

**Good Morning, Everyone! David, thank you so very much for your kind introduction and for including the USPTO in the conference program again this year. David Kappos, the Under Secretary of Commerce and Director of the United States Patent and Trademark, enjoyed speaking at this conference last year. He very much wanted to be here again this year, but is in Geneva, Switzerland this week attending the annual meeting of the World Intellectual Property Law Association. He did want to reiterate his commitment to work closely with the Minority Business Development Agency in the future, especially as we move forward to implement the “America Invents Act.”**

**For my part, I was deeply honored when Under Secretary Kappos and Commissioner for Patents Robert Stoll asked me earlier this year to take on my new role as Associate Commissioner for Innovation Development. The new office will be developing and implementing programs to greatly increase the agency’s outreach to the independent and small entity inventor community. As we do that, we will be working closely with MBDA for we are sister bureaus of the Department of Commerce in more than name only. Toward that end, I promise you we will be an even more visible presence at next year’s conference. As I indicated to David just now back stage, we will be an exhibitor at next year’s conference.**

**Well, an extraordinary thing happened in Washington two weeks ago. No, it wasn’t another earthquake or hurricane, but certainly about as rare. Congress and the Obama Administration agreed on something. And it wasn’t even a close call. With over 300 votes in the House and only nine dissents in the Senate, Congress**

**passed “The America Invents Act,” which has brought the most sweeping changes to the USPTO and patent law since 1836. President Obama signed the bill into law on September 16, 2011.**

**So what does this all mean for you as small and minority businesses? While the law is sweeping, it does not all take effect immediately, a number of the changes will take place over several years. I will touch on those later, but I want to begin with five immediate ways the law will help small businesses and entrepreneur inventors by providing more timely and valuable patents for more of you and more jobs for Americans.**

**The law creates a fast track option for patent processing within 12 months. Instead of an average wait time of almost three years, the USPTO will be able to offer applicants an opportunity to have important applications for patents of their choice reviewed in one-third the time with a goal of providing applicants a final disposition within 12 months. Patent ownership is a critical factor venture capital companies consider when investing in entrepreneurs hoping to grow their business.**

**Reducing the current patent backlog. The legislation provides additional fee resources for the agency—a 15% surcharge on all office actions, fee setting authority—that will allow the USPTO to continue to combat a backlog of nearly 700,000 patent applications and will significantly reduce applicant wait times. We will be using the resources to hire thousands of new examiners over the next few years and upgrade our IT infrastructure to support the work of those examiners.**

**Reducing litigation.** The USPTO will offer entrepreneurs new ways to address questions regarding patent validity, at costs significantly less expensive than litigation. This will be done through a post grant review process within the USPTO that will be a faster and significantly cheaper alternative to costly and protracted periods of litigation. Less time in court also means more time to build your businesses.

**Increasing patent quality.** The USPTO will have new tools and resources that will improve patent quality so that when we issue you a patent you can take it to the bank and not the courthouse.

**Finally, the ability of American inventors to protect their IP abroad will be increased. The law harmonizes the American patent process with the rest of the world to make it more efficient and predictable and to make it easier for entrepreneurs to simultaneously market products in this country and for export. Now, let me be candid here, this does involve our moving from first-to-invent to a first-inventor-to-file system—emphasis on inventor. This portion of the bill created a lot of controversy and concern, but it does not create a race to the patent office to file—you still have to be the inventor and able to prove that fact through all of the traditional ways that have been utilized since the 19<sup>th</sup> century. So there is no risk of someone who learns about your invention being able to beat you to the patent office; because they're not the inventor. The new first-inventor-to-file system will be simpler, more secure, and cost-effective. It will enable you to avoid challenges from competitors at the relatively modest cost of \$110 for a provisional patent application, as opposed to the**

