

## U.S Patents Reach a Major Milestone

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U.S. Patent 10,000,000 (ten million!) was issued on Tuesday, June 19, 2018. As stated in a recent article from Law360, it took just a little over three years for the USPTO to grant one million new patents. By comparison it took 200 years to get to patent number five million and, if the trend continues, number 11 million is less than three years away. Every year the number of patent applications filed and the number of patents granted grows.

### Patent Growth Despite Perceived Difficulties in the Environment

This steady growth is even more remarkable in light of recent U.S. court decisions with respect to the U.S. patent system that appear to challenge the validity of patents and, by inference, their value. The America Invents Act (AIA), the track record of the Patent Trademark and Appeal Board (PTAB), and recent Supreme Court decisions might appear to diminish the value of investment in patents and raise questions about the patent process. However, a careful review of the PTAB decisions, Supreme Court decisions, and the patents under review reveal that the overall trend is to produce more robust patents, rather than fewer patents, as the increase in patents filed and issued, and the quality of these patents, attests.

It is worthwhile to mention that any statistics regarding patent invalidation are heavily skewed by a particular class of application. So called "business method" patent applications have been the subject of many challenges. While business methods are definitely patentable, the USPTO is still determining how to examine them.

### Patent Protection Continues to be Essential

Clients are under more pressure than ever before to justify expenses on patent portfolios. This is due to both the economic environment (requiring clients to budget resources very carefully) and clients'

legitimate concerns regarding vulnerability to attack from patent infringement allegations and patent invalidity allegations.

Even given the current environment, however, it is important to note this trend of increasing numbers of patents filed and issued. In innovative businesses, patents remain the best option to maintain a competitive advantage and effectively defend against those who would otherwise copy and steal inventions. In addition, it is important to remember that patents (as well as patent applications) are negotiable assets in many scenarios.

So here's to patent number 10 million and the many exciting innovations to come.

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