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Trademarks financial performance

USPTO: Status of the Trademark financial business

Jay Hoffman

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Trademark Public Advisory Committee

UNITED STATES
PATENT AND TRADEMARK OFFICE



Agenda

- **FY 2021:**
 - Appropriation update
 - Financial position & status of the business
- **On the horizon: fee setting**
- **Next steps for the budget**
 - FY 2022 President's Budget to Congress
 - FY 2023 budget formulation

FY 2021 status: appropriation

- The FY 2021 Omnibus and COVID Relief and Response Act passed on December 27, 2020
- The bill provides the USPTO with \$3.695B in spending authority for FY 2021 and requires that:
 - Any amount received in excess of the FY 2021 authorized amount will be deposited in the Patent and Trademark Fee Reserve Fund (PTFRF)
 - \$2M shall be transferred to the OIG account for associated with carrying out investigations and audits related to the USPTO not to exceed
 - No more than \$13.5K shall be made available for official reception and representation expenses



FY 2021 status: big picture view of the Trademark revenues

Applications

- Trademark application filings increased by 62.5% in FY 2021 through Jan (compared to FY 2020)
- Year to Date fee collections are 28% (\$22M) above planned levels
- Should collections continue to outpace plans for the remainder of the year, they could exceed current plans by \$50M - \$70M

Renewals

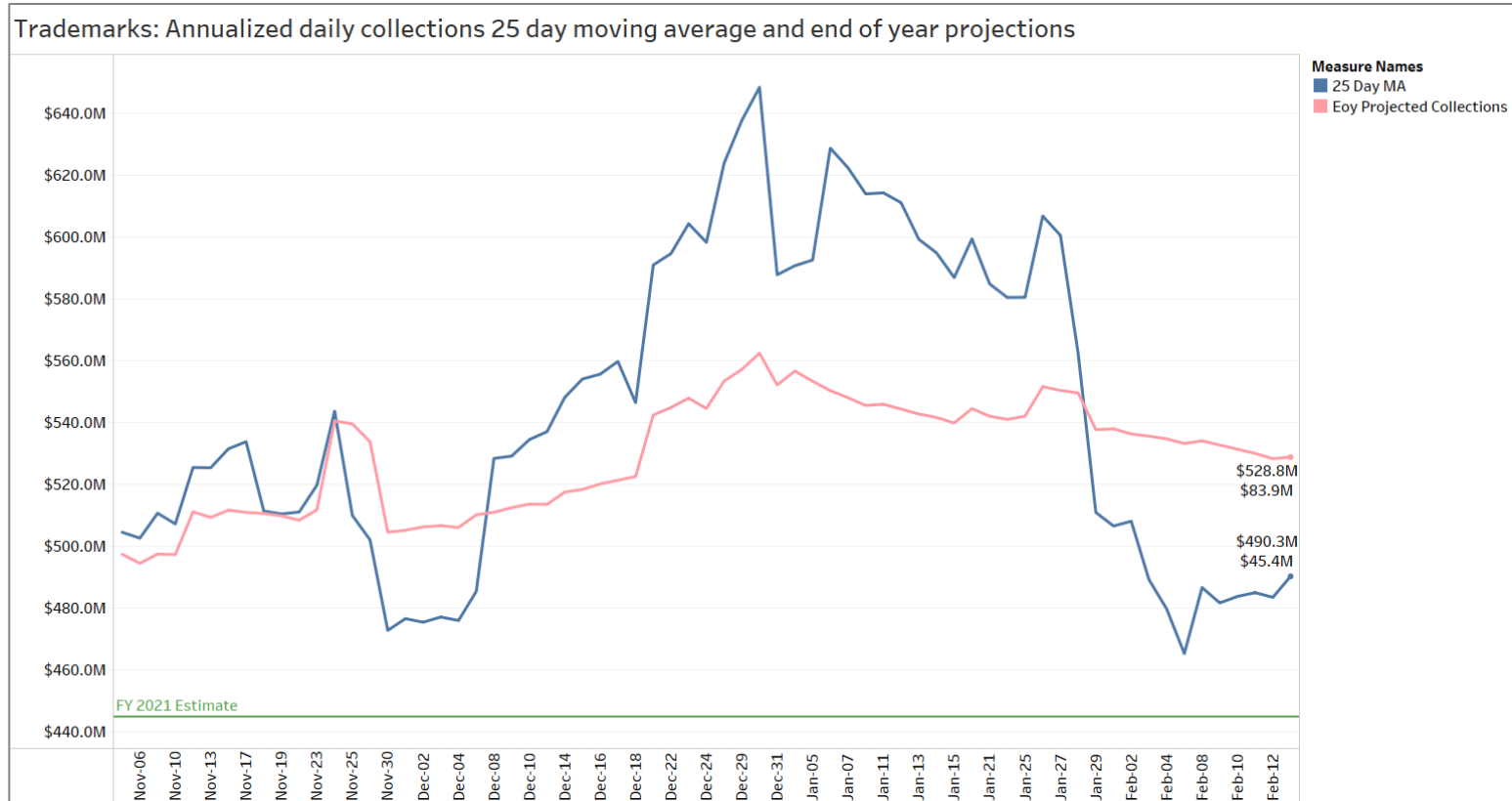
- Year to Date fee collections are 9% (\$3M) above planned levels
- Should collections continue to outpace plans for the remainder of the year, they could exceed current plans by \$7M - \$10M

