



June 12, 2003

The Honorable F. James Sensenbrenner, Jr.
Chairman, Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515-6216

Dear Mr. Chairman:

I am writing to set forth the views of the Department of Commerce ("the Department") on H.R. 1561, the "United States Patent and Trademark Fee Modernization Act of 2003," as amended in markup by the Subcommittee on Courts, the Internet and Intellectual Property.

The bill amends section 41 of title 35, United States Code, and otherwise revises patent and trademark fees to reflect more accurately the costs of the services provided by the United States Patent and Trademark Office (USPTO) and to generate the fee income necessary to implement the goals and objectives of the USPTO's 21st Century Strategic Plan. Pursuant to an amendment adopted by the Subcommittee, the bill amends subsections (b) and (c) of section 42 of title 35, United States Code, to eliminate language that presently makes the availability of fees collected by the USPTO subject to the appropriations process. As a result, the Director of the USPTO would be authorized to expend all USPTO fee collections to carry out the activities of the USPTO. Also, the provisions of any applicable appropriation Act that are in effect on the bill's effective date would, under the amendment, "cease to be effective."

The Department strongly supports the enactment of the fee revisions and related provisions that were contained in the bill as introduced and the technical amendment adopted during the Subcommittee markup. Those revisions and provisions are consistent with the President's FY 2004 budget for the USPTO and are an essential part of our comprehensive plan to: improve the quality of granted patents and trademark registrations; reduce pendency in processing applications for patents and for the registration of trademarks; and increase efficiency through expansion of e-government programs.

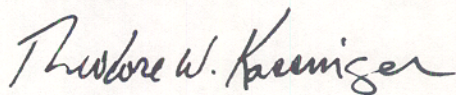
It is our belief that the Department and the Committee are in agreement on the necessity of ensuring sufficient funding for the USPTO so that it may continue its efforts to improve quality, reduce pendency and otherwise strengthen our intellectual property system. Secretary Evans is working to eliminate the practice of using USPTO revenues for unrelated federal programs and believes that making more fees available sooner will

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enable the agency to increase the quality of patents and trademarks issued. However, the Department cannot support enactment of the bill in its current form because the resultant funding level for the USPTO and the removal of the USPTO from the appropriations process are inconsistent with the President's budget for FY 2004. We look forward to working with the Committee to resolve this important issue.

The Office of Management and Budget advises that there is no objection to the transmittal of these views from the standpoint of the Administration's program.

Sincerely,

A handwritten signature in cursive script that reads "Theodore W. Kassinger".

Theodore W. Kassinger

cc: The Honorable John Conyers, Jr.
Ranking Minority Member