



GAVIN NEWSOM
LIEUTENANT GOVERNOR

January 29, 2012

Mr. David Kappos
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P.O. Box 1450
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Director Kappos:

As a proud graduate of both the University of California Davis and Berkeley, I am sure you don't need to be persuaded of the myriad reasons why California is best suited for placement of the next United State Patent and Trade Office satellite location. However, for the benefit of everyone involved in making this decision, the attached material outlines the case for why California is uniquely qualified and a natural choice for the next USPTO satellite office.

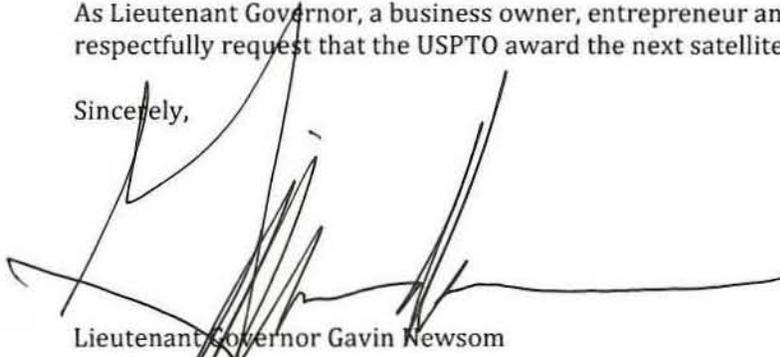
Numbers alone do not tell the story, but they are a key factor in why California should receive the next satellite office. The data shows that California is a national leader in the number of patents granted, is home to a significant portion of backlog applications, is equipped with the necessary infrastructure, has enough current intellectual property legal professionals and home to several top-notch university law schools that can provide a constant pipeline of human capital to staff a satellite office.

Additionally, California's elected leadership, business and education speaks with unprecedented unity on this issue and deserves great credit for moving passed partisan politics and regional self-interest to make clear California's commitment to the USPTO and two the placement of the next satellite in the Golden State.

Hopefully, you will agree based on the supporting documents that California meets or exceeds the stated criteria outlined by the USPTO.

As Lieutenant Governor, a business owner, entrepreneur and champion for innovation, I respectfully request that the USPTO award the next satellite office to the State of California.

Sincerely,



Lieutenant Governor Gavin Newsom

California is the best location for the next United State Patent and Trademark Office (USPTO) satellite office. The Golden State is home to more relevant occupational clusters than any other state and boasts multiple regions with valid claims to house the next USPTO satellite office.

By sheer volume of patents granted and backlog pending, California outpaces any potential competition for locating the next office and would benefit more than any other state. In addition, the location and ease of transportation to and around the state makes it convenient for those seeking patents or training.

The State of California also has the ability to locate physical space for the USPTO in any region should California be chosen for the next satellite office.

The comments below indisputably illustrate that California not only meets, but exceeds, the criteria set forth by the USPTO.

California Patent Information¹

California leads the nation in patents:

Year	Number of Patents
2010	30,080
2009	23,356
2008	22,203
2007	22,601
2006	25,044
2005	19,662
2004	21,602
2003	22074
2002	21,235
2001	20,859
2000	19,845

- In 2010, California residents received 30,080 patents, representing 25% of

¹ http://www.uspto.gov/web/offices/ac/ido/oeip/taf/cst_all.pdf

all patents granted in the United States.²

- California's large number of patents dwarfs the next highest state New York, with only 8,095 patents (6.7% of the total) awarded in 2010.
 - Indeed, California residents received more patents in 2010 than the next four states (New York, Texas, Massachusetts, and Washington) combined.
 - California's large percentage is not merely driven by its population (which represents only 12.1% of the U.S. population).³
- Since 1977, 446,523 patents were granted to California recipients.⁴
- Over the last decade, California averaged 22,596 patents per year.⁵
- One year of patents filed in California is greater than the cumulative number of patents filed by the majority of individual states since 1977.⁶
- California accounts for 7,300, or nearly 20 percent of all USPTO-registered patent attorneys and agents in the country.⁷
- According to *Intellectual Property Today*, 15 of the top 25 patent prosecution firms in the nation have a California presence.⁸
- California is the innovation hub of America.

USPTO Backlog

California patent applicants represent nearly a quarter of the backlog at the USPTO (23%). California has more pending applications than the applications of New York, Texas, and Illinois combined (see graph). A California patent office will put the resources where the problem is, with the potential to make a real impact on a

² Id.

