

April 18, 2013

The Honorable Rebecca M. Blank  
Acting Secretary of Commerce  
Department of Commerce  
1401 Constitution Avenue N.W.  
Washington, D.C. 20230

Dear Secretary Blank:

The International Trademark Association (INTA) has become aware of a policy developed by the Office of Management and Budget (OMB) regarding application of sequestration to FY 2013 funds provided to the United States Patent and Trademark Office (USPTO). Whereas appropriations have been historically based on budgeted amounts, which are in turn based on *projected* fee collections, OMB seeks to apply sequestration on *actual* fee collections. Sequestration on actual fee collections would have the effect of reducing the USPTO's FY2013 operating budget by substantially more than would otherwise occur.

INTA represents over 6,000 trademark owners, law firms and academics including many members from small and medium size businesses who apply for trademark protection from the USPTO. Our members pay user fees for the processing of their applications. The USPTO needs these user fees to fully fund its operations, including IT initiatives and the policies necessary to ensure that the Trademark Office retains its experienced examiners to keep pendency at an acceptable level and to preserve the agency's institutional expertise. The trademark application process supports the growth of the economy, and any barriers to that process will reduce the contribution that new brands and new products make to our nation's economic well-being.

The agency is entirely funded by user fees, which distinguishes the USPTO from most government agencies subject to sequestration. On behalf of its members, INTA respectfully asks the following questions:

- What is the legal basis for applying sequestration cuts on actual fee collections, rather than budgeted amounts, which is a departure from established budget practice?
- Where will user fee funds collected in excess of funding levels established by sequestration be directed? Will these funds revert to the reserve fund established by the America Invents Act (AIA) [P.L. 112-97]?
- In light of the impact on the USPTO Budget created by sequestration, will the Department of Commerce ensure that the "fences" for patents and for trademark funds, as modified by recently adopted technical amendments to AIA [P.L. 112-274], are scrupulously preserved?

INTA requests that the Department take the appropriate steps to safeguard funds provided by trademark owners and to ensure that the USPTO has full benefit of those resources to the extent provided by statute.

Sincerely,

A handwritten signature in black ink that reads "Alan C. Drewsen". The signature is written in a cursive style with a large initial "A" and "D".

Alan C. Drewsen  
Executive Director