AIPLA

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STATEMENT OF ALAN J. KASPER

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BEFORE THE

SUBCOMMITTEE ON COURTS, THE INTERNET, AND INTELLECTUAL PROPERTY,

COMMITTEE ON THE JUDICIARY

UNITED STATES HOUSE OF REPRESENTATIVES

OVERSIGHT HEARING ON

THE UNITED STATES PATENT AND TRADEMARK OFFICE

FEBRUARY 27, 2008

Mr. Chairman and Members of the Subcommittee,

I am pleased to have the opportunity to present the views of the American Intellectual Property Law Association ("AIPLA") at this oversight hearing on "The U.S. Patent and Trademark Office." Let me express our appreciation for your continuing interest in this vital government office.

AIPLA is a national bar association of more than 17,000 members engaged in private and corporate practice, in government service, and in the academic community. AIPLA represents a wide and diverse spectrum of individuals, companies and institutions involved directly or indirectly in the practice of patent, trademark, copyright, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property, and therefore have a keen interest in an efficient and smoothly functioning Office.

As outlined in my biography, I began my career in patent law as an Examiner in the United States Patent and Trademark Office ("USPTO" or the "Office"), worked for over 15 years in-house in a corporate setting, and have been a partner in an IP firm here in Washington, DC for over 20 years. My practice involves patent prosecution, litigation, opinions and client counseling in the patent field, and I have both domestic and foreign clients. My firm, Sughrue Mion, PLLC, is an IP boutique with over 100 IP professionals that filed over 7,000 U.S. patent applications and obtained over 3,300 U.S. patents for their clients in 2007. Many of the applications filed in the USPTO are based upon international applications that were previously filed under the Patent Cooperation Treaty (PCT) and the majority of our U.S. applications are filed in parallel in other patent offices, particularly those in Japan, Europe, China, Korea and India.

In preparing for this hearing, I draw from my professional experience and that of my colleagues in my firm and in AIPLA. I also draw upon a variety of roles that I have played over the past few years in connection with AIPLA activities. In that connection, I served as chair of an ad-hoc Special Committee on the USPTO Strategic Plan for 2007-2012, as the leader of an AIPLA delegation that participates as one of two U.S. IP associations in the Industry Trilateral, and my recent experience of participating on behalf of AIPLA in a "focus group" conducted by a consultant working for the USPTO under the auspices of the Patent Public Advisory Committee. In this latter capacity, I had the opportunity to hear the views of other patent practitioners regarding the challenges and problems they see presently confronting the USPTO. Thus, while there has been insufficient time to conduct a survey of AIPLA's members, I believe that the comments that I will offer this afternoon represent the views of many practitioners who work daily with the USPTO.

General Background

Patent Prosecution Process

At the risk of providing background already known to the Members of the Subcommittee, I would simply like to note briefly that the U.S. Patent law (35 USC 1, *et seq*) grants a limited term right to exclude others from making, using, selling, offering to sell, and importing an invention in consideration for a clear and enabling public disclosure of an invention, including the manner of making and using the invention. The grant is based upon a patent application filed with the USPTO that has a written disclosure, typically including drawings, that must enable one of ordinary skill in the relevant technology to make and use the invention. The application also includes claims, which are single sentence statements that define the invention and delineate its

scope, based upon differences that the Applicant perceives the invention possesses over the prior art known to the Applicant at the time the application is filed.

During examination of the application, the Examiner will search for and evaluate the prior art as well as assess whether the claims are too broad or are indefinite. The Examiner's initial assessment of the patentability of the claims, against the standards for patentability defined by the statute, is identified in an "Office Action" that states the Examiner's assessment of the patentability of the invention in light of the relevant prior art. In response to the Examiner's position as expressed in the Office Action, the Applicant will respond with arguments to further clarify the invention or may further amend the claims to define over the cited prior art.

If the Examiner disagrees with the reply, the next communication may be a "final" Office Action in which at least some or all of the claims are finally rejected, while some others also may be allowed (i.e., considered patentable). If some claims are finally rejected, under existing USPTO practice, the Examiner will often repeat the previous basis for rejection and provide a "Response to Arguments" that is intended to address the arguments or amendments submitted by the Applicant and focus the issues that remain for resolution, through appeal or further prosecution.

