



**AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION**  
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August 13, 2007

The Honorable Nancy Pelosi  
Speaker of the House  
United States House of Representatives  
H-232 United States Capitol  
Washington, DC 20515

Dear Madam Speaker:

On behalf of the American Intellectual Property Law Association (AIPLA), I am writing to express our strong support for the amendment to S. 1145 adopted on July 19, 2007, by the Senate Judiciary Committee that would provide for a permanent, stable source of funding for the United States Patent and Trademark Office (USPTO). This amendment would establish a revolving fund into which fees paid for patent and trademark services would be deposited and from which expenses for the operations of the Office would be paid. It would allow the USPTO to retain and use all of its fee revenues while ensuring continued Congressional oversight. We urge that the provision remain in the bill.

AIPLA is a national bar association with more than 16,000 members engaged in private and corporate practice, in government service, and in academia. AIPLA represents a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent and trademark law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property, and they have a keen interest in a strong and efficient Patent and Trademark Office.

The Congress is keenly aware of the challenges facing the USPTO, many of which have been highlighted during the debate on H.R. 1908 and S. 1145, the "Patent Reform Act of 2007." The quality and pendency problems confronting the Office, and the subsequent litigation questionable patents can generate, can be directly traced to the siphoning off of USPTO fee revenues from 1992 through 2004 to fund other government operations. Cumulatively, this diversion resulted in a loss of more than \$750 million in fees paid by patent and trademark applicants for the processing of their applications. As a result, the USPTO has been unable to hire, train, and retain the number of skilled examiners needed to cope with the ever increasing number of patent application filings.

While the Congress and the Administration have permitted the Office to retain essentially all of its user fees for the last three fiscal years, there is nothing to prevent the devastating practice of fee diversion from returning. The beginning steps taken by the Office to address its quality and pendency issues—made possible by allowing it to receive and use all of its fee revenues—demonstrate the absolute necessity of allowing the Office to continue to retain and use its fee revenues. While everyone wishes for a more rapid recovery by the Office, it must be remembered that the current situation is the result of a twelve-year starvation funding diet. It will take permanent, continued full funding of the USPTO—as guaranteed by the amendment to S. 1145—to overcome these challenges. The Office must have a guarantee of such funding in order to intelligently plan for and meet the multitude of challenges facing the Office, and its users who pay the fees deserve no less.

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True patent law reform and improvements at the USPTO depend on the Office's fiscal ability to meet its growing challenges. The time has come for Congress to once and for all end the possibility of fee diversion.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Michael K. Kirk". The signature is written in a cursive style with a large, stylized initial "M".

Michael K. Kirk  
Executive Director

cc: The Honorable David R. Obey  
The Honorable Jerry Lewis