³ <http://quickfacts.census.gov/qfd/states/06000.html>

⁴ http://www.uspto.gov/web/offices/ac/ido/oeip/taf/cst_ail.pdf

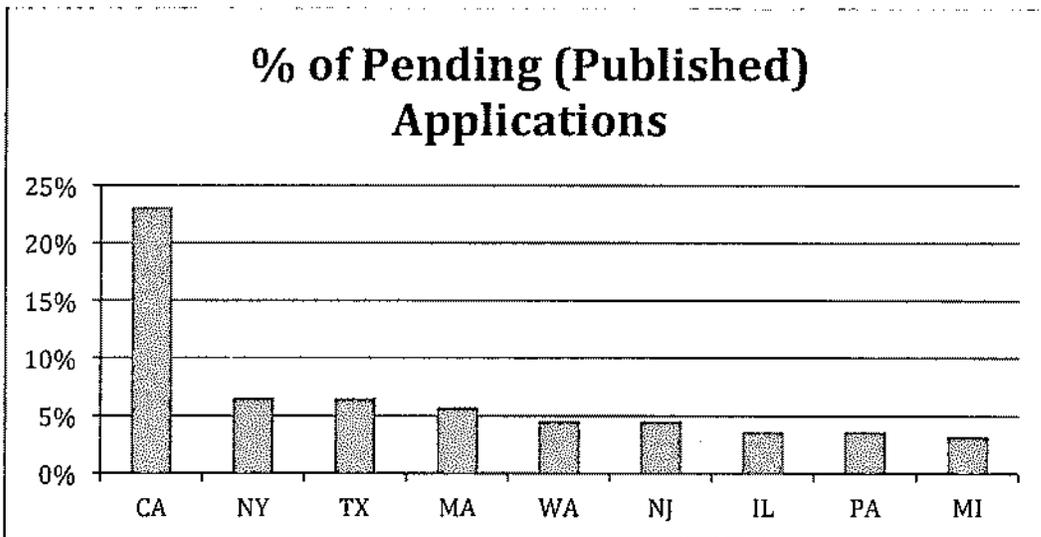
⁵ Id.

⁶ Id.

⁷ <https://oedci.uspto.gov/OEDCI/query.do>

⁸ <http://www.iptoday.com/issues/2011/03/top-patent-firms.asp>

national problem. Much of the backlog comes from entrepreneurs and startups – and around 20% of all small entity patents are California patents.



Venture Capital

- According to the National Venture Capital Association (NVCA), half of all venture capital dollars invested in the United States in 2009 were deployed in California.⁹
- From 1980-2009, California was responsible for 44.1 percent of all venture capital investment dollars within the entire United States.¹⁰
- In 2009, California accounted for 40.6 percent of all U.S. venture capital deals. Between 1980 and 2009, the state accounted for an average of 38.9 percent of all venture capital investments.¹¹
- In no year since 1980 did the state account for less than 32.2 percent of U.S. venture capital deals.¹²

⁹ <http://www.openforum.com/idea-hub/topics/money/article/creating-venture-capital-ecosystems-1>

¹⁰ http://growthandjustice.typepad.com/files/nvca_2010_yearbook.pdf

¹¹ http://growthandjustice.typepad.com/files/nvca_2010_yearbook.pdf

¹² Id.

- In 2010 California received 30,080 patents and spent \$11,659,417,300 in venture capital investments.
- More than 340 venture capital deals were completed in California in Q3 of 2011 totaling \$3,287,925,500. The next highest state was New York, with 85 deals at \$726,089,700.¹³

Higher Education in California

California has a history of providing the highest level of education through its public and private universities. With a total of 473 degree-granting higher education institutions, this is just a snap shot of the available graduates entering the job market annually in California. ¹⁴

In 2009, California colleges and universities conferred:^{15 16}

- 160,930 bachelor's degrees (Ranked 1st Nationally);
- 62,215 master's degrees (Ranked 2nd Nationally)
- 16,532 professional and doctor's degrees (Ranked 1st Nationally)
- 8,547 undergraduate engineering degrees (Ranked 1st Nationally);
- 3,431 undergraduate computer science degrees (Ranked 1st Nationally);
- 5,291 master's in engineering (Ranked 1st Nationally);
- 1,759 master's in computer science (Ranked 3rd Nationally);

In 2009, the University of California marked its 17th consecutive year as the top patent recipient for all U.S. universities. ¹⁷

In December 2011, The Centre for Science and Technologies Studies at Leiden University in the Netherlands ranked the top universities in the world. Of the top 25 schools, California is home to eight: Stanford University, California Institute of Technology, UC Santa Barbara, UC Berkeley, UC San Francisco, UC San Diego, UC Los Angeles, and UC Santa Cruz.

