

October 4, 2012

The Hon. David Kappos
Undersecretary for Intellectual Property
U.S. Department of Commerce
Director
U.S. Patent and Trademark Office
Via Electronic Mail

Re: Changes to Implement the First Inventor to File Provisions of the Leahy-Smith America Invents Act, Proposed Rules and Proposed Examination Guidelines¹

Dear Undersecretary Kappos,

The Office of Advocacy of the U.S. Small Business Administration respectfully requests that the U.S. Patent and Trademark Office (USPTO) extend the public comment period for its proposed rules and examination guidelines implementing the First-Inventor-to-File (FITF) provisions of the Leahy-Smith America Invents Act (AIA).

The Office of Advocacy

Congress established the Office of Advocacy under Pub. L. 94-305 to represent the views of small business before Federal agencies and Congress. Advocacy is an independent office within the Small Business Administration (SBA), and the views expressed by Advocacy come from do not necessarily reflect the views of the SBA or the Administration. Part of our role under the Regulatory Flexibility Act (RFA) is to assist agencies in understanding how regulations may impact small entities, including non-profit organizations, and to ensure that the voice of small entities is not lost within the regulatory process.² Congress crafted the RFA to ensure that regulations do not unduly inhibit the ability of small entities to compete, innovate, or to comply with federal laws.³

Request for an Extension of the Comment Period

Through its outreach and engagement with the patent community, Advocacy has learned that there is a great deal of interest in this proposed rule and its provisions. At a roundtable hosted by USPTO on September 6, 2012, participants expressed their concerns with the proposal and USPTO Director Kappos personally invited commenters to provide detailed alternatives to the current proposal. Advocacy has learned that small

¹ 77 Fed. Reg. 43742 (July 26, 2012).

² Pub. No. 96-354, 94 Stat. 1164 (1980).

³ Pub. L. 96-354, Findings and Purposes, Sec. 2 (a)(4)-(5), 126 Cong. Rec. S299 (1980).

businesses have expressed the need for additional time to fully comment on the FITF provisions.

Given the significant public interest in the outcome of this proceeding, Advocacy respectfully requests that USPTO extend the public comment period for its proposed rules and examination guidelines implementing the FITF provisions of the AIA for an additional sixty days.

For additional information or assistance please contact me or Jamie Belcore Saloom at (202) 205-6890 or Jamie.Belcore@sba.gov.

Sincerely,

A handwritten signature in black ink, reading "Winslow L. Sargeant". The signature is written in a cursive style with a large initial "W".

Winslow L. Sargeant, Ph.D.
Chief Counsel for Advocacy

Cc: Boris Bershteyn, Acting Administrator, Office of Information and Regulatory Affairs