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President

**AMERICAN BAR ASSOCIATION**

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June 13, 2011

The Honorable Eric Cantor  
Majority Leader  
U.S. House of Representatives  
H-329, The Capitol  
Washington, D.C. 20515

Dear Majority Leader Cantor:

I write to urge the prompt consideration in the House of H.R. 1249, the America Invents Act. After six years of congressional effort, the House is in a position to enact important legislation to modernize and upgrade the substantive patent laws of the United States, as well as to take great strides in improving the operations and efficiency of the U.S. Patent and Trademark Office (“USPTO”) that serves our nation’s many inventors and innovators.

This patent reform legislation has broad bipartisan and bicameral support in the Congress. A substantially similar bill, S. 23, passed the Senate by a vote of 95-5. The House Judiciary Committee approved H.R. 1249 by a vote of 32-2. Private sector stakeholders, who for years held widely divergent views on major provisions of the legislation, have now come together in support of the legislation.

Two of the major improvements contained in the bill are of special interest to the American Bar Association.

Section 3 provides for the transition of the United States to a system that awards a patent to the first inventor to file an application for a patent on the invention. The United States is alone in the world in retaining the first-to-invent system. While a first-inventor-to-file system encourages inventors to file for a patent and disclose their inventions at an early date, the current first-to-invent standard increases opportunity for competing claims to the same invention and facilitates protracted legal battles in administrative and court proceedings that are extremely costly, in both time and money.

Section 22 would establish a funding mechanism that would make it possible for the USPTO to apply best business practices in providing services for its customers, who pay more than \$2 billion annually in user fees for those services. No taxpayer funds are involved in supporting the operations of the USPTO. In view of this fact, section 22 provides, quite simply and realistically, that the user fees or sales receipts taken in by the USPTO go into a bank account that is immediately available to the USPTO to pay its bills. This simple change will greatly enhance

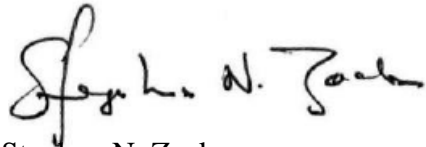
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the efficiency of the USPTO in planning and implementing its operations internally as well as for the intellectual property community.

We realize that there are still some concerns with some of the provisions of H.R. 1249, including the two mentioned above that are of great importance to the ABA. However, these concerns can be addressed in the amendment process for H.R. 1249 that has already been announced by the Committee on Rules. Accordingly, we strongly urge you to continue as planned to the consideration of H.R. 1129 in the House within the next few days.

Sincerely,

A handwritten signature in black ink that reads "Stephen N. Zack". The signature is written in a cursive style with a large initial 'S' and a long horizontal stroke at the end.

Stephen N. Zack

President

American Bar Association