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# The U.S. 2011 Global Patent & IP Trends Indicator

An in-depth look at the  
foreign filing strategies of  
U.S. patent owners

February 2011

# inovia

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*inovia* recently surveyed nearly 150 U.S. companies to assess the impact of the U.S. economy on global IP strategy and outlook for 2011. This report summarizes the results and trends identified in their responses—taken both quantitatively with an online survey and followed by select phone interviews.

# Introduction

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Respondents represent a broad range of industries and sizes from small enterprises filing a single patent family to multinationals filing more than 1,000 patent families in 2010; the average being just under 50 patent families per year.

The breakdown of industries was as follows:

01 %	Business / Finance
14 %	Chemicals / Materials
19 %	Electrical / Electronics
08 %	IT / Software / Media
19 %	Mechanical / Engineering
23 %	Pharmaceuticals / Biotech
16 %	University / Association / Non-profit

The breakdown of in-house patent attorneys or agents was as follows:

34 %	0
33 %	1
26 %	2-5
03 %	6-10
02 %	11-25
03 %	>25

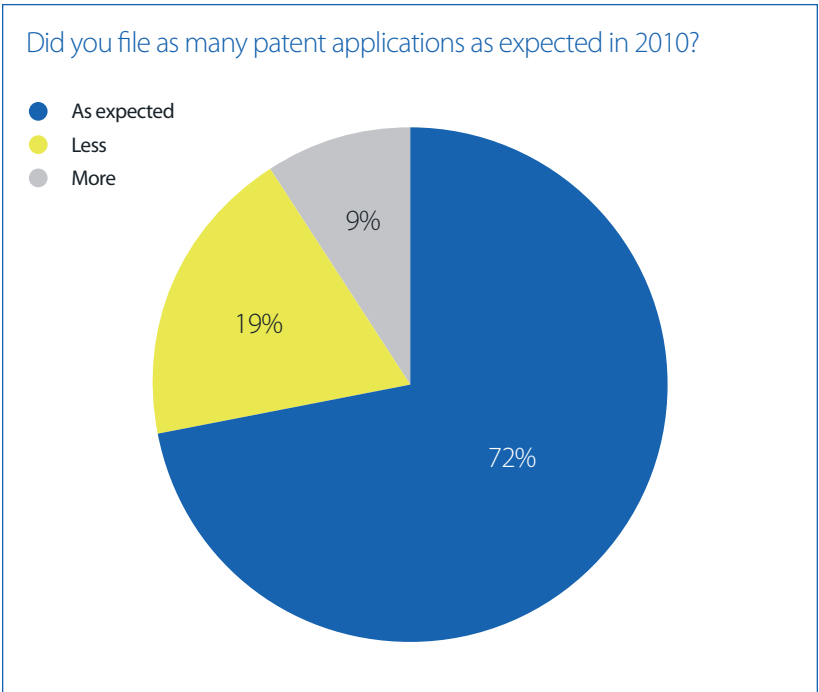
# 2010 in Review

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Overall, the mood for 2010 was mixed among our IP survey respondents. However, some did cite improvements in their company, industry or ability to file as many or more patent applications at the same or lower cost than previous years. They've accomplished this with workflow changes, vendor negotiations and other creative IP budget management techniques.

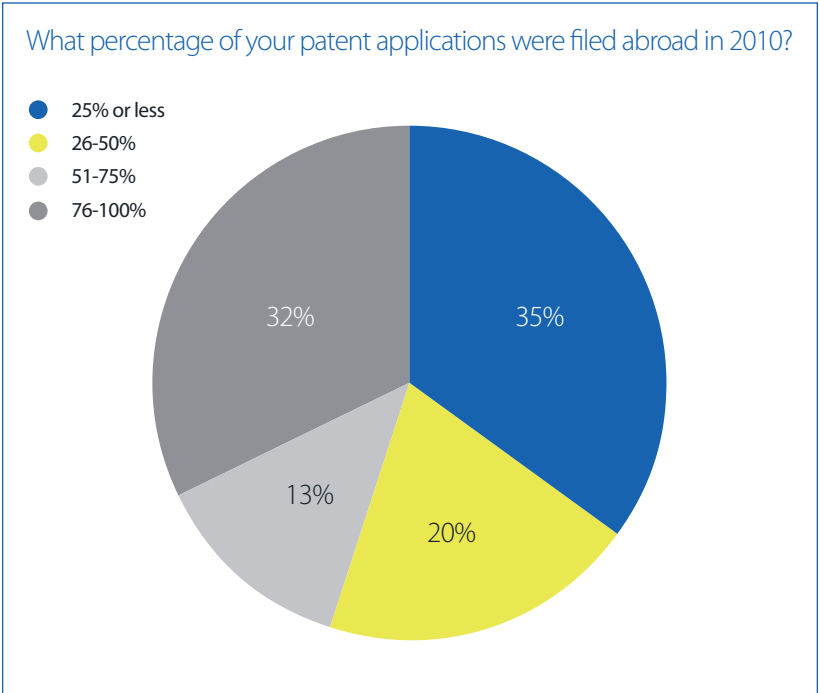
The majority of respondents cited "cost containment" and/or "USPTO reform" as the most important topic for the IP industry in 2010. The media may have been focused on China's rise and other long-term/macro IP trends, but U.S. practitioners were more focused on practical and pressing issues. Two respondents summed up the sentiment nicely. One said, "Practicing in the 'new normal' for IP budgeting," was the most important IP topic of the year. Another named "USPTO initiatives to reduce backlog, accelerate processes and patent reform bills" as the key IP trend for 2010.

