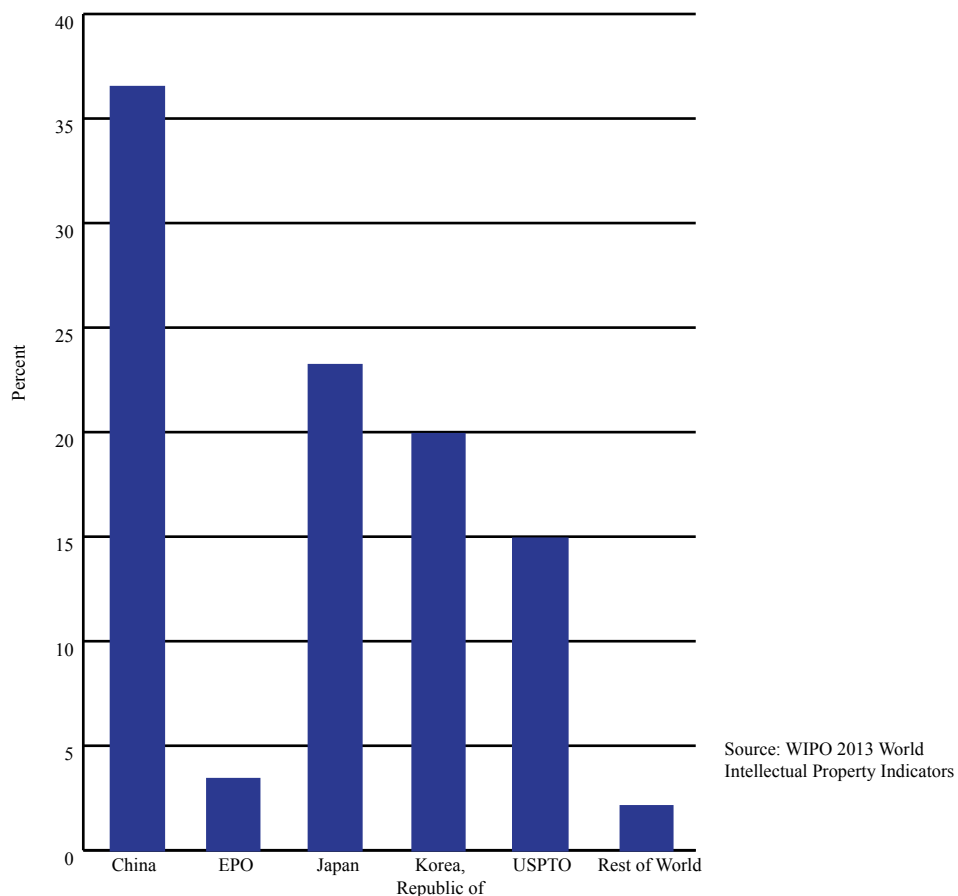
## 27) Patent Filings in 5 Offices



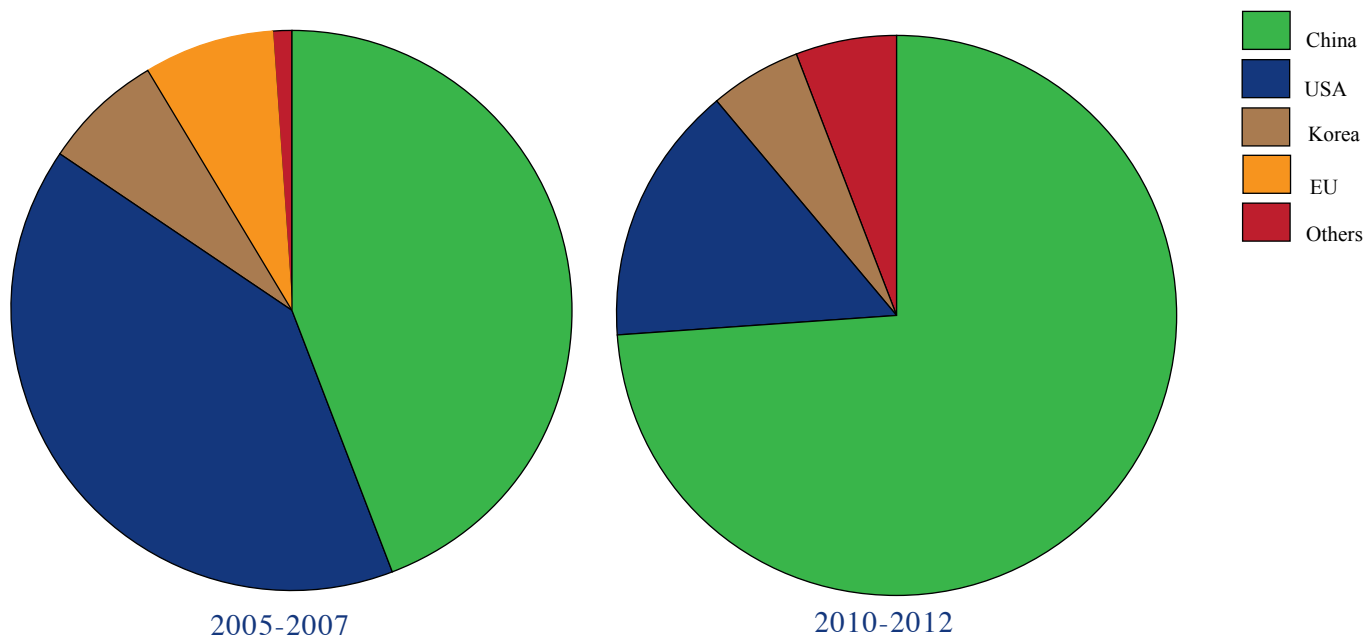
## 28) Non-resident Filings as a Percent of Total Filings in 5 Offices



