

THE WHITE HOUSE

President Obama's Plan to Win the Future by Catalyzing Invention, Innovation, and Economic Growth through Patent Reform

American inventors live with an unnecessarily frustrating and costly patent system, where delay is the name of the game and where entrepreneurs must wait on average 34 months as a result of a backlog of 700,000 patent applications (almost double what it was in 2000). The President's patent reform program is key to winning the future by allowing inventions to move to the market more quickly and stimulating faster innovation. The program focuses on both quality and timeliness, builds on a bipartisan effort in the last Congress, and addresses the failures that one study found led to "foregone innovation" and a cost of billions of dollars per year to the economy.

- **Improve the Operations of the Patent and Trademark Office (PTO):** The President's budget enables the PTO to address a backlog of over 700,000 patent applications.
- **Promote U.S. Cooperation with International Patent Standards to Help U.S. Firms to Compete in the Global Economy:** By moving towards greater coordination between patent systems, the United States can enable its innovators to receive lower-cost and higher-quality patents, enabling them to better compete and protect their inventions around the world.
- **Address the Costs of Our Inefficient Patent Litigation System:** To improve the patent system, President Obama has pledged to work with Congress to devise a post-grant review system to improve efficiency.

The Path to Targeted and Effective Patent Reform

President Obama is calling for a three-part patent reform program:

- **Modernizing the Patent Office:** For our twenty-first century knowledge economy, the Patent Office is too critical a resource to leave under-funded and unsupported.
 - The President's Budget proposes a temporary surcharge, which will better align application fees with processing costs. In total, this will provide the Patent and Trademark Office with over \$2.55 billion of resources in 2012—more than 25 percent above 2010 levels. This patent reform measure will enable the Patent and Trademark Office to reach its planned **40% reduction in wait time** (as set in its 2010-1015 Strategic Plan).
 - More generally, the Administration has asked Congress to embrace a Patent and Trademark Office initiative to recognize that patent examination cannot continue to be one-size-fits-all, should provide applicants greater control over when their applications are examined and should enhance work sharing among IP offices.

- **Improving the Quality and Nature of International Cooperation:** Meaningful patent reform must also address a core anomaly in U.S. patent law—its adherence to a “first-to-invent” standard as opposed to the internationally compatible “first inventor-to-file” standard. Such a change would lower administrative costs, allow our firms to protect their innovations in a global marketplace, and improve patent quality through international cooperation.
- **Establishing An Effective Post-Grant Review Procedure:** The costs imposed by the current patent system stem not only from delay, but also from low quality patