

Congress of the United States
Washington, DC 20515

June 6, 2011

The Honorable Lamar Smith
Chairman
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Chairman Smith:

It is our understanding that H.R. 1249, the *America Invents Act*, is likely to be considered on the House floor in the upcoming weeks.

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

We strongly oppose this proposed shift of billions in discretionary funding and fee collections to mandatory spending. Putting PTO funding on auto-pilot is a move in exactly the wrong direction, given the new Republican majority’s commitment to restraining spending, improving accountability and transparency, and reducing the nation’s unparalleled deficits and debt.

Placing PTO spending on mandatory auto-pilot as outlined in H.R. 1249 would also hand the Congressional “power of the purse” – bestowed in the Constitution – to the Obama White House, and essentially eliminate the ability of Congress to perform substantive oversight of the PTO. We strongly oppose undermining these critical efforts, particularly when House Republicans have pledged to strengthen oversight of federal agencies to ensure resources are being used wisely and appropriately, and to prevent federal agencies from over-stepping their authority.

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 both irresponsible and unwise to allow the PTO to operate solely under the authority of bureaucrats and White House political appointees - without being held accountable to the American public through their elected Representatives in Congress.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Harold Rogers", written over a horizontal line.

Harold Rogers
Chairman
House Committee on Appropriations

A handwritten signature in blue ink, appearing to read "Paul Ryan", written over a horizontal line.

Paul Ryan
Chairman
House Committee on the Budget