

January 26, 2012

Via Email to satelliteoffices@uspto.gov

The Honorable David J. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

United States Patent and Trademark Office
Mail Stop Office of Undersecretary and Director
PO Box 1450
Alexandria, VA 22313-1450

Re: PTO-C-2011-0066; Nationwide Workforce Program; **Boston Satellite Office**

Dear Under Secretary Kappos:

It is with great enthusiasm that we, as a group of professors of intellectual property law at law schools located in and around Boston, Massachusetts, join together in this letter to urge the United States Patent and Trademark Office (USPTO) to select the Boston area¹ as the site for a satellite office and to provide the USPTO with information in response to the *Request for Comments on Additional USPTO Satellite Offices for the Nationwide Workforce Program*, 76 Fed. Reg. 73601 (Nov. 29, 2011).

As professors of intellectual property law, residents and lawyers practicing in the Boston area, we are particularly knowledgeable and well-situated to provide information about Boston in support of two of the five purposes of establishing satellite offices specified in the request: (2) ‘Enhance patent examiner retention’ and (3) ‘Improve recruitment of patent examiners.’

A Boston satellite office will improve recruitment of patent examiners

The pool of patent professionals in Boston is remarkable, stable and sustainable. Massachusetts has the highest numbers of per-capita patent agents and attorneys outside of the area around the USPTO’s Arlington office.² In state, there are 1432 such patent professionals, representing 35.64 professionals per 158,000 people.³ Overall, the New England region provides a nearby prevalence of 2353 patent professionals.⁴

¹ The Boston metropolitan area is home to 4.5 million people and the tenth-largest metropolitan area in the country. "Metropolitan and micropolitan statistical area population and estimated components of change: April 1, 2000 to July 1, 2008 (CBSA-EST2008-alldata)" (CSV). United States Census Bureau, Population Division.

² Avery Index, http://www.averyindex.com/patent_states_pc.php (last visited Jan. 13, 2012)

³ Id.

⁴ Id.

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This pool of patent professionals is fed by a large cluster of law schools, with ten JD-granting institutions in or near Boston⁵. Although we know of no per-capita statistical record of area law students, we can report anecdotally that year after year our classes include law students who are patent agents or working as Technology Specialists in law firms and in-house patent prosecution practices, as well as students with engineering and science degrees who plan to take the patent bar exam. The proximity of a satellite office would facilitate USPTO recruitment of students from the ten area law schools for summer or part-time internships programs, as well as participation in full-time experiential learning programs, including the co-op program at Northeastern University School of Law and externship program at Boston University School of Law.

The promise of a stable and sustainable recruiting pool for patent examiners is also evidenced by the annual stream of graduates from Boston area colleges and universities, including graduates from a dozen engineering schools and more than 100 institutions of higher education in Massachusetts. These doctoral and research universities, baccalaureate colleges, and master's degree-granting institutions⁶ provide the law, scientific and technical degrees and expertise the USPTO is seeking.

We also note that our own current positions as intellectual property professors at law schools in the Boston area demonstrate the drawing power of Boston's intellectual property, innovation and educational communities; each of us was successfully recruited to the faculty of a law school in the Boston area after attending law school, clerking for a judge, practicing law and/or residing elsewhere in the United States. That same drawing power will serve the USPTO's nationwide recruitment of examiners; a Boston satellite office will appeal to experienced patent examiners (necessary to provide mentors and training in the office), as well as providing a national magnet for both experienced patent practitioners and science/technology professionals and newly-minted patent agents, engineers and scientists.

A Boston office will improve retention of patent examiners

Boston's intellectual property, innovation and educational communities are also a factor in retention. Long known for its rich cultural heritage and educational community ('the Athens of America')⁷ -- Boston is also ranked as one of the 'most innovative cities' in the country.⁸

According to USPTO data, the Boston-Cambridge-Quincy metropolitan area is one of the metropolitan areas garnering the highest number of patents nationwide during the 2006-2010

⁵ Boston College Law School, Boston University School of Law, Harvard Law School, New England Law School, Northeastern University School of Law, Roger Williams University School of Law, Suffolk University Law School, University of Massachusetts College of Law, University of New Hampshire School of Law, and Western New England School of Law.

⁶ http://en.wikipedia.org/wiki/List_of_colleges_and_universities_in_Massachusetts (last visited Jan. 13, 2012)

⁷ See, <http://www.celebrateboston.com/culture/athens-of-america-origin.htm> (last visited Jan. 17, 2012)

⁸ Forbes Innovation: 2010, http://www.forbes.com/2010/05/24/patents-funding-jobs-technology-innovative-cities_slide_9.html (last visited Jan. 13, 2012) (ranking Boston as one of the 'most innovative cities')

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period.⁹ Due to this saturation of patentees and patents, the Boston community has particular appreciation for the value of patents -- and the critical role of the USPTO *and patent examiners* - - in fostering and sustaining the advance of science and technology and supporting invention, innovation and entrepreneurial development.

The presence in Boston of so many universities with strong engineering programs and research facilities will give examiners in a Boston satellite office greater access to these *fora* and will offer more opportunities to gain understanding of other fields and to keep informed of developments in their field of science or technology.

Our law schools (Boston College Law School, Boston University School of Law, Harvard Law School, New England Law School, Northeastern University School of Law, Roger Williams University School of Law, Suffolk University Law School and University of Massachusetts College of Law) offer prestigious day and evening programs, with a wide range of courses and concentrations in intellectual property law. For example, a survey of just the IP professors signing this letter demonstrates a broad range of patent and related IP courses, including Bio-property, Copyright Law, Digital Issues in IP Law, Innovation Workshop, Intellectual Property, Intellectual Property and Access to Medicines, Intellectual Property and the Internet, Intellectual Property Thesis, International Intellectual Property Law, Intellectual Property Transactions Practice, Law, Technology and Society, Patent Law, Trademark Law, and Trade Secrets, as well as supervision of independent research projects by patent agents and other law students. The offerings of two New England law schools (Boston University Law and University of New Hampshire) consistently rank in the top ten intellectual property law programs in the country. In addition to this formal coursework, we have an active, collaborative, and open scholarly community. Several of our law schools participate in a Boston-area "*Intellectual Property Speaker Series*," in which we invite IP scholars to present works in progress to an audience of faculty, students, and the general public.

In recent years, a number of the law schools in Boston have hosted the annual "*TTAB Comes to Boston*" event in collaboration with the Boston Patent Law Association (BPLA). This event features a final hearing of the Trademark Trial and Appeal Board (TTAB), commentary on recent developments in TTAB practice and a reception where the TTAB judges have an opportunity to engage with law students, faculty and local patent practitioners. Building on this model, BPLA and Northeastern University School of Law are currently coordinating with the USPTO on the first "*BPAI Comes to Boston*."

We welcome the involvement of patent examiners and other USPTO employees at all of these events.

While the undersigned intellectual property law professors are jointly signing this letter to you, we note that we are not alone. We expect our colleagues on the faculties of all of the ten law schools located in or near to Boston will enthusiastically join us in welcoming and supporting the patent examiners and other personnel in a Boston area satellite office of the USPTO.

⁹ http://www.uspto.gov/web/offices/ac/ido/oeip/taf/cls_cbsa/allcbsa_gd.htm (last visited Jan. 18, 2012)

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