September 20, 2018

Via Electronic Mail: Strategicplanning1@uspto.gov

Brendan Hourigan
Director
Office of Planning and Budget
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Comments on Draft USPTO 2018–2022 Strategic Plan

Dear Mr. Hourigan:

I am writing on behalf of the American Bar Association Section of Intellectual Property Law (the “Section”) in response to the August 22, 2018 request of the U.S. Patent and Trademark Office (“USPTO”) for comments on the Draft 2018–2022 Strategic Plan (“the Plan”) (Press Release, 18-16). The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the ABA.

I. INTRODUCTION

As an introductory remark, the Section appreciates the opportunity to comment on the Plan, and applauds the USPTO’s efforts to foster innovation, competitiveness and job growth through high quality patent and trademark examination and review proceedings and emphasize the need for reliability and public confidence in patent grants and trademark registrations. The Section also agrees with the USPTO’s goals set forth on page 6 of the strategic plan, including Goals, I, II and III as well as the Mission Support Goal.

The Section agrees with the USPTO’s aim to optimize both patent and trademark quality as well as timeliness. To foster innovation, competitiveness and job growth, businesses must be able to obtain high quality patents and trademarks in a reasonable amount of time. The Section strongly encourages the USPTO’s initiatives to provide both domestic and global leadership to improve IP policy, enforcement and protection worldwide. As businesses become more global, the ability to rely upon and predict IP protection globally is critical. As such, the USPTO’s leadership in working with other countries to advocate for strong protections as well as harmonization of policies become of utmost importance. The Section welcomes opportunities to work with the USPTO to help lead this work globally.
II. STRATEGIC GOALS

A. Goal I: Optimize Patent Quality and Timeliness

Objective 1: Optimize Patent Application Pendency

A. Optimize pendency and examination timeframes.
B. Align production capacity with incoming workload.
C. Leverage value obtained from international work products.
D. Identify and offer additional prosecution options.

We agree with the proposed process improvements, usage of international work product, as well as providing Examiners with information from Applicant’s other applications, both domestic and foreign. We further suggest the implementation of an initial interview between the Examiner and the Applicant and/or their Representative prior to Examination. This initial meeting would enable the Examiner to have an opportunity to ask questions to fully understand the claimed invention and receive valuable information such as an overview of the state of the art and details regarding pending and issued parent or continuing applications, which will ultimately enhance the ongoing examination process.

This initial Examiner education relating to the application should help expedite examination as well as improve quality. The goal for examination should be zero patent term adjustment (PTA), which is a direct measure of the USPTO’s process effectiveness. Providing the Examiner with the opportunity to learn while examining, to face each new case as a growth situation as opposed to an isolated and isolating experience could not only enhance the Examiner’s work experience, but could also discourage Examiner turnover, frustration, and avoidance of direct Applicant interface.

We note the USPTO’s statement regarding the intent to offer customers various prosecution options, including deferred examination, to optimize pendency. The Section supports the USPTO’s recognition of the importance of optimizing pendency and Examiner workload. Regarding deferred examination, the Section is opposed in principle to deferred examination and therefore cautions the USPTO to carefully consider its implications. Due to the importance of public notice, timeliness is a critical element of the patent process, both for the patentee as well as the public. Deferred examination would prolong the period of uncertainty about the scope of the claims that exists until issuance, which may adversely impact long-term investments in research and development. The Section, however, recognizes that a limited and carefully structured deferred examination may benefit customers by allowing them time to, for example, raise funds and/or gauge interest in a particular invention and evaluate the need for patent protection. Many innovations would be better viewed through the lens of time such that they might be abandoned if the value evaporates before costly prosecution or maintenance fees are incurred. In instances where customers need external investment to fund patent examination, a slow track could allow more time for customers to develop funding and interest in the invention. Though having both fast and slow tracks might help balance the workload of examiners, public interest in certainty of patent protection should remain paramount. To the extent the USPTO considers deferred examination, it should consider appropriate limits and controls. For example, the deferral should be a limited time (e.g., 1-2 years), and after deferral, the patent prosecution should be expedited so that the total time of prosecution is similar to an average prosecution time. Two other possible limits include a showing justifying the need for a deferral—like what was previously used for petitions to make special—and a limit on the number of applications an applicant could defer at a time.

