

September 10, 2021

The Honorable Shalanda Young
Acting Director
Office of Management and Budget
725 17th St., NW
Washington, DC 20503

The Honorable Gina Raimondo
Secretary
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Dear Acting Director Young and Secretary Raimondo,

We write to share our concern regarding the resources appropriated to the U.S. Patent and Trademark Office (USPTO). Attached please find a letter our organizations sent to the leaders of the Senate Appropriations and Judiciary Committees recently addressing these concerns. Our organizations have worked with Congress and numerous administrations to emphasize the importance of fully funding the USPTO at a level equal to fee collection estimates, which has occurred since the passage of the America Invents Act in 2011. In our judgment, maintaining this practice is critically important to the health of the U.S. economy.

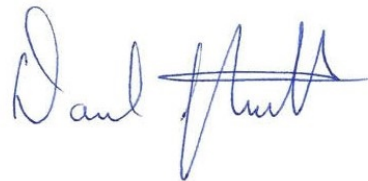
The 2022 President's Budget Request departed from this practice by constraining the USPTO's spending at \$3.994 billion, an amount approximately \$64 million less than the Office's expected collections. This change will hamstring the USPTO from retaining an appropriate operating reserve, which has been critical for managing fluctuations in cash flow, mitigating risk, and ensuring efficient operations. Requiring the USPTO to request reprogramming of collections that exceed this amount introduces unnecessary process and delay into the management of an agency responsible for supporting American innovation and job creation.

As you know, no general taxpayer dollars are at stake. The USPTO is 100 percent funded by user fees. We ask that you work with congressional appropriators so that they can appropriate USPTO funding for FY 2022 at a level equal to fee collection estimates and that OMB return to the traditional budget treatment of the USPTO in future years.

Sincerely,



Joseph R. Re
President
American Intellectual Property Law Association



Daniel J. Staudt
President
Intellectual Property Owners Association

cc: Austin Turner, Office of Management and Budget
Colleen Chien, U.S. Department of Commerce
Arti Rai, U.S. Department of Commerce
Drew Hirshfeld, USPTO
David Berdan, USPTO



July 29, 2021

The Honorable Patrick Leahy
Chair, Intellectual Property Subcommittee
United States Senate
437 Russell Senate Office Building
Washington, DC 20510

The Honorable Thom Tillis
Ranking Member, Intellectual Property Subcommittee
United States Senate
113 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Jeanne Shaheen
Chair, Commerce, Justice, Science, and Related Agencies Subcommittee
United States Senate
506 Hart Senate Office Building
Washington, DC 20510

The Honorable Jerry Moran
Ranking Member, Commerce, Justice, Science, and Related Agencies Subcommittee
United States Senate
521 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Leahy, Chairman Shaheen, Ranking Member Tillis, Ranking Member Moran,

We write to express our concern about resources appropriated to the U.S. Patent and Trademark Office (USPTO) in FY2022. We understand that the House Appropriations Committee is poised to approve a bill constraining the USPTO's spending to \$3.994 billion. This is substantially less than the USPTO's estimated fee collection of \$4.058 billion. While it appears that this was based on the President's Budget request, it is a significant departure from the usual practice of giving the USPTO immediate access to all estimated fee collections.

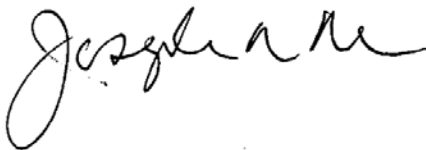
The IP system is critical to the U.S. economy and contributes as a foundation for U.S. leadership in innovation and technological advancement. It is imperative for the USPTO to receive access to all its fees to support its efforts to improve quality, enhance technology, and appropriately hire needed personnel, each of which benefits the entire IP ecosystem.

The USPTO is funded entirely by user fees, uses no taxpayer money, and should have full access to all the user fees it collects. We urge passage of a funding measure that reflects the intent of the Leahy-Smith America Invents Act to fund the USPTO at a level equal to fee collection estimates. The ability of the agency to keep all its user fees was a cornerstone of that legislation, and Congress has followed its intent faithfully for the decade since its passage.

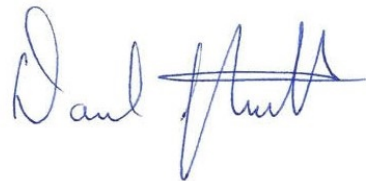
Although the legislative vehicle passed by the House Appropriations Committee would allow the USPTO to request funds collected in excess of its appropriation, this is an unnecessary impediment. The USPTO's ability to retain a small operating reserve allows it to manage fluctuations in cash flow, mitigate risk, and operate efficiently.

We appreciate your past support for funding the USPTO at the level of its fee collection estimates and ask you to take immediate action to enable the USPTO to spend all 2022 fee collections. In our judgment, this is critically important to the health of the U.S. economy. We stand ready to assist the Committee in any way we can.

Sincerely,



Joseph R. Re
President
American Intellectual Property Law Association



Daniel J. Staudt
President
Intellectual Property Owners Association