72% of respondents said they filed as many patent applications as they expected to file in 2010. 19% filed **less** than expected, while 9% filed **more** than expected.



# Foreign Filing & Global Outlook

U.S. patentees have more selective global aspirations for their innovations. 45% of respondents filed more than half of their patent applications overseas in 2010, but they only filed into an average of 5.9 countries (down from 6.6 in our survey of 2009 filing statistics).



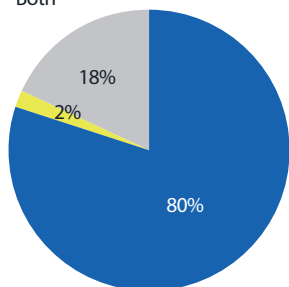
Similar to the results of last year's survey, the large majority of U.S. patentees used the PCT (Patent Cooperation Treaty) for their foreign filing in 2010. Nearly all respondents who filed applications abroad via the Paris Convention said they did so because those applications are filed in a small, select set of countries. It was not due to increased upfront cost concerns associated with the PCT, nor because the target countries are not part of the PCT – the only obvious exception being Taiwan.

## Foreign Filing & Global Outlook

17% of respondents **added** new countries in 2010 as compared to prior years. Of those who did, **slightly more than 50% of them named China** as a country they added in 2010. A small percentage added Brazil, India and/or Russia.

### By which method did you file abroad in 2010?

- PCT
- Paris Convention
- Both



Most respondents who added China in 2010 are encouraged by positive signs from the Chinese government and patent office. As one IP head of a major biomechanics company said, "... within the coming years, I wonder if the Chinese court system might have even more resources than the U.S. system."

"[We added China] because we feel their IP law will strengthen over the life of the patents," a university IP executive said. "We have a new collaboration with a Chinese academic institution and they are interested in pursuing patent rights in their home country."

25% of respondents **dropped** countries in 2010, as compared to their 2009 foreign filing country set. Of this group, **45% said they did not file into Japan** in 2010; 20% also mentioned Europe or individual countries (e.g. the United Kingdom, The Netherlands, France and Sweden).

Those who cited dropping Japan in 2010 often mentioned the high cost and low cost-to-benefit ratio. Further, the low win rates in Japan are of concern. "The patent owner win rate is about 20% and that's the lowest [in the world]... probably lower than China," said an IP executive from the biotech industry. "Plus, it's the most expensive country to file foreign patents; as a result, we will file only our most important cases there now. For many other applications, we'll now take that budget and file in China instead."

As one electronics IP executive said, "Japan used to be where all the action is, but that just doesn't seem to be the case anymore." Instead, Korea and China are much more important for his company – Korea in particular for his video products. "Semiconductors is highly concentrated in the Shenzhen area and we have engineers now in Shanghai, so that's another reason why China is so important to us."