In accordance with current USPTO rules, the Applicant may file a Response to the "final" Office Action but may not further amend the claims, may not submit evidence in support of patentability, and may not even conduct an interview with the Examiner, without the filing of a Request for Continued Examination (RCE) or a continuation application. Substantive interviews or other contact between the Applicant and the Examiner after final Office Action are discouraged. Thus, an Applicant's options after a "final" rejection are to file an RCE or continuation application, appeal the Examiner's final rejection or abandon the application.

The cost for an RCE or continuation application, including government fees and service charges, is approximately the same as that for filing the original application. In my experience, the RCE is by far the more popular option selected by an Applicant in order to continue the process of seeking a patent.

Diversity of Reasons for Filing U.S. Patent Applications

As indicated in my biography, I have had substantial experience as a USPTO examiner, as an in-house lawyer and as outside counsel for patent Applicants. This experience has provided me with detailed knowledge of workflows, costs and budget considerations related to the filing and prosecution of U.S. patent applications, as well as the enforcement of resulting patents through litigation and licensing. On the basis of that experience, I have observed that Applicants have a wide variety of reasons for filing a patent application and seeking to obtain a U.S. Patent.

In the vast majority of cases, the inventions relate to actual products or processes that have been developed by the inventor or his employer. Thus, two major goals for such applicants are (1) to provide a public disclosure of an idea so that such disclosure serves as a barrier to patenting by competitors, and (2) to secure claims directed to the particular features of the commercial embodiment of a product that contains the invention to protect against the copying of that product. In other words, in my experience, the perspective of the majority of Applicants is simply to obtain a patent that reasonably covers their commercial product or process. There certainly are Applicants that are willing to exhaust all administrative and legal options in order to obtain the broadest possible coverage for their invention.

Determining the Meaning of Claims

In addition, based upon my prior experience, I am mindful of the challenges faced by Examiners, the public and even Applicants and their representatives to efficiently review and

assess the scope and meaning of claims in an application or issued patent. Any given word or phrase may have different meanings and different scope to different individuals. Applicants who provide Examiners guidance with regard to the meaning of claim terminology run a risk, however, that an unintended restriction on the scope of the invention may result based upon principles such as prosecution history estoppel, as explained by the Supreme Court in the *Festo* case (*Festo Corp. v. Shoketsu Kinzoku Kogyokabushiki Co.* 535 U.S. 722 (2002)). Moreover, comments made during prosecution may have an adverse effect on the enforcement of patents based upon principles of inequitable conduct, and may unduly affect the interpretation that a U.S. District Court may give to the meaning of claim terms during litigation. Because of this adverse effect, there is a reluctance on the part of Applicants and their representatives to identify the relationship between claims and the original disclosure, to characterize the invention and the prior art during prosecution, and to explain the basis for amendments to the claims during prosecution.

Risk of Charges of Inequitable Conduct

Lastly, I wish to note the existence of the duty of disclosure that is placed upon Applicants, their representatives and others involved in the prosecution of an application under the Patent Rules (37 C.F.R. § 1.56), and the manner in which such duty is discharged with respect to relevant prior art by the filing of an Information Disclosure Statement (IDS) as provided under the Rules (37 C.F.R. §1.97 and §1.98). Where Applicants are aware of prior art that is material to the examination of a patent application before the filing of the application, or they subsequently become aware of such prior art, for example due to citations during prosecution of corresponding applications in other countries, a disclosure of such art to the U.S. Examiner through an IDS is required. Given their source, these types of documents often are not in the English language and often are merely cited by other offices as sources of background technology. The relevance of

such documents is summarized in search reports or brief comments by the Examiners in other offices. Typically, other published patents that correspond to a cited prior art reference are identified by number and country in the report. Also, typically, an English language Abstract of the reference is available that summarizes the disclosure of the references, and such an Abstract currently is accepted by the USPTO in satisfaction of the duty of disclosure.