**cost of taking on an interference proceeding under the old first-to-invent system, which cost around \$2 million.**

**While it is not immediate, there is another important change you should be aware of—a new incentive to file electronically. Starting November 15, 2011, everyone who uses paper to file will have to pay an additional \$400, reduced to \$200 for small entity filers. Regardless of the incentive, you should want to file electronically anyway. It's a great system that offers you the opportunity to file patent applications and other patent documents in a fraction of the time and at substantially less cost than paper filings. You forgo printing, postage, courier costs, and you receive immediate notification that your submission has been received. The best proof of how great the system can be found in the numbers. Right now, 93% of our filings use the electronic system.**

**There are several other provisions of the law that are directed to the interests of independent inventors and small businesses that you should be aware of:**

**By January 15, 2012, we must conduct and issue a report on international protection for small businesses. The objective of the report is suggest ways to help small businesses with international patent protection, including a revolving loan fund or grant program to defray costs.**

**Also, by September 16, 2012, the Small Business Administration is to issue a report on the effects of the first-inventor-to-file system on small businesses. The USPTO will serve as a consultant in drafting that report.**

**A little further down the road—actually maybe a lot further down the road on September 16, 2015—we are to issue a report on the implementation of the American Invents Act on innovation, competitiveness, and small business access to capital.**

**The USPTO already gives a 50% discount on nearly all fees for independent and small entity inventors. That will continue under the new law, but a new micro entity fee category is created by the legislation. This will involve a rulemaking process on our part, so I don't really have any details at this time other than to say that the effective date for the micro entity was September 16, 2011. As with all rule making related to the new law, there will be ample opportunity for you and everyone else to have input.**

**Finally, there are two provisions required by the law that we in fact already implemented before the bill was passed. The first mandates that we establish pro bono programs to assist financially under-resourced independent inventors and small businesses. In June of this year, we launched a pro-bono pilot program in Minnesota. The pilot is moving along nicely, and we are planning to expand it in the next year to Colorado, California, and Texas. We have also had good discussions with the national patent bar groups about expanding it to a national program. So check for that one.**

**The second requirement is kind of personal. It requires the USPTO to establish and maintain a Patent Ombudsman Program to provide support and services to small business concerns and independent inventors. At the USPTO, we call that the Office of Innovation**

**Development--uh that would be me and a fine existing staff of five, which we are doubling in the next year.**

**So that is an overview of the portions of the new law that should be of particular interest to all of you I think. There are many other moving parts of the America Invents Act, which would get us all far, far—too far—into the weeds. However, we have created an America Invents Act site at [www.uspto.gov/americainventsact](http://www.uspto.gov/americainventsact). There, you can find all the information you want about the act and our implementation of it. It is updated on a regular basis, and there is a subscription center to receive email alerts when info is added.**

**We do want and need your input as we move forward, so please take advantage of the many opportunities you will have to participate in webinars and conferences and other events we will be holding throughout the country in the months ahead. For those of you in our area, we will be holding a two-day free symposium at the Smithsonian American Art Museum at 9<sup>th</sup> and G Streets on October 27 and 28. It is free, but you must register to attend and can do that soon on our website [www.uspto.gov](http://www.uspto.gov).**

**Time and time again, the story of our nation's growth has been written by inventors, entrepreneurs, and small business owners like you, who are willing to roll the dice on a great idea. This country, an invention itself, was founded by pioneers who developed new ways to cope with an unfamiliar environment, which cured disease and connected a country; who led the world into the age of global flight; and who now transcend global borders through the power of information technology.**

**New inventions and new ventures create two out of every three new jobs in our country, demonstrating that your novel ideas are the currency of the modern economy. Those great ideas when built upon, protected and nurtured, are what will define the next generation of cutting-edge products and services.**

**In order for cutting edge ideas to get to the marketplace in time to address social needs and in order for businesses to sustain themselves—strong intellectual property protection is critical.**

**We at the USPTO believe that the America Invents Act gives us the tools and resources we need to assure that America's patent system remains the strongest in the world and that we continue to spur innovation and jobs as we build out the 21<sup>st</sup> century United States Patent and Trademark Office.**

**It was great being with you today, best of luck to all of you, and enjoy the rest of the conference. Thank you!**