

United States Senate

WASHINGTON, DC 20510

June 29, 2011

The Honorable Daniel Inouye, Chairman
The Honorable Thad Cochran, Ranking Member
Senate Committee on Appropriations
Washington, DC 20510

The Honorable Barbara A. Mikulski, Chairwoman
The Honorable Kay Bailey Hutchison, Ranking
Member
Subcommittee on Commerce, Justice, Science, and
Related Agencies
Senate Committee on Appropriations
Washington, DC 20510

Dear Chairman Inouye, Chairwoman Mikulski, and Ranking Members Cochran and Hutchison:

Full funding for the United States Patent and Trademark Office (“USPTO”) is essential to the efficient operation of the USPTO, to working through the backlog of approximately 700,000 applications, and to improving America’s economy and job creation. We know that you share this view.

We write regarding the America Invents Act, H.R. 1249, which recently passed the House of Representatives. This legislation is based on S. 23, which passed the Senate on March 8, 95-5.

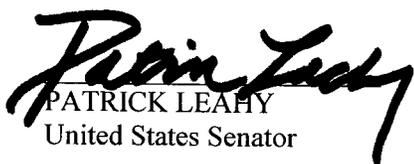
The Senate-passed bill, and the version of the House bill approved by the House Committee on the Judiciary, contained a new revolving fund for the USPTO which would ensure that all user fees paid by the patent community would be used for patent services, without the need for annual appropriations. We were disappointed that this provision was not retained in the House-passed version of H.R. 1249, but we believe that the compromise language contained in the legislation, combined with the commitment made by the Chairman of the House Appropriations Committee, is a concrete step forward.

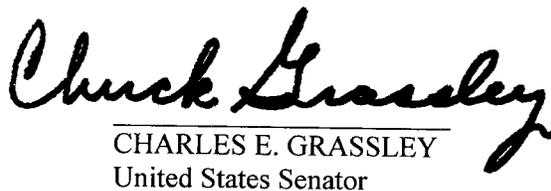
H.R. 1249 creates a Patent and Trademark Office Reserve Fund into which will be deposited any user fees collected in excess of the amount appropriated to the USPTO, for use only by the USPTO. The House Appropriations Committee Chairman further committed to including language in annual appropriations bills providing that all fees collected by the USPTO in excess of its annual appropriated level will be available to the USPTO until expended – that is, will be made automatically available to the USPTO without the need for subsequent legislation, subject to regular oversight. We further understand that release of the funds would be subject to a 15 day notification period.

We believe that this appropriations language guaranteeing full funding for the USPTO is essential as part of Congress’s efforts to modernize the patent system and must also be included as an anomaly even if the Congress funds the USPTO through a continuing resolution.

We look forward to working with you to achieve our mutual objective of supporting the United States patent system and American inventors.

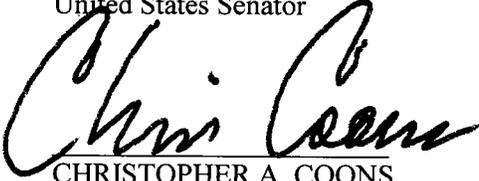
Sincerely,


PATRICK LEAHY
United States Senator

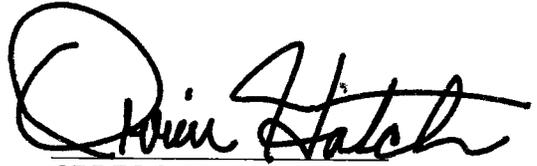

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United States Senator



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