UNITED STATES DEPARTMENT OF COMMERCE
The Secretary of Commerce
Washington, D.C. 20230

April 20, 2010

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Jeff Sessions
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman, Senator Sessions, and Members of the Committee:

I wish to thank you and your colleagues for your tireless efforts toward an agreement on legislation that will make long-awaited and needed reforms to our patent laws.

As expressed in my letter to you of October 5, 2009, the Obama Administration strongly supports your efforts to achieve such reforms and is committed to working with members of both houses of Congress to bring these efforts to fruition as you seek to bring a bill to the Senate floor. Regardless of any issues that remain under discussion, there is a consensus that a strong patent system, including an appropriately funded and well-functioning United States Patent and Trademark Office (USPTO), fosters innovation that drives economic growth and creates jobs.

We believe the agreement reflected in the draft Manager's Amendment to S. 515, the "Patent Reform Act of 2010," improves the reported bill and incorporates critical elements of patent reform. In particular, we are pleased that the Manager's Amendment provides necessary authority for the USPTO to adjust patent and trademark fees as needed to reflect the costs of providing services to patent applicants. It also establishes post-grant review procedures for reviewing questions of patent validity that will serve as a faster, lower-cost alternative to litigation.

In addition to these proposals to streamline and strengthen the patent process, the Manager's Amendment contains provisions to promote international harmonization of patent laws and limit opportunities for abuse in patent litigation. Among other important changes, these provisions maintain the compromise on the determination of reasonable royalty damages for patent infringement, and they transition our patent law to a first-inventor-to-file system. In general, these provisions fairly balance the interests of innovation and competition across all industries and technologies without favoring one industry or any particular area of technology over another.

The Administration is eager to see patent reform enacted this congressional session. To this end, we would be pleased to work with you and members of the House and Senate to arrive at a final bill for passage.

The Office of Management and Budget has advised that there is no objection to the transmittal of these views from the standpoint of the Administration's program. If you have any questions, please contact me or April Boyd, Assistant Secretary for Legislative and Intergovernmental Affairs, at 202-482-3663.

Sincerely,

Gary Locke