

Via email: satelliteoffices@uspto.gov

Azam Khan
Deputy Chief of Staff
United States Patent and Trademark Office
Mail Stop: Office of Under Secretary and Director
P.O. Box 1450
Alexandria, Virginia 22313-1450

Re: "Request for Comments on Additional USPTO Satellite Offices for the Nationwide Workforce Program" Notice to Public Federal Register, Vol. 76, No. 229 (Tuesday, November 29, 2011)

Dear Mr. Khan:

The following comments are in response to the Request for Comments on Additional USPTO Satellite Offices for the Nationwide Workforce Program" Notice to Public, published in the *Federal Register*, Vol. 76, No. 229 (Tuesday, November 29, 2011).

I am a registered patent practitioner, and have been in private practice in Dallas, Texas since 1988. I am a partner in the law firm of Gardere Wynne Sewell, LLP, which has offices in Dallas, Austin and Houston. I have represented mostly startup and small to mid-size "technology" companies and other businesses, as well as a few large, multi-national corporations. Most of my clients are located the North Texas, Houston, and Austin areas, as well as states bordering Texas, Florida, California, New York and Massachusetts.

I am writing only in my individual capacity. My comments are simply my opinions, and should not be attributed to my firm, to any other lawyer of my firm, to any organization of which I am a member, and, most importantly, to any past, current or future client of mine or my firm. I believe that my comments are true, but the PTO should independently check any facts on which it relies.

As a preliminary matter, I endorse the comments being submitted jointly by the Dallas Regional Chamber, Dallas Bar Association Intellectual Property Section, The Center for American and International Law, SMU Bobby B. Lyle School of Engineering, UT Arlington College of Engineering, the University of Texas at Dallas, the UT Dallas Erik Jonsson School of Engineering and Computer Science, The Institute for Innovation and Entrepreneurship and the Naveen Jindal School of Management at UT Dallas (the "Joint Dallas Submission"). The Joint Dallas Submission includes facts and additional information that support the points made below.

1. I strongly support the USPTO in its decision to open two more satellite offices. Opening satellite offices will vastly increase the size, quality and diversity of the pool of

potential examiners to draw from, leading directly to much better examiners and higher quality examination. Hiring more examiners will necessarily allow the Office to decrease pendency and backlog. Locating the satellite offices in locations that have lower costs of living will make it much easier to live on a “government salary” and thus make a job as an examiner much more attractive.

2. I believe that the factors listed in the Notice are generally those that the Office should be using to evaluate future satellite locations, with two exceptions. First, the ease and cost of travel to a satellite office should be an additional factor that is considered. The hoteling / telework options are essential to attracting high quality examiners. Even though new the new hoteling and telework programs might appear to make the geographic locations of satellite offices less important, in fact they are just as important, if not more so. Examiners still must travel on a regular basis to the PTO for training, supervision and other purposes. The ease and cost of travel will be important factors for potential hires who are attracted by the flexibility offered by these programs. Second, the local economic impact of the satellite office should not be a primary factor, and should not override other factors. The selection of the office should be based on long term considerations. Hiring of a couple of hundred employees is not likely to have any meaningful impact on the economy of a region or a large metropolitan area.

3. I applaud the Office making the selection process transparent. I hope that doing so will make the choices completely merit based, free from political influence, with the locations chosen being truly the best, and not merely acceptable, locations.

4. Though there are many good locations, there are two states that stand out has ideal locations when taking into the factors listed in the Notice, as well as the geographic locations of PTO headquarters and the new Detroit satellite office. They are California and Texas.

- Texas and California are the two most populous states in the country, and they continue to grow, primarily because many people think that they are good places to live.
- Satellite offices in Texas and California would provide the best geographic locations to serve the largest population centers outside the Eastern seaboard.
- Dallas-Fort Worth is the 4th largest Metropolitan Statistical Area in the country, and it continues to grow at a fast clip. Houston is the 4th largest city in the country
- California and Texas have attracted large numbers of engineers and scientists, as well as many other types of employees, as evidenced by many companies located in, or relocating to, those states. They will provide large pools of qualified people for examining positions. Having satellite offices within easy traveling distance of where many of them live, or want to live, will make the Office's job of attracting, training and retaining high quality examiners much easier.

- Although no other state has the incredibly vibrant innovation communities like those in central and southern California, Texas has long been home to very considerable innovation activity, particularly in the Dallas, Austin and Houston metropolitan areas. Texas is number 2 to California in producing the highest number of patents each year.
- U.S. population that are not being well served by the current and proposed locations of PTO examining operations.

5. Colorado, Utah, New Mexico, Georgia, Florida, North Carolina, and Massachusetts are homes to important innovation activity. However, they are not as well-situated, geographically, with respect to substantial populations that the PTO needs to serve, and do not provide as large a pool of examiner candidates for the PTO to choose from. The PTO needs to have offices near the very large population centers in the south central and western portions of the U.S. The Eastern seaboard is already well served by PTO headquarters. The relatively small populations of the western states, and the long distance between population centers, make these areas less likely to serve well the PTO's outreach missions or support examination.

