



House Judiciary Forum on “The Impact of Budget Proposals on Justice, Job Creation, Public Safety, and Civil Liberties

February, 24 2011

Good morning. Thank you very much, Mr. Conyers, for holding this important forum. My name is Kirsten Zewers. I am here today to speak on behalf of the Intellectual Property Owners Association (IPO) where I am the Government Relations Counsel.

IPO is a trade association representing companies and individuals in all industries and fields of technology who own or are interested in intellectual property rights. Our membership includes more than 250 companies and over 11,000 individuals. We represent a broad spectrum of large and mid-sized companies in industries ranging from information technology to consumer products to pharmaceuticals and biotechnology. We also have small business and independent inventor members. Collectively, our members file approximately 30 percent of the patent applications filed in the United States Patent and Trademark Office (PTO). While our members may not agree on everything, *they all agree that the United States needs an effective PTO to keep our nation competitive, encourage innovation and create new jobs.*

IPO urges Congress to promptly pass a funding measure allowing the PTO to utilize all of the user fees it collects from our members and other members of the public. The budget proposal for funding the government in the remainder of fiscal year 2011, H.R. 1, does not satisfy this request; it merely extends the current continuing resolution which limits PTO spending to the fiscal year 2010 appropriations rate. This means that the PTO is collecting (and will continue to collect) over \$1 million per day that it cannot put to work to review and grant patents.

We believe patent rights granted by the PTO provide critically important incentives for inventors and businesses to invent, to invest in research and development, and to commercialize technology. Industries that are innovation-intensive have a much stronger record of creating manufacturing and service jobs than industries that are less innovative. Such jobs produce competitive products and services for the domestic and export markets.

Simply put: patents mean jobs for the U.S. economy. Thus, funding the PTO at a level equal to fee collections is critically important to innovation, job creation, and the health of the U.S. economy overall.

We appreciate the bipartisan and bicameral efforts of members of the House and Senate Judiciary and House and Senate CJS Appropriations Subcommittees to fully fund the PTO in the past. This same cooperative spirit is needed now.

As you, Mr. Conyers, and the members of the House Judiciary Committee know well, the PTO is 100 percent funded by user fees; therefore no general taxpayer dollars are at stake. In addition to granting the PTO access to all fiscal year 2011 estimated fee collections, IPO strongly supports including a “buffer” in the legislation to allow the PTO to spend \$100 million to \$200 million more than estimated fee collections, if actual fee collections in 2011 exceed estimates. Lastly, IPO members are even willing to pay a 15% surcharge on major patent fees during the remainder of fiscal year 2011, provided that this surcharge will be available to the agency. These provisions were all part of the original House CJS appropriations bill for this fiscal year.

At a recent House Judiciary Oversight Hearing, PTO Director, David Kappos, testified that “Should the Continuing Resolution be extended for the full year, and hold the [US]PTO to the prior year funding level, we will have to halt all hiring, overtime, IT improvements, and PCT outsourcing. As a result, some of the progress we have made to reduce our backlog and pendency would be reversed, and we would expect these key metrics to begin moving in the wrong direction.”

IPO agrees that the funding problem is urgent and must be addressed now. According to the latest estimates, if H.R. 1 is enacted, the PTO could likely collect and not be able to use between about \$184 million and about \$295 million this fiscal year (depending on whether a 15% surcharge is enacted for the rest of the fiscal year). Meanwhile the backlog at the PTO continues to be untenably long. PTO access to these user fee dollars can be the difference between success and failure for the agency in stimulating the economy and creating American jobs.

For these reasons, IPO urges Congress to promptly pass a funding measure allowing the PTO to utilize all the user fees it collects this fiscal year and in the future. Thank you very much for the opportunity to participate in this forum. I look forward to answering any questions you may have.