Finally, we recommend the USPTO encourage Examiners to engage in interviews when requested, as often protracted examinations result from communication failures. We further recommend increasing engagement options during prosecution, for example, while phone or video interviews might be adequate prior to the first Request for Continued Examination (RCE), subsequent to that point in the process, a face-to-face meeting should be an option in order to move the examination forward.
Objective 2: Issue Highly Reliable Patents

A. Increase Examiner’s ability to obtain the best prior art during examination.
B. Improve content, delivery and timeliness of technical and legal training to achieve more predictable outcomes.
C. Use patent quality data to identify areas for improvements to achieve more consistent outcomes.
D. Refine production standards to achieve patent quality expectations and goals.
E. Enhance transparency and communication of quality metrics.

We agree that the best prior art should be made available during examination. Search tools are evolving, and the USPTO should be on the cutting edge. Feedback from failed searches where examination was protracted or overturned by the Board should be used to know where the process failed to find the best art, and how the process can be improved. We recommend concentrating the automated search tools on those areas where the overturn rate is highest, and prosecution is most protracted. In addition, search software should focus closely on where prior art is more likely to arise, specifically, within their own enterprise or with the current inventors. All too often, searches treat the entire database of prior art equally, when the most effective prior art may be found in related patent applications and publications of the applicants. Understanding these patterns is what great examiners do, but the automated tools can easily highlight these situations.

We agree with the objective of achieving more predictable outcomes, which will help drive innovation. Similarly, we recommend an additional objective of achieving more predictability in the examination process itself, including the USPTO’s treatment of whether inventions fall into patent-eligible categories.

The proposed actions regarding quality could benefit from the value of applicant feedback. For customer facing employees, the new standard should be to seek feedback after each interaction. The USPTO might consider making these surveys mandatory or offering a survey if an in-person interview is granted.

Further, quality metrics do not always use the feedback from the Board decisions when examining the same cases. Certain patterns have emerged where some art units have statistically poor success rates at the Board. That feedback is not part of the current quality measure, but we recommend that it should be.

Objective 3: Foster Innovation through Business Effectiveness

A. Enhance patent customer experience.
B. Optimize development and delivery of information technology tools, including artificial intelligence and machine learning, for internal users of patent systems to ensure they have the tools they need for a thorough search and examination.
C. Enhance information technology interfaces available to external users of patent systems.
D. Improve searchable access to domestic and international patent application files, including the prior art and USPTO actions contained therein.
E. Retain and leverage nationwide talent.
F. Document and standardize best practices to facilitate succession planning.
G. Coordinate patent outreach efforts across the Patent organization and evaluate the impact of these efforts on the patent ecosystem.

The Section encourages the USPTO’s continued efforts in relation to increasing business effectiveness. We applaud the intent of the USPTO to listen to customers and employees, and take actions based upon the learning gained. For customers, having contacts that customers can make to provide feedback without damaging the relationship with the Examiner are key. The USPTO should provide a system whereby the feedback is not necessarily anonymous to the USPTO, as the USPTO may want to follow up with the customer to more fully understand the issue and potential solutions. However, the customer should understand that the feedback will be separate from the examination process. In certain technologies, for
example, one customer may have many cases before the same Examiner and that relationship must be maintained.

Regarding enhancements to the IT interfaces, these are vitally necessary. As shown by the recent outage of the USPTO system, these can have serious effects for both the USPTO and customers. These IT systems must be updated so that both the USPTO and customers can rely upon them. When IT issues and outages occur, customers also should not be penalized, such as by requiring an additional fee to be paid. Having a system whereby the fee is automatically waived if the electronic system is not available is fair and would reduce the burden on both the USPTO and customers.

