

June 22, 2009

Senator Patrick J. Leahy
Chairman
Committee on the Judiciary
SD-224
United States Senate
Washington, D.C. 20510

Senator Jeff Sessions
Ranking Member
Committee on the Judiciary
SD-152
United States Senate
Washington, D.C. 20510

Dear Chairman Leahy and Sen. Sessions

I am writing to share my support for President Obama's appointment of David Kappos as the new Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office and to offer some thoughts about the considerable challenges he faces.

Mr. Kappos brings to the position a wealth of experience and knowledge. We expect he will make a fine Director and we look forward to working with him to advance the interests of our nation's innovators by helping make the USPTO the agency it should be.

At Tessera, we invest in and develop technologies that enable new levels of innovation in electronics, optics and imaging. Accordingly, the effective leadership and management of the USPTO are of significant importance to us.

More importantly, the patent office is a vital cog in our nation's great economic engine. Its work is essential in protecting U.S. innovation across the globe. Yet the office is underfunded, overburdened, and faces huge hurdles in hiring and retention. We are hopeful that Mr. Kappos can quickly address these issues to further strengthen the USPTO. As Secretary of Commerce Gary Locke acknowledged in his statement announcing Mr. Kappos' nomination, "Kappos will take control of an office . . . [that] continues to deal with a patent application backlog of more than 770,000, long and uneven waiting periods for patent review, information technology systems that are regarded as outdated and an application process in need of reform."

These are significant problems that, we hope, the Committee will work with Mr. Kappos to address. Mr. Kappos and Congress need not look far for solutions. Congress created the Patent Public Advisory Committee (PPAC) to advise it on how to improve the USPTO. This group of very bright and talented people has spent considerable time and

energy examining the office's strengths and weaknesses and has, for some time now, been pressing the USPTO to implement a number of administrative and technology initiatives. We believe PPAC's recommendations should be examined by the Committee and that Mr. Kappos, at his confirmation hearing, should be asked about his willingness to implement them.

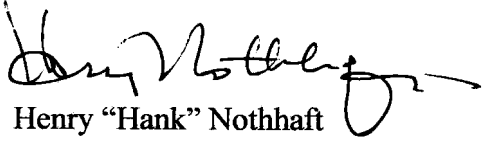
We believe the following recommendations are essential to improving the office:

- **Provide better funding.** The patent office has a budget of approximately \$1.9 billion, all of it obtained through fees from applicants. In the past, Congress has diverted money from the USPTO, and that lack of funding has continued to hamper operations. Congress needs to adequately ensure funding for the office and adopt rules that prevent fee diversion and incentivize the issuance of quality patents.
- **Adopt a market-driven model.** It currently takes an average of 32 months from the filing of a patent to issuance or abandonment. Something is amiss when it takes nearly three years to get a ruling on a patent. The USPTO needs to adopt a new fee structure – one that takes into account the increasing complexity of many patent applications, particularly those involving technology. Higher fees also could be charged for ruling more quickly on patents.
- **Improve the technology infrastructure.** The USPTO desperately needs better technology to enable patent examiners to do their jobs more efficiently. For example, an improved IT infrastructure would allow examiners to quickly search data from around the world.
- **Re-evaluate guidelines for patent applications.** Applications currently run the gamut, from trivial and sparse to dense and complicated. The USPTO can weed out frivolous patents by being more proactive in conducting interviews with applicants as part of the process. But it must protect all innovators, large and small alike, when revising rules. The USPTO should not create rules that unfairly benefit those entities with the deepest pockets.
- **Attract and retain a high-quality workforce.** Patent examiners have been, and need to continue to be, smart, with strong aptitudes in science and/or engineering. But there are innumerable challenges in attracting and retaining smart people to be patent examiners. Today, nearly all patent examiners work at or near the USPTO offices in Alexandria, Virginia, which severely limits the office's ability to attract talent. The USPTO needs to broaden its footprint to attract a more geographically dispersed and diverse workforce – for instance, by establishing virtual regional offices. The USPTO also needs to seek out older workers who may have retired from their respective fields, but retain more technology knowledge than recent college graduates. Also, the USPTO should work more closely with universities to train students to become patent examiners. We strongly support PPAC's

proposal that the USPTO offer loans to engineering students that would be forgiven over time if the student goes to work at the patent office.

