Speaker John Boehner Office of the Speaker H-232 U.S. Capitol Washington, DC 20515

Democratic Leader Nancy Pelosi Office of the Democratic Leader H-204 U.S. Capitol Washington, DC 20515

Dear Speaker Boehner and Leader Pelosi:

We write to express our unified support for Section 22 of H.R. 1249, "The America Invents Act." We heartily commend Judiciary Committee Chairman Smith, Ranking Democrat Conyers, Subcommittee Chairman Goodlatte, Ranking Democrat Watt, and the other Judiciary Committee Members for their wise decision to include Section 22 in the bill from its introduction.

Section 22 is a simple and straightforward provision that creates a mandatory revolving fund in the Treasury to consistently capture all user fees collected by the U.S. Patent and Trademark Office ("USPTO") and to allow for their expenditure for no other purpose than funding the USPTO. Unlike most other federal agencies, the USPTO earns fees paid by inventors, companies, research institutions, and universities that can offset every taxpayer dollar appropriated for its operations. The sequestration of funds envisioned by Section 22 is necessary to prevent user fees collected from patent and trademark applications from being redirected to other non-USPTO purposes. Section 22 is necessary because over the last two decades more than \$875 million in user fees has been redirected to other governmental purposes in what amounts to a hidden tax on innovation.

The funding of the USPTO via user fees is part of the implicit bargain between our nation and innovators wherein inventors make details about their inventions publicly available for the common good in exchange for a limited but exclusive intellectual property right. This bargain advances Congress' Constitutional power found in Article I, Section 8 "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

Although the USPTO is not well known, it may be the single greatest facilitator of private sector job creation and economic growth in America. It is this agency, after all, that issues the patents that businesses — especially startups — need to attract venture capital investment, develop new products and services, and create jobs.

If enacted, Section 22 would not abolish or hinder the oversight powers of Congress. Congress will still be able to direct spending where needed within the USPTO but Congress will not, however, be able to divert funds or otherwise reduce the amount of revenue that the agency takes in and holds in reserve. Congress may still conduct oversight hearings on USPTO operations.

Under Section 22, the USPTO will still be required to submit to Congress an annual report of its preceding fiscal year operations as well as its plans for the future. The Director of the USPTO will also be required to submit an annual spending plan to congressional appropriators, provide for an independent audit of the agency, and prepare a budget for the President for inclusion in the administration's budget. The transparency and accountability made possible through robust oversight helps ensure the USPTO will be held accountable to efficiently executing its Constitutional mission.

Regarding budgetary impact, the CBO score states that H.R. 1249 reduces direct spending by \$725 million over 10 years and decreases the budget deficits by \$717 million over the same time period. The gross mandatory spending increases reflect workload increases that the agency can absorb based on its ability to retain all of its user fees. As a practical matter, the agency is raising through user fees every dollar it spends and should not be treated as an agency that is merely spending tax dollars.

Although each of our organizations has varying views on the reforms contained in H.R. 1249, we unanimously support Section 22 and believe that it is the cornerstone of any patent reform legislation. Absent a statutory mechanism to prevent future fee diversion, as we have seen all too often in previous years, the existing and new responsibilities vested in the USPTO will suffer, the ability of the USPTO to plan long-term and build the agency our innovation economy demands will be frustrated, and the job-stifling patent application backlog will continue.

We appreciate your commitment to advancing innovation, and we strongly encourage your leadership to retain Section 22 of H.R. 1249 when the bill comes to the House floor for consideration.

Sincerely,

AdvaMed—the Advanced Medical Technology Association

Air Products and Chemicals, Inc.

Allergan, Inc.

AMD

American Council on Education

Amylin Pharmaceuticals, Inc.

Annle

Association of American Medical Colleges

Association of American Universities

Association of Public and Land-grant Universities (APLU)

The Association of University Technology Managers (AUTM)

BayBio

BAE Industries, Inc.

Beckman Coulter, Inc.

Binghamton University, State University of New York

BIOCOM

The Biotechnology Industry Organization (BIO)

Boston Scientific

Bridgestone Americas

Brown University

Business Roundtable

California Healthcare Institute (CHI)

California Institute of Technology

Case Western Reserve University

Caterpillar Inc.

Cephalon

Clemson University

Coalition for Patent Fairness

CONNECT

Corning Incorporated

Council on Government Relations

Cummins-Allison Corporation

Cummins Inc.

Dell

Dolby Laboratories

Duke University

DuPont

Eastman Chemical Company

Edison Nation

Eli Lilly and Company

Emory University

Environmental Toxins Solutions Inc.

Eventys

ExploraMed Development, LLC

Fallbrook Technologies Inc.

Financial Services Roundtable

ForSight Labs, LLC

ForSight VISION4, Inc.

ForSight VISION5, Inc.

The Foundry, LLC

Freudenberg North America

General Electric

Gen-Probe Incorporated

Gentex Corporation

Georgia Institute of Technology

GlaxoSmithKline

HiperSem Inc.

Hoffman-La Roche Inc.

Honeywell

IBM

Illinois Tool Works, Inc.

Indiana University

Innovation Alliance

Intel

InterDigital

International Federation of Professional & Technical Engineers (IFPTE)

International Game Technology (IGT)

Inventors Digest Magazine

Iowa Biotech Association

Iowa State University

The Johns Hopkins University

Johnson & Johnson

Kansas State University

Kodak

Luminex Corporation

Medical Device Manufacturers Association (MDMA)

Medtronic, Inc.

Michigan State University

Microsoft

Millennium Pharmaceuticals

Milliken & Company

Miramar Labs, Inc.

Massachusetts Institute of Technology

Motor & Equipment Manufacturers Association

National Association of Manufacturers (NAM)

National Association of Patent Practitioners

National Treasury Employees Union

National Venture Capital Association

Neodyne Biosciences, Inc.

NeoTract. Inc.

New Venture Advisors

New York University

North Carolina State University

Novartis

Novozymes

NuVasive

OnLive

Oracle

Orthopedic Venture Partners

Patent Office Professional Association (POPA)

Penn State University

Pfizer

Procter & Gamble

Product on Demand

Oualcomm, Inc.

Rearden Companies

Rutgers, The State University of New Jersey

Stanford-Burnham Medical Research Institute

Stanford University

The State University of New York

The Stella Group, Ltd.

Stony Brook University, SUNY

SuVolta, Inc.

Symantec

Syngenta

Tessera

Texas Instruments

Three Arch Partners

3M

TI Group Automotive Systems, LLC

Tulane University

United Steelworkers (USW)

University of Arizona

University of Buffalo

University of Central Florida

University of Cincinnati

University of Illinois

University of Maryland

University of Michigan

University of Minnesota

University of Nebraska

University of North Carolina at Chapel Hill

University of Oregon

University of Toledo

University of Virginia

University of Washington

UpWrite, LLC

U.S. Chamber of Commerce

USG Corporation

Vanderbilt University

Vari-Form Inc.

Vibrynt, Inc.

Walbro Engine Management LLC

Washington Biotechnology & Biomedical Association

Washington State University

Wayne State University

Western Michigan University

Weyerhaueser

Yale University

Zimmer, Inc.