

July 21, 2017

The Honorable Wilbur Ross
Secretary
U.S. Department of Commerce
1401 Constitution Ave., N.W.
Washington, D.C. 20230

Dear Mr. Secretary:

We urge you to ensure that the next Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office understands how the patent system is supposed to work, recognizes the value of patents in connection with growth of the U.S. economy, and grasps the fundamental fact that a patent secures a property right.

The signatories to this letter are organizations, companies, entities, and individuals commercially involved in or engaged in public policy regarding patents, invention, licensing, technology transfer, and related intellectual property matters. We represent thousands of Americans, including many whose jobs depend on patents and invention.

The U.S. Patent and Trademark Office's purpose is to achieve the constitutional mandate of "promot[ing] the progress of science and useful arts, by securing for limited times to . . . inventors the exclusive right to their respective . . . discoveries." Yet, the PTO has evolved from an agency oriented toward inventors and ascertaining the boundaries of newly created property into an agency more skeptical toward inventors and new inventions.

Indeed, PTO has shifted from its traditional operative understanding of inventions as property and patents as deeds to that property, carrying with them inherent — as opposed to government-granted — property rights. The PTO today seems to have become confused over the distinctions between "invention" or "discovery" and the in-vogue term "innovation" — a catchall term that includes ephemeral, rapidly obsolete technologies and devices. The costs and consequences of this change at the PTO, in addition to a steady stream of adverse judicial rulings and legislative enactments, are measured in flat U.S. patent filings, investment dollars going abroad, dramatic falloff of patents issued to independent inventors, and our patent system rating falling from number one to number 10 globally.

Therefore, it is imperative that the next PTO Director possess the following characteristics:

- A thorough understanding of and commitment to restoring timeliness, fairness to inventors and patent owners, certainty regarding patent examination, patent validity, and issued patents, as well as in regard to the bright dividing line between IP exclusivity and antitrust, property understood;
- Unquestionable commitment to buttressing the U.S. patent system, and the PTO in particular, so as to restore its original mission and role in advancing U.S. economic competitiveness and growth;

- A firm understanding of the risks and rewards at stake and borne by small inventors and IP-centered startup companies, early-stage businesses built around a patented invention, and established R&D companies;
- A thorough commitment to promoting and advocating for U.S. competitiveness and the sanctity of intellectual property rights, both domestically and internationally.

We appreciate your taking our views into consideration in choosing the next PTO Director. It cannot be emphasized too strongly that this position will have an outsized role in advancing or anchoring down our nation's ability to achieve the President's goals for renewed economic growth. We stand ready to assist you in the selection of a new PTO Director.

Sincerely,

American Conservative Union
Cleveland Medical Devices Inc.
Conservatives for Property Rights
Eagle Forum Education & Legal Defense Fund
ELITE Strategic Services, LLC
ExploraMed Development, LLC
ExploraMed IV, LLC
Family Pac Federal
Flocel Inc.
Great Lakes NeuroTechnologies Inc.
IEEE-USA
Less Government
Let Freedom Ring
Market Institute
NeuroWave Systems Inc.
Orbital Research Inc.
Small Business Technology Council
Tradition, Family, Property, Inc.
U.S. Business & Industry Council
Wi-LAN