New Fee Rates

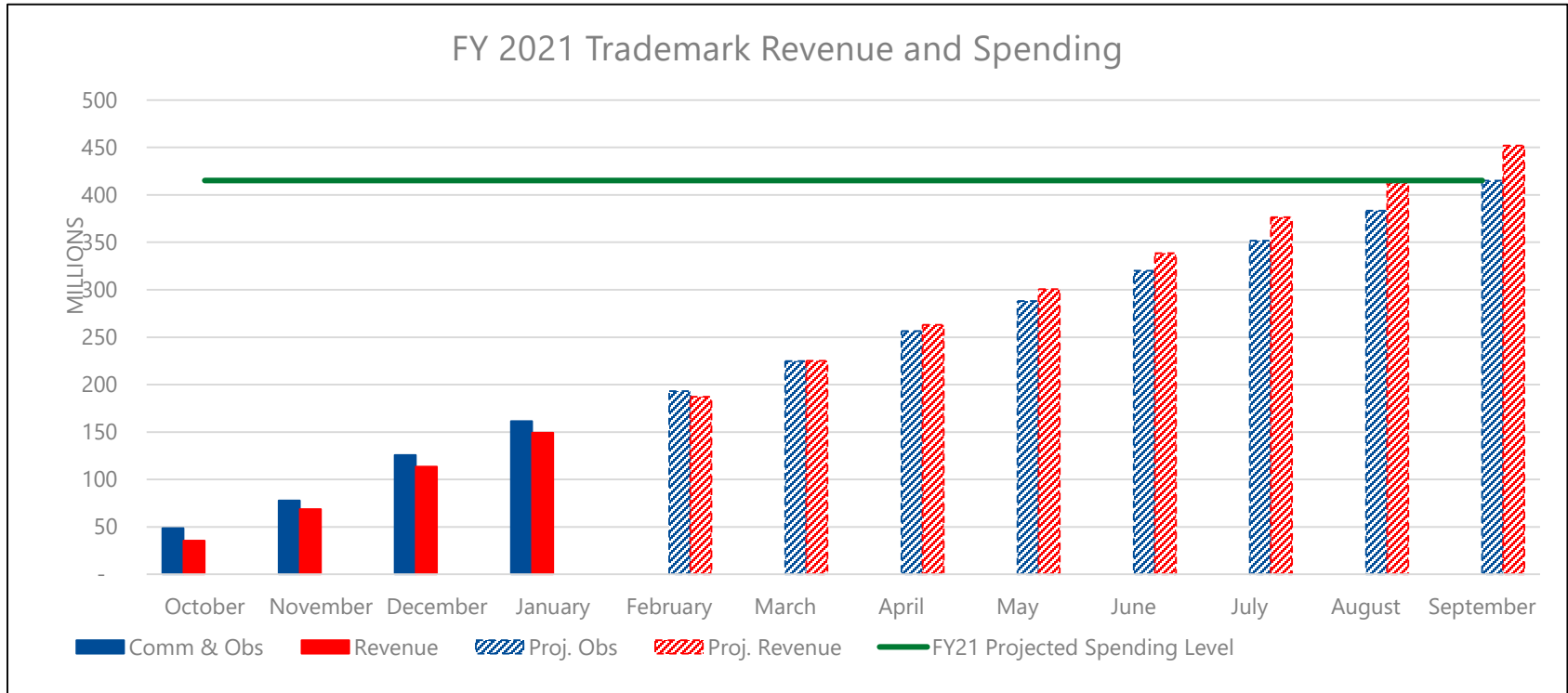
- New fee rates went into effect on Jan 2nd
- USPTO continues to monitor potential impacts of these changes