## 29) Percent Share of World Patent Filing (2012)

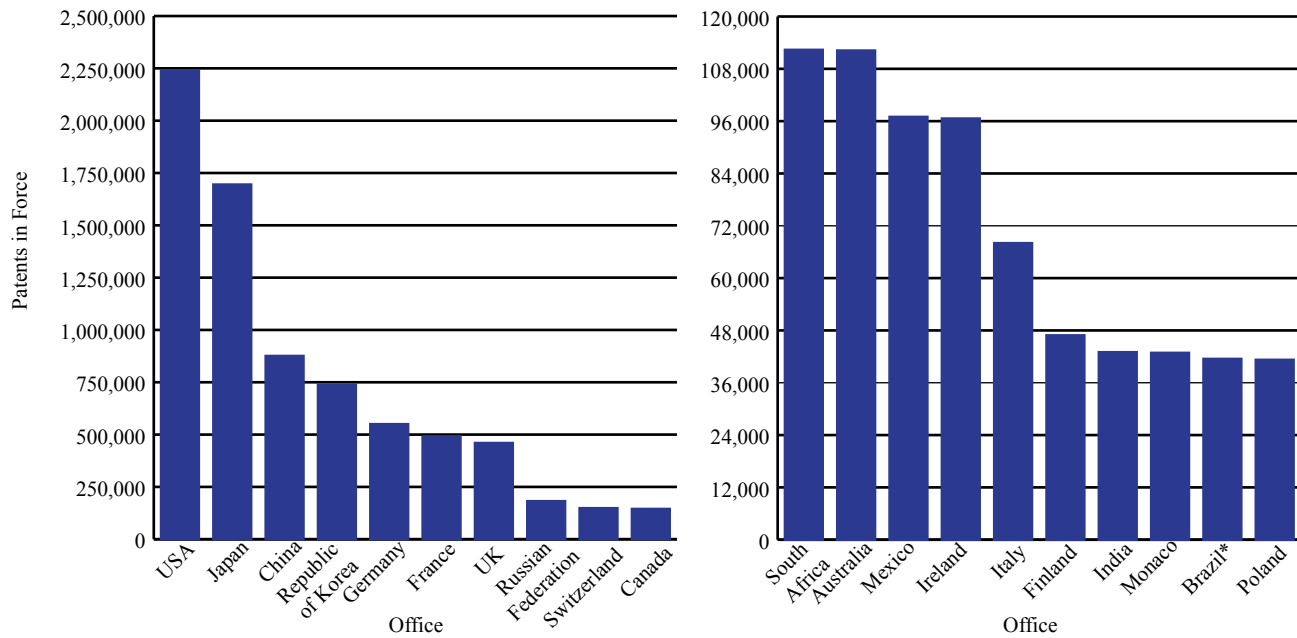


## 30) Contribution of Offices to Growth in Applications Worldwide



Sources: WIPO 2013 World Intellectual Property Indicators

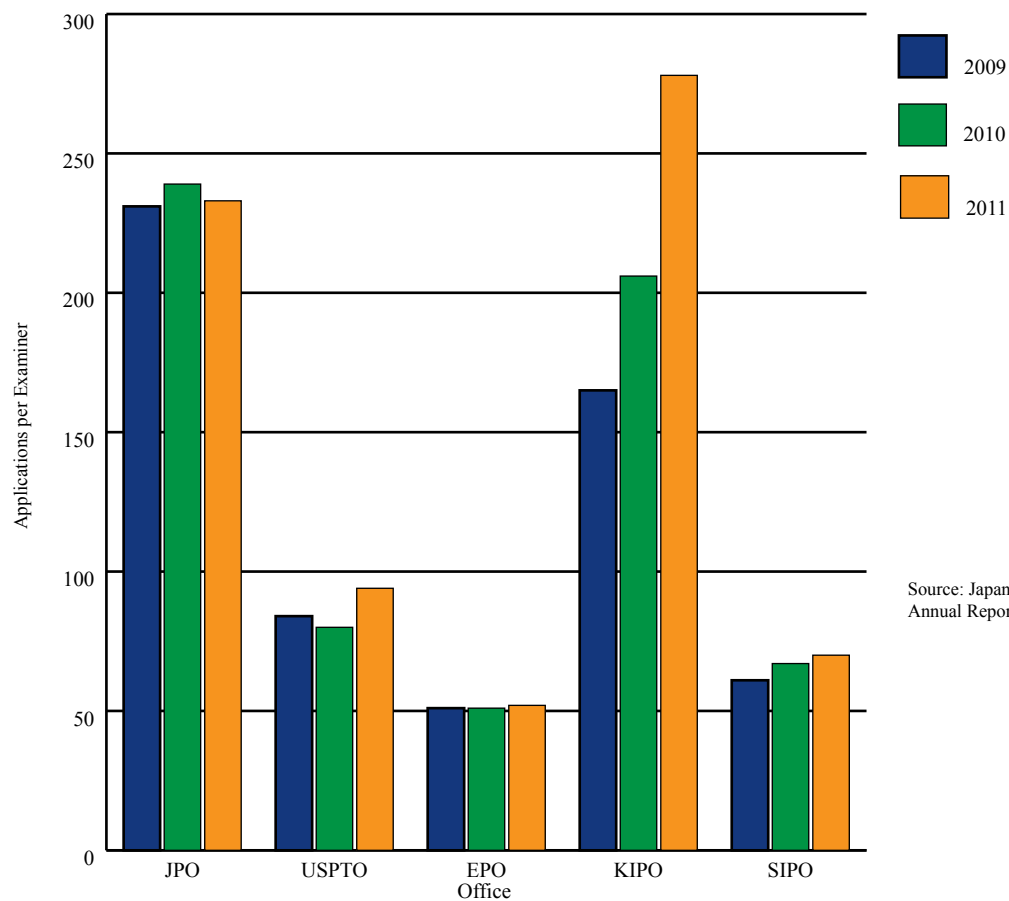
## 31) Patents in Force by Country (2012)



Sources: WIPO 2013 World IP Indicators

\* Data on Brazil is 2010-2011

## 32) Patents Examined per Examiner

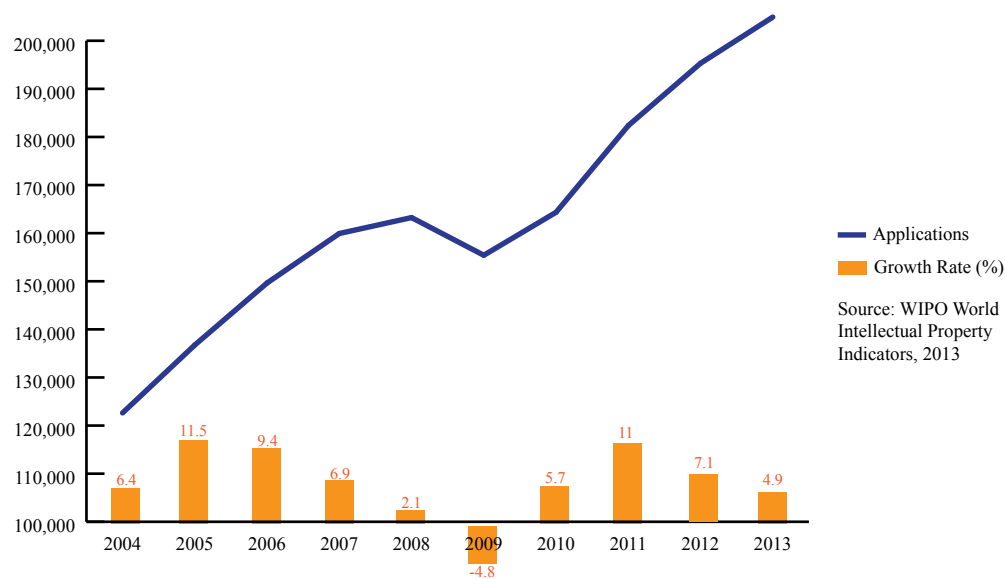
Source: Japan Patent Office  
Annual Report, 2013

## 33) Top 50 EPO Patent Applicants (2013)

Rank	Company	Applications			
1	Samsung	2,833	26	ZTE	616
2	Siemens	1,974	27	ABB	602
3	Philips	1,839	28	Microsoft Corporation	599
4	LG	1,648	29	Hoffmann-La Roche	594
5	BASF	1,577	30	3M Company	569
6	Robert Bosch	1,574	31	Dow Chemical Company	560
7	Mitsubishi	1,327	32	BSH	559
8	General Electric	1,257	33	Commissariat a L'Energie Atomique	546
9	Qualcomm	1,204	34	Blackberry Limited	525
10	Ericsson	1,184	35	Technicolor	520
11	Huawei	1,077	36	Honeywell	519
12	Panasonic	1,055	37	Procter & Gamble Company	516
13	Toyota Motor	894	38	United Technologies	507
14	Hitachi	874	39	Boeing	501
15	Sony	855	40	Toshiba	489
16	Bayer	850	41	Alstom SA	464
17	Alcatel Lucent	806	42	Unilever	456
18	EADS	783	43	Nestle	435
19	Nokia	761	44	Merck KGAA	418
20	Fujitsu	722	45	Dupont	400
21	NEC	699	46	Fraunhofer-Gesellschaft	400
22	Canon	682	47	Continental AG	392
23	DSM N.V.	659	48	Intel	381
24	Johnson & Johnson	659	49	Novartis	376
25	Sanofi	651	50	Google	368
			50	Ricoh	368

