

THE COALITION FOR 21ST CENTURY PATENT REFORM

Protecting Innovation to Enhance American Competitiveness

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October 30, 2013

The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable Mel Watt
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Darrell Issa
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

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

Dear Congressmen:

I am writing to express the strong support of the Coalition for 21st Century Patent Reform for H.R. 3349, the "Innovation Protection Act." As you are well aware, our Coalition supported a similar provision in H.R. 1249, which the House Judiciary Committee favorably reported on June 1, 2011. A similar provision was also contained in S. 23 which was passed by the Senate on March 8, 2011. Once again, we heartily commend you for introducing this measure to revisit the problems confronting the USPTO due to the past diversion of fees and more recently by the decision to sequester the user fees it has collected.

H.R. 3349 is a simple and straightforward provision that creates a mandatory revolving fund in the Treasury that will allow the U.S. Patent & Trademark Office (USPTO) to retain all of the fees paid by patent and trademark applicants and to use those fees to provide the services for which they were paid. This legislation is desperately needed to prevent such user fees from being diverted or sequestered and redirected to support other government programs. Over the last two decades, Congress has redirected more than one billion dollars in user fees to such purposes, treating these fee revenues as if they were normal taxpayer dollars. However, applicants alone – not taxpayers – fund the operations of the USPTO and applicants expect those fees to be devoted solely to the purposes for which they are paid. And doing so adds not one penny to the deficit.

With the enactment of the American Inventors Act (AIA), the USPTO began an impressive effort to build the capabilities that it needs to fully implement this important legislation. These efforts include enhancing the USPTO infrastructure to meet the demands of the AIA, especially the personnel and IT resources necessary to do the job. With the Office's inability during the just-ended fiscal year to access all of the fees

collected from the users of its services, critical momentum has been lost, opportunities squandered, and realization of the true promise of the AIA delayed.

The similar provisions contained in the predecessors of H.R. 3349 were ultimately not included in the AIA because of concerns that, if enacted, they would abolish or hinder the oversight powers of Congress. This was not the case with those bills, and is likewise not the case with H.R. 3349. Congress would still be able to direct spending where needed within the USPTO, but Congress will not be able to divert or sequester funds or otherwise reduce the amount of revenue the agency takes in and holds in reserve. Congress may still, as always, conduct oversight hearings on USPTO operations. H.R. 3349 would require the Office to submit to Congress an annual report of its preceding fiscal year operations as well as its plans for the future. The Director of the USPTO will also be required to submit an annual spending plan to the Appropriators, provide for an independent audit of the agency, and prepare a budget for the President for inclusion in the Administration's Budget. The transparency and accountability made possible through robust oversight will ensure that the USPTO will be held fully accountable to efficiently execute its Constitutional mission.

Absent a statutory mechanism to prevent future fee diversion or sequestration – which continues today – the existing and new responsibilities vested in the USPTO will suffer, the ability of the USPTO to plan for and build the type of agency our innovation economy demands will be frustrated, and the job-stifling patent application backlog will continue.

We thank you for your leadership in introducing H.R. 3349. Our Coalition pledges its full support and is prepared to work with you and other members of Congress to secure its prompt enactment.

Sincerely,



Carl B. Horton
Coalition for 21st Century Patent Reform

cc: The Honorable Bob Goodlatte, Chairman
Members of the Committee on the Judiciary

The Coalition has approximately 50 members from 18 diverse industry sectors and includes many of the nation's leading manufacturers and researchers. The Coalition's Steering Committee includes 3M, Caterpillar, General Electric, Johnson & Johnson, Eli Lilly and Procter & Gamble. Visit <http://www.patentsmatter.com> for more information.