Lastly, while a nationwide workforce has its benefits, at times geographic diversity can lead to difficulty in maintaining examination quality. For this reason, the Plan should (but currently does not) emphasize the need for continued examiner oversight and training to ensure that the examining corps maintains quality and consistency between geographical units.

Objective 4: Enhance Operations of the Patent Trial and Appeal Board (PTAB)

A. Resolve appeals and inter partes matters in a timely manner.
B. Streamline procedures and standards where feasible and appropriate to ensure balance and predictability.
C. Emphasize overall written quality, well supported reasoning of orders and opinions, and decisional consistency.
D. Increase internal and external engagement on PTAB operations to promote understanding.
E. Develop and enhance tools to promote transparency and enable increased use of operational data.
F. Retain and leverage nationwide talent.

The Section encourages the USPTO to resolve appeals and inter partes matters in a timely manner. The Section favorably notes that the USPTO has continued to reduce the pendency of ex parte appeals across all art units in recent years. The Section encourages the PTAB to continue to issue final written decisions within one year of institution in non-joinder cases. The expedient resolution of validity disputes should remain a priority for the PTAB. The PTAB should be commended for regularly meeting the one-year time frame.

The Section encourages the USPTO to streamline procedures and standards of the PTAB to ensure balance and predictability for all parties before the PTAB. Providing guidance to the public and updating past guidance helps to streamline procedures and standards for the public. The USPTO is to be commended for the PTAB’s recent guidance on motions to amend, remands, expanded panels, discretion to institute, and conduct of trials after the SAS Institute decision, and the timeliness of the guidance. In addition, the USPTO’s recent update to the Trial Practice Guide should contribute toward greater balance and predictability to validity disputes before the PTAB.

The Section encourages the USPTO to emphasize the importance of well-supported reasoning of orders and opinions by the PTAB to ensure transparency and fairness in the adjudication of the patentability of claims. In addition, the PTAB should strive to achieve consistency in decisions involving the same or related patents if evidence from related proceedings is timely made of record. Decisional consistency will help to promote a well-functioning patent system, and improve public perception of the fairness in the USPTO’s adjudication of patentability disputes. The Section also encourages the USPTO to ensure that parties are given notice of and a fair opportunity to respond to all grounds of challenge to the patentability of claims.

The Section encourages the USPTO to increase internal and external engagement to promote better understanding of PTAB operations. The Section appreciates the USPTO’s efforts to educate the public and receive feedback from stakeholders with its Stadium Tour initiative, Patent Quality Chat webinars, Chat with the Chief webinars, and the PTAB Judicial Conference series. The Section also favorably notes the presence of Administrative Patent Judges (APJs) at bar association events. The Section encourages the USPTO to continue to provide regularly scheduled public forums to facilitate the dialog on PTAB operations.
The Section encourages the USPTO to develop and enhance tools to promote transparency and enable increased use of operational data. The Section favorably notes recent improvements to the PTAB website. The statistics allow the public to discern institution rates and the likelihood of prevailing in a final written decision. Improved metrics will show how these two crucial data points are changing over time. The Section appreciates the USPTO’s continued efforts to consolidate rules governing PTAB practice in one location.

The Section agrees that the USPTO should retain and leverage nationwide talent. It is crucial that the USPTO has sufficient top-tier talent to ensure the PTAB remains a respected forum for resolving patentability disputes in a cost-effective and timely manner. Providing geographically diverse work arrangements may allow the USPTO to attract additional talent. While a nationwide workforce has its benefits, however, geographic diversity may negatively impact petitioners’ and patent owners’ ability to argue their cases effectively during oral hearings. For example, APJs in remote offices currently cannot see live demonstrations on document projectors during oral hearings. The USPTO should adopt technology that ensures parties can demonstrate arguments to all APJs in an effective manner, and until such technology is made available, APJs should be encouraged to travel to the assigned oral hearing locations, when feasible.