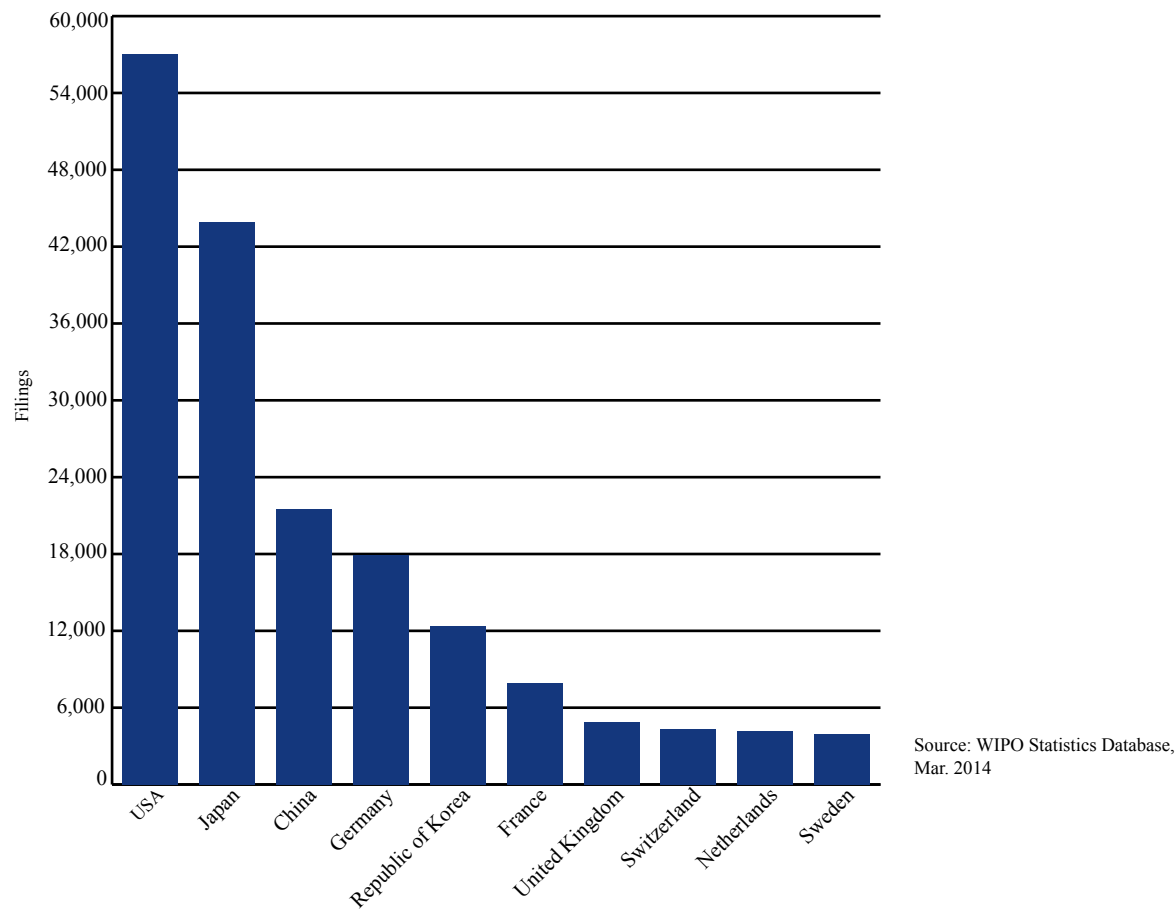
Source: EPO Statistics Webpage, April 2014

## 34) Trends in PCT International Filings

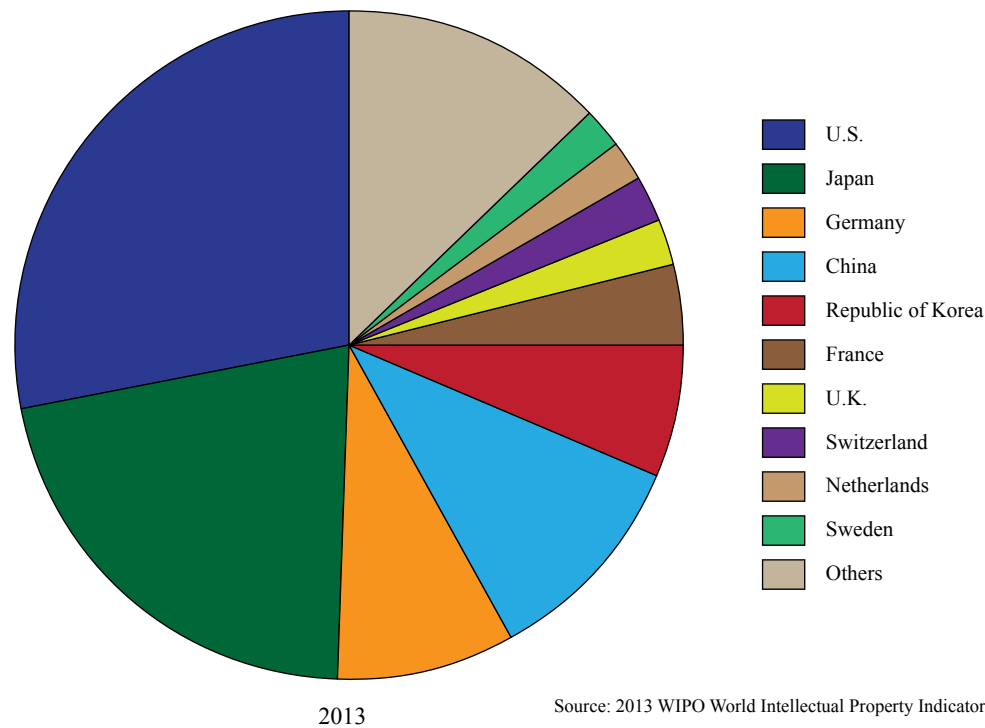




35) Countries with Most PCT Filings (2013)



36) Country Share of PCT Filings (2013)