Although no one set of recommendations is exhaustive or undeserving of modification, we believe what I have outlined above serve as a sound starting point for discussion. We urge the Congress to do everything in its power to help Mr. Kappos, if confirmed, set clear goals for the office and provide him the support necessary to achieve them. Again, we support the appointment of Mr. Kappos to head the USPTO and appreciate your willingness to consider our views.

Sincerely,

A handwritten signature in black ink, appearing to read "Hank Nothhaft", with a long horizontal flourish extending to the right.

Henry "Hank" Nothhaft
President and Chief Executive Officer
Tessera



July 8, 2009

The Honorable Patrick Leahy
Chairman
224 Dirksen Office Building
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Jeff Sessions
Ranking Member
152 Dirksen Office Building
Committee on the Judiciary
United States Senate
Washington, DC 20510

RE: Confirmation Hearing on Director of the USPTO

Dear Senators Leahy and Sessions:

We write to urge you to schedule a hearing as soon as possible on David J. Kappos, the President's nominee for Undersecretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office (USPTO). The USPTO continues to face record backlogs and many other challenges hindering effective processing of patent applications. It is critical for new management to be put in place as soon as possible to address these challenges.

IPO, established in 1972, is a trade association representing companies, individuals, law firms and others who own or are interested in patents, trademarks, copyrights and trade secrets. Our members include a broad spectrum of more than 150 large and mid-size companies in industries ranging from information technology to consumer products to pharmaceuticals and biotechnology. Our 50-member Board of Directors seeks to balance the views of these varied interests when expressing positions on legislative, judicial and agency issues.

Mr. Kappos has an exceptional record in intellectual property law and significant experience in industry as a manager. He has worked within IPO and other associations to improve IP practice and communications with the USPTO. He meets all the qualifications that IPO set out recently in letters to the Obama Administration for the position for which he has been nominated.

Thank you for your efforts to improve the USPTO and your swift action on this nominee.

Sincerely,

Steven W. Miller
President

President
Steven W. Miller
Procter & Gamble Co.
Vice President
David J. Kappos
IBM Corp.
Treasurer
Douglas K. Norman
Eli Lilly and Co.

Directors
Marc S. Adler
Immediate Past President
Angelo N. Chaclos
Pitney Bowes Inc.
William J. Coughlin
Ford Global Technologies LLC
Timothy Crean
SAP AG
Robert DeBerardine
Sanofi-Aventis
Bart Eppeneauer
Microsoft Corp.
Scott M. Frank
AT&T
Michael L. Glenn
Dow Chemical Co.
Roger Gobrogge
Dow Corning Corp.
Bernard J. Graves, Jr.
Eastman Chemical Co.
Krish Gupta
EMC Corporation
Jack E. Haken
Koninklijke Philips Electronics N.V.
Dennis R. Hoerner, Jr.
Monsanto Co.
Carl B. Horton
General Electric Co.
Soonhee Jang
Danisco U.S., Inc.
Philip S. Johnson
Johnson & Johnson
George William Johnston
Hoffmann-La Roche Inc.
Dean Kamen
DEKA Research & Development Corporation
Charles M. Kinzig
GlaxoSmithKline
David J. Koris
Shell International B.V.
Noreen A. Krall
Sun Microsystems, Inc.
Michelle Lee
Google Inc.
William C. Lee, III
Coca-Cola Co.
Kevin Light
Hewlett-Packard Co.
Richard J. Lutton, Jr.
Apple, Inc.
Jonathan P. Meyer
Motorola, Inc.
Jeffrey L. Myers
Adobe Systems Inc.
Sean O'Brien
United Technologies, Corp.
Richard F. Phillips
Exxon Mobil Corp.
Kevin H. Rhodes
3M Innovative Properties Co.
Peter C. Richardson
Pfizer, Inc.
Mark L. Rodgers
Air Products & Chemicals, Inc.
Robert R. Schroeder
Mars Incorporated
Suzanne M. Shema
ZymoGenetics, Inc.
David Simon
Intel Corp.
Dennis C. Skarvan
Caterpillar, Inc.
Russ Slifer
Micron Technology, Inc.
Wayne Sobon
Accenture Ltd.
Daniel J. Staudt
Siemens Corp.
Brian K. Stierwalt
ConocoPhillips
Thierry Sueur
Air Liquide
James J. Trussell
BP America, Inc.
Michael Walker
DuPont
Stuart Watt
Amgen, Inc.
William D. Zahrt, II
Seagate Technology, LLC