B. Goal II: Optimize Trademark Quality and Timeliness

The Section appreciates the USPTO’s goal to optimize trademark pendency while maintaining its high standards. In general, the Section agrees with all four objectives set forth by the USPTO and supports the USPTO’s mission to maintain and improve quality, timeliness and education. We would, however, like to provide some general and specific feedback on a few points.

As an initial matter, the Section notes that the 2018-2022 Strategic Plan does not directly address the issue of fraudulent applications and the effect these applications may have on pendency and the quality of trademark registrations. The Section appreciates the efforts already taken by the USPTO to combat these filings, but the proliferation of doctored specimens and fraudulent applications threatens to undermine the integrity of the Federal Registry, the trademark application process, and the budgeting and planning goals of the USPTO. The Section asks that the USPTO continue to focus on this difficult issue moving forward and continue to seek input from stakeholders to combat fraudulent filings.

Objective 1: Optimize Trademark Application Pendency

A. Align production capacity with incoming workload and inventory.
B. Work with customers to develop pendency goals that increase examination efficiency, maintain an optimal pendency level, and meet the expectations of the intellectual property (IP) community.
C. Optimize pendencies for all types of actions throughout the trademark process.

The Section appreciates the USPTO’s renewed commitment to meeting its current pendency goals. While, as the USPTO states in the Strategic Plan, “the current pendency targets appear to serve the trademark community well,” the Section encourages the USPTO to push to continue to shorten pendency times whenever possible, while maintaining the quality and accuracy of the examination process. Fast, reliable trademark examination is crucial to reducing uncertainty, especially as major online marketplaces, such as Amazon, launch new programs that place premiums on registered trademarks, such as the Amazon Brand Registry.

The Section understands that the volume of trademark application filings can be volatile and supports the USPTO’s goal to aligning and shifting the staffing needs to meet (and exceed) pendency goals.

Objective 2: Issue High Quality Trademarks

A. Continually improve quality measurements.
B. Provide targeted training (including legal training and education) to address quality issues.
C. Leverage analytics to drive training, process improvements and consistency.
D. Leverage state of the art technologies that support high quality examination and registration.

The Section acknowledges and appreciates the USPTO’s continued drive to issue high quality trademark registrations. Recently, the USPTO has sought the Section’s input on several Examination Guides and Practice Tips issued to help stakeholders and examining attorneys understand the examination process and to increase consistency.

However, Section members continue to experience inconsistency among different trademark examining attorneys and trademark specialists. An issue can be addressed in one way by one examining attorney, and the same issue may be handled in a different manner by another examining attorney. In particular, specimen refusals issued by Examining Attorneys are often inconsistent with those issued by trademark specialists and post-publication staff. The Section encourages the USPTO to continue to focus its training of examining attorneys and staff to encourage uniform and consistent rulings, so that the evaluation of applications, specimens, and identifications becomes more reliable.

The Section also asks that there be an emphasis on the training and education of “failure to function” refusals under Sections 1, 2, and 45 for a trademark and Sections 1, 2, 3, and 45 for a service mark. In July 2017, the USPTO released an examination guide on “Merely Informational Matter” wherein it provided examples and advice on when such a refusal should be issued by an examining attorney. While the Section appreciated the USPTO’s consideration of this matter, the Section has noted inconsistencies among examining attorneys when issuing “failure to function” and similar “merely informational matter” refusals.

Finally, the Section is particularly interested in the USPTO’s plan to “[l]everage state of the art technologies that support high quality examination and registration.” The Section believes that such tools can be transformative to the speed and accuracy of trademark examination but asks that adoption of any new technology be transparent and that stakeholders be involved early in the process of testing and evaluating new technology that could potentially use artificial intelligence to assist in the trademark registration process.