¹³ http://www.nvca.org/index.php?option=com_content&view=article&id=344&Itemid=103

¹⁴ <http://www.cpec.ca.gov/SecondPages/QuickData.asp>

¹⁵ http://nces.ed.gov/programs/digest/d10/tables/dt10_333.asp

¹⁶ http://nces.ed.gov/programs/digest/d10/tables/dt10_335.asp

¹⁷ <http://www.universityofcalifornia.edu/news/article/23476>

When evaluating the specific programs pertinent to the USPTO, according to *US News and World Reports*, California yet again finds itself on the top of the list with:

- 3 of the top 5 undergraduate engineering programs: Stanford University, University of California Berkeley and the California Institute of Technology;
- 6 of the top 10 biochemistry programs: UC Berkeley, UC San Francisco, Scipps Research Institute, Stanford University, California Institute of Technology and UC San Diego; and
- 3 of the top 10 intellectual property law programs: UC Berkeley, Stanford University and Santa Clara University.

Additionally, California's public and private universities and federal laboratories are dedicated to meeting President Barack Obama's call for enhanced commercialization through aggressive technology transfer programs as outlined in the administration's "Nurture the High-Growth Enterprises that Create New Jobs" initiative.¹⁸ Many of the innovations realized by California entrepreneurs are born in the labs and classrooms of California universities.

Based on these facts, if the USPTO were to choose the next location for a satellite office solely on the quantity and quality of the available higher education system, the sheer number of undergraduate and professional degrees granted yearly and the availability of expert scholars, California is the best location.

California Transportation

California is the world's transportation hub. The state has 11 ports, 29 commercial service airports, 36 reliever airports, 170 commuter trains, 38 intercity trains, and 16,662.16 miles of state highway. This network of transportation clearly makes California the most accessible location for the next USPTO office.

Job Retention in California

California is often perceived to be a state of "skill out migration." This statement was recently addressed and refuted by the Milken Institute in their publication "What Brain Drain? California Among the Best in U.S. at Retaining Skilled Workers."

Facts presented by the Milken Institute:¹⁹

¹⁸ <http://www.jobs-council.com/recommendations/nurture-the-high-growth-enterprises-that-fuel-new-jobs/>

¹⁹ <http://www.milkeninstitute.org/publications/publications.taf?function=detail&ID=38801287&cat=resrep>

- Over the past decade, about 65 percent of skilled California natives were living and working in the state, far above the national average of about 50 percent.
- In the decade 2000-2009, California's "skill outflow" – basically, the number of skilled workers leaving the state – averaged 2.2 percent a year, a percentage point less than the national rate.
- The Golden State continues to be a powerful magnet for skilled immigrants from around the world. Once foreign-born skilled workers come to California, they tend to stay; the outflow rate for this group was the lowest in the nation.

Contrary to misguided perception, California remains a state that attracts and retains a skilled workforce.

Cost of Living

California is a vast and diverse state with costs of living that vary from city to city and region to region. These fluctuating costs make it difficult to pinpoint the cost of locating a USPTO satellite office in California without first establishing where the facility is located.

However, the data shows that the Federal Government already maintains a large employment footprint in California proving that cost is not the only consideration in locating federal positions. According to the U.S. Census Bureau, Statistical Abstract of the United States: 2012, California ranks first among all states for Civilian Employment in the Federal Government²⁰. Additionally, according to the Office Personnel Management, the California based federal workforce average salary is \$66,212²¹. Finally, the Census Bureau data shows that the median household income in California is \$60,883²². With a median salary of \$85,857²³ and a benefits package that rivals major corporations the data indicates that the USPTO should be competitive in recruiting and retaining a talented workforce.

While salary data shows that the Federal Government as an employer is more than competitive in California, cost is only part of the metric in evaluating the location of the next satellite office. As indicated in previous sections, there are significant advantages to locating in California that go beyond the narrow budget test.

