

AIPLA

American Intellectual Property Law Association

February 15, 2019

The Honorable Hakeem Jeffries
Committee on the Judiciary
United States House of Representatives
2433 Rayburn House Office Building
Washington, DC 20515

Re: Support for Legislation to Amend Section 2(b) of the Lanham Act

Dear Representative Jeffries:

The American Intellectual Property Law Association (“AIPLA”) is pleased to write to you regarding your proposed legislation to amend section 2(b) of the Lanham Act. AIPLA supports the proposed amendment.

AIPLA is a national bar association of approximately 13,500 members 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.

The legislation intends to amend Section 2(b) of the Lanham Act as follows: “No trademark ... shall be refused registration ... unless it— ... (b) Consists of or comprises the flag or coat of arms or other insignia of the United States, or of any State or municipality, or of any foreign nation, or any simulation thereof except by the written consent of the competent authority.” If a government (whether the U.S., a state, a municipality, or a foreign nation), or a party with permission from the government, uses an insignia in commerce as a mark on goods or services, it should be able to register the mark just like any other entity. The amendment would also make U.S. law more consistent with Art. 6ter of the Paris Convention, which (among other things) permits member countries to allow registration and use of government symbols as marks with “authorization by the competent authorities”. Most members of the Paris Convention outside the U.S. permit registrations of government insignia with authorization by the competent authority, so enabling the USPTO to do so would assist in international comity.

AIPLA appreciates you and your staff’s work on this legislation and we look forward to working with you as the process moves forward.

Sincerely,



Sheldon H. Klein
President
American Intellectual Property Law Association