



**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503**

June 21, 2011
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 1249 – America Invents Act
(Rep. Smith, R-Texas, and 5 cosponsors)

The Administration supports House passage of H.R. 1249 as modified by the Manager's Amendment, but final legislative action must ensure that fee collections fully support the Nation's patent and trademark system.

The bill's much-needed reforms to the Nation's patent system will speed deployment of innovative products to market and promote job creation, economic growth, and U.S. economic competitiveness – all at no cost to American taxpayers. The bill represents a balanced and well-crafted effort to enhance the services to patent applicants and America's innovators provided by the United States Patent and Trademark Office (USPTO). It does so by supporting the USPTO's efforts to improve patent quality and reduce the backlog of patent applications, reducing domestic and global patenting costs for U.S. companies, providing greater certainty with respect to patent rights, and offering effective administrative alternatives to costly and complex litigation.

By adopting a first-inventor-to-file system, the bill simplifies the process of acquiring intellectual property rights. This provision provides greater certainty for innovators, reduces legal costs that often burden small businesses and independent inventors, and makes it easier for innovators to market their inventions in the global marketplace. This legislation also provides authority for the USPTO to establish and adjust its fees to reflect the actual costs of the services it provides. In addition, the Manager's Amendment provides important authority for a 15 percent surcharge on patent fees and additional fees for "fast-track" patent applications, which will enable the USPTO to reduce the backlog. Finally, to increase the quality and certainty of patent rights and offer cost-effective, timely alternatives to district court litigation, the Administration also supports provisions in the legislation that would enhance the opportunities for post-grant review of patents by the USPTO.

To carry out the new mandates of the legislation and reduce delays in the patent application process, the USPTO must be able to use all the fees it collects to serve the users who pay those fees. In this light, the Administration is concerned that Section 22 of the Manager's Amendment to H.R. 1249 does not by itself ensure such access. The Administration looks forward to working with Congress to provide additional direction that makes clear that the USPTO will have timely access to all of the fees collected, subject to the congressional oversight provisions in the bill.

House passage of H.R. 1249 would foster innovation, improve economic competitiveness, and create jobs at no expense to taxpayers – all of which are key Administration goals. The Administration looks forward to working with Congress to finalize this important bipartisan legislation and ensure that the USPTO can effectively accomplish its mission to support America's innovators.

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