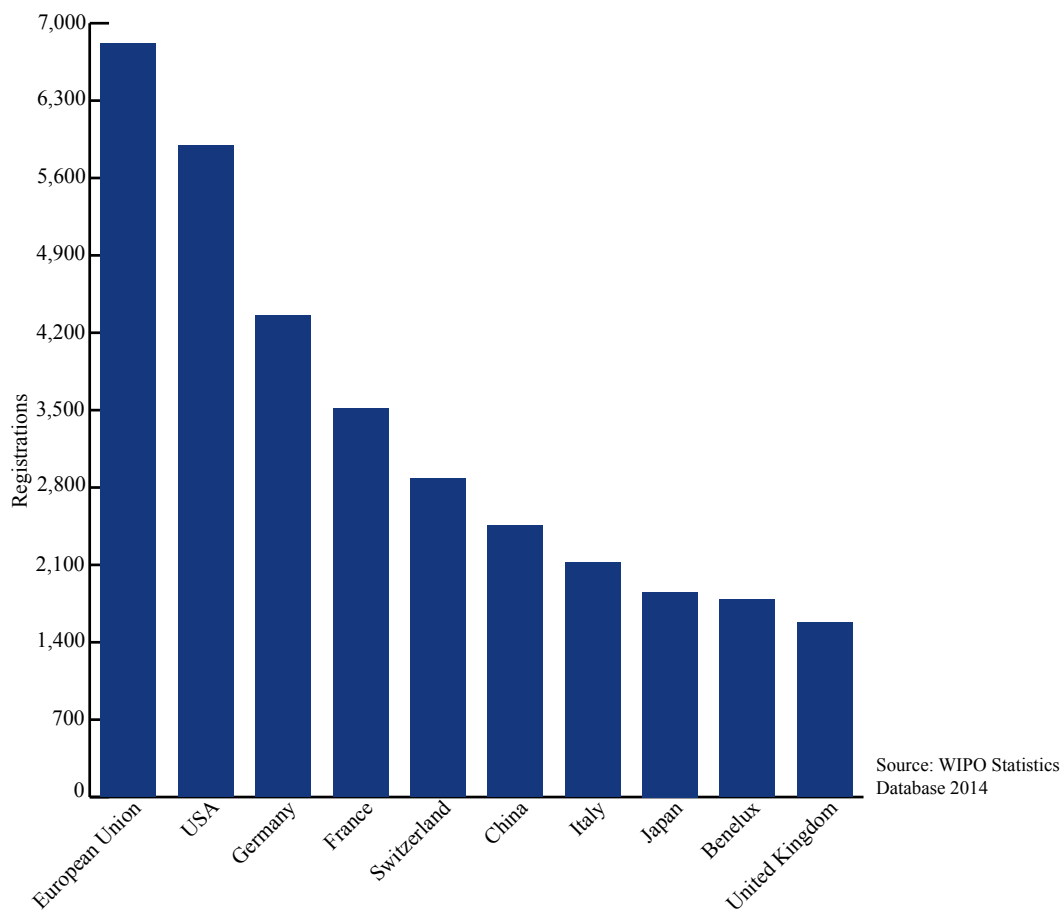
## International Data

## 37) Top PCT Applicants (2013)

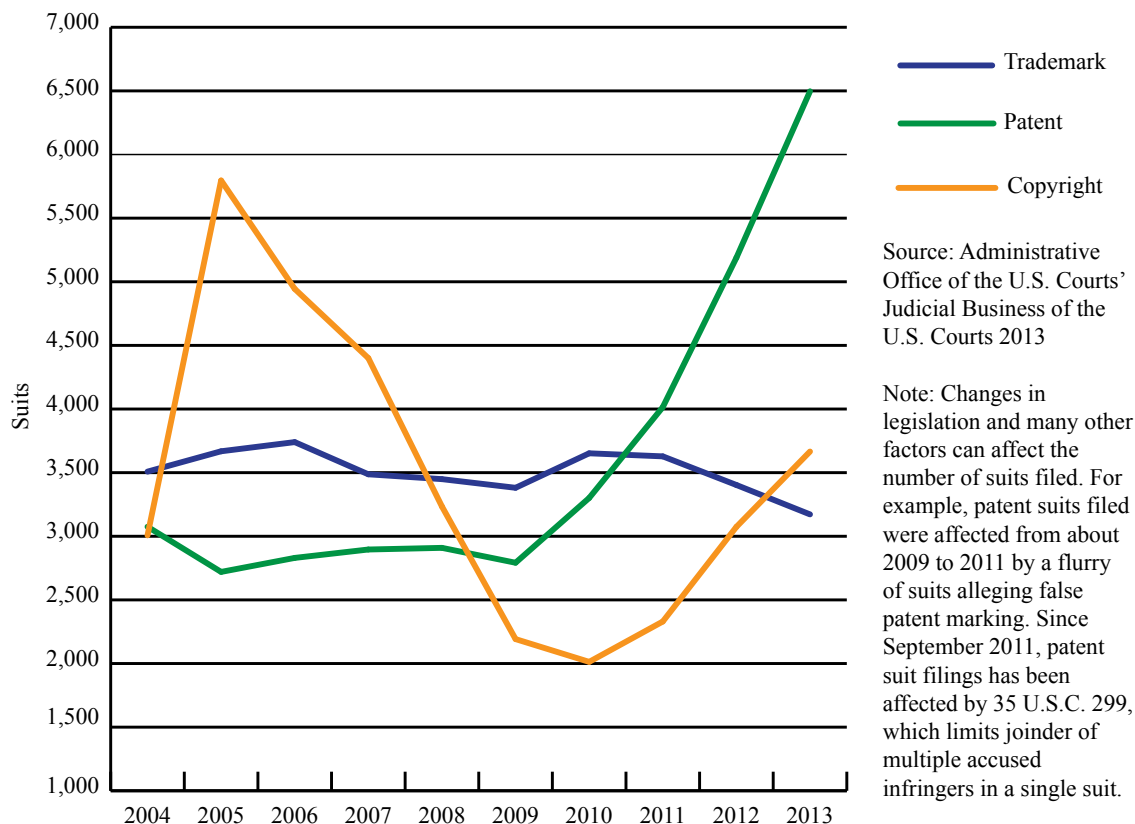
Rank	Company	Applications			
1	Panasonic Corp.	2,839	26	Fujitsu Limited	637
2	ZTE Corp.	2,309	27	Google, Inc.	629
3	Huawei Technologies Co., Ltd.	2,110	28	3M Innovative Properties Co.	605
4	Qualcomm Inc.	2,050	29	Apple Computer, Inc.	585
5	Intel Corp.	1,871	30	Alcatel Lucent	540
6	Sharp Kabushiki Kaisha	1,839	31	Canon Kabushiki Kaisha	530
7	Robert Bosch Corp.	1,809	32	General Electric Co.	518
8	Toyota Jidosha Kabushiki Kaisha	1,698	33	Murata Manufacturing Co., Ltd.	513
9	Telefonaktiebolaget LM Ericsson	1,468	34	Konica Minolta, Inc.	467
10	Koninklijke Philips Electronics N.V.	1,423	35	Halliburton Energy Services, Inc.	453
11	Siemens AG	1,348	36	LG Chem, Ltd.	449
12	Mitsubishi Electric Corp.	1,313	37	Kabushiki Kaisha Toshiba	444
13	Samsung Electronics Co., Ltd.	1,198	38	Mitsubishi Heavy Industries, Ltd.	443
14	NEC Corp.	1,189	39	Kyocera Corp.	424
15	LG Electronics Inc.	1,178	40	Commissariat a L'Energie Atomique et aux Energies Alternatives	419
16	Fujifilm Corp.	1,003	41	Nokia Siemens Networks OY	412
17	Shenzhen China Star Optoelectronics Tech	916	42	Dow Global Technologies	401
18	Sony Corp.	916	43	University of California	398
19	Hitachi, Ltd.	855	44	E.I. Dupont de Nemours and Co.	395
20	Microsoft Corp.	808	45	Pioneer Corp.	383
21	Nokia Corp.	806	46	Baker Hughes Inc.	381
22	Hewlett-Packard Development Co.	774	47	Sumitomo Chemical Co., Ltd.	376
23	BASF SE	698	48	Procter & Gamble Co.	375
24	IBM Corp.	690	49	Sanyo Electric Co., Ltd.	374
25	Nissan Motor Co., Ltd.	644	50	United Technologies Corp.	370

Source: WIPO Statistics Database, March 2013

## 38) Countries with Most Madrid System Applications (2013)



## 39) Patent, Trademark, and Copyright Suits Filed in U.S. District Courts, by Year



## 40) U.S. District Court Statistics (2013)

U.S. District Courts with Most Patent Suits

Rank	District	Suits Filed
1	Delaware	1,492
2	Texas E.	1,386
3	California, C.	505
4	California, N.	260
5	Virginia, E.	223
6	Illinois, N.	217
7	Florida, S.	211
8	California, S.	199
9	New Jersey	150
10	New York, S.	141
11	Massachusetts	126
12	Michigan, E.	84
13	Texas, N.	76
14	Utah	76

U.S. District Courts with Most Trademark Suits

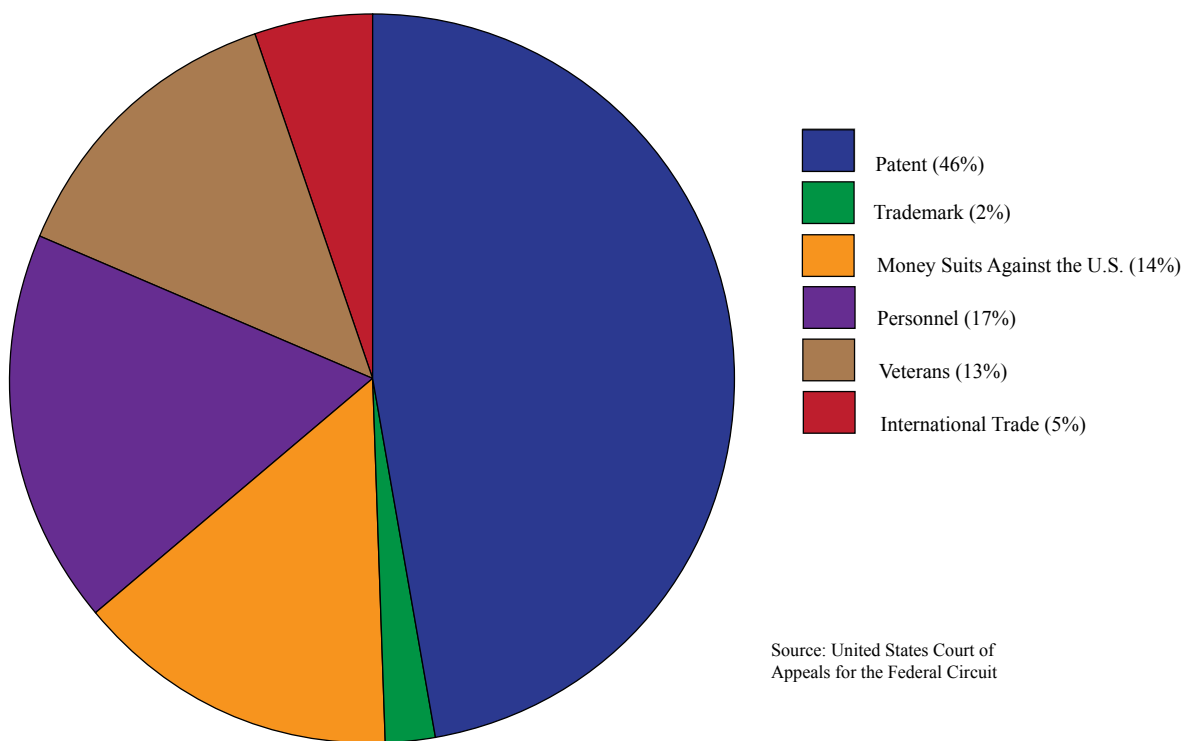
Rank	District	Suits Filed
1	California, C.	507
2	New York, S.	217
3	Florida, S.	210
4	Illinois, N.	209
5	New Jersey	126
6	California, N.	114
7	Florida, M.	111
8	Arizona	81
9	Virginia, E.	80
10	New York, E.	80
11	Michigan, E.	70
12	California, S.	69
13	Georgia, N.	68
14	Massachusetts	65

