



**Intellectual
Property
Owners
Association**

Statement of

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PRESIDENT

INTELLECTUAL PROPERTY OWNERS ASSOCIATION

Before the

**HOUSE JUDICIARY SUBCOMMITTEE ON COURTS,
THE INTERNET, AND INTELLECTUAL PROPERTY**

on

“COMMITTEE PRINT REGARDING PATENT QUALITY IMPROVEMENT”

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4:30 p.m.

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Intellectual Property Owners Association (IPO)

Mr. Chairman and Members of the Subcommittee:

My name is J. Jeffrey Hawley. I am Legal Division Vice President and Director, Patent Legal Staff, for Eastman Kodak Co. in Rochester, New York. I am speaking today on behalf of Intellectual Property Owners Association (IPO), of which I am the current elected President.

IPO is a trade association representing companies and individuals in all industries and fields of technology who own or are interested in intellectual property rights. IPO's membership overlaps with the membership of many organizations, including BIO and BSA who are here today. IPO members include more than 100 large and medium-size corporate members and a number of small business and individual inventor members. Our members file about 30 percent of the patent applications that are filed in the United States Patent and Trademark Office (PTO) by U.S. nationals. In addition to our legislative interests, we comment frequently and in detail on PTO rules changes and file amicus briefs in cases of interest to us. We have more than 850 people volunteering in 34 standing committees studying trends in IP law.

We appreciate the opportunity to discuss the April 14 Committee Print, which contains more than a dozen significant proposals for improving the patent system. We compliment the Subcommittee on assembling so many promising ideas. IPO enthusiastically endorses a majority of the proposals in the Committee Print. I will give an overview and then summarize our reaction to each proposal.

Intellectual Property Owners Association (IPO)

OVERVIEW OF PTO AND PATENT LITIGATION ISSUES

Our members almost universally believe the patent system needs improvement. IPO was one of the first organizations to say that the PTO was in a “crisis,” when we testified before this Subcommittee in 2001. We expressed concerns about the quality of patents granted by the PTO and the growing length of time required to grant or deny a patent. Since that time, reports from the Federal Trade Commission (FTC) and from the National Academy of Sciences (NAS) have recommended a number of changes to the patent system to improve its effectiveness in encouraging innovation in U.S. industry. In 2002 we endorsed the PTO’s 21st Century Strategic Plan, which is directed at improving PTO operations and is now being implemented.

The diversion of more than three-quarters of a billion dollars in PTO user fees since 1992 has been a major factor in the PTO crisis. If the PTO had had the opportunity to spend the diverted funds, which were paid by our members and other PTO users for services they expected to receive, today’s picture would be very different. We are optimistic that the situation at the PTO can be improved. Director Jon W. Dudas is acting aggressively with the aid of more than \$200 million annually in additional funding provided by last December’s patent fee increase to address the office’s problems. We understand that the PTO is hiring more patent examiners and making efforts to improve employee recruiting and training, recertify examiner skills, and improve patent procedures. We are cautiously optimistic that no more user fees will be diverted in the short term. The threat of fee diversion remains, however, and IPO will therefore continue to support this Subcommittee’s work to enact legislation to permanently end fee diversion.

