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April 30, 2012

The Honorable Jacob J. Lew
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503
Attn: Jasmet Seehra

Submitted via <http://www.regulations.gov>

Re: Intellectual Property Owners Association Comments Regarding “Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities” in Response to OMB Notice dated March 30, 2012

Dear Director Lew:

Intellectual Property Owners Association (IPO) appreciates the opportunity to submit comments on Circular A-119, promulgated by OMB regarding Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities. We are submitting these comments in response to the March 30, 2012 notice by OMB.

IPO membership includes more than 200 companies and more than 12,000 people who are involved in IPO through their employers or as individual members. Founded in 1972, IPO represents the interests of all owners of intellectual property, covering all areas of technology. Our members are among the most innovative companies in the world. Collectively, they spend huge sums every year on research and development. In general, this innovation is practical innovation designed to improve the products and services offered by the members or to develop new products. Importantly, such innovation becomes the cornerstone of voluntary consensus standards in many industries and accordingly, many of our members are involved in various formal and informal Standards Development Organizations (SDOs) around the world. IPO, therefore, has a significant interest in Circular A-119 and the role of federal agencies in the development and use of voluntary consensus standards.

While IPO does not here address the very specific governmental implementation issues raised in the March 30, 2012 Notice, we would like to express our support of Circular A-119 and the role that government currently plays in supporting and utilizing voluntary consensus standards.

IPO supports the policy emphasis in Circular A-119, in directing federal agencies to incorporate voluntary standards into regulations or to otherwise adopt a standard in the course of carrying out an agency's mission, rather than develop a government-unique standard. Under the guidance provided by the current Circular A-119, government and industry have been able to work together effectively in the development and use of voluntary consensus standards for maximum societal benefit.

The basic principles forming the U.S. Standards Strategy are reflected in A-119, which states in pertinent part:

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For purposes of this policy, “voluntary consensus standards” are standards developed or adopted by voluntary consensus standards bodies, both domestic and international. These standards include provisions requiring that owners of relevant intellectual property have agreed to make that intellectual property available on a non-discriminatory, royalty-free or reasonable royalty basis to all interested parties. For purposes of this Circular, “technical standards that are developed or adopted by voluntary consensus standard bodies” is an equivalent term.

(1) “Voluntary consensus standards bodies” are domestic or international organizations which plan, develop, establish, or coordinate voluntary consensus standards using agreed-upon procedures. For purposes of this Circular, “voluntary, private sector, consensus standards bodies,” as cited in the Act is an equivalent term. The Act and the Circular encourage the participation of federal representatives in these bodies to increase the likelihood that the standards they develop will meet both public and private sector needs. A voluntary consensus standards body is defined by the following attributes:

- (i) Openness.
- (ii) Balance of interest.
- (iii) Due process.
- (iv) An appeals process.
- (v) Consensus, which is defined as general agreement, but not necessarily unanimity, and includes a process for attempting to resolve objections by interested parties, as long as all comments have been fairly considered, each objector is advised of the disposition of his or her objection(s) and the reasons why, and the consensus body members are given an opportunity to change their votes after reviewing the comments.

The current voluntary consensus-based system as articulated above is viewed inclusively to cover a diversity of standards-setting approaches, both formal and informal (as in consortia), that meet the needs of government and other implementers in providing critical standards and promoting innovation.

IPO believes that innovation is, and will continue to be, best served when standard setting organizations and their members/participants agree on reasonable patent disclosure and licensing policies, and that they are in the best position to properly balance the interests of all stakeholders when considering such policies. Voluntary consensus standards enable competition among standards and standards bodies. Such competition results in numerous benefits, including choice among technologies for standardization and customer choice in selecting among different vendors’ standardized products. IPO recognizes that standards referenced by federal agencies may include, and benefit from, the inclusion of patented technologies.

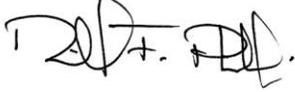
IPO believes the basic principles and elements of the U.S. Standards Strategy embodied in Circular A-119, directing government agencies, except in certain cases, to use voluntary consensus standards, remain effective and essential to both U.S. competitiveness and global cooperation. IPO further believes that Circular A-119 has aided in the leadership role of the U.S. on the international front, in providing a template for the interrelation of voluntary consensus

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standards and government use of voluntary consensus standards. OMB, through Circular A-119, should continue to promote this system that has driven the innovation economy for decades.

Thank you very much for this opportunity to comment. We stand ready to assist you on this and future issues regarding Circular A-119.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Phillips', written in a cursive style.

Richard Phillips
President