U.S. District Courts with Most Copyright Suits

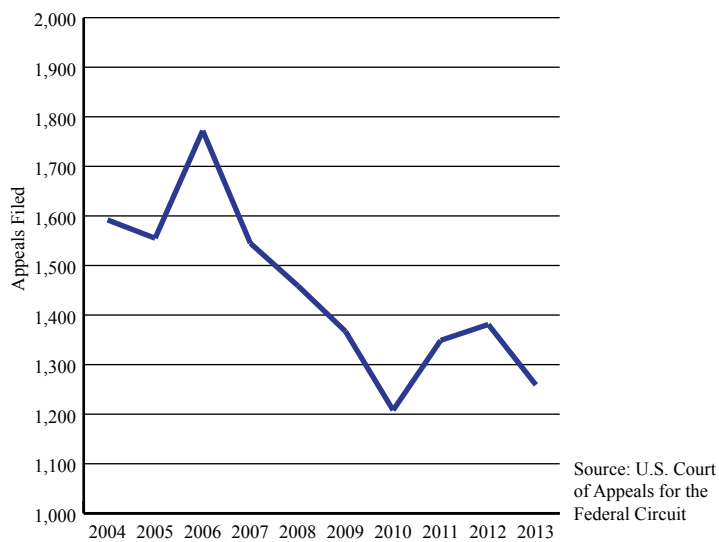
Rank	District	Suits Filed
1	California, C.	541
2	Illinois, N.	321
3	Colorado	233
4	New York, S.	229
5	Florida, M.	170
6	Michigan, E.	158
7	Pennsylvania, E.	120
8	Georgia, N.	93
9	Ohio, S.	87
10	Washington, W.	85
11	New Jersey	84
12	California, N.	84
13	Maryland	68
14	Florida, S./Virginia, E.	67

Source: Administrative Office of the U.S. Courts' Judicial Business of the U.S. Courts 2013

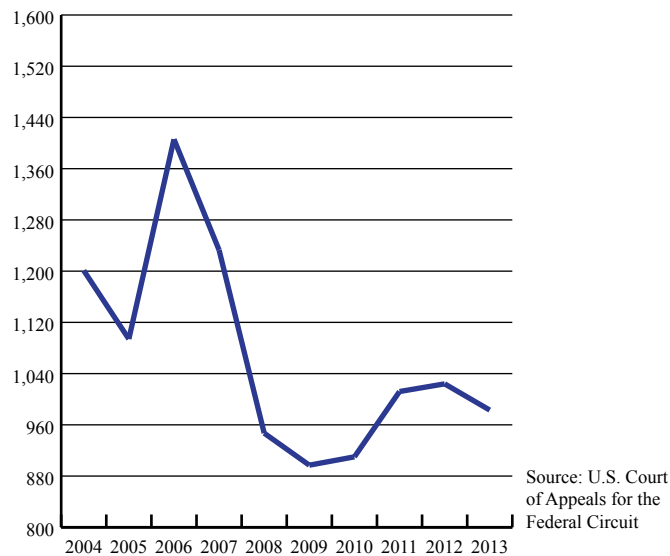
## 41) Federal Circuit Appeals Filed, by Category (FY 2013)



## 42) Federal Circuit Overall Caseload, by Year

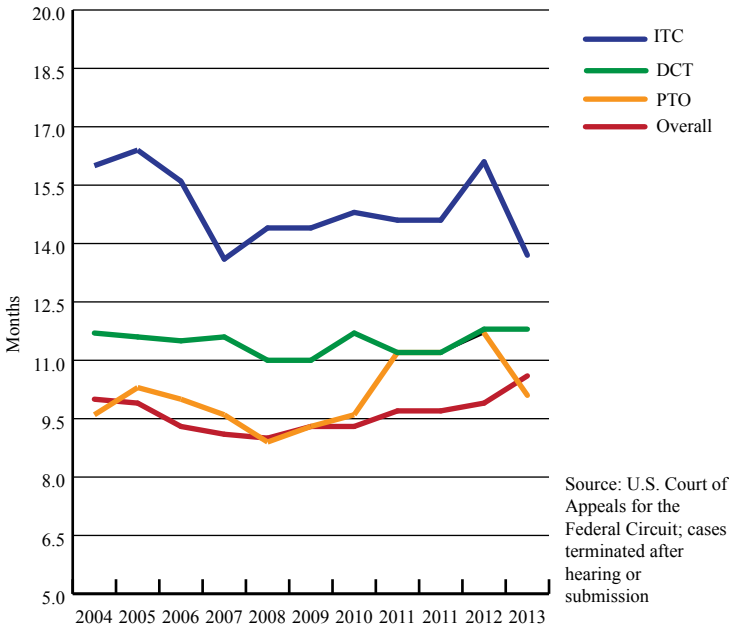


## 43) Federal Circuit Backlog, by Year

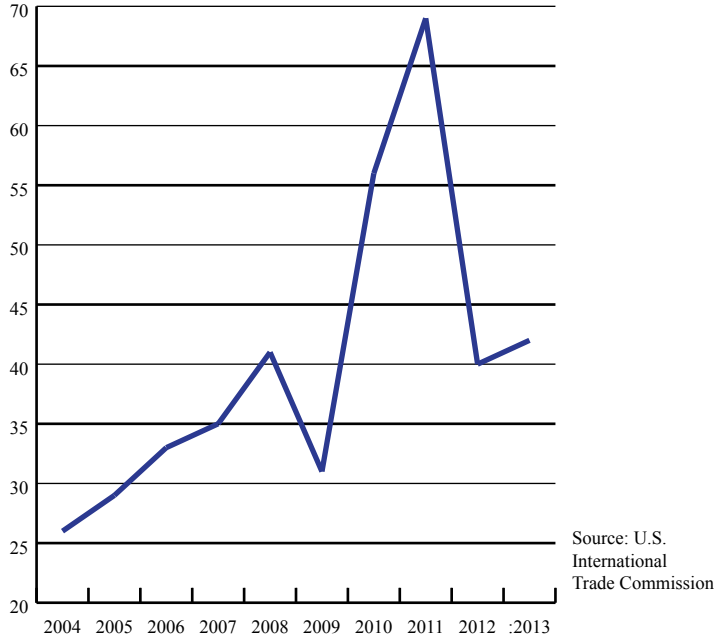




44) Federal Circuit Median Time to Disposition of Appeals



45) Number of Section 337 Investigations



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### [Petrella v. Metro-Goldwyn-Mayer, Inc. 12-1315](#)

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**U.S. SUPREME COURT HOLDS LACHES DOES NOT BAR COPYRIGHT INFRINGEMENT SUITS FOR DAMAGES** — *May 19, 2014* — In an opinion by Justice GINSBURG, the U.S. Supreme Court overruled a decision of the Ninth Circuit Court of Appeals that Petrella's copyright infringement suit was barred by the defense of prejudicial and unreasonable delay ("laches"). In 1991 Petrella renewed the copyright to the screenplay for the film "Raging Bull." She began corresponding intermittently with MGM to contest its continued exploitation of the film, but did not file her copyright infringement suit until 2009. Both the district court and the Ninth Circuit found that laches completely barred any recovery, though the three-year statute of limitations under Copyright Act section 507(b) barred recovery only for acts prior to 2006.

The Supreme Court held laches could not bar a copyright infringement suit for damages brought within the statute of limitations. "Inviting individual judges to set a time limit other than the one Congress prescribed . . . would tug against the uniformity Congress sought to achieve when it enacted §507(b)." In extraordinary circumstances, however, laches could curtail certain equitable relief. Justice BREYER, joined by Chief Justice ROBERTS and Justice KENNEDY, filed a dissenting opinion.