Costs of Preparation and Prosecution

The costs to prepare and file a non-provisional utility patent application are substantial and are reported in the AIPLA Report of the Economic Survey 2007. For example, the preparation and filing of an original application of minimal complexity (10 page specification, 10 claims) on average by a firm having my firm's size is $8,548.00. Similar costs exist for relatively complex biotechnology/chemical cases ($15,398.00), relatively complex mechanical cases ($11,482.00) and relatively complex electrical/computer cases ($13,684). The average cost for filing an Amendment in a case of minimal complexity is $2,244.00, in a relatively complex biotechnology/chemical case is ($4,448.00), in a relatively complex electrical/computer case is ($3,910.00) and in a relatively complex mechanical case is ($3,506.00). (Pages I-78, I-79 and I-80 of the Survey). The government fees related to such filings are the same (unless the Applicant is a small entity) -- $1,030.00. The cost for filing an RCE is $810.00 plus a service charge, which in the case of my firm, is $350.00. The cost for filing of a continuation application is $1,030.00 plus a service charge, which in the case of my firm is $585.00.

Costs, Pendency and Quality

At the outset, I would like to acknowledge the difficulties the USPTO faces in processing the ever increasing number of patent and trademark applications it receives. These difficulties have been exacerbated by the diversion of fee income in years past, which prevented the Office from hiring and training the qualified staff it needed to handle its workload. The USPTO has been in a catch-up mode for the last few years, when it finally has been appropriated essentially all of the fee revenues it has received. Of course, members of this Subcommittee are keenly aware that the quality and pendency problems confronting the Office can be directly traced to the diversion of USPTO fee revenues. The beginning steps taken to address these issues made possible by the last four Appropriation Acts demonstrate the absolute necessity of the Office retaining and using its fee revenues, as would be guaranteed by the amendment to S. 1145 sponsored by Senator Coburn. The Office must have such a guarantee of full funding in order to intelligently plan for the recruiting, training and retaining the numbers of qualified Examiners needed to overcome the challenges it faces.

Strategic Plan

The USPTO identified a broad spectrum of solutions to meet these problems in its draft Strategic Plan for FY 2007-2012, as published in the Federal Register on August 24, 2006 (71 Fed. Reg. 50048). AIPLA submitted comments on the draft Strategic Plan in a letter to the USPTO dated October 6, 2006. In its comments, AIPLA stated its strong support for the stated goals of quality, certainty, cost effectiveness and accessibility, but encouraged greater emphasis by the USPTO on transparency, accountability and sensitivity to the costs and risks of USPTO policies to users and their representatives. AIPLA also expressed its support for programs to provide Examiner retention, including pilot programs to investigate satellite offices, compensation initiatives, diversity of career paths and enhanced resources and office support.

While many of the initiatives identified in the Strategic Plan published in 2007 were focused on quality, the main focus of the programs subsequently announced by the USPTO is on the establishment of additional responsibilities and restrictions on Applicants, for example, in connection with the Rules packages on continuations and claims, as announced on August 21, 2007 (72 Fed. Reg. 46715). The implementation of these specific Rules have been preliminarily enjoined and is currently under review by the U.S. District Court for the Eastern District of Virginia.

The Office published a Notice of its intent to engage the patent community in the development of an objective set of review criteria that could be applied across its examination processes on July 24, 2007 (72 Fed. Reg. 40286). It also announced its intention to study patent Examiner production goals on October 4, 2007 and stated an intention to review assumptions underlying current production standards in order to encourage a fresh look at production in a manner that will motivate employees, improve its work environment and enhance the quality and efficiency of the patent examination process. However, no additional initiatives that are related to quality and are focused on Examiners have been announced since the publication of the final Strategic Plan. Accordingly, in anticipation of the establishment of further initiatives, I would like to take this opportunity to identify a number of problems that those of us on the front lines of patent practice have experienced. Let me begin with some patent examination issues.

Patent Examination Issues

As already noted, in my experience, the vast majority of Applicants wish to obtain a patent so that their idea is disclosed to the public and serves as a barrier to competition, but also covers the particular product that embodies the invention. In the interest of cost saving, Applicants often forego seeking the broadest possible protection. In those rare cases where an Examiner on his/her

own initiative suggests limitations to a claim that would overcome prior art, the frequent response by Applicants is to accept reasonable proposals, notwithstanding the strength of the Applicant's substantive position or the likelihood of success on appeal. I believe that, if the culture of the Office were to encourage Examiners to propose claim amendments that would, at least in the Examiner's view, distinguish the claimed invention over the prior art, the need for further amendment, filing of RCE or continuation applications and appeals, and their attendant costs, could be avoided. In other words, the desired benefits of shorter prosecution and lower costs to both Applicants and the Office could be attained.

