

July 29, 2021

The Honorable Patrick Leahy  
Chairman, 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  
Chairman, Commerce, Justice, Science, and Related Agencies Appropriations Subcommittee  
United States Senate  
506 Hart Senate Office Building  
Washington, DC 20510

The Honorable Jerry Moran  
Ranking Member, Commerce, Justice, Science, and Related Agencies Appropriations  
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 ensure 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.

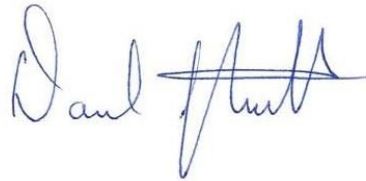
Although the legislative vehicle passed by the House Appropriations Committee would allow the USPTO to request funds collected in excess of its appropriation, this is an unnecessary impediment. The USPTO's ability to retain a small operating reserve allows it to manage fluctuations in cash flow, mitigate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