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### [Oracle America, Inc v. Google Inc. 13-1021](#)

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**ORACLE'S JAVA-BASED SOFTWARE APPLICATION PROGRAMMING INTERFACES ENTITLED TO COPYRIGHT PROTECTION** — *May 12, 2014* — In an opinion by Judge O'MALLEY, the Federal Circuit overruled a district court decision that Oracle's software was not eligible for copyright protection. The subject matter at issue involved packages of computer source code known as application programming interfaces (APIs) written in the JAVA programming language. Oracle sued Google for patent and copyright infringement of 37 of these APIs. Only the copyright claims were on appeal. The district court decided that although the overall structure was creative and original, Copyright Act section 102(b) prohibited protection for the APIs as functional methods of operation.

The Federal Circuit held the structure, sequence, and organization of the APIs were entitled to copyright protection. Section 102(b) did not automatically prohibit copyright protection for functional elements of a computer program. Rather this section was intended to codify the "idea/expression dichotomy" and to clarify that copyright protected a programmer's particular expression. "The [district] court also erred by importing fair use principles, including interoperability concerns, into its copyrightability analysis." The case was remanded for further consideration of Google's fair use arguments.

\* From 06/13-05/14

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Highmark Inc. v. Allcare Management Systems, Inc. 12-1163

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**U.S. SUPREME COURT HOLDS ABUSE OF DISCRETION PROPER STANDARD FOR REVIEWING EXCEPTIONAL CASE FINDINGS FOR FEE SHIFTING** — April 29, 2014

— In an opinion by Justice SOTOMAYOR, the U.S. Supreme Court vacated a Federal Circuit *de novo* decision regarding an exceptional case finding under Patent Act section 285, which covers attorney fee shifting to prevailing parties. Allcare's patent claimed a method for managing health care, including steps of entering data regarding predetermined treatments and preventing payment for treatment until authorized by an insurer. The district court found the case exceptional and awarded attorney's fees to Highmark. The Federal Circuit reviewed that finding *de novo*, and overruled it in part.

The Supreme Court held abuse of discretion, not *de novo*, was the proper standard of review for all aspects of a district court's exceptional case determination. Although questions of law could be relevant in some cases to the inquiry under section 285, that inquiry was "rooted in factual determinations." The holding in *Octane* dictated this outcome. "Because [section] 285 commits the determination whether a case is 'exceptional' to the discretion of the district court, that decision is to be reviewed on appeal for abuse of discretion."

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Octane Fitness v. ICON Health and Fitness 12-1184

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**U.S. SUPREME COURT DECIDES FEDERAL CIRCUIT'S TWO-PART TEST FOR EXCEPTIONAL PATENT CASE FOR ATTORNEY FEE SHIFTING "TOO RIGID"** — April 29, 2014

— In an opinion by Justice SOTOMAYOR, the U.S. Supreme Court overruled a Federal Circuit decision that the case was not exceptional under Patent Act Section 285, which covers attorney fee shifting to prevailing parties. ICON claimed an elliptical exercise machine. The district court granted summary judgment of no infringement, but denied Octane's motion for attorney's fees. The Federal Circuit upheld the denial of attorney's fees because ICON's suit was neither objectively baseless nor brought in subjective bad faith.

clear." The plain and ordinary meaning of exceptional meant a case "that stands out from others with respect to the substantive strength of a party's litigation position (considering both the governing law and the facts of the case) or the unreasonable manner in which the case was litigated." The determination whether to find a case exceptional was within the district court's discretion, on a case-by-case basis, considering the totality of the circumstances. The Supreme Court also rejected the Federal Circuit's requirement that parties establish their entitlement to attorney fees by "clear and convincing evidence." "... patent -infringement litigation has always been governed by a preponderance of the evidence standard . . . ."

The Supreme Court held the two-part test was "overly rigid." The statutory text was "patently



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### Gilead Sciences, Inc. v. Natco Pharma Ltd. 13-1418

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**LATER ISSUED, EARLIER EXPIRING PATENT QUALIFIED AS OBVIOUSNESS-TYPE DOUBLE PATENTING REFERENCE**

— *April 23, 2014* — In an opinion by Judge CHEN, a split Federal Circuit vacated a district court decision that Gilead's '483 patent was not invalid. Gilead's patents claimed antiviral compounds and methods. Natco argued the '483 patent was invalid for obviousness-type double patenting over Gilead's '375 patent, which listed the same inventors and included a similar written description to the '483 patent, but claimed different priority. The district court decided the '375 patent could not serve as a double patenting reference because it issued after the '483 patent.

The Federal Circuit held Gilead's expiration dates controlled. Gilead's later issued, earlier-expiring patent qualified as an obviousness-type double patenting reference. A terminal disclaimer

could "preserve the validity of the later-expiring patent by aligning its expiration date with that of the earlier-expiring patent." This would "most effectively enforce the fundamental right of the public to use the invention claimed in the earlier-expiring patent and all obvious modifications of it after that patent's term expires." Chief Judge RADER, dissenting, argued for "a more restrained approach."

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### Lexmark Int'l Inc. v. Static Control Components, Inc. 12-873

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**FALSE ADVERTISING CLAIM UNDER LANHAM ACT REQUIRES ALLEGATION OF COMMERCIAL INJURY PROXIMATELY CAUSED BY DEFENDANT'S MISREPRESENTATION**

— *March 26, 2014* — In an opinion by Justice SCALIA, the U.S. Supreme Court upheld a Sixth Circuit decision that Static had standing to maintain its false advertising claim. Lexmark sold toner cartridges for Lexmark brand laser printers that included a microchip for disabling unauthorized cartridge reuse. Static developed a microchip that permitted Lexmark cartridges to be refurbished and resold without going through Lexmark.

Lexmark sued Static for copyright violations and

Static sued Lexmark for false advertising under the Lanham Act. Static alleged that Lexmark materially misrepresented its own products and Static's by stating it was illegal to sell refurbished cartridges and to use Static's microchip.

The Supreme Court held Static "alleged an adequate basis to proceed" under the Lanham Act. Static's alleged injuries, including lost sales and reputational damage, were "injuries to precisely the sorts of commercial interests the Act protects." Static also sufficiently alleged its injuries were proximately caused by Lexmark's misrepresentations.

## Lighting Ballast Control LLC v. Philips Electronics North America Corp. 12-1014

**EN BANC FEDERAL CIRCUIT DECLINES TO CHANGE DE NOVO STANDARD FOR REVIEWING PATENT CLAIM CONSTRUCTION** — February 24, 2014 — In an opinion by Judge NEWMAN, the Federal Circuit sitting *en banc* declined by vote of 6 to 4 to modify or overrule the patent claim construction standard set forth in *Cybor Corp. v. FAS Technologies, Inc.* (Fed. Cir. 1998). Under *Cybor*, claim construction was a matter of law that received *de novo* review on appeal without any deference to a district court's ruling.

The majority held the criteria for departing from *stare decisis* and changing existing claim construction methodology or abandoning *de novo* review had not been met. There was no intervening U.S. Supreme Court or Federal Circuit precedent that undermined *Cybor*'s reasoning. There was no legislation addressing claim construction,

"despite extensive patent-related legislative activity during the entire [15-year] period of *Cybor*'s existence." There was no "pattern of error" or "indictment of inferior results." Proponents of overruling *Cybor* failed to show that it was unworkable or that increased deference to the district court would produce any greater public or private benefit. No one proposed a workable fact-law delineation or alternative standard.

Judge LOURIE filed a concurring opinion with additional reasons for retaining *Cybor*, including that the Supreme Court has held claim construction is a question for the court, not the jury. Judge O'MALLEY, joined by three other judges dissented. O'Malley disagreed that the principles of *stare decisis* justified retaining *Cybor* and argued that Federal Rule of Civil Procedure 52(a)(6) dictated the appropriate standard of review.

## Kilopass Technology, Inc. v. Sidense Corp. 13-1193 (cont.)

**CHIEF JUDGE RADER CONCURRING ARGUES FOR TOTALITY OF CIRCUMSTANCES APPROACH IN AWARDING ATTORNEYS' FEES UNDER PATENT ACT SECTION 285** — December 30, 2013 — The Federal Circuit majority held that the alleged infringer was not required to prove that the patent owner had actual knowledge that the suit was objectively baseless for an award of attorneys' fees under section 285 of the Patent Act. Chief Judge RADER argued in a concurring opinion that district courts should shift fees "when, based on the totality of the circumstances, it is necessary to prevent a gross injustice." Such an approach would include implicit analysis of subjective bad faith and objective baselessness without mandating that courts parse through each as an independent requirement. Rader argued this approach conformed with legislative intent, U.S. Supreme

Court precedent, and application of identical fee shifting language in the Lanham Act. Rader also endorsed the alleged infringer's proposal "that objective baselessness alone should be sufficient for an award of attorneys' fees, and that proof by a preponderance of the evidence should suffice." On February 26, the U.S. Supreme Court will hear *Highmark Inc. v. Allcare Management Systems, Inc.*, and *Octane Fitness v. Icon Health and Fitness*. The question in *Highmark* is whether a district court's exceptional-case finding under section 285 is entitled to deference. *Octane* asks whether the exclusive two-part test for determining whether a case is exceptional under section 285 improperly appropriates a district court's discretionary authority to award attorney fees to prevailing accused infringers.