Objective 3: Foster Business Effectiveness

A. Develop innovative recruitment strategies for staffing trademark positions.
B. Develop leadership programs for succession planning, knowledge management, and employee engagement.
C. Develop the workforce to support information technology modernization.
D. Focus IT efforts on improving efficiencies in core business operations.
E. Enhance the customer experience.
F. Explore artificial/business intelligence to assist trademark customers.
G. Partner with customers to define and address needs.

The Section supports the USPTO’s objective to improve the customer experience, recruit talented employees, and develop leadership within the USPTO. The Section strongly supports the USPTO’s objective to modernize the USPTO’s trademark prosecution forms and technology. To that end, the Section asks that the USPTO consider providing more frequent updates on the status of the “Next-Generation” trademark forms and provide concrete timelines for the implementations of these new forms and platforms. The Section also asks that the USPTO provide increased support for its existing system to minimize current system outages and other disruptions of the TESS, TEAS & TSDR systems.

Objective 4: Enhance Operations of the Trademark Trial and Appeal Board (TTAB)

A. Resolve appeals and inter partes matters in a timely manner.
B. Streamline processes and procedures where feasible and appropriate, and ensure procedural predictability.
C. Emphasize overall written quality, well supported reasoning of orders and opinions, and decisional consistency.

D. Maintain increased internal and external engagement on TTAB operations to promote customer understanding of process and procedure.

E. Document clear and comprehensive business requirements to facilitate enhancement of legacy IT systems and prepare for next generation IT systems.

F. Retain and leverage nationwide talent.

The Section supports the TTAB’s recent policy changes to help streamline and improve *ex parte* and *inter partes* appeals. The Section’s members have noted that the TTAB’s new Standard Protective Order has provided additional ease and clarity to *inter partes* matters. In general, the Section supports all the USPTO’s objectives but asks that emphasis be placed on reducing the pendency time of the disposition of motions whenever possible, especially in the case of default judgments.

The Section also supports the USPTO’s objectives for the TTAB’s modernization of the technological systems and requests that the USPTO continue to seek input from stakeholders at all stages of the adoption and implementation of new systems to ensure a seamless transition.

**C. Goal III: Provide Domestic and Global Leadership to Improve Intellectual Property Policy, Protection and Enforcement Worldwide**

The Section applauds the USPTO for focusing efforts to demonstrate the importance of intellectual property rights domestically and internationally, as part of an overall economic and innovation policy for the United States. Any policy development and implementation should take place in a coordinated manner within a national framework that allows all national stakeholders to work together to create, own, and exploit research results, innovations, new technologies, and works of creativity.

Further, the Section encourages the USPTO to build public awareness, both domestically and internationally, showing a link between intellectual property rights, innovation, and economic growth, and provide the empirical basis for this link, wherein such evidence should show the significance of intellectual property rights and the enhancement of innovation to maintain jobs and improve the United States economy has truly provided the ability of the USPTO to demonstrate its leadership in the world as promoting innovation and intellectual property rights.

**Objective 1: Provide Domestic Leadership on IP Policy Issues and Strategic Development of a National IP Policy**

A. Provide domestic policy formulation and guidance on key issues in all fields of IP enforcement and protection.

B. Engage other U.S. government agencies, stakeholders and Congress on legislation that improves the IP system.

C. Provide domestic education on IP at all levels, including to stakeholders, the public, and state and local communities.

D. Provide input to ongoing court considerations on key IP issues.

E. Advocate for the value of intellectual property as a critical driver of innovation and creativity.

The Section encourages the USPTO to monitor and provide policy guidance in cases before the Supreme Court, the United States Court of Appeals for the Federal Circuit (CAFC), other Federal District courts, Patent Trial and Appeal Board (PTAB) and Trademark Trial and Appeal Board (TTAB). The Section further encourages the USPTO to provide technical support to legislative, regulatory, and judicial initiatives. We applaud the prospect of a monitoring and policy effort and recommend that the results of such efforts be maintained in a clear and transparent manner with the public.

The Section applauds the USPTO’s stated plan to engage other U.S. Government agencies, stakeholders, and Congress to discuss pending legislation and other potential legislative proposals. The Section urges the
USPTO to participate in actively and support the efforts of other U.S. Government agencies in the enforcement of intellectual property rights.

