

CHARTER OF THE
PATENT PUBLIC ADVISORY COMMITTEE
UNITED STATES PATENT AND TRADEMARK OFFICE

A. ESTABLISHMENT

The Secretary of Commerce establishes the Patent Public Advisory Committee (Committee) under the Patent and Trademark Office Efficiency Act, Pub. L. 106-113, Appendix I, § 4714, 113 Stat. 5101A-578 (Nov. 29, 1999), codified at 35 U.S.C. § 5.

B. OBJECTIVES AND DUTIES

1. The Committee will review the policies, goals, performance, budget, and user fees of the United States Patent and Trademark Office (USPTO) with respect to patents and advise the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (Director) on these matters.
2. Within 60 days after the end of each fiscal year, the Committee will prepare an annual report on the matters referred to in paragraph (1); transmit the report to the Secretary of Commerce, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and publish the report in the *Official Gazette*.
3. The Committee functions solely in an advisory capacity.
4. The Committee will be available to the Director for consultation.

C. MEMBERS AND CHAIRPERSON

1. The Committee will have nine voting members, who are appointed by and serve at the pleasure of the Secretary of Commerce.
2. Voting members of the Committee—
 - a. will be citizens of the United States;
 - b. will be chosen so as to represent the interests of USPTO diverse users with respect to patents;
 - c. will include members who represent small and large entity applicants located in the United States in proportion to the number of applications filed by such applicants;

- d. will include at least three members who represent small entity patent applicants, including small business concerns, independent inventors, and nonprofit organizations;
 - e. will include at least one independent inventor; and
 - f. will include individuals with substantial background and achievement in finance, management, labor relations, science, technology, and office automation.
3. In making appointments to the Committee, the Secretary of Commerce will consider the risk of loss of competitive advantage in international commerce or other harm to United States companies as a result of such appointments.
 4. Voting members will be Special Government Employees as defined in 18 U.S.C. § 202.
 5. The Committee will have three non-voting members consisting of a representative from each labor organization recognized by USPTO, namely, Locals 243 and 245 of the National Treasury Employees Union (NTEU) and the Patent Office Professional Association (POPA).
 6. The Secretary will appoint a voting member of the Committee as the Chairperson. The Chairperson will serve a three-year term. If the Chairperson is unable to attend a Committee meeting, he or she will appoint a voting member of the Committee to chair the meeting.
 7. Each voting member will serve a three-year term. However, when the first voting members are appointed, three will be appointed for a term of one year, and three will be appointed for a term of two years. No voting member may serve more than two consecutive terms.
 8. When a vacancy occurs in the Committee, a replacement member may be appointed for the remainder of the unexpired term. Vacancies will be filled within three months after they occur. A replacement appointment for less than half of a term will not be counted for the purposes of the term limitation in the preceding paragraph.
 9. Voting members of the Committee are not subject to 35 U.S.C. § 4. The Director has determined that because voting members do not have access to confidential patent information and because 35 U.S.C. § 5(b)(2) requires an independent inventor on the Committee, Congress did not intend for 35 U.S.C. § 4 to bar Public Advisory Committee members from obtaining or prosecuting patents.


D. ADMINISTRATIVE PROVISIONS

1. The Committee will meet at least twice a year, but will not serve more than 60 days during any period of 365 consecutive days. Meetings will be held at the call of the Chairperson, in consultation with the Director.

2. Notice of a meeting, including the agenda for the meeting, will be posted on the USPTO Web site (www.USPTO.gov) at least two weeks before the meeting date except as the Chairperson may deem necessary. No other notice is required, but notice may also be published in the *Federal Register* and the *Official Gazette*. The Chairperson, in consultation with the Director, will set the agenda for each meeting.
3. Committee meetings will be open to the public, except that the Committee may, by majority vote, meet in executive session when considering personnel or other confidential information. The agenda will provide notice of each executive session.
4. Members of the public may file written statements with the Committee prior to the meeting concerning matters on the Committee's agenda. The Chairperson may permit members of the public to submit written statements on such matters within a specified time after the Committee meeting. Oral presentations at the Committee meetings by members of the public will not be permitted except upon invitation of the Chairperson.
5. Committee meetings may be conducted online. Meetings not conducted online will be held in the metropolitan Washington, D.C. area in space provided by USPTO.
6. Transcripts of Committee meetings open to the public will be posted on the USPTO Web site.
7. Procedures for the Committee decision-making process will be developed by the Committee. The Chairperson may appoint subcommittees subject to such conditions as the Chairperson may prescribe.
8. USPTO will provide clerical and other support services for the Committee as the Director may determine to be necessary and proper. The estimated annual budget for such support including compensation, travel, lodging, meeting room, and staffing is \$94,000.00.
9. If necessary, in order to fulfill the duties of the Committee, the Chairperson may request USPTO to provide access to existing records created and used by USPTO in the ordinary course of business. Unless the request is for personnel or other privileged information and information concerning patent applications required to be kept in confidence by 35 U.S.C. § 122, access to the records or copies of the records will be provided. The Chairperson will submit requests for records to the Office of the Director.
10. A voting member of the Committee will be compensated for each day, including travel time, during which such member is attending Committee meetings or is otherwise engaged in the business of the Committee. Compensation will be at the rate that is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under 5 U.S.C. § 5314. While the member is away from his or her home or regular place of business, they will be compensated for travel expenses, including per diem as defined in 5 U.S.C. § 5703.

11. The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Committee.
12. The Director will issue protocols for the efficient operation of the Committee and for effective and timely interaction between the Committee and other USPTO units.
13. This charter may be amended by the Secretary of Commerce.

July 29, 2000
Date


Secretary of Commerce