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### Kilopass Technology, Inc. v. Sidense Corp. 13-1193

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**AWARD OF ATTORNEYS' FEES UNDER PATENT ACT SECTION 285 DID NOT REQUIRE PROOF OF ACTUAL KNOWLEDGE OF OBJECTIVE BASELESSNESS**

— December 27, 2013 — In an opinion by Judge O'MALLEY, the Federal Circuit vacated a district court's denial of attorneys' fees and remanded the case. Kilopass's patents claimed programmable memory cells. Following summary judgment of no infringement, Sidense moved for an award of attorneys' fees under Patent Act section 285. The district court found Sidense failed to prove that Kilopass brought or maintained the suit in subjective bad faith. The district court reasoned the suit was not baseless because "Kilopass performed substantial pre-filing investigation

and ... obtain[ed] opinions from two different law firms," although Kilopass "ignored 'numerous differences' between the patent claims and Sidense's accused products." The Federal Circuit held Sidense was not required to prove that Kilopass had actual knowledge that the suit was objectively baseless. Subjective bad faith could be proved if objective baselessness was "so obvious that it should have been known," or inferred if Kilopass was "manifestly unreasonable in assessing infringement, while continuing to assert infringement in court." Chief Judge RADER filed a concurring opinion.

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### Fresenius, USA, Inc. v. Baxter Int'l, Inc. 12-1334

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**TESTING BY GENERIC FIRM AFTER FDA APPROVAL FELL WITHIN PATENT ACT'S SAFE HARBOR**

— November 7, 2013 — A divided Federal Circuit denied a petition for *en banc* rehearing of an appeal from a district court's patent infringement judgment against Fresenius. The claims were for methods and apparatus for kidney dialysis. A first Federal Circuit panel upheld a district court finding that the claims were infringed and not invalid and remanded the case for reconsideration of injunctive relief and post-judgment damages. While the remand was pending, a second Federal Circuit panel upheld a USPTO decision canceling the claims upon reexamination. The Federal Circuit held that the infringement suit was not "sufficiently final" to preclude application of the intervening cancellation. The cancellation extinguished the underlying basis for the infringement suit.

Dissenting, Judge O'MALLEY, joined by Chief Judge RADER and Judge WALLACH, argued that although USPTO actions can affect prospective patent rights, such actions "cannot, and should not be permitted" to eradicate past infringement judgments. O'Malley said this could render district court decisions "meaningless in the resolution of patent infringement disputes." In the second dissenting opinion, Judge NEWMAN argued that an executive branch agency should not be able to override judgments of Article III courts. Newman said the panel opinion created instability and an "unconstrained free-for-all" that replaced "innovation incentive with litigation cost" and facilitated gaming of the system. Judge DYK, joined by Judge PROST, filed a concurring opinion.

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Ibormeith IP, LLC v. Mercedes-Benz USA, LLC 13-1007

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**LISTS OF INPUTS AND RAW INFORMATION DISCLOSED INSUFFICIENT STRUCTURE FOR MEANS-PLUS-FUNCTION PATENT CLAIM** — *October 23, 2013*

— In an opinion by Judge TARANTO, the Federal Circuit upheld a district court summary judgment that Ibormeith's claims were indefinite. The claims were for a vehicle monitor that sensed driver sleepiness and included a limitation to a "computational means" for weighing factors such as time of day, circadian rhythms, and steering transitions. Mercedes argued the claims were indefinite because the specification failed to disclose structure for performing the underlying

function of this means-plus-function limitation. Ibormeith said the required structure was embodied in an algorithm disclosed in the specification in two figures and a table. The Federal Circuit held the alleged algorithm failed to adequately define structure to make the bounds of the claims understandable. The table "merely list[ed] inputs without specifying any single formula or function." The figures depicted raw information and placed no limitations on how values were to be calculated or combined.

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Commil USA, LLC v. Cisco Systems, Inc. 12-1045

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**GOOD FAITH BELIEF OF PATENT INVALIDITY COULD NEGATE INTENT TO INDUCE INFRINGEMENT** — *June 25, 2013*

— In an opinion by Judge PROST, a split Federal Circuit overturned a district court's finding of inducement to infringe. Commil's patent claimed a method for providing mobile phone base station "hand-offs" throughout a communications network. To rebut Commil's inducement allegation, Cisco sought to present evidence of its good faith belief that Commil's patent was invalid. The district court precluded Cisco's evidence. In a case of first impression, the Federal Circuit found there

was no "principled distinction" between a good faith belief of invalidity and a good faith belief of no infringement. A good faith belief of no infringement could show that an alleged "inducer" lacked the requisite specific intent to encourage another's infringement. In an opinion dissenting in part, Judge NEWMAN argued that good faith belief of invalidity applied only as a defense to willful infringement. Judge O'MALLEY disagreed with the majority on other issues.

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### Ultramercial, Inc. v. Hulu, LLC 10-1544

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**PROCESS FOR PROVIDING COPYRIGHTED WORKS OVER THE INTERNET FREE IN EXCHANGE FOR VIEWING ADVERTISING WAS PATENT-ELIGIBLE** —

*June 21, 2013* — In an opinion by Chief Judge RADER, the Federal Circuit held that a district court erred in dismissing Ultramercial's infringement suit for failing to claim patent-eligible subject matter. The Supreme Court had remanded the case in 2012 for consideration in light of its *Mayo Collaborative Services* opinion, after the Federal Circuit overturned an earlier dismissal by the district court. The claim was for a method of providing copyrighted works over the Internet for free in exchange for viewing advertising. The inquiry was whether the claim as a whole included "meaningful limitations restricting it

to an application, rather than merely an abstract idea." Ultramercial's claim was "not so manifestly abstract as to override the statutory language of section 101." It required "an extensive computer interface" and included "eleven separate and specific steps with many limitations and sub-steps." There was no risk of preempting all forms of advertising because there were myriad ways to accomplish the underlying abstract idea that would not infringe the claim. By requiring "a controlled interaction with a consumer over an Internet website," the claim was "far removed from purely mental steps." Judge LOURIE concurred in the result, but said the court should "concisely and faithfully follow" Supreme Court precedent rather than set out its own independent views.

### Federal Trade Commission v. Actavis, Inc. 12-416

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**U.S. SUPREME COURT HOLDS PAYMENTS BETWEEN BRAND-NAME DRUG MANUFACTURER AND GENERIC FIRM NOT PRESUMPTIVELY UNLAWFUL BUT SUBJECT TO ANTITRUST RULE OF REASON** —

*June 17, 2013* — In an opinion by Justice BREYER, a split U.S. Supreme Court overturned a decision of the 11th Circuit Court of Appeals dismissing the FTC's suit. Solvay Pharmaceuticals owned a patent for the brand-name drug AndroGel. Actavis sought FDA approval for a generic version of the drug and alleged that Solvay's patent was invalid and not infringed. Solvay sued Actavis for infringement. The parties settled after several years of litigation and entered into a "reverse payment agreement" in which Solvay paid Actavis to stay out of the

market and Actavis agreed not to challenge the patent. The FTC filed suit alleging the agreement violated antitrust law. The Supreme Court declined to hold reverse payments presumptively unlawful. They may be unlawful, however, under an antitrust "rule-of-reason" analysis that takes into account payment size, anticipated litigation costs, services rendered, and "lack of any other convincing justifications." Chief Justice ROBERTS, joined by Justices THOMAS and SCALIA, argued that a reverse payment agreement should be presumptively lawful unless the underlying patent litigation was a sham or the patent was obtained by fraud.



