

A Special Washington Report

from BIRCH BAYH

June 3, 1980

Dear Friend:

As you know, one of the greatest problems of the Patent and Trademark Office is that the staff has been attempting to do more and more work with less and less support. Not surprisingly, the Office now finds itself in the midst of a very troubling crisis where it takes longer to get patents and trademarks through the Office and many of these are then having their validity questioned in court.

It is never a good idea to blindly throw money at a problem and hope that it will go away. From careful analysis there are some areas where additional funding could substantially improve the efficiency of the Office thereby benefitting American innovation and productivity.

I thought that you would be interested in a recent statement in the Congressional Record that I made outlining four areas where additional funding is justified and which will have immediate benefits in the Patent and Trademark Offices' ability to function. These items will cost $2.1 million altogether, but will return much more to American inventors and innovative businesses who must rely on patents and trademarks to protect new products and ideas.

Adequate funding of the Office coupled with a Patent and Trademark Office independent of the bureaucracy of the Department of Commerce will go a long way toward restoring confidence in the patent and trademark system. I hope that you will join with me in support of this additional appropriation which is so badly needed and in support of my bill, S. 2079, the Independent Patent and Trademark Office Act.

It is time for all friends of the Patent and Trademark Office to come to its aid so that America has an Office that is unequaled in the world!

Sincerely,

Birch Bayh

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Senate

Congressional Record

United States *of* America

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IT IS TIME TO CREATE A FIRST-RATE PATENT AND TRADEMARK OFFICE

● Mr. BAYH. Mr. President there is no more troubling problem confronting the United States as we enter the 1980's than the slippage that has been experienced in the past 15 years in American innovation and productivity.

The United States is no longer the No. 1 exporter of manufactured goods in the world—we lost that distinction years ago to West Germany—but is now being hard pressed by Japan to hold onto second place. We have one of the lowest productivity growth rates in the industrialized free world and find ourselves importing products that only a few years ago were commonly made in the United States. There are many causes of this problem but one area that has been pinpointed in every study which I have seen are the weaknesses in our patent and trademark system. I have placed another statement in today's CONGRESSIONAL RECORD outlining the types of problems that the office now faces. One additional factor that must be recognized

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as a part of the problem is the continued underfunding of the Patent and Trademark Office which has contributed to the present crisis. The Office is simply unable to fulfill its duties to the American inventor and innovative businesses.

I shall place in the RECORD a copy of a letter that I sent to the Senate Appropriations Committee asking for an additional $2.1 million for the fiscal year 1981 Patent and Trademark Office budget. From reading the explanation of this expenditure it becomes obvious that each of the four items listed is very important and requires only a modest expenditure to improve. The returns to the economy could be enormous.

I urge my colleagues to study these items and to join me in giving the American patent and trademark system the support that it—and our innovative businesses—deserve.

The letter follows:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., May 21, 1980.

HON. ERNEST F. HOLLINGS,
Chairman, Senate Subcommittee on State, Justice, and Commerce, Senate Appropriations Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR FRITZ: As you know there is a great deal of concern that American innovation and productivity rates are lagging farther and farther behind our international competition in a number of fields. Many recent studies have confirmed this trend. Experts point to the present weaknesses in our patent and trademark system as a dead weight tied around the legs of our companies as they try and compete in an increasingly competitive international marketplace.

A great deal of work remains to be done if the United States is to have the kind of Patent and Trademark Office that our inventors and businesses deserve. Patent and trademarks are cornerstones of innovation. Presently there is an increasing lack of faith in the system. This, of course, further erodes our innovative capabilities, costs American jobs, and worsens inflation.

There are a number of things that can be done immediately to strengthen the patent system at a very modest cost. On November 30, 1979 I asked Patent and Trademark Commissioner Sydney A. Diamond to provide me with a detailed list of the needs of his office for the coming years. Many of these recommendations were included in this year's budget, but four important items were left out. Cumulatively these four additions to the FY 1981 appropriation would cost just $2.1 million, yet they would return many times that amount to the economy.

The four items are:

1. An *additional $1 million for hiring new* patent examiners. One of the greatest problems in the Patent and Trademark Office is that the patent examiners are facing an ever increasing workload but must still try to make as rapid a determination as possible about a patent application. Patent pendency times are gradually rising and, according to the Commerce Department's own figures, will continue to rise in the foreseeable future. This makes it more difficult to develop new products and processes.

The present budget authorizes the hiring of 150 new examiners. Even with these new examiners, pendency times will continue to rise. The Office has stated that it could handle 180 new examiners this year. The addition of $1 million to the Office's appropriation will enable the PTO to add thirty more badly need examiners and provide better services to our inventors.

2. Patent examiners now frequently have to write their opinions in longhand because there is not enough support staff to type them up. These vitally important decisions are then distributed to the public, and even filed in foreign patent offices, still in the examiner's handwriting. For an additional $400,000, the Office could hire thirty typists and purchase needed equipment so that each of the fifteen patent examining groups would have an additional two typists to end this ridiculous state of affairs.

3. One of the most troubling problems facing the Office is the fact that many of the patent files are misfiled or missing. The Office now has just twenty-one staff members going through their massive files looking for this missing material. For an additional $200,000, the Office could double this workforce and help bring the files back up to date.

4. There are now thirty depository libraries around the country which maintain copies of the 4,000,000 patents now on file. At the main search room, in Arlington, Virginia, inventors can use a computer terminal to find out what inventions exist in a given area. Inventors using the depository libraries have no such device and must actually look through the files to see what relevant technology has already been patented.

For 500,000, computer terminals can be set up in these depository libraries so that inventors around the country can find what they need easily without having to actually sift through the files.

As mentioned before, the total cost of these four items is just $2.1 million. There is no better way for battling inflation than to increase innovation and productivity. Strengthening the patent and trademark system is one concrete means for accomplishing this important goal. I hope you can give favorble consideration to the request.

Best personal regards,

Sincerely,

BIRCH BAYH.●

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Report from
BIRCH BAYH



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