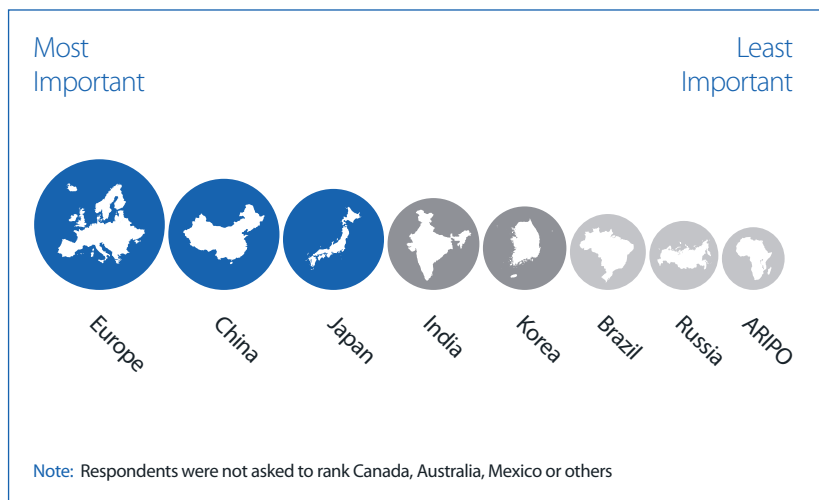
## Foreign Filing & Global Outlook

Furthermore, most IP executives are not as bullish on India as they are on China. A few cited the slow pace of patent reform and infrastructure investment. “India just doesn’t have as much industry and technology going on... We’ve shut down a design center we had in India. I think they [India] are 10 years behind China in terms of getting the system in place,” said the electronics executive.

### Targeted Global Outlook

Many of our respondents didn’t strictly drop or add a new country in 2010. It seems many have just become more selective and judicious with their global filing strategy for a particular patent application.

Our respondents ranked the importance of the following jurisdictions in their 10-year foreign filing strategy:



We also polled respondents on their choices when selecting an International Searching Authority and found that 89% of respondents have used the European Patent Office as a search authority; **43% have used the Korean IP Office**; 17% have used the Japanese office.

# Foreign Filing & Global Outlook

## Interest in Europe

There was a resounding “Yes!” when respondents were asked if they are in favor of a unified European patent system. As one respondent nicely summed, “Yes, [for] simplicity, continuity, predictability and manageability.” “Yes. There is little benefit and great inconvenience to seeking protection in a fragmented market,” said another.

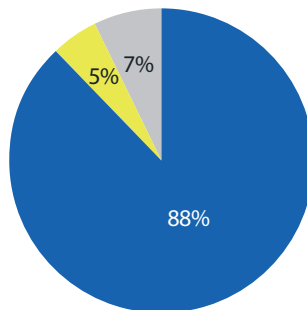
Nearly a quarter of our survey respondents are in the pharmaceutical and biotechnology industries and are particularly interested in this topic. Some were more cautious of what a unified system might mean for them. “Yes and no; there are pros and cons for each. A unified system should, of course, be more cost effective, but then you only have one opportunity to secure protection. The existing process allows you to approach major jurisdictions separately, which can be valuable in some circumstances,” said another.

“With our pharma apps, you either go big or you go home.”

For some who are filing less into Europe, the cost and complexity were the key concerns. One university IP head said, “With our pharma apps, you either go big or you go home. And covering the entire market there is just too expensive for some of our (increasingly smaller) licensees.” He says he would reconsider if there was a unified European patent, and says such a system is “past due”.

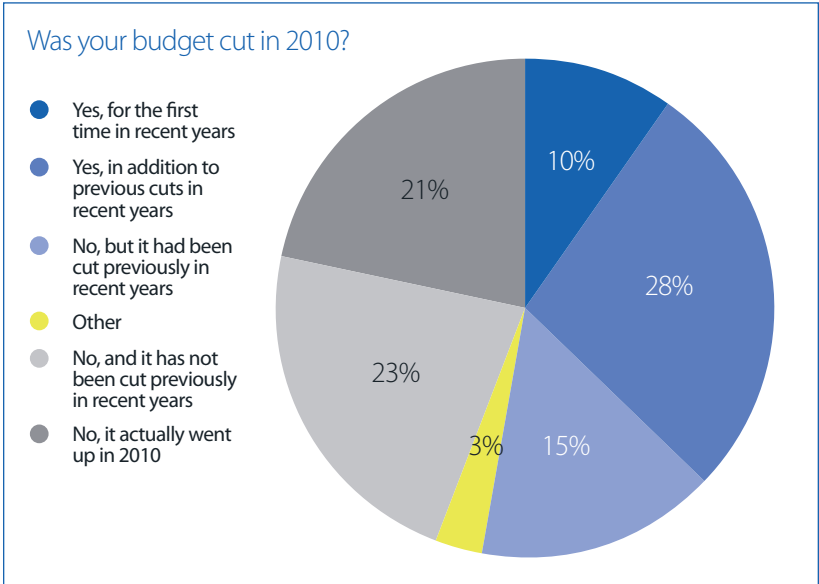
Are you in favor of a unified European patent system?

