

November 13, 2013

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

The Honorable Darrell Issa  
Committee on the Judiciary  
U.S. House of Representatives  
2347 Rayburn House office Building  
Washington, DC 20515

The Honorable Mel Watt  
Ranking Member Subcommittee on Courts,  
Intellectual Property, and the Internet  
Committee on the Judiciary  
United States House of Representatives  
2304 Rayburn House Office Building  
Washington, DC 20515

The Honorable Doug Collins  
Committee on the Judiciary  
U.S. House of Representatives  
513 Cannon House office Building  
Washington, DC 20515

**Re: Support for H.R. 3349, the Innovation Protection Act**

Dear Ranking Member Conyers and Ranking Member Watt, and Congressmen Issa and Collins:

On behalf of the American Intellectual Property Law Association (AIPLA), I am writing to express our strong support for H.R. 3349, 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 Office has faced serious financial issues in recent years, even requiring Congress to enact emergency and supplemental appropriations legislation to keep the agency in operation, and it is now facing these critical problems yet again. Nothing directly affects the proper function of the U.S. patent system more than access to resources, and yet the Office continues to be in desperate 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

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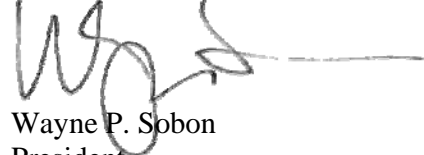
user community, agreed to support a 15% surcharge and USPTO fee setting authority contained in the AIA, both of which led to a significant increase in fees. This agreement was premised on the understanding that those monies either would be made available to the Office or would go to the reserve fund. Yet less than two years later, we again see substantial funds withheld from the Office, this time as a result of sequestration. This denial of fund access has 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.

Allowing the Office 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 new responsibilities under the America Invents Act. 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 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 Office'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. 3349.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Wayne P. Sobon', with a horizontal line extending to the right.

Wayne P. Sobon  
President

American Intellectual Property Law Association