FY 2021 status: annualized revenue and EOY projections

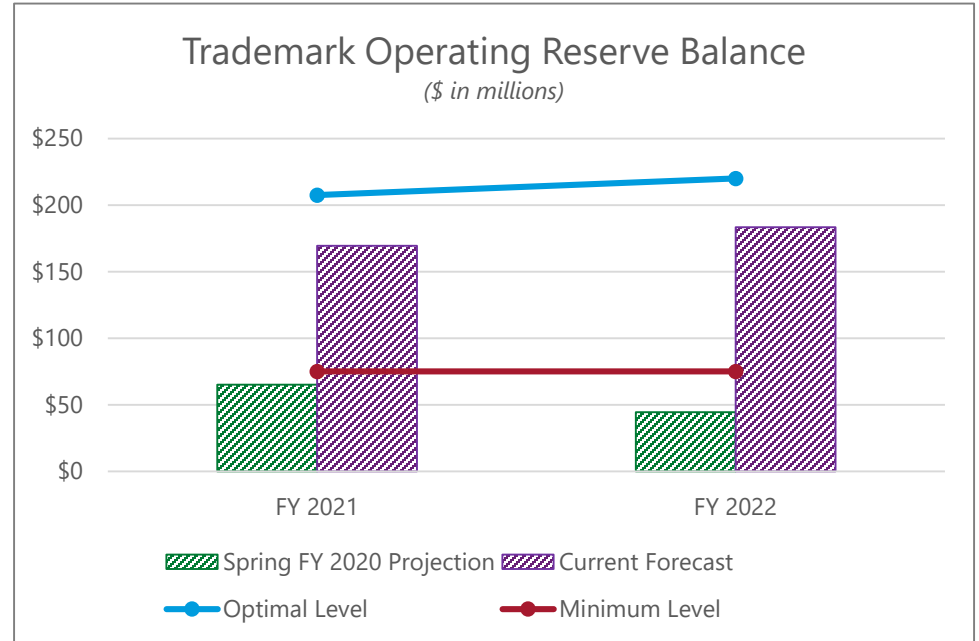


FY 2021 status: revenue and spending



FY 2021 financial position: Trademark operating reserve

- With the implementation of the fee rate increases effective January 2, 2021, and current workload, revenue and spending assumptions, the operating reserve is projected to
 - stay above the minimum level of \$75M
 - exceed the optimal level in FY 2024 and beyond





