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September 14, 2004

The Honorable Orrin G. Hatch  
Chairman, Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

The Honorable Patrick Leahy  
Ranking Minority Member  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Chairman Hatch and Senator Leahy:

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 write to urge you to oppose any such action.

H.R. 1561, which has passed the House and has been favorably reported by your 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 in section 5 of H.R. 1561 that are designed to stop the practice of PTO user fee diversion. Ending 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 reported by your 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.

The ABA is aware of the concerns that have been raised by the leadership of the Appropriations Committee concerning 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 and members of the Appropriations Committee to find a solution to their 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 fee revenue is used exclusively to fund the PTO. We therefore urge you to strongly oppose the inclusion in the FY 2005 CJS appropriation of the PTO fee increases without also including the provisions of section 5 of H.R. 1561 that are designed to stop user fee diversion.

September 14, 2004  
Page 2

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

Sincerely,

*Robert D. Evans*  
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