Examiner Adversarial Approach

In general, however, Examiners do not provide such suggestions and the current production goal system encourages extended prosecution. Even where interviews are held between an Applicant and an Examiner in order to identify patentable subject matter, there is a reluctance on the part of the Examiner to suggest or even commit to further claim limitations or modifications that would result in allowable claims and thereby shorten the prosecution process. As a result, an Applicant is forced to guess what an Examiner might accept, and then file a Response with the hope that the Examiner does not find some further, previously undisclosed interpretation of the claims or the prior art that results in yet another rejection.

The foregoing example suggests the existence of an underlying adversarial approach that is compounded by both the failure of Examiners often to address all arguments made in a reply by the Applicants or to fully explain their interpretation of the prior art. All too often, the specific teachings of the prior art and the Examiner's technical description of how the prior art meets the limitations of a claim are omitted from the "Response to Arguments" that the Examiner is required to provide.

Rigid Application of Rules

Further, formality reviews of responses and papers submitted by Applicants to the Office are often unnecessarily technical and rigid, resulting in waste and inefficiency. For example, where an Applicant erroneously designates a claim in an Amendment as "currently amended" or "previously presented" or "original", a "Notice of Non-Compliant Amendment" is mailed to the Applicant, thereby further delaying the processing of the application. Often, the delays and costs related to this procedure could be avoided with an informal communication to the Applicant, permitting an Examiner's amendment to correct the error, or a comment in a subsequent Office Action. Similar issues arise with respect to informalities in Appeal Briefs, Reexamination Requests and Reissue Requests.

Quality of Office Communications

While such formalistic errors by Applicants should not occur, the rigidity with which the Office approaches them is in dramatic contrast to the manner in which it treats the formalities governing communications by the Examiner with Applicants. All too often, an omission or error in an Office Communication results in additional costs and delays due to procedural errors, incomplete work, inconsistencies in stated positions within an Office Action and errors in law. For example, from time to time, prior art that has been discussed in an Office Action is not listed in a standard USPTO form (PTO 1449), even though such listing is required to ensure that the cited art will be identified in the published patent, once issued. Similarly, the Office Action Summary, which accompanies each Office Action prepared by the Examiner and contains a variety of boxes for checking the current status of the application, its content and received papers, is frequently incomplete. Applicants often must make multiple requests to the Examiner before the record is made complete.

Yet a further example of incomplete examination, often experienced by Applicants is the failure of the Examiner to consider highly pertinent prior art that is expressly identified during an earlier international search of the related PCT application and listed in an International Search Report.

The foregoing are common errors and, I believe, could be addressed by a greater stress on thorough and competent supervision of the Examiner's work product before it is mailed from the USPTO. Initiatives identified in the Strategic Plan included enhanced measurement of Examiner work product quality, better supervisory training, and the establishment of relevant quality metrics and measurements for these significant details.

This apparent lack of uniform supervision is further exemplified by the all-too-frequent failure of Examiners and supervisors to return telephone messages, even multiple messages, forcing extensions of time. This problem is exacerbated by Examiners who have full voice mailboxes or mailboxes that simply do not work.

Administrative Processes

Problems with regard to such procedural issues, as contrasted with substantive issues, are also found in the administrative areas. Numerous instances of errors by USPTO clerks in preparing filing receipts and other documents often require correction by Applicants, adding to costs for both the Applicant and Office. Further, all too often, USPTO clerks fail to promptly enter E-filed amendments into PALM, so that an Examiner cannot act promptly on a response and issue an Advisory Action in sufficient time for an Applicant to avoid having to pay an extension fee.

Pre Appeal Conferences

I would offer a final comment with regard to what appears to users to be an inherent bias present in the pre-appeal submission process. Under this process, in effect since 2005 as a pilot, following a final rejection of claims and concurrent with the filing of a Notice of Appeal, an Applicant can submit a "pre-appeal submission" that summarizes and highlights what it believes are errors in factual findings or legal analysis by an Examiner. Ideally, the "panel" comprises three members, including the Examiner, who will evaluate the reasonableness of the Examiner's position. This procedure, the purpose of which was to avoid the expense and time of an unnecessary appeal, was universally welcomed by Applicants, but its full potential has not been realized in practice. All too often the "panel" includes the Examiner and the supervisor originally responsible for the case, giving the third Examiner a minority position from the beginning. Moreover, as recently experienced, the "panel" may include only the Examiner and the supervisor.

