

**From:** Robin Muthig [mailto:rmuthig@ipo.org]  
**Sent:** Wednesday, November 25, 2009 1:52 PM  
**To:** Ombudsman Program  
**Cc:** Herbert C. Wamsley; dana@ipo.org  
**Subject:** Comments on Patents Ombudsman Pilot Program

Please see the attached letter from Intellectual Property Owners Association regarding the Patents Ombudsman Pilot Program

Ms. Robin Muthig  
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November 27, 2009

The Honorable David Kappos  
Under Secretary of Commerce for Intellectual Property  
and Director of the United States Patent and Trademark Office (USPTO)  
Mail Stop Comments  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Attention: Patents Ombudsman Pilot Program**

Submitted by email to: [ombudsmanprogram@uspto.gov](mailto:ombudsmanprogram@uspto.gov)

**RE: Comments on Proposed Patents Ombudsman Pilot Program**

Dear Director Kappos:

Intellectual Property Owners Association (IPO) submits the following comments pursuant to the Office's request for comments contained in its notice set forth at 74 Fed. Reg. 5521 (October 27, 2009). We appreciate the opportunity to comment.

IPO is a trade association representing companies and individuals in all industries and fields of technology who own or are interested in intellectual property rights. IPO's membership includes more than 200 companies and more than 11,000 individuals who are involved in the association either through their companies or as IPO inventor, author, executive, law firm or attorney members. Our corporate members file more than 30 percent of the patent applications filed in the USPTO by U.S. nationals.

**COMMENTS**

IPO applauds the USPTO's initiative in this matter. Creating an Ombudsman position will provide the patent community with another resource to turn to when it believes that prosecution of a patent application has gone astray. The program outlined in the notice appears to set forth a reasonable starting point for a pilot program. The notice indicates that the program is not intended to serve as an alternative forum for issues that are subject to petition or appeal. It would be helpful if the USPTO would publish a list of exemplary topics for which it would be appropriate to contact an Ombudsman and subjects for which it would not be appropriate to do so. In this manner, the program would not be initially burdened with inappropriate requests for assistance. In the alternative, it would also prevent this forum from being under-used because of practitioner uncertainty.

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INTELLECTUAL PROPERTY OWNERS ASSOCIATION

It would be useful if the USPTO would report on a regular basis the issues raised and outcomes achieved in a manner that does not identify individual participants. Such a report would be more informative if it would break down the issues and outcomes in the pilot program at the Art Unit level so the patent community as a whole can see how specific issues in the individual Art Units have been answered.

Furthermore, in conjunction with this pilot program it is believed useful if the USPTO would publish on its web site the customer service parameters the various employees of the agency are expected to meet. For example, it would be helpful if the USPTO would indicate the timeframe in which a user can expect a return phone call from a patent examiner, e.g., within 24 hours, and if a return phone call is not received what follow up should occur, e.g., contact the SPE or the ombudsman. Another example is the current time it takes for the USPTO to docket a paper once it is filed in a patent application so applicant will know the timeframe in which the examiner can take the paper up for consideration. Other examples include updated information concerning the filing dates of new cases that are being taken up for initial examination by each Art Unit. Knowledge of such parameters will foster a better understanding of what is to be expected and provide an indication that a case has gone astray and intervention by an ombudsman may be needed.

We appreciate the opportunity to provide these comments.

Sincerely,

A handwritten signature in cursive script that reads "Steven W. Miller". The signature is written in black ink and is positioned above the typed name and title.

Steven W. Miller  
President