General Counsel
Eva H. Davis
Kirkland and Ellis, LLP

Executive Director
Herbert C. Wamsley

July 16, 2009

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
U.S. Senate
Washington, D.C. 20510

The Honorable Jeff Session
Ranking Member
Committee on the Judiciary
U.S. Senate
Washington, D.C. 20510

Re: Nomination of David J. Kappos as Under Secretary of the
Dept. of Commerce for Intellectual Property and Director of the USPTO

Dear Chairman Leahy and Ranking Member Session:

The American Intellectual Property Law Association (“AIPLA”) is pleased to submit this letter in response to President Obama’s nomination of David J. Kappos for the position of Under Secretary of the Department of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office. In addition, AIPLA urges that the Judiciary Committee give this nomination expedited consideration in view of the many pressing domestic and international issues concerning intellectual property.

AIPLA is a national bar association of nearly 16,000 members who are primarily lawyers 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.

Mr. Kappos has been a member of AIPLA for nearly 20 years and has served as a member of the AIPLA Board of Directors for the last three years. Based on our own experience with him over this period, we know Mr. Kappos to have a rich and varied experience in intellectual property law and policy, and we believe him to be well qualified to serve in the position to which he has been nominated.

Following his graduation in 1983 in Electrical and Computer Engineering from the University of California Davis, Mr. Kappos worked as a Development Engineer at IBM, and has since continued with IBM for some 25 years. He brings an impressive understanding of IT, a skill that is well suited to helping the Patent and Trademark Office continue in its goal to fully electronically integrate all levels of its operation, as well as continuing to work towards better electronic integration of its operations with those of other major foreign IP offices. After several years of engineering experience, he continued his education graduating in 1990 with a law degree from the University of California Berkeley.

Mr. Kappos is well versed in intellectual property law, and he understands both the prosecution and litigation aspects of patent law. He served at IBM as an intellectual property law attorney in IBM's Storage Division and Litigation Group, and is currently responsible for IBM's patent and trademark portfolios, including protecting and licensing patents, copyrights, trademarks, know-how and company technology throughout the world. Mr. Kappos is also well qualified from the perspective of having had significant administrative and organizational management experience. He has served as IP Law Counsel in IBM Software Group, as Assistant General Counsel in IBM Asia/Pacific, IBM Corporate Counsel and as Assistant General Counsel prior to his current position as Vice President and Assistant General Counsel for IBM Corporation.

AIPLA has conveyed to the Administration that selecting high quality leadership for the United States Patent and Trademark Office ("USPTO") is a critical decision for providing an effective incentive to innovation. We pointed out that a new USPTO Director must be an individual of the highest caliber who is experienced and is a highly respected leader in whom Congress and the community of intellectual property owners, businesses, and international communities can place their full confidence. We believe that Mr. Kappos' experience more than meets this standard.

Beyond obtaining and enforcing IP rights, Mr. Kappos has experience with the U.S. legislative process, with international intellectual property policy, and with the management of a large business with the attendant labor-management issues that inevitably arise. He has testified before Congress on patent reform issues, and has written and spoken widely in Asia, Europe and in the U.S. on a range of intellectual property topics. Mr. Kappos is active and is well regarded in many of the leading intellectual property law associations, and AIPLA has received favorable reports from those with whom we have been in contact in these and/or other organizations concerning his nomination.

For the reasons noted, we believe Mr. Kappos is well suited to serve as Under Secretary of the Department of Commerce for Intellectual Property and Director of the United States Patent Office. In all of our dealings with him, Mr. Kappos has demonstrated not only the depth of experience to be expected from his significant responsibilities in a large and important U.S. corporation, but also an objective appreciation and dedication to the U.S. intellectual property system as a whole.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read 'T. Stanek Rea', written in a cursive style.

Teresa Stanek Rea
President