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# United States Senate

WASHINGTON, DC 20510-4402

June 2, 2014

COMMITTEES:  
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President Barack Obama  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear President Obama:

I write concerning the director vacancy at the U.S. Patent and Trademark Office (USPTO). Since the departure of Director David Kappos in January 2013, the USPTO has been without a permanent director. This vacancy, which has gone unfilled for over sixteen months and counting without so much as a statement from the White House, hampers the agency's ability to influence policy and make long-term plans. We all can agree that these are challenging times that demand strong leadership at the USPTO to fuel our nation's economic strength by harnessing our intellectual property capital.

By all accounts Deputy Director Michelle Lee has done an admirable job juggling the functions and duties of both director and deputy director. But this arrangement simply cannot continue. Without a director backed by a presidential nomination and Senate confirmation, the USPTO does not have a leader who can engage in the type of strategic and long-term planning that is crucial for ensuring the USPTO's continued effectiveness.

Ms. Lee's ability to take on major or controversial challenges is further limited by legitimate questions as to whether her appointment as Deputy Director was consistent with 35 U.S.C. § 3(b)(1). I hope that you did not casually disregard the clear statutory requirement that the deputy director be nominated by the director. In any case, the question underscores that Ms. Lee does not possess the same clear mandate as would a presidentially-nominated and Senate-confirmed director. Leaving Ms. Lee to shoulder the burden of USPTO leadership alone is unfair, untenable, and unacceptable for our country's intellectual property agency.

The USPTO is forging ahead with important initiatives like opening satellite offices across the country and implementing post-grant review programs under the America Invents Act. And while the agency has reduced its backlog of patent applications in recent years, as of April 2014, there were still 619,204 unexamined patent applications. These are just a few of the challenges and opportunities facing the USPTO that are needlessly complicated by the absence of a director to provide a forward-looking vision.

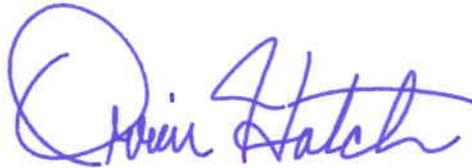
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When one considers what intellectual property means to our economy, the failure to put in place a strong leadership team at the USPTO is unfathomable. Effective leadership requires a director, deputy director, and their assembled team. Leaving the agency without a permanent director for nearly a year and a half without so much as a public explanation is inexcusable. I look forward to hearing your plans with regard to this vacancy, and I urge you to take prompt action to nominate a USPTO director. We cannot afford to wait any longer.

Sincerely,

A handwritten signature in blue ink, appearing to read "Orrin Hatch". The signature is fluid and cursive, with a large initial "O" and "H".

Orrin G. Hatch  
United States Senator

cc: The Honorable Penny S. Pritzker  
Secretary, U.S. Department of Commerce