

September 2, 2014



Utility Patent Trends Gleaned from the IPO's 2014 IP Record

By Mark W. Rygiel

The Intellectual Property Owners' Association (IPO) recently released its [2014 IP Record](#), an annual report detailing intellectual property trends in the United States and the top five patent offices from around the world. The report, now in its seventh year, draws on sources including the [USPTO Performance and Accountability Report FY 2013](#), [U.S. District Courts Annual Report 2013](#), [WIPO 2013 World Intellectual Property Indicators](#), the U.S. International Trade Commission (ITC), and international patent offices. Using these sources, the report provides a broad overview of the global patent landscape and makes it possible to understand and analyze trends in patent prosecution and litigation.

Top Patent Holders

Annually, the IPO compiles a list of the year's top utility patent owners and tracks year-to-year growth or decline in patent filings. In a recurring trend IBM held onto its #1 ranking. The computing giant secured 6,788 patents in 2013, a 5% increase relative to 2012. Samsung returned as the second-highest ranking company, obtaining 4,652 patents in 2013. Despite maintaining its ranking, the Korean company underwent a nearly 8% decline over 2012, registering 391 fewer patents this fiscal year. Canon grabbed the third spot having registered 3,918 patents, an 18.5% increase since 2012. Dropping down one position into fourth, Sony saw its patent registration decrease by 8.1% after attaining 3,316 patents in 2013. The top ten grantees list was completed by LG (3,117 patents), Microsoft (2,814), Toshiba (2,679), Panasonic (2,649), Hitachi (2,399), and Google (2,190). Google, the only company to break into the top 10 in 2013, did so from the #23 spot in 2012. The company obtained 2,190 patents – 1,039 more than in 2013 – an increase of more than 90%.

The most noticeable trend revealed by this year's IP Record is that more companies are securing more patents. In 2012, 34 companies obtained in excess of one thousand patents. In 2013, 36 companies realized this milestone. Many of the top 25 patent owners of 2013 made noteworthy increases in patent registration volume to secure their space in the upper echelons of this year's rankings. This year's notables are Micron Technology, a semiconductor technology company, which registered 1,280 patents, moving from #39 in 2012 to #23 in 2013; and Samsung Display Co., a subsidiary of Samsung, which made a 431% increase in patent registration by securing 1,259 patents in 2013.

In 2013 ten of the top 25 companies experienced a decrease in patent grants, a sharp increase in comparison to last year when 4 companies declined. Furthermore, only 29 of the companies in the top 50 saw increases in their year-to-year patent grant figures. The fluctuations allowed 5 new companies to join the ranks of the top patent recipients. The newcomers include Samsung Display Co., The Taiwan Semiconductor Manufacturing Co., The Electronics and Telecommunications Research Institute, Covidien, and Boeing. The arrival of new entities displaced Fuji Xerox Co., Mitsubishi, Denso, Texas Instruments, and United Technologies.

The USPTO

Patent applications for utility patents at the U.S. Patent & Trademark Office (USPTO) have been on the rise since 2009. 2013 marks yet another all-time high of 571,612 utility patent applications and 277,835 patent grants.

With the passage of the America Invents Act and the introduction of new methods to challenge patentability, the USPTO aimed to improve the existing patent system. Since the AIA's enactment in 2011, both patent pendency time and time till first office action across all patent applications have decreased. This year patent pendency times fell to 29.1 months, from 32.4 months in 2012.

The average number of months prior to first office action decreased from 21.9 months to 18.2 months. Time till first office action has improved 35% since the AIA's enactment. Despite decreases in patent pendency time and time till first office action, the total backlog of applications has increased. Since 2009, there has been an increase in requests for continued examination, which has been accompanied by an increasingly large backlog. Recent reporting has calculated the backlog to be in excess of 121,000 pending requests.

The decline of *ex parte* requests for reexamination of utility patents from 2010 onward suggests that patent holders and petitioners are increasingly turning towards new contested proceedings implemented under the AIA. The report notes that since 2011 *inter partes* review (IPR) and covered business method (CBM) review requests continue to increase.

District Courts and the Federal Circuit

At the end of FY 2013 6,497 patent lawsuits had been filed in the U.S. District Courts, a 1,308 increase from the previous year and a more than 60% increase since the enactment of the AIA in 2011. Additionally, 6399 patent lawsuits are currently pending. At the U.S. Court of Appeals for the Federal Circuit 46% of cases in FY 2013 were patent lawsuits (2% were trademark). The Federal Circuit saw a slight year-to-year increase in patent infringement cases with 487 in 2013, compared to 471 in 2012. By the end of the fiscal year, 118 patent infringement cases originating at the USPTO were still pending.

In a recurring trend since 2011, median times to disposition of appeals continue to increase for suits originating across all venues including the USPTO, U.S. District Courts, and the ITC. At the ITC, the number of Section 337 investigations increased slightly in 2013 from 40 to 42.

Worldwide

While the USPTO, Korean Patent Office (KPO), and European Patent Office (EPO) saw modest yearly gains in application filings, the Chinese Patent Office (SIPO) saw a significant 119,484 increase between 2011 and 2012. Unlike its foreign counterparts, the Japanese Patent Office (JPO) saw a modest 567 patent filing decline from 2011 to 2012. The JPO has experienced a yearly pattern of decline in patent applications since the early 2000s.

About the Author

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