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September 14, 2004

The Honorable Ted Stevens  
Chairman  
Committee on Appropriations  
United States Senate  
Washington DC 20510

The Honorable Robert Byrd  
Ranking Minority Member  
Committee on Appropriations  
United States Senate  
Washington DC 20510

The Honorable Judd Gregg  
Chairman, CJS Subcommittee  
Committee on Appropriations  
United States Senate  
Washington DC 20510

The Honorable Fritz Hollings  
Ranking Minority Member  
CJS Subcommittee  
Committee on Appropriations  
United States Senate  
Washington DC 20510

Dear Senators Stevens, Byrd, Gregg, and Hollings:

We understand that the Senate Appropriations Committee is considering including some, but not all, of the provisions of H.R. 1561, the U.S. Patent and Trademark Fee Modernization Act, in the Commerce, Justice, State Appropriations Act for Fiscal Year 2005. On behalf of the American Bar Association, I urge the Committee not to take such action.

H.R. 1561, which has passed the House and has been favorably reported by the Senate Judiciary Committee, would impose substantial increases in user fees paid to the PTO, and also contains provisions designed to ensure that all fees collected by the Office are used to fund PTO operations. The Appropriations Committee, however, is proposing to include only the user fee increases, and not the provisions of section 5 of H.R. 1561 that are designed to stop the practice of appropriating for PTO use less than the full amount of user fees collected. Ending this practice, which has come to be known by the shorthand term "user fee diversion," is one of the highest legislative priorities of the American Bar Association. The ABA supports the enactment of H.R. 1561 as passed by the House and reported by the Senate Judiciary Committee because we believe that section 5, along with the bill's fee increases, is a reasonable and effective means to ensure that the PTO receives the resources it needs to provide quality services in a timely manner.


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The ABA is aware of the concerns that you have raised regarding the fee-rebate mechanism proposed in section 5. Along with many others in the PTO customer community, we would be happy to work with you to find a solution to your concerns, and we note that a number of alternatives to the fee-rebate mechanism have been proposed. However, the ABA does not support raising fees unless all fees collected are used exclusively to fund the PTO. We therefore urge you not to add provisions to increase PTO user fees to the CJS appropriations bill without also including provisions such as those in section 5 of H.R. 1561.

Thank you for considering the views of the American Bar Association on this important matter.

Sincerely,

  
Robert D. Evans

