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May 29, 2007

Hon. Jon Dudas
Under Secretary of Commerce for Intellectual Property and
Director of the U.S. Patent and Trademark Office (USPTO)
Mail Stop Comments—Patents, Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTN: Harry I. Moatz

Submitted by email to: ethicsrules.comments@uspto.gov

Re: Comments on Supplemental Notice of Proposed Rulemaking, “Changes to Representation of Others Before the United States Patent and Trademark Office,” 72 Fed. Reg. 9196 (Feb. 28, 2007)

Dear Under Secretary Dudas:

I am writing on behalf of Intellectual Property Owners Association (IPO) to comment on proposed rulemaking related to changes to the representation of others before the USPTO, which was recently published in the Federal Register. IPO welcomes the opportunity to provide these comments on the proposed rule changes.

IPO is a trade association of more than 200 companies and 10,000 individuals who are involved in the association either through their companies or as inventor, author, executive, law firm or attorney members. Our corporate members file approximately 30 percent of the patent applications filed at the USPTO by U.S. nationals.

The Office proposes to amend 37 CFR 11.5 to include a subsection (b) that defines “practice before the Office.” With respect to this modification, the Office solicited comments on “whether it should explicitly provide for circumstances in which a patent agent’s causing an assignment to be executed might be appropriate incidental to preparing and filing an application.”

The discussion accompanying the proposed rules notes that it has been the Office’s position that a registered patent agent could prepare a patent assignment or license if not prohibited by state law and that an agent may submit the assignment or license for recordation. We recommend that this position be explicitly stated in the rules. The proposed rule 11.5(b) specifies the activities that an agent may carry out. Silence on the matter of assignment preparation may suggest that this activity is not permitted.

The discussion also notes that preparation of an assignment or license is a matter of state law. Most states permit paraprofessionals, such as patent agents, to complete documents

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under the supervision of an attorney. Selection of an assignment or licensing agreements prepared and approved by an attorney would generally fall under such an allowance. Allowing paraprofessionals to engage in these types of activities is particularly important in a corporate environment where only one or two form agreements may be used in certain clearly defined situations. Completion of such agreements and modification of the agreements under the direction of an attorney should be permitted. Explicit recognition that selection and completion of an assignment is incidental to the filing of an application as long as it is not prohibited by state law is important to the effective utilization of patent agents.

We thank you for the opportunity to provide comments. Please feel free to contact me if you would like to discuss these or other issues addressed in the proposed rules in more detail.

Sincerely,

A handwritten signature in black ink that reads "Herbert C. Wamsley". The signature is written in a cursive style with a large, stylized initial "H".

Herbert C. Wamsley
Executive Director