On the horizon: fee setting

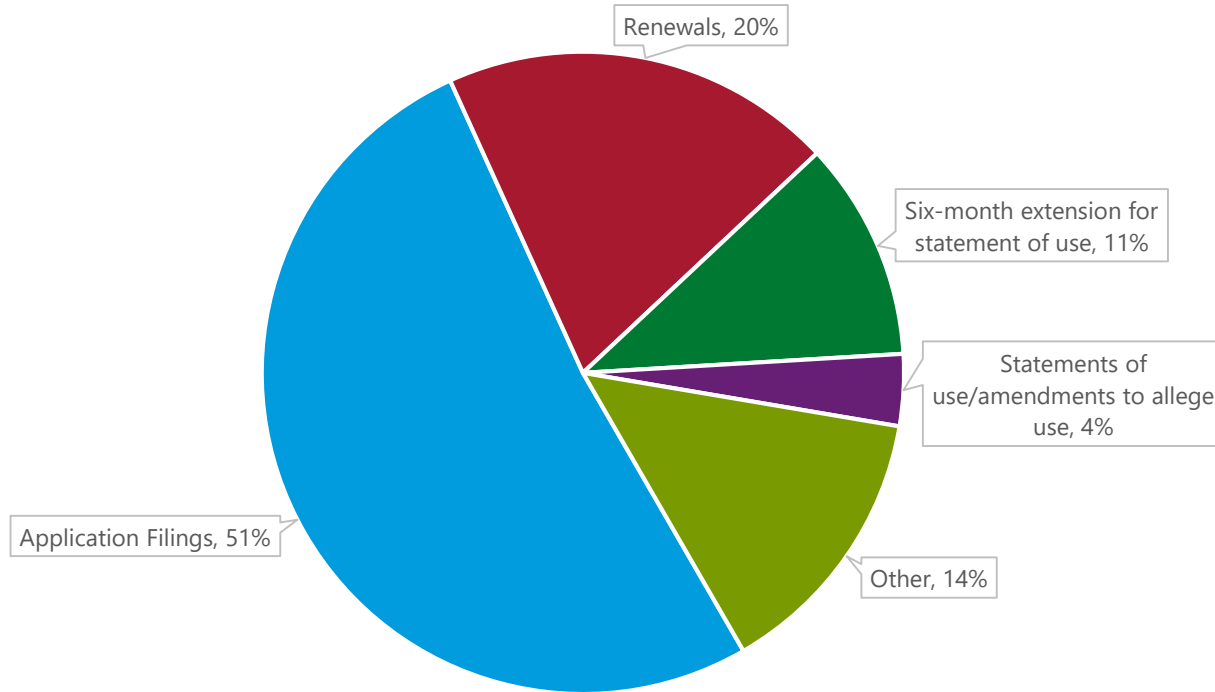
- The agency is monitoring the impact of the recent fee rate increase, effective January 2, 2021, on revenue collections and applicant behavior
 - The annual impact of the fee increase is estimated at \$70M
- An international applicant fee, related to the Madrid Protocol, was increased from \$400 to \$500 on February 18, 2021

On the horizon: fee setting

- The USPTO will soon begin evaluating proposals and conducting analysis on potential adjustments to current fees
 - Proposals will focus on advancing a fee structure for the future that balances public policy, operation efficiencies and financial needs
- In addition, the USPTO is implementing provisions of the Trademark Modernization Act of 2020 (TMA):
 - New ex parte reexamination and expungement proceedings and fees for these services
 - Amend the existing letter-of-protest rule to indicate that letter-of-protest determinations are final and non-reviewable
 - Flexible Office action response periods between 60 days and six months, with an option for applicants to extend the deadline up to a maximum of six months from the Office action issue date
 - The first two provisions are required to be implemented by December 2021



On the horizon: fee setting – major fee categories percentage of collections



Next steps for the budget

- **FY 2022 President's Budget**

- The USPTO is finalizing its requirements for the FY 2022 President's Budget submission.
 - The budget is typically due to Congress the first Monday in February. With the change in administration, the submission date is delayed.
- The USPTO expects that the House and Senate CJS Subcommittees on Appropriation will hold hearings for the DOC's FY 2022 budget.

- **FY 2023 Budget Formulation**

- Kicking off process in the spring
 - Process includes re-baselining FY 2022 requirements and revenue estimates
- Provide draft document to PACs, DOC, and OMB for review in August
- Submit final budget to OMB in September





Thank you!

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