

April 20, 2015

The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
United States House of Representatives
B-351 Rayburn House Office Building
Washington, DC 20515

The Honorable Jim Sensenbrenner, Jr.
Committee on the Judiciary
United States House of Representatives
2449 Rayburn House office Building
Washington, DC 20515

Re: AIPLA Support for H.R. 1832, the Innovation Protection Act

Dear Ranking Member Conyers and Representative Sensenbrenner:

On behalf of the American Intellectual Property Law Association (AIPLA), I am writing to express our strong support for H.R. 1832, the Innovation Protection Act, which would allow the U.S. Patent and Trademark Office (USPTO) to retain and use all of its fee revenues, while ensuring continuing and appropriate congressional oversight.

AIPLA is a national bar association with approximately 15,000 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.

Congress is acutely aware of the challenges facing the USPTO and of the current concerns about abusive litigation practices that attempt to enforce poor quality patents. Much of this was highlighted during the overall debate on patent reform legislation. The USPTO has faced serious financial issues in recent years, even requiring Congress to enact emergency and supplemental appropriations legislation to keep the agency in operation. Nothing directly affects the proper function of the U.S. patent system more than access to resources, and yet the USPTO continues to be in need of a more long-term sustainable funding model.

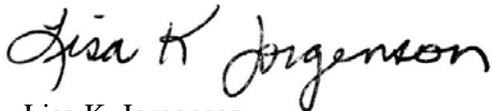
During Congress's consideration of the Leahy-Smith America Invents Act (AIA), a compromise was struck on the funding issue, which resulted in the establishment of the "reserve" fund under Section 22 in lieu of language similar to this bill. In consideration of that compromise, we, like many in the user community, agreed to support a 15% surcharge and USPTO fee setting authority contained in the AIA, both of which led to a significant increase in fees. This agreement was premised on the understanding that those monies either would be made available to the USPTO or would go to the reserve fund. Yet less than two years after enactment, we again saw substantial funds withheld from the Office as a result of sequestration. This denial of fund access had serious negative consequences, such as the cancellation of much-needed IT improvements, significant delays in the rollout of satellite offices, and a slowing down of examiner hiring, all of which are critical to improvements in quality and pendency.

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Allowing the USPTO to retain and use all of its fee revenues is absolutely necessary if it is to follow through with the beginning steps taken of addressing quality and pendency issues and carrying out its continued responsibilities under the AIA. The USPTO 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 deserve no less.

Recent events point out the unpredictable climate in which the USPTO continues to operate, demonstrating why it is essential to pass this legislation. True patent law reform and improvements at the USPTO depend on the USPTO's fiscal ability to meet its growing challenges. The time has come for Congress to ensure, once and for all, the long-term financial stability of the USPTO by enacting H.R. 1832.

Sincerely,

A handwritten signature in black ink that reads "Lisa K. Jorgenson". The signature is written in a cursive, flowing style.

Lisa K. Jorgenson
Executive Director
American Intellectual Property Law Association