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Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515–6015

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June 7, 2011

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

Majority Leader Cantor:

It is our understanding that H.R. 1249, the *America Invents Act*, may be brought to the House floor for consideration in the next few weeks. The Appropriations Committee on a bipartisan basis strongly opposes H.R. 1249 in its current form and requests that floor consideration be delayed until the legislation's budget and spending provisions are corrected.

We understand the importance of innovation and invention in our economy and support updating our patent system in order to help U.S. innovators, in part by enforcing intellectual property rights in today's fast paced global marketplace. We remain committed to providing the necessary resources for the Patent and Trademark Office to fulfill its mission.

However, section 22 of H.R. 1249 would strike the current appropriations account language for the Patent Trademark Office (PTO) and replace it with a "United States Patent and Trademark Office Public Enterprise Fund" as well as permit the PTO to collect and spend authorized fees– all without requiring action or approval from Congress.

The Appropriations Committee strongly opposes this proposed shift of billions in discretionary funding and fee collections to the mandatory side of the spending ledger. Placing PTO spending on mandatory auto-pilot as required in H.R. 1249 would hand the Congressional "power of the purse" – bestowed in the Constitution – to the Executive Branch, and essentially eliminate the ability of Congress to perform substantive oversight of the PTO. The Appropriations Committee strongly opposes this abdication of duty because it undermines efforts to strengthen oversight and accountability of the PTO as well as efforts to ensure resources are being used wisely and appropriately.

Oversight of the PTO belongs with the Congress, and should not be abdicated to the Executive Branch of government. Patent applications are filed by U.S. citizens and companies from all 50 states and territories, ranging from as many as 66,191 from California, 16,545 from Texas,

15,258 from New York, 8,128 from Ohio, 3,577 from Virginia, and 600 from Nebraska in 2010. Virtually every Member of Congress represents constituents who have a stake in the oversight of PTO – and often businesses and livelihoods depend on actions the agency undertakes. It would be unwise to allow the PTO to operate without being held accountable to the American public through their elected Representatives in Congress.

Given these concerns, we ask that floor consideration for H.R. 1249 be delayed until section 22 is deleted or otherwise modified in order to strengthen oversight of this important agency, and to ensure American citizens and businesses are getting the most from every dollar.

Sincerely,

Harold Rogers
Chairman
House Committee on Appropriations

Norm Dicks
Ranking Member
House Committee on Appropriations

Frank Wolf
Chairman
Subcommittee on Commerce, Justice, Science
House Committee on Appropriations

Chaka Fattah
Ranking Member
Subcommittee on Commerce,
Justice, Science
House Committee on Appropriations