- Yes
- No
- Not sure

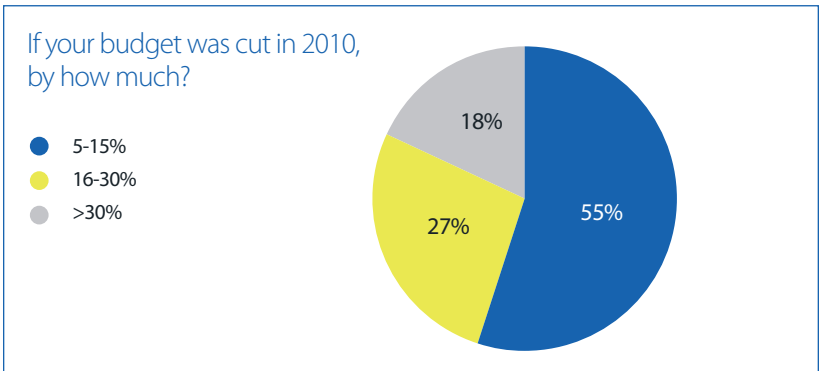


# IP Budgets & Workflow Changes

38% of respondents said their budget was cut in 2010 (some for a second time). Another 15% were cut in 2009 and many in the “other” category indicated that they are also working with less, so **nearly 60% of respondents are working on a reduced IP budget going into 2011**. As expected, many are taking further steps to reduce patent costs as a result.



For those respondents who did have their IP budget cut in 2010, 18% saw it cut by more than 30%. Yet this is **improvement over last year**, where 60% of respondents had had their budget cut, and of those, nearly 40% were cut by >30%!



# IP Budgets & Workflow Changes

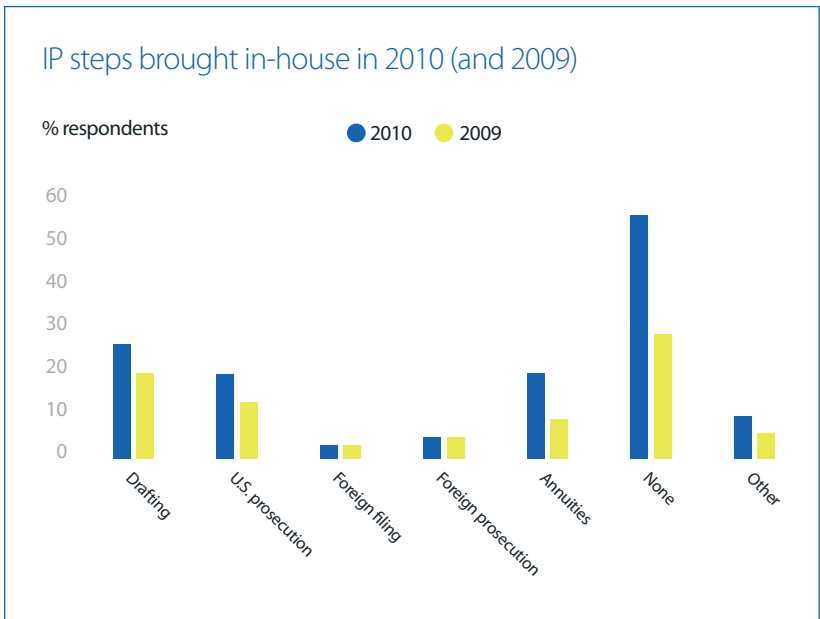
There was slight improvement over last year's survey, in terms of budgetary constraints and cost-cutting measures. For instance, when asked if they had let more granted patents lapse in 2010 than in recent years, 64% said "no". Last year, that number was 52%.

Yet for many who did not experience budget cuts, as one respondent said, they are working in the "new IP norm" of doing more with less. "We haven't gotten our budget cut, but it hasn't been raised in several years. And our portfolio is 50% larger than it was six or seven years ago," one electronics IP executive said. "We let more granted patents lapse as an easy way to save costs and I expect that will continue this year."

A major university executive concurred. "We're at 40% more disclosures on the same budget we had five years ago. We've consolidated outside counsel and rewarded a handful of firms more total dollars for those reductions in hourly rates."