Possible Solutions

As solutions to the foregoing problems, I would encourage the Office to restore a more positive climate for examination, including improvements in the diversity and quality of opportunities for professional development so that Examiner retention may be improved. Chronically poor performers, including Examiners and supervisors, should be addressed. Examiners should be encouraged to be more pro-active, offering suggestions of claim limitations or amendments that the Examiner would consider adequate to overcome rejections. Further, Directors of technology centers should closely monitor the quality of supervisory review of Examiner work product and initiate programs to enhance higher quality supervision. For example, applications having more than three Office Actions on the merits should be investigated, and spot checks of the work of a supervisor/Examiner team should be conducted more frequently than at present. The Office should also institute better policies procedures and supervision of clerical

functions with a view to reducing work that costs Applicant time and money, particularly with regard to filing receipts. Finally, with regard to pre-appeal submissions, at least two senior Examiners not involved in prosecution of an application should be involved in any review of such submissions.

By implementing these changes, I believe that costs to the Office and Applicants can be decreased, the time for prosecution of applications and resulting pendency would be reduced and the overall quality of the resulting patents would be improved.

Since this is an oversight hearing on the USPTO as we know it today, I am limiting my comments to the situation as it exists today. However, I would not like to leave the topic of costs to both the Office and Applicants without mention of the "Patent Reform Act of 2007." While that pending legislation is not the subject of today's hearing and it would be premature to offer any definitive comments on its costs, it will clearly increase the USPTO's costs of operation as well as the costs for applicants to obtain patents. Administration of a post-grant opposition system would add costs to operating the Office and present a challenge to the USPTO to find a sufficient number of qualified individuals to serve as Administrative Patent Judges. On the Applicant's side, the mandatory search and patentability analysis requirements will significantly increase the costs of filing patent applications, and increase the risk that charges of inequitable conduct will become more dominant in patent litigation. As indicated, until the final shape of the legislation is known, I would simply note that there will be cost consequences and operational challenges.

Industry Trilateral Initiatives

The "Industry Trilateral" is an industry group from the three jurisdictions served by the Japan Patent Office (JPO), the European Patent Office (EPO) and the USPTO. The membership includes the Japan Intellectual Property Association (JIPA), BUSINESSEUROPE, and both IPO

and AIPLA for the United States. The organization was formed in 2004 and meets approximately twice annually to address issues concerning costs reduction, workload sharing, pendency reduction and efficiency in the patent and trademark prosecution areas. Among its projects are initiatives to define a single search mechanism through which search results by one office can be shared with and utilized by other offices and a common application format that all three offices would accept. The use of this common application format alone would provide users an estimated savings of $300 million annually, to say nothing of the savings by offices themselves.

A common application format was proposed by the Industry Trilateral in 2006 and was partially adopted by the Trilateral offices (USPTO, JPO, and EPO) in 2007, but substantive issues contained in the Industry Trilateral proposal which would represent the vast majority of savings, were deferred.

One such recommendation is for the United States to amend its law to permit reference characters from the detailed disclosure of an application to be used in the claims as initially filed in an application without the creation of an estoppel limiting the interpretation of the claims. The inclusion of reference numerals in the claims and Abstract of an application would provide a convenient reference for Examiners, third parties and even Applicants who wish to easily correlate the disclosure of an application or a patent to the claimed subject matter. From personal experience in each of these roles, I know that substantial efficiencies would be obtained. Although the USPTO has taken the position that such reference numerals should not limit the claims, courts are not bound by USPTO policies and have acted to limit the interpretation of claims based upon these and similar correlations between the disclosure and the claims. Thus, in order to avoid such restrictions, Applicants and their representatives avoid providing such correlation in public documents. As suggested above, in order to encourage such practice, the

U.S. Patent Statute would have to be amended to provide an exemption for such correlation provided in the application as filed. Subsequent correlations provided during prosecution would continue to be subject to established rules governing estoppel and claim interpretation.

Another recommendation would be to remove the statutory requirements to include "legends" in applications (statements identifying the origin of federal funding of inventions in applications and the domestic priority of an application). With regard to such legends, alternative approaches, such as the use of the application data sheet, would avoid the need to amend applications while still providing the necessary notice to the public.

