

2004-2005

**CHAIR**

William LaFuze  
1001 Fannin Street  
2300 First City Tower Building  
Houston, TX 77002-6760  
[blafuze@velaw.com](mailto:blafuze@velaw.com)

**CHAIR-ELECT**

E. Anthony Figg  
Washington, DC

**VICE-CHAIR**

Susan Barbieri Montgomery  
Boston, MA

**SECRETARY**

Gordon T. Arnold  
Houston, TX

**FINANCIAL OFFICER**

Susan M. McGahan  
Bedminster, NJ

**SECTION DELEGATES TO  
THE HOUSE OF DELEGATES**

Jack C. Goldstein (2005)  
Donald R. Dunner (2006)

**IMMEDIATE PAST CHAIR**

Robert W. Saccoff

**ASSISTANT TO THE SECRETARY**

Cynthia E. Kernick  
Pittsburgh, PA

**ANNUAL REPORT EDITOR**

Brian E. Banner  
Washington DC

**NEWSLETTER CO-EDITORS**

J. Michael Monahan  
New Orleans, CA

Lisa A. Dunner  
Washington, DC

**COUNCIL MEMBERS**

John J. Gresens (2005)  
Minneapolis, MN

Pamela Banner Krupka (2005)  
Los Angeles, CA

James E. Schalz (2005)  
Minneapolis, MN

Katherine C. Spelman (2005)  
San Francisco, CA

Thomas W. Brooke (2006)  
Washington, DC

James A. Forstner (2006)  
Bonita Springs, FL

Robert O. Lindelfeld (2006)  
Pittsburgh, PA

Theresa Stank Rea (2006)  
Alexandria VA

Erich D. Andersen (2007)  
Redmond, WA

Theodore H. Davis, Jr. (2007)  
Atlanta, GA

Mark Garcia (2007)  
Pasadena, CA

Linda S. Resh (2007)  
Chicago, IL

Robert A. Armilage (2008)  
Indianapolis, IN

Q. Todd Dickinson (2008)  
Fairfield, CT

Barbara J. Grahm (2008)  
Minneapolis, MN

Don W. Martens (2008)  
Irvine, CA

**BOARD OF GOVERNORS LIAISON**

Timothy L. Bertschy  
Peoria, IL

**SECTION STAFF-CHICAGO**

Betsy Roach  
Director

Michael G. Winkler  
Assistant Director

Alice Bare  
Marketing and  
Communications Manager

**SECTION STAFF-WASHINGTON**

Hayden W. Gregory  
Legislative Consultant  
740 15<sup>th</sup> Street N.W.  
Washington, DC 20005-1009  
202-662-1772  
[gregoryh@staff.abanet.org](mailto:gregoryh@staff.abanet.org)

June 20, 2005

The Honorable Lamar S. Smith  
Chairman  
Subcommittee on Courts, the Internet,  
and Intellectual Property  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Howard Berman  
Ranking Minority Member  
Subcommittee on Courts, the Internet  
and Intellectual Property  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman and Mr. Berman:

I am writing to express the support of the American Bar Association for the enactment of H.R. 2791, the "United States Patent and Trademark Fee Modernization Act of 2005." Chairman Sensenbrenner introduced H.R. 2791 on June 8, 2005 and we understand that the legislation is expected to be marked up in your Subcommittee in the near future.

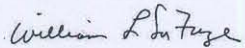
H.R. 2791 is virtually identical to provisions contained in H.R. 1561, which passed the House in the last Congress. Section 5 of H.R. 1561 contained provisions designed to stop the practice of appropriating, for PTO use, less than the full amount of user fees collected. Ending this practice, which has come to be known by the shorthand term "user fee diversion," has been one of the highest legislative priorities of the American Bar Association for several years. The ABA supported enactment of H.R. 1561, as passed by the House and reported by the Senate Judiciary Committee in 2004, because we believe that section 5, along with the bill's fee increases, was a reasonable and effective means to ensure that the PTO receives the resources it needs to provide quality services in a timely manner.

Unfortunately, H.R. 1561 was not taken up in the Senate in the 108<sup>th</sup> Congress. Instead, the PTO user fee increases, but not the provisions of section 5 of H.R. 1561 that are designed to stop diversion, were incorporated into the Commerce Department Appropriations Act of Fiscal Year 2005 and enacted as part of the Consolidated Appropriations Act, 2005. Under that Act, the fee increases are to apply only in fiscal years 2005 and 2006. The ABA opposed the enactment of fee increases unless they were accompanied by statutory language to insure that none of the fee revenue was diverted from its intended purpose of funding PTO operations.

June 20, 2005  
Page 2

We continue to believe that it is essential to link necessary PTO fee increases to a guarantee that the funds will be used exclusively to fund the agency. We, therefore, support the enactment of H.R. 2791, which would make permanent the temporary fee increases enacted last year, and at the same time provide a statutory bar to diversion of PTO fee collections.

Sincerely,



William L. LaFuze

cc: Members, Subcommittee on Courts, the Internet, and Intellectual Property  
Robert D. Evans  
Lillian B. Gaskin