



Report in Brief

March 13, 2019

Background

In August 2009, the Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office (USPTO) instructed the agency's Chief Information Officer (CIO) to start separating the Trademark information technology (IT) infrastructure from the rest of the USPTO IT infrastructure. To accomplish this task, the CIO was directed to begin planning, creating, and implementing an integrated IT system that would function as a cloud-based system and allow for end-to-end electronic processing of trademark applications and trademark registration maintenance and renewals. The proposed system—now referred to as *Trademark Next Generation* (TMNG)—is intended to replace USPTO's current trademark IT infrastructure.

Since its inception, TMNG has experienced significant cost overruns and delays. The initial TMNG investment's cost was estimated at \$30.3 million, with completion planned for fiscal year (FY) 2014. However, the investment's obligations were \$68 million at its conclusion in FY 2015, and the investment did not deliver all of the planned results. Consequently, USPTO pushed the investment's scope to a follow-on investment (TMNG-2).

Why We Did This Review

Our audit objective was to determine whether USPTO provided effective oversight of TMNG implementation.

U.S. PATENT AND TRADEMARK OFFICE

USPTO Needs to Improve Management over the Implementation of the Trademark Next Generation System

OIG-19-012-A

WHAT WE FOUND

We found that USPTO did not provide effective oversight of TMNG implementation. Specifically, we found that (1) USPTO investment board members did not exercise adequate oversight to correct or terminate underperforming TMNG investments; (2) weaknesses exist in the Capital Planning and Investment Control (CPIC) process; and (3) USPTO provided ineffective project management and oversight for the TMNG examination tool.

TMNG has experienced significant cost growth and schedule delays. The concept for TMNG was in response to the need to replace decades-old systems. In 2011, USPTO initially estimated the TMNG investment to cost approximately \$30.3 million, with completion planned for FY 2014. However, July 2017 estimates for TMNG placed the final cost at \$260.7 million, with completion planned for 2021—more than eight times the initial estimated cost and 7 years later than originally planned. TMNG's escalating costs and schedule delays are, in part, the result of inadequate oversight, planning, and a flawed process to correct deficiencies. Consequently, the development of TMNG has been divided into four separate investments, overlapping from fiscal year to fiscal year.

Programs that do not receive adequate oversight are at risk of wasting money, missing milestones, and not achieving performance requirements. Further, USPTO continues to spend funds to operate and maintain legacy IT systems that support its business operations. For example, USPTO has already spent approximately \$38.6 million in operating and maintaining trademark legacy systems from FY 2011 through FY 2017, while concurrently spending \$166.5 million as of March 2018 attempting to develop TMNG.

WHAT WE RECOMMEND

We recommend that the Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office do the following:

1. Ensure the CPIC Review Board (CRB) adheres to the requirements in the CPIC policies and procedures. Specifically, if an investment is identified by the CRB as not meeting expectations as it pertains to schedule, budget, or other factors, ensure that the CRB alerts the IT Investment Review Board with recommendations for appropriate action.
2. Update IT CPIC policies and procedures to establish (a) an attendance requirement for CPIC meetings; (b) that all relevant information is presented to the boards to ensure greater transparency of significant issues; (c) the steps and actions the boards can take when an IT investment is not meeting expectations; and (d) the threshold criteria that the investment boards should use when determining whether to take remedial action.
3. Strengthen USPTO's IT investment management by ensuring all pending TMNG investments and future IT investments have a complete cost estimate prior to the boards' recommendation and the CIO's approval.
4. Improve USPTO's CPIC process by ensuring CPIC oversight functions are able to verify and ascertain whether completed IT investments were obtained in the most cost-effective way possible.
5. Continue to address outstanding TMNG development issues using the Path Forward Team.
6. Develop improvement plans to mitigate risk of significant, recurring problems with TMNG activities that are covered in the TechStat sessions.