



September 12, 2018

The Honorable Bob Goodlatte
Chairman
Committee on the Judiciary
United States House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Jerrold Nadler
Ranking Member
Committee on the Judiciary
United States House of Representatives
2142 Rayburn House Office Building
Washington, DC 20515

Re: H.R. 6758 Extending USPTO Fee-Setting Authority

Dear Chairman Goodlatte and Ranking Member Nadler:

The American Intellectual Property Law Association (“AIPLA”) is writing to voice our support for H.R. 6758, which extends the USPTO’s fee-setting authority for eight years.

AIPLA is a national bar association of approximately 13,500 members who are primarily lawyers engaged in private or corporate practice, government service, and the academic community. AIPLA members represent a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent, trademark, copyright, trade secret, and unfair competition, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property. Our mission includes helping to establish and maintain fair and effective laws and policies that stimulate and reward invention and authorship while balancing the public’s interest in healthy competition, reasonable costs, and basic fairness.

AIPLA supports the renewal of the USPTO’s fee-setting authority consistent with the framework originally enacted as part of the Leahy-Smith America Invents Act (“AIA”), including a renewal for a limited term, a substantial role for the Patent Public Advisory Committee and the public, and a mechanism for Congressional input. The current legislation meets that criteria.

We note that we do have concerns with some of the proposed increases the USPTO has put forward in its current pending fee adjustment proposal. Given the lengthy process ahead, it is our hope that the USPTO will address AIPLA’s concerns as that process moves forward and asks that the Committee continue to monitor this issue.

Also, when considering the USPTO’s resources, we point out that we have expressed concerns over the last several years regarding the USPTO’s potential participation in the Department of Commerce’s Enterprise Services Initiative and the possible impact on the USPTO’s financial resources. While we understand that the USPTO is currently not fully participating in the program pending a review, we remain concerned that compelling the USPTO’s participation without a sufficiently demonstrated benefit has the potential to undermine

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statutory protections that prevent USPTO fees from supporting other agencies and that provide for the USPTO's operational independence. If this occurs, the USPTO's participation may not be in the best interest of the USPTO and our members, the customers who fund its operations. We ask that the Committee continue to monitor this issue as well.

AIPLA appreciates the Committee's attention to this issue and looks forward to working with the Committee as the process moves forward.

Sincerely,

A handwritten signature in black ink that reads "Myra H. McCormack". The signature is written in a cursive, flowing style.

Myra H. McCormack
President
American Intellectual Property Law Association