

**REPORT CONCERNING THE RECOMMENDED QUALIFICATIONS FOR THE  
NEXT DIRECTOR AND DEPUTY DIRECTOR OF THE U.S. PATENT AND  
TRADEMARK OFFICE**

PREPARED BY THE AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION

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Introduction

The United States Patent and Trademark Office (“USPTO”) is a federal administrative agency in the Department of Commerce, headquartered in Alexandria, Virginia. Through the grant of patents, the USPTO encourages technological advancement by providing incentives to invent, invest in, and disclose new technology worldwide. Through the registration of trademarks, the agency assists businesses in protecting their investments, promoting goods and services, and safeguarding consumers against confusion and deception in the marketplace. By disseminating both patent and trademark information, the USPTO promotes an understanding of intellectual property protection and facilitates the development and sharing of new technologies.

An efficient and responsive USPTO is critical for the effective operation of this country's patent and trademark systems, and effective leadership of the USPTO is crucial to the achievement of its mission goals and objectives. This paper states some views of the American Intellectual Property Law Association (“AIPLA”) recommending particular qualifications for the next Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (“Director”) and for the next Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office (“Deputy”).

The USPTO needs strong leadership and executive management capabilities in its Director and Deputy. These individuals, who should be top-caliber, knowledgeable, intellectual property executives, must have the ability and commitment to encourage innovation and economic growth in the U.S., and must be experienced, highly respected leaders in whom the President, Congress and the intellectual property, business, and international communities can place their full confidence. They should have the best legal and executive leadership skills, a comprehensive understanding of domestic and foreign intellectual property law, preferably including patent and trademark prosecution, licensing and litigation experience. Candidates with such expertise can provide the business acumen, practical insight and expertise to ensure the U.S. leadership role in promoting innovation and economic growth in America through their stewardship as Director and Deputy of the USPTO.

## AIPLA's Members Have an Interest in Efficient, Effective Operation of the USPTO

AIPLA is a national bar association of approximately 15,000 members engaged in private and corporate practice, government service, and the academic community. AIPLA members represent a diverse spectrum of individuals, companies, and institutions involved directly and indirectly in the practice of patent, trademark, copyright, and unfair competition law, as well as other fields of law affecting intellectual property. AIPLA members practice before the USPTO in securing issuance of patents, registration of trademarks, and resolution of disputes regarding patentability and registration. AIPLA members also represent both owners and users of intellectual property who may be asserting a patent or trademark or defending against a charge of patent or trademark infringement in federal court litigation, which often turns on the validity and scope of the granted patent or registered trademark. AIPLA thus has a continuing interest in seeing that the USPTO is led by a Director and Deputy with the highest qualifications.

### Responsibilities of the Director and Deputy

The Director is appointed by the President of the United States, by and with the advice and consent of the Senate, and reports to the Secretary of Commerce with respect to policy matters. The Director is responsible for providing policy direction and management supervision for USPTO's issuance of patents and registration of trademarks, and for consulting with the Patent Public Advisory Committee and the Trademark Public Advisory Committee. In particular, the Director is charged with performing the following functions:

Administering the laws relating to the granting and issuing of patents and registration of trademarks;

Administering the laws relating to the dissemination to the public of information with respect to patents and trademarks;

Advising the Secretary on intellectual property policy, subject to the policy direction of the Secretary, advising federal departments and agencies on matters of intellectual property policy in the United States and intellectual property protection in other countries, and advising the President, through the Secretary, on national and certain international intellectual property policy issues;

Conducting programs, studies, and exchanges of items and services regarding intellectual property;

Conducting cooperative programs with nongovernmental organizations, foreign intellectual property offices, and international intergovernmental organizations;

Serving as focal point within the Department and being prepared, when requested by appropriate authority and subject to the policy direction of the Secretary, to serve as spokesperson for the Executive Branch on the broad range of domestic and international intellectual property issues confronting the Nation; and

Performing other functions required or deemed necessary and proper by the Under Secretary in exercising the authority delegated.

The Director is assisted in carrying out these functions by the Deputy, who acts in the capacity of Director in the absence or incapacity of the Director.

#### Recommended Background, Qualifications and Experience

Candidates for the positions of Director and Deputy preferably should be experienced attorneys with political acumen and public service motivation who are well-respected and are of the highest integrity. Candidates should have at least 15 years of industry or USPTO experience, with 10 or more years of managerial and fiscal responsibility in a substantial corporation, administrative agency or law firm. Pertinent skills and attributes for the position include:

Experience in patent prosecution, licensing and litigation, and knowledge of the relevant law and procedures governing those activities;

Experience in trademark prosecution, licensing and litigation, and knowledge of the relevant law and procedure governing those activities;

Working knowledge of copyright, domain names, genetic resources, traditional knowledge and geographical indications policy issues that arise in domestic and international policy negotiations;

A proven track record of successfully managing and leading a large enterprise, including proven success in labor/management relations and employee retention;

Demonstrated capabilities in strategic planning, budgeting, and financial management;

Experience in congressional and international intellectual property policy advocacy, especially in policy development, and proven diplomacy skills;

A demonstrated commitment and willingness to engage and listen to the stakeholder community in transparent and constructive discourse when contemplating and evaluating office operations, regulatory changes and policy decisions; and

Working knowledge of information technology and a demonstrated willingness to embrace new technological solutions to improve efficiency and effectiveness.

The Director and Deputy also should possess the personal competencies defined in the United States Office of Personnel Management Guide to Senior Executive Service.

Particularly, the Director and Deputy should exhibit the executive core qualifications to (1) lead change by establishing an organizational vision and to implement it in a continuously changing environment, (2) lead people fostering development of others, facilitating cooperation and teamwork and supporting constructive resolution of conflicts, (3) be results-driven to produce high-quality results by applying technical knowledge, analyzing problems, and calculating risks, (4) manage human, financial and information resources strategically, and (5) build coalitions internally and with other federal agencies, state and local governments, nonprofit and private sector organizations, foreign governments, or international organizations to achieve common goals.