²⁰ <http://www.census.gov/compendia/statab/2012/tables/12s0498.pdf>

²¹ <http://www.opm.gov/feddata/factbook/2007/2007FACTBOOK.pdf>

²² <http://quickfacts.census.gov/qfd/states/06000.html>

²³ <http://usptocareers.gov/Pages/Misc/SalaryRates.aspx>

The Benefit of a California Location to the Federal Government

Since 2006, eight U.S. Government agencies have received 433 patent grants originating in California.²⁴ Of these patents, the U.S. Navy holds 289.²⁵ This is in part because California is home to the Navy Postgraduate School and nine additional Naval Installations – almost 20 percent of domestic US Naval bases.²⁶

In addition to the strong military presence, California is home to 48 federal research and development laboratories, more than any other state.²⁷ In particular, there are three federal laboratories with close ties to California industries and universities – Lawrence Livermore National Laboratory, Lawrence Berkeley National Laboratory and NASA's Jet Propulsion Laboratory at the California Institute of Technology.

Locating a USPTO within reach of our military assets, federal laboratories and California universities would effectively leverage the resources of multiple federal and state agencies. Even without including state resources, locating the next USPTO office in California will create efficiencies for at least eight federal agencies that directly hold patents generated in California.²⁸

In addition to efficiencies gained in the patent process, a California location would directly support existing USPTO training programs and assist with Examiner retention.

Programs such as the Patent Examiner Technical Training Program (PETTP) require an available pool of “scientists and experts as lecturers to patent examiners in order to update them on technical developments.”²⁹ California contains ample resources of such experts outlined in the sections above.

Finally, as it relates to the ability to “increase activities to better connect patent filers and innovators with the USPTO,” the data shows that California leads the nation in patent activities. The data demonstrates there can be no stronger case made for locating the next USPTO anywhere but California.

²⁴ <http://www.uspto.gov/web/offices/ac/ido/oeip/taf/asgsrc/regions.htm>

²⁵ Ibid.

²⁶ <http://www.navy.mil/navydata/bases/navbases.html>

²⁷ <http://www.ccst.us/publications/1999/CREST12.pdf>

²⁸ <http://www.uspto.gov/web/offices/ac/ido/oeip/taf/asgsrc/regions.htm>

²⁹ <http://www.uspto.gov/patents/pettp.jsp>



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Mr. David Kappos
Director of the U.S. Patent and Trademark Office
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Director Kappos:

California is a state rich in entrepreneurial capital, with an economy driven by innovation. California grants seventeen times more patents than the average of all other states. We urge the U.S. Patent Office to provide California with its own satellite office; the state provides rich occupational cluster, highly skilled patent attorneys, world renown universities, and advanced public transportation infrastructure.

In 2010, California received 30,080 patents – twenty five percent of all patents granted in the United States. New York, the second highest patent recipient, received 8,095 patents, roughly a quarter of the amount granted to California. These figures provide the stark reality that California is the prime candidate for a local patent office.

California is a key strategic location for a U.S. Patent Office (USPTO). Our state's economy is built on a foundation of top universities and a strong and vibrant entrepreneurial spirit.

A local patent office will bring great benefit to California business, while providing abundant support to the USPTO. California is the transportation hub of the west coast, and can provide service to neighboring states. Furthermore, the roughly 500,000 patents granted to California recipients over the last few decades are reason enough to support a local office.

The benefits of a satellite office in California would go beyond our borders. A more streamlined working relationship with the USPTO would expedite products to market thus creating a net gain to the national economy. We implore you to allow a local satellite office in California for the benefit of the entire nation.

Sincerely,

Robert Evans
Executive Vice President and General Counsel
Penumbra, Inc.

Robert May
Founder
Ringz.TV

Susan Schmitt, Esq.
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Bernard E. Shay
VP Law and General Counsel
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Gabriela B. Tomescu, Esq.
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IntraPace, Inc.

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Managing Partner and Inventor
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Tony Recupero
President and Chief Executive Officer
Baxano, Inc.

Mike Wallace
Sr. VP of R&D and Business Development
Baxano, Inc.

Jessica Hudak
Intellectual Property Manager
Baxano, Inc.

Earl "Eb" Bright
Exec VP and General Counsel
ExploraMed

Todd Gillenwater
Sr Vice President, Public Policy
California Healthcare Institute (CHI)

Stephen Pieraldi
2bclear.com

Jayant Ramchandani
Novitaz

Kristine Riley
Aruba Networks