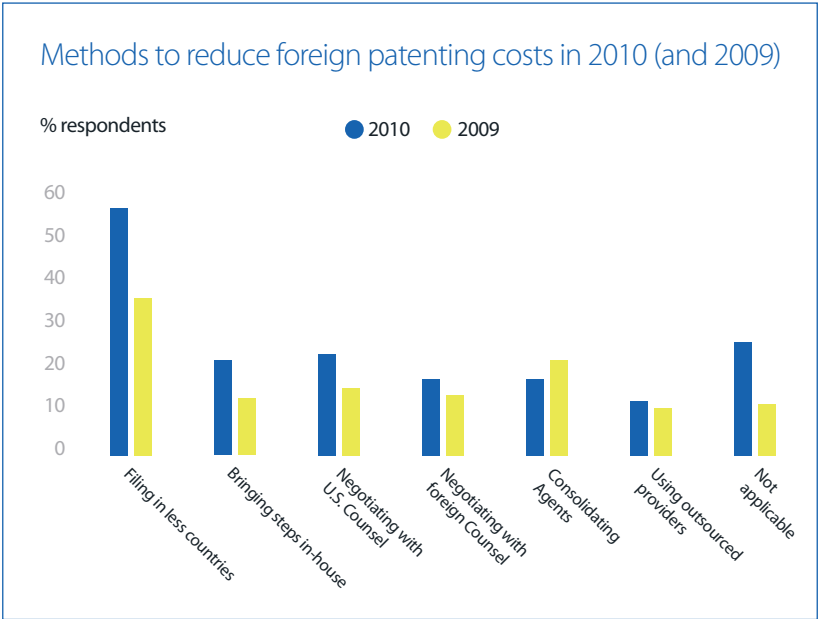
## Workflow and Cost Containment

46% of respondents brought some steps in-house in 2010, as compared to 72% of respondents from last year's survey who brought some steps in-house in 2009.



# IP Budgets & Workflow Changes

Further, **many are filing into fewer countries to save on patenting costs.** More than half of respondents said they saved on foreign filing costs by filing into fewer countries in 2010.



Lower and/or flat rates for IP services were commonly cited as most companies tried to do more with less. “Sometimes the lower rates were just offered to us, but others we had to negotiate with,” said one executive regarding his U.S. outside counsel.

Furthermore, patent annuities management is a strong trend that will continue, he said. “The law firms are getting out of the business and clients are reducing costs by bringing it in-house, even if they do increase their liability risk.”

“Our in-house staff is already very lean,” one electronics IP executive said, who didn’t bring steps in-house. “We’re doing other things, though – like negotiating flat fees for some services. We’re also trying to find one partner in each foreign jurisdiction to increase our buying power and reduce our costs.”

## Outlook for 2011

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Most of our respondents were cautiously optimistic about 2011. In fact, the average number of patent applications that respondents expect to file this year is 44.5, down from the 49.4 they reported filing in 2010.

As one respondent summed up, 2011 is going to be another “thin year”. His state university is scheduled to go back to “pre-crisis” salary levels in July, but he doesn’t think the crisis is over.

Even those who had a strong 2010 financially are trying to do more with less. “We had a great year – but, ironically enough, we’re still moving stuff inside. We’ve got the money to spend, but we’re not spending it, even though we could,” said a biomechanics executive. “A lot of in-house IP people don’t understand the benefits of IT and how best practices might increase their productivity and efficiency.”

Trends anticipated for 2011 included variations of the common “cost containment” and “USPTO reforms” themes, but also included “news from emerging markets”. Again, U.S. practitioners seem much more concerned with managing their (growing) portfolios with shrinking or stagnant budgets. As one electronics executive said, “I think everyone’s saying, going forward we need to be a lot more efficient. We can’t have any wasteful expenditure. Even if the economy turns around, we’re going to try to use our budget more wisely. We probably won’t go back to filing in Japan or Canada – that’s partly just the changing dynamics of our global industry. Who knows, maybe 10 years from now Brazil will be very important to us.”

### Topics cited as key trends for 2011 were:

- USPTO reforms & operations
- Containing patenting costs / working with reduced IP budgets
- Changing relationships with outside counsel
- Patent-related laws and rulings
- Global issues (China’s patent laws, unified European patent, etc.)

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## About *inovia*

*inovia* provides a foreign filing platform, created by patent attorneys and used by more than 750 clients. Its three products, *pctfiler*, *epvalidation* and *iptranslator*, simplify the PCT national stage entry and European validation processes. With headquarters in New York, offices in London, Munich and Sydney, and agents covering more than 80 countries, *inovia* provides support in all major time zones and IP jurisdictions. *inovia's* patented technology pioneered online foreign filing and is recognized among WIPO's most notable inventions.

For more information, visit *inovia* at [www.inovia.com](http://www.inovia.com) and follow the company on Twitter [@inovialP](https://twitter.com/inovialP).

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