September 28, 2026

The Honorable Thom Tillis
Chair
Senate Judiciary Subcommittee on Intellectual Property
United States Senate
Washington, DC 20510

The Honorable Adam Schiff
Ranking Member
Senate Judiciary Subcommittee on Intellectual Property
United States Senate
Washington, DC 20510
Dear Chair Tillis and Ranking Member Schiff:

On behalf of Intellectual Property Owners Association (IPO), the American Intellectual Property Law Association (AIPLA), and the International Trademark Association (INTA), we write in advance of the IP Subcommittee hearing scheduled for Tuesday, September 29 to share input on two issues related to U.S. Patent and Trademark Office (USPTO) oversight. We sent a letter expressing these same positions to Subcommittee Chair Issa and Ranking Member Johnson ahead of the House Subcommittee on Courts, IP, AI, and the Internet's USPTO oversight hearing on September 2, 2026.

First, we encourage the Subcommittee to support the extension of the U.S. Patent and Trademark Office's fee-setting authority under Section 10 of the Leahy-Smith America Invents Act (AIA), which is set to expire on December 11, 2026, with the current continuing resolution, absent further congressional action. This authority has served the patent and trademark system well for nearly 15 years and allowing it to lapse would be an avoidable setback.

Before the AIA, USPTO fees were fixed by statute, so adjustments to reflect actual examination costs, growing application volume, or investments in IT modernization required an act of Congress. Section 10 replaced that rigid model with a rulemaking process in which the Office sets and adjusts fees to recover its aggregate costs, informed by public notice and comment. That flexibility has been essential to the Office's ability to fund examiner hiring, reduce patent and trademark pendency, and keep its operations technologically current. We recommend that any extension include a sunset provision, so Congress can revisit this authority at a future date.

Second, we are concerned that the Patent Public Advisory Committee (PPAC) and Trademark Public Advisory Committee (TPAC), which were established under the American Inventors Protection Act to give the USPTO's user community a formal, ongoing voice in evaluating how the agency is run, currently have fewer than the number of members prescribed by statute. Both committees have been inactive for over 18 months as a consequence.

Beyond their statutory role, outlined in Section 10(d) of the AIA, in reviewing any fee changes proposed by the USPTO, including holding stakeholder hearings and providing recommendations to the USPTO, these committees are required to hold regular public meetings with USPTO leadership. Those public meetings, which have not been held regularly for several years, provide transparency and are invaluable for the stakeholder community to understand how the office is performing operationally and financially, gain insight into new and ongoing initiatives, and provide feedback as needed.

We respectfully ask the Subcommittee to encourage the Office to work with the Secretary of Commerce to fill current vacancies without further delay. Thank you for your attention to this matter.

Respectfully submitted,

American Intellectual Property Law Association (AIPLA)
Intellectual Property Owners Association (IPO)
International Trademark Association (INTA)

cc: John Squires, Undersecretary of Commerce for Intellectual Property
and Director of the U.S. Patent and Trademark Office

Senate IP Subcommittee members