The Section encourages the USPTO to continue its ongoing IP education initiatives, including continued efforts in relation to enhancing public outreach and education. The Section would encourage the USPTO to engage with groups, such as the Section, to more broadly provide such education. The Section thanks the USPTO for its continued outreach and invitations to the Section to speak at these roundtables. The Section believes that these are valuable to the USPTO and all stakeholders. The Section is encouraged by the USPTO’s responsiveness to public comments.

The Section supports the USPTO’s effort to address IP law through litigation. The Section appreciates the USPTO’s efforts in defending the agency’s IP policy and procedures before the CAFC and the Federal District courts. The Section hopes the USPTO will continue to solicit outside input and engagement in the process.

The Section supports the USPTO’s focus on IP as a potential for economic leadership and economic success, and the Section would be pleased to cooperate in achieving such goal. However, the Plan does not discuss how the USPTO will advocate this value. Therefore, the Section believes the Plan should emphasize how the USPTO intends to accomplish this goal.

**Objective 2: Provide Leadership and Education on International Intellectual Property Policy and Awareness**

A. Provide international policy formulation and guidance on key issues in all fields of intellectual property enforcement and protection.

B. Provide leadership, support and advice to the administration in negotiating and monitoring compliance with the intellectual property provisions in trade agreements.

C. Lead administration efforts at the World Intellectual Property Organization (WIPO) and other international organizations to improve intellectual property enforcement, protection, and cooperation worldwide.

D. Engage other governments to improve their intellectual property enforcement and protection, including by providing education and capacity building.

E. Work with Congress on matters pertaining to international agreements and their implementation.

F. Work with the administration to improve intellectual property enforcement and protection in countries of interest, including through the intellectual property Attaché Program.

G. Advocate for the value of intellectual property as a critical driver of innovation and creativity.

The Section encourages the USPTO to take a leadership role on the global level and be involved in International IP policy and awareness. In 2017, the US fell out of the top 10 in patent protection rankings in the International Chamber of Commerce’s Annual Report. The USPTO should take efforts to again become a top 10 global leader and being involved in international policy and awareness should help the US gain back the ground it has lost worldwide.

In efforts to improve patent quality and predictability, global harmonization is key. As a reflection of these goals in the USPTO’s Plan, the Section supports the USPTO’s intentions under this Objective to harmonize in areas of enforcement and protection, and to cooperate and educate on a global scale.

The Section further supports the USPTO’s efforts to work with Congress on international agreements and implementation of them. Conveying to Congress how these agreements affect and work with the patent system is extremely important to be sure that agreements and treaties have the intended consequences and effect on innovation and do not adversely affect the patent system. In this way, the USPTO can advocate for IP as a critical driver and be sure that innovation and creativity are incentivized and appropriately protected.
The Section would suggest that the USPTO work with customers and bar associations in this effort. The USPTO should consider how these policies affect customers, both small and large entities. As the USPTO is not engaged in enforcement, the input of customers and associations can prove valuable as to the real-life effects and implications of such policies.

III. MISSION SUPPORT GOAL: DELIVER ORGANIZATIONAL EXCELLENCE

Objective 1: Enhance Human Capital Management and Foster Employee Engagement

A. Optimize performance culture.
B. Leverage best practices to attract, recruit and retain an engaged, diverse, mission focused and talented workforce.
C. Optimize workspace to meet work force needs.
D. Continue to strengthen our telework environment.
E. Enhance leadership capabilities to better develop, sustain, lead and foster engagement and advocacy in the agency’s diverse workforce.
F. Identify and deploy an engagement strategy that ensures all employees understand how their work relates to the USPTO mission.

The Section agrees with the USPTO’s goals for optimizing its workplace environment to enhance employee operations and leadership opportunities. The Section generally supports efforts by the USPTO to improve diversity and retain well-trained and experienced employees across all job functions. The Section urges the USPTO to continue with workplace programs to enhance recruitment and long-term retention of experienced examiners and other mission critical employees.

