

November 1, 2010

The Honorable Alan B. Mollohan
Chairman
Subcommittee on Commerce, Justice,
Science and Related Agencies
Committee on Appropriations
U.S. House of Representatives
The Capitol, Room H-309
Washington, DC 20515-6015

The Honorable Frank R. Wolf
Ranking Member
Subcommittee on Commerce, Justice,
Science and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Longworth HOB, Room 1001
Washington, DC 20515-6015

RE: SUPPORT FOR SURCHARGE FUNDING FOR THE USPTO

Dear Chairman Mollohan and Ranking Member Wolf:

On behalf of the American Intellectual Property Law Association (AIPLA), I am writing to you in response to an inquiry from your staff as to whether AIPLA would support the inclusion of a temporary surcharge on patent fees in the upcoming appropriations bill addressing the FY2011 funding for the Department of Commerce and the U.S. Patent and Trademark Office (USPTO).

AIPLA is a national bar association of 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, trademark, and copyright 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 system.

AIPLA would support a limited, one-year surcharge of no more than 15% on USPTO user fees in the 2011 appropriations bill funding the USPTO, in order to address operational needs, including the hiring of additional patent examiners and improving the information technology infrastructure, provided that such appropriations bill includes language assuring the following:

- that all of the patent and trademark fees collected, including those from the surcharge, are made available to the USPTO, without fiscal year limitation, for authorized activities and operations of the USPTO;
- that there be a statutory “buffer” (such as that currently in S. 3636) of at least \$100 million to account for collections exceeding projections; and
- that there be established a reserve fund for the USPTO to assist in long-range financial stability and planning, which may be supported by revenues derived from the “buffer.”

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While we continue to remain concerned that not all fee collections have been made available to the USPTO, including monies from FY2010, and we continue to support the development of permanent means to ensure that the USPTO gains access to all fees collected, if the above elements are included in the FY2011 USPTO appropriations bill, we would support this current initiative as important to the operations of the USPTO for FY2011.

We thank you for your efforts at providing the USPTO with much needed additional resources, and we look forward to working with you in a constructive manner to develop a long-term solution which addresses the challenges facing the USPTO. AIPLA is committed to a strong, efficient, and predictable patent system and is eager to work with you to achieve that goal.

Sincerely,

A handwritten signature in cursive script that reads "David W. Hill". The signature is written in black ink and is positioned to the left of the typed name.

David W. Hill
AIPLA President