6. Texas is home to many technology driven companies, large and small, that employ large numbers of engineers and scientists that could be recruited by the PTO. Within Texas, the Dallas-Fort Worth area (DFW), Austin and Houston, because of their existing pools of talented engineers and scientists, good engineering schools, innovation driven economies, have demonstrated capacities for attracting and retaining engineers and scientists.

7. Texas is home to a number of universities with large and strong engineering programs, all of which can provide a steady supply of candidates for examining positions at the PTO. In the Dallas-Fort Worth area, the University of Texas at Dallas, and the University of Texas at Arlington, and Southern Methodist University; in Austin, the University of Texas at Austin; and in Houston, Rice and the University of Houston. Texas A&M, with a very large engineering program, is located between Houston, Austin and Dallas, and Texas Tech is located about 4 hours northwest of Dallas-Fort Worth. The University of Oklahoma, Oklahoma State, University of Arkansas are located within 3 to 5 hours of Dallas-Fort Worth, and Louisiana State University is within several hours drive of Houston, Austin and Dallas-Fort Worth. Many engineering and science graduates of these schools come to Dallas-Fort Worth and other cities in Texas for work.

8. All of the major metropolitan areas in Texas boast relatively low costs of living and very affordable housing. Many of the suburbs around DFW offer high-quality, low cost of living. See, for example, <http://money.cnn.com/magazines/moneymag/bplive/2010/snapshots/PL4845744.html> (McKinney, TX 5th on Money Magazine's best places to live.)

9. Although Austin and Houston would be very good locations for a satellite office, the Dallas-Forth Area is, on the whole, a better choice. The Join Dallas Submission contains salient facts and information that sets this out. Please also see the Wikipedia entry for Dallas (<http://en.wikipedia.org/wiki/Dallas>), which contains a lot of citation-supported facts and information about Dallas the DFW metropolitan area.

10. A very diverse array of innovative or technology-based businesses are based in Dallas or have major operations here, ranging from semiconductors to telecommunications, to oil and gas equipment and services, data processing services and medical research. These industries attract technically trained individuals to the area, and their current and former employees offer a pool of candidates from which the PTO can draw. I have heard, but cannot confirm, that DFW employs more “high tech” workers than Austin, Houston or other city in Texas. Some examples of the diversity and depth of technology based businesses and industries in the DFW that I can think of include:

- The Dallas area (Richardson, to be precise) is home to the “Telecom Corridor” (<http://www.telecomcorridor.com/>) a very substantial concentration of “telcom” companies. Ericsson, RIM, Nokia all have U.S. or North American headquarters in the Dallas Area. Alcatel-Lucent, Nokia Siemens Networks, Samsung Telecommunications, Huawei, Fujitsu Network, Cisco, Rockwell Collins, as well as many smaller telecommunication companies, have either headquarters or substantial operations here.
- Dallas is home to the University of Texas Southwestern School of Medicine (<http://www.utsouthwestern.edu/>), arguably one of the top five medical research universities in the country, as measured by publications. It receives over \$400 million a year in research funding and has 5 Nobel prize laureates (<http://www.utsouthwestern.edu/about-us/index.html>; http://en.wikipedia.org/wiki/University_of_Texas_Southwestern_Medical_Cente)
- Although Austin has a strong semiconductor industry, so too does Dallas. DFW is the home of Texas Instruments and the birth place of the integrated circuit. Many other business that design semiconductors are located here. ST Microelectronics has its U.S. headquarters in the Dallas Area, as does a number of other companies that design or support the design and manufacture of integrated circuits.
- Many large technology defense and government contractors have operations in the area, including Raytheon.
- Although not as many as Houston, DFW nevertheless has traditionally been home to a large numbers businesses, or their major operations, that design and build oilfield equipment and other industrial equipment.

Although these business might be viewed as competition for hiring, the fact that these operations are here, and continue to grow in size, is a testament to the ability of the

area engineers and scientists. Given that persons with industry experience often make better examiners, the PTO should be looking for locations that have proven track records of supporting a large number and variety of technology based businesses who need these types of employees, and that attract such businesses.

11. Dallas has a long history of fostering high-tech start-ups and innovation activity.

12. Dallas-Fort Worth is, especially as compared to Austin, is much easier to travel to by air, not only from Washington DC, but other parts of the country as well as within Texas.

- DFW has two airports, one of which is the third busiest in the world, offering over 2000 flights a day to every major city in region and the nation. Dallas Love Field operates a large number of daily flights to and from Austin, Houston and many of the cities in Texas, Oklahoma, Arkansas, Kansas, New Mexico and Louisiana.
- Dallas-Forth Worth, which sits at the confluence of a number of major interstate highways that directly connect it to all of the major cities in Texas and many of the adjoining states.
- Due to the limited size of its airport and direct flights to many other cities, as well as limited access to interstate highways, Austin is, in my opinion, the most difficult city in Texas to get into and out of, either by driving or flying. This something that the PTO should seriously take into account, not only when evaluating the suitability of a location for supporting outreach, but also the suitability for supporting telework initiatives.
- DFW is better located, and has a much better transportation infrastructure, than any other metropolitan area in Texas for allowing examiners to live in places such as Arkansas, Oklahoma, Kansas, Colorado and New Mexico, and for supporting outreach activities to these states, as compared to Austin and Houston.

Thank you for the opportunity to submit comments.

Sincerely,

Marc A. Hubbard
Registration No. 32,506