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Congress of the United States  
House of Representatives  
Washington, DC 20515-0549

July 18, 2016

The Honorable Penny Pritzker  
Secretary, U.S. Department of Commerce  
1401 Constitution Ave., NW  
Washington, DC 20230

The Honorable Michelle Lee  
Under Secretary of Commerce for Intellectual Property and  
Director, United States Patent & Trademark Office  
600 Dulany Street  
Alexandria, VA 22313

Dear Secretary Pritzker and Under Secretary Lee:

As Members of the authorizing committee for the U.S. Patent and Trademark Office (USPTO), we write to express concern regarding its participation in the Department of Commerce's shared services initiative. Congress's intent in passing the America Invents Act was that the USPTO retain the patent and trademark user fees it collects. A shared services program that requires a financial commitment could contradict this mandate. As such, we respectfully request information about the project's expected impact of the program on the USPTO and its customers.

In particular, we request that you provide us with information regarding the cost-benefit analysis undertaken to justify the inclusion of the USPTO in the shared services program, the services that will be covered, and the expected improvements to these services for the USPTO. Additionally, please describe how the USPTO will be protected from overpayment for these services relative to other agencies within the U.S. Department of Commerce.

So that we may fully understand the implications of the initiative, we request a comparison of the cost of USPTO's investment with current operating costs. The expected return on such investment should be compared to other Department of Commerce agencies. Any apparent shortcomings or inadequacies in USPTO's ongoing operations should be identified and scrutinized. We share a concern with USPTO customers regarding which safeguards, if any, protect from overpayment for its services.

The USPTO is largely set apart from other Commerce agencies by remaining accountable to private users and their financial capital. This has bolstered USPTO's exceptionally engaged and informed customer base, which is primarily interested in ensuring the continued efficient and prudent operation of the USPTO. We will reach out to this customer base for input and suggest you also meaningfully engage them.

Please recognize that 35 U.S.C. § 1 affirms that the Director of the USPTO shall retain authority over the "management and administration of its operations and shall exercise independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions," subject to the Secretary of Commerce's direction on IP policy. As such, the USPTO Director should have the freedom to determine whether the USPTO should invest in the development of a shared services model with other Commerce agencies based on her vision of how to most effectively improve the productivity and performance of ongoing USPTO services.

Please do not hesitate to contact us should you require additional information about the requests outlined above.

Sincerely,



Rep. Darrell E. Issa  
Member of Congress



Rep. Bob Goodlatte  
Member of Congress



Rep. Mimi Walters  
Member of Congress



Rep. Zoe Lofgren  
Member of Congress



Rep. Suzan DelBene  
Member of Congress