Objective 2. Optimize Speed, Quality, and Cost Effectiveness of Information Technology (IT) Delivery to Achieve Business Value

A. Involve the business unit experts in the IT acquisition source selection process.
B. Refine the agency-wide IT prioritization process.
C. Foster IT innovation from our highly skilled workforce.
D. Maintain effective legacy systems during transition to their retirement.
E. Establish agency-wide data governance.
F. Strengthen the IT development and implementation lifecycle.

As noted above in the sections above, the Section supports enhancements to the IT interfaces and improvements in the USPTO’s IT systems generally, as essential to the success of the USPTO. As shown by the recent outage of the USPTO system, problems with the IT systems have serious consequences for both the USPTO and its customers. The patent and trademark IT systems must be updated and improved to achieve dependable systems capable of accommodating the flow of work within the USPTO while providing reliable services for customers. When downtime issues occur, customers should not be penalized with additional fees for late or alternative filing, but options should be in place to permit automatic waiver of such fees when the systems are not available. It is also important that the USPTO provide frequent and timely updates about the status of upgrades to the IT systems and related forms, procedures and platforms.

The Section urges the USPTO to adequately prioritize the USPTO’s operations (especially in the area of its information technology capabilities) at a level that will assure the USPTO is adequately supported and, therefore, able to conduct high-quality, timely and complete examinations of patent and trademark applications.

Objective 3. Ensure Financial Sustainability to Facilitate Effective USPTO Operations

A. Extend the authority for fee setting beyond September 2018.
B. Obtain authority to spend all fees collected.

C. Ensure the USPTO fee structure continuously meets the needs of the intellectual property (IP) environment of the future.

D. Optimize the management of financial resources.

E. Achieve optimal value from resources deployed to support USPTO operations.

The Section supports renewal of the fee setting authority of the USPTO consistent with the manner provided for in the Leahy-Smith America Invents Act (“AIA”). The Section generally encourages the USPTO to establish fees at a level that will assure the USPTO is adequately funded (especially in its information technology capabilities), and, therefore, able to conduct timely, high quality day-to-day operations on an ongoing basis. The USPTO should strive to adequately capitalize the USPTO’s long-term operations and to maintain funds for contingency purposes. The Section supports the USPTO efforts to implement a sustainable funding model for operations, and to optimize management of financial resources.

Objective 4. Enhance USPTO’s Interactions with Internal and External Stakeholders, and the Public at Large

A. Strengthen relationships with the Department of Commerce (DOC), Office of Management and Budget (OMB), and other Federal agencies, and Congress.

B. Foster a culture across the USPTO for providing an outstanding customer experience.

C. Foster relationships with internal and external stakeholders.

D. Meet customer needs by timely delivery of IP information and education to support and encourage growth of an innovation-based economy.

E. Strengthen the public’s understanding of IP, including increasing the public’s knowledge of how IP, and the product and services that USPTO offers, support our innovation-based economy.

The Section encourages efforts by the USPTO to strengthen and build on inter-agency relationships and cooperation to help achieve broader goals of improving IP enforcement and awareness. The Section favors the USPTO’s focus on improving customer relations and public understanding of IP. The Section believes that such outreach efforts by the USPTO will enhance interaction and feedback for better communication with customers and the public on IP issues, thereby enabling further improvements in customer-directed services. The Section recognizes the USPTO’s goals to support growth of an innovation-based economy and strongly encourages such efforts.

IV. CONCLUSION

In closing, the Section appreciates the opportunity to provide input on the USPTO’s strategic goals for 2018-2022.

If you have any questions on our comments or would wish for us to further explain any of our comments, please feel free to contact me. Either I or another member of the leadership of the Section will respond to any inquiry.

Very truly yours,

Mark K. Dickson
Chair, ABA Section of Intellectual Property Law