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Robert Bosch, LLC v. Pylon Mfg. Corp. 11-1363

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**FEDERAL CIRCUIT HAS JURISDICTION OVER PATENT INFRINGEMENT APPEAL WHEN DAMAGES AND WILLFULNESS REMAIN UNDECIDED** — June 14, 2013 —

In an opinion by Judge PROST, a sharply divided Federal Circuit sitting *en banc* held the court has jurisdiction over appeals from patent infringement decisions when damages and willfulness issues remain undecided. Bosch's patents claimed windshield wiper technology. The district court bifurcated infringement liability and damages and willfulness into separate trials and entered judgment only on liability. At issue was section 1292(c)(2) of Title 28 U.S. Code, which confers

Federal Circuit jurisdiction over judgments "final except for an accounting." The majority decided that according to the statute, including its history and policy, and well-settled precedent, a trial on damages and willfulness is an accounting. Judge O'MALLEY, joined by Judge WALLACH, filed a 34-page dissenting opinion arguing that the majority's interpretation of an accounting stretched the statute beyond congressional intent and reasonable bounds. Judges MOORE and REYNA both filed opinions concurring on damages, but dissenting on willfulness.

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Association for Molecular Pathology v. Myriad Genetics, Inc. 12-398

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**U.S. SUPREME COURT HOLDS ISOLATED DNA NOT PATENT-ELIGIBLE SUBJECT MATTER** — June 14, 2013 —

In an opinion by Justice THOMAS, the U.S. Supreme Court unanimously overturned a Federal Circuit decision that claims to isolated DNA sequences were patent-eligible subject matter. The unanimous court upheld patent subject matter eligibility, however, for cDNA claims. Myriad claimed isolated DNA and cDNA compositions related to the BRCA1 and BRCA2 genes. Certain alterations or mutations of those genes indicated a predisposition to breast and ovarian cancers. At issue was whether those compositions of matter were patent-ineligible natural phenomena. The

isolated DNA sequences were naturally occurring. Although Myriad discovered the location of the genes and isolated them from the surrounding genetic material, that was "not an act of invention." The location and order of the DNA sequences existed before Myriad discovered and isolated them. Myriad did not create or alter the genetic structure of the DNA or any of the genetic information encoded in the genes. Myriad created the cDNA, on the other hand, by removing regions called introns and leaving a non-naturally occurring exons-only molecule. Justice SCALIA filed a short concurring opinion saying he did not join in "portions of the . . . opinion going into fine details of molecular biology."

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## IPO Amicus Briefs Filed in 2013 - 2014\*

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### [Baxter International Inc. v. Fresenius USA, Inc., 13-1071 Brief Filed April 7, 2014](#)

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IPO supported U.S. Supreme Court review of the Federal Circuit's decision in *Baxter International Inc. v. Fresenius USA, Inc.* IPO said the Federal Circuit's interpretation of finality of a judgment in a patent case appeared to expand the authority of the USPTO to supersede the judgment of an Article III federal court. The Supreme Court's guidance is needed because of uncertainty that has resulted from the Federal Circuit's ruling. IPO said the question will arise again if the Supreme Court does not clarify the law.

A first Federal Circuit panel upheld a district court finding that the claims were infringed and not invalid and remanded the case for reconsideration of injunctive relief and post-judgment damages. While the remand was pending, a second Federal Circuit panel upheld a USPTO decision canceling the claims upon reexamination. The Federal Circuit held that the infringement suit was not "sufficiently final" to preclude application of the intervening cancellation. The cancellation extinguished the underlying basis for the infringement suit.

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### [Nautilus, Inc. v. Biosig Instruments, Inc., 13-369, Brief Filed March 3, 2014](#)

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IPO filed a brief urging the U.S. Supreme Court to discard the Federal Circuit's current "insolubly ambiguous" standard for indefiniteness of patent claims. IPO urged a "reasonable clarity" standard that would require the claims to be reasonably understandable to a person having ordinary skill in the art in light of the specification and prosecution history. The new standard would limit patentable claims to those giving the public reasonable notice of the scope of the protected subject matter.

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### [Limelight Networks, Inc. v. Akamai Technologies, Inc., et al., 12-786 Brief Filed March 3, 2014](#)

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IPO filed a brief urging the U.S. Supreme Court to adopt a practical "single entity" rule for joint infringement, under which direct infringement can be found where one party "directs or controls" the actions of another. The rule is needed for the situation in which the actions of two or more actors must be combined to establish that all of the steps of a method claim were in fact performed. IPO said the direction or control test has sufficient flexibility to protect the patent owner from subversion of rights through cleverly designed schemes to avoid infringement. A single entity must be liable for direct infringement in situations where multiple entities perform acts that collectively perform the steps of a method claim. IPO said the Federal Circuit erred in its 2012 decision in *Akamai II* by relieving the patent owner of the need to prove direct infringement as a prerequisite to establishing indirect infringement.

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### [Alice Corp. Pte. Ltd. v. CLS Bank International, 13-298, Brief Filed January 29, 2014](#)

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IPO's brief in the U.S. Supreme Court said computer-implemented inventions, properly claimed, are patent-eligible subject matter under the Supreme Court's precedents dating back to the 19th century. A claim for a computer-implemented invention involving an abstract idea is patent eligible if it describes a specific, practical application of the idea. IPO's brief stressed that computer-implemented inventions are pervasive and essential in the modern economy, and urged caution against upsetting decades of settled expectations regarding their legal protection via patent rights.

\* Through June 2014

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### Highmark Inc. v. Allcare Health Management System, Inc., 12-1163 Brief Filed on January 25, 2014

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IPO's brief in the U.S. Supreme Court argued that whether a patent infringement claim is "objectively reasonable" presents a question of law that warrants *de novo* review. The issue in the courts below was whether Allcare's patent infringement claims were frivolous.

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### Octane Fitness, LLC v. Icon Health & Fitness, Inc., Brief Filed December 9, 2013

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IPO filed a brief in the U. S. Supreme Court urging an interpretation of Patent Act section 285 that would allow courts to grant more attorney fee awards to prevailing parties in patent suits. IPO said that in the context of positions taken by parties in litigation, whether a case is "exceptional" under section 285 should turn only on whether the position taken by the non-prevailing party was objectively reasonable and not on any subjective intent. The IPO Board of Directors approved filing the brief.

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### Medtronic, Inc. v. Boston Scientific Corp., et al, Brief Filed September 23, 2013

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The Federal Circuit ruled on September 18, 2012 that the declaratory judgment plaintiff, a licensee that was seeking a declaration of no patent infringement, had the burden of proving no infringement, in the limited circumstance in which the license prohibited the licensor from pursuing infringement counter-claims. IPO's brief argued that the Federal Circuit was correct. It followed the well-settled rule that the party seeking relief bears the burden of persuasion.

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### Fresenius USA, Inc. v. Baxter International, Inc., 2012-1334, -1335 Brief Filed August 15, 2013

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IPO supported a petition for rehearing *en banc*. IPO expressed no position on the correctness of the decision, but argued that an *en banc* rehearing will help secure or maintain uniformity of the court's decisions, and that the case involves questions of exceptional importance. The panel vacated a district court's infringement judgment against Fresenius after the USPTO had cancelled the claims in a reexamination proceeding and the Federal Circuit had upheld the cancellation. The district court case was on remand to reconsider an injunction and damages. The panel held that the USPTO cancellation removed the basis for the infringement suit. IPO said (1) the increasing number of reexaminations creates a high likelihood of conflicting USPTO and district court validity judgments, (2) the Federal Circuit appears to have reached conflicting conclusions in two Fresenius cases, and (3) the panel decision may raise serious constitutional questions.

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### Lighting Ballast Control LLC v. Philips Electronics North America Corp. and Universal Lighting Technologies, Inc., 12-1014. -1015 – Brief Filed June 26, 2013

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The Federal Circuit posed three questions when it ordered an *en banc* rehearing in the case: "a) Should this court overrule *Cybor Corp. v. FAS Technologies, Inc.* . . . ? b) Should this court afford deference to any aspect of a district court's claim construction? c) If so, which aspects should be afforded deference?" IPO took the position that *Cybor* should be overruled in part. Issues of patent claim construction based on the intrinsic record should continue to be reviewed *de novo*. However, underlying factual determinations by the district court based on extrinsic evidence, such as expert testimony, should be afforded deference and reviewed for "clear error" by the Federal Circuit.

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