USPTO Disciplinary Rules and Inequitable Conduct

Another topic that I believe is important to address at this time concerns the current activities of the USPTO with regard to proposed disciplinary rules and inequitable conduct issues. The conduct of attorneys and agents who practice before the USPTO is subject to regulation according to statute (35 U.S.C. §2(b)(2)(D)). Practitioners may be disciplined for failure to comply with established regulations (35 U.S.C. §32). The Office of Enrollment and Discipline (OED) is charged with responsibility to monitor and investigate conduct that may violate USPTO regulations.

Proposed rules governing enrollment and discipline were published by the USPTO on February 28, 2007 (72 Fed. Reg. 9195). AIPLA submitted comments to the Office on May 26, 2007. None of those provisions concerned USPTO Rules 37 C.F.R. §10.18(b)(2) or 35 U.S.C. §1.56. We understand the proposed rules have been revised and are being reviewed by OMB, but they have not yet been officially promulgated. In public presentations by the USPTO in the fall 2007, however, the proposed changes were summarized and included some troubling proposals that were not presented as part of the original rules package. These proposed changes

are based on the duty to make reasonable inquiry, consistent with Rule 10.18(b)(2), and the duty of disclosure (Rule 56).

The public presentation by the USPTO includes examples of improper conduct that may be a basis for disciplinary action and a finding of inequitable conduct. On the basis of the yet-unseen revisions of Rule 10.18(b)(2), the Office has publicly stated that petitioners submitting papers must read each paper in its entirety, regardless of the source. Such a requirement is particularly problematic for foreign language documents, large documents provided by an applicant, or complex documents provided by an applicant. First, such documents may be provided on the basis of search reports and other corresponding applications and may have no specific relevance to the invention in the U.S. application. Alternatively, only a specific portion of the document may be relevant and only that portion translated. Finally, some documents may be cited solely for background purposes by another Office.

A requirement to have the entire document reviewed by a practitioner before submission would be burdensome at best, extremely expensive, and ultimately of little or no benefit to the Office or the Examiner. Nonetheless, failure to conduct such review has been identified by the USPTO in these recent presentations as a basis for inequitable conduct. Further, the Office is apparently taking the position that there is a continuing duty to review such documents for each claim, while pending, until withdrawn. Thus, following each amendment of the claim, the references must be reviewed again.

The foregoing has never been considered a basis for a violation of USPTO ethical rules nor even generally a basis for an ethical problem or for inequitable conduct. Indeed, there never was a proposal by way of a rule change that would have permitted the public to comment on this proposal.

Nonetheless, the public presentations by the USPTO give the impression that this now is the practice to be followed. The statements in the USPTO presentation may be asserted to a court in litigation to represent acts supporting a finding of inequitable conduct and serving as a basis for unenforceability of a patent despite the fact that such a rule has never been proposed, discussed with users, or promulgated.

These comments are offered to illustrate the dangers and damage that can be caused where highly sensitive and legally significant issues are addressed by the USPTO prior to any public vetting and opportunity for input.

Rules Packages

Lastly, I would like to address the variety of rules packages that have been proposed by the USPTO and published for comment. The packages containing limitations on continuations and claims, issued as final rules August 21, 2007 (72 Fed. Reg. 46715), were to go in effect on November 1, 2007, but are now on hold and awaiting a decision by the U.S. District Court for the Eastern District of Virginia. A package related to changes in the requirements for an Information Disclosure Statement (IDS), which we understand has been approved by OMB, has not yet been released. Other rules packages involving appeals and multi-invention alternative claims, with a goal to improve patent quality and reduced pendency, have been proposed, but have not yet been finalized.

I wish to make clear that both the practitioners' bar and users acknowledged the need for solutions to the pendency and quality problems identified by the USPTO. Users and the bar have consistently voiced their willingness to work with the USPTO to find solutions, and AIPLA has supported reasonable limits on claims and even financial incentives to implement such limits, but without loss of rights. Users and the bar stand ready to work with the USPTO through a dialogue

in which the interests of all stakeholders are recognized. A key to any solution, however, is the avoidance of requirements that foster charges of inequitable conduct or force undue limitations on the scope of protection that can be provided for an invention. As stated by the Courts, charges of inequitable conduct are a plague on the patent system and any initiative to address the pendency and quality problems should avoid exacerbating this significant issue.

Conclusion

I wish to thank the Committee for the opportunity to present these views and I look forward to any questions that you may have concerning the observations and solutions that have been presented.