

UNITED STATES PATENT AND TRADEMARK OFFICE

Thursday, March 25, 2010

Opening Statement

Alan B. Mollohan, Chairman

Good afternoon. Welcome. This hearing is called to order.

Today we have with us the Director of the United States Patent and Trademark Office (USPTO), Mr. David Kappos, to examine the fiscal year 2011 budget request and operations of the USPTO. Director Kappos, you well know that the USPTO plays an important role in fostering innovation, which in turn drives job creation, economic recovery, and prosperity. You also know well that the USPTO found itself in fiscal year 2009 in a precarious fiscal position. Fiscal years 2010 and 2011 will likely present new and equally daunting financial challenges for the agency and key performance measures like patent pendency and backlogs will likely continue to decline, if left unaddressed.

USPTO's fiscal posture of last year highlighted major unacceptable deficiencies in its budget formulation and execution processes and underscored the need for a sustainable funding model that would allow your agency to weather periods of economic downturn and reductions in fee collections without disruption to patent and trademark operations. I know that you are aware of these deficiencies and that your budget includes several proposals to address them, which we will explore this afternoon.

The fiscal year 2011 budget request for USPTO is \$2.3 billion, an increase of \$435 million over the fiscal year 2010 enacted level. Of this total, USPTO projects fee collections under the current fee structure of nearly \$2.1 billion. The difference, some \$224 million, would be generated under the request by a temporary 15 percent surcharge on patent fees, which the agency would require new statutory authority to impose. In addition, the budget request proposes new fee setting authority that would permit the agency to work with its external partners to align fees in future years with the actual cost of agency services.

These two legislative proposals seek to establish a more sustainable funding model for the USPTO, but are authorizing in nature and outside the jurisdiction of this Committee. For this reason, it is imperative for the Committee to understand the impact on your agency operations if such new fees are not established for fiscal year 2011.

Lastly, it is important to note that the budget request proposes to establish an operating reserve to ensure the availability of adequate funding to address multi-year budget plans and unexpected fluctuations in revenues; but again, the creation of such a reserve is predicated on the collection of new fees.

Following the statement of Ranking Member Wolf, we will ask you, Director Kappos, to provide a brief summary of your written testimony, which will be included in the hearing record, and then we will proceed with questions from our subcommittee members.