



Highlights of [GAO-04-603](#), a report to congressional committees

PATENTS

Information about the Publication Provisions of the American Inventors Protection Act

Why GAO Did This Study

The U.S. Patent and Trademark Office (USPTO) receives over 300,000 patent applications each year. Before the American Inventors Protection Act of 1999, USPTO was required by law to keep the information on patent applications confidential until a patent was granted. The act modified this requirement and mandated that USPTO publish most patent applications 18 months after filing. One exception to this requirement is available to patent applicants filing only in the United States. These applicants can request that their application not be published.

The act required GAO to provide information on how patent applications have been affected by the 18-month publication provisions. GAO was required to determine (1) the number of patent applications filed only in the United States, and (2) whether certain differences exist between published and unpublished patent applications. Specifically, GAO examined differences relating to whether the applicant was a large or small entity, the percentage of patents issued by USPTO and applications abandoned by the applicants, and the length of time between filing an application and when USPTO issued a patent or the application was abandoned.

In commenting on a draft of this report, USPTO provided technical comments that we have incorporated, as appropriate.

www.gao.gov/cgi-bin/getrpt?GAO-04-603.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Anu K. Mittal at (202) 512-3841 or Mittala@gao.gov.

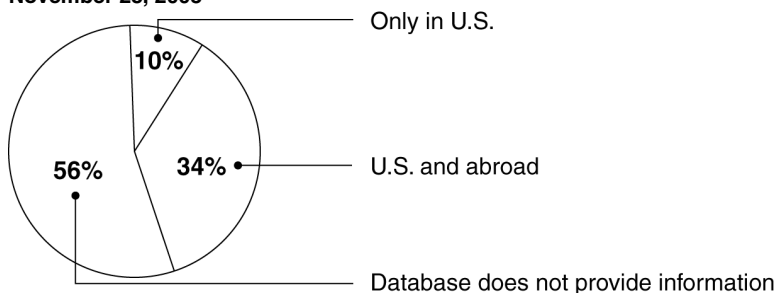
What GAO Found

Of the approximately 805,000 patent applications USPTO received between November 29, 2000, and November 28, 2003, about 88,000 were filed by applicants certifying they would apply for a patent only in the United States. Subsequently, 8,000 of these applicants rescinded this certification. For about 275,000 applications, the applicants indicated they had already applied for a patent abroad. For the remaining 450,000 applications, USPTO's database does not provide the information needed to determine whether the applicants intend to file in the United States alone or also abroad, as the figure below indicates.

GAO found four differences between the published and unpublished patent applications that USPTO received between November 29, 2000, and November 28, 2003:

- USPTO has published or plans to publish applications from about 85 percent of the applicants qualifying as large entities compared with only about 74 percent of those qualifying as small entities.
- USPTO issued patents to about 22 percent of the applications it had published and considered about 8 percent abandoned, although resolution for most of the approximately 456,000 published patent applications is still pending. For applications it did not publish, USPTO issued patents to about 25 percent and considered about 19 percent abandoned, although resolution for most of these approximately 117,000 applications is also still pending.
- The median length of time for the agency's review of an issued patent was about 20 months for those applications that had been published and about 15 months for those not published.
- The median length of time between filing and abandonment of an application was about 18 months for published applications and about 8 months for those not published.

Domestic and Foreign Applications Filed with USPTO, November 29, 2000, through November 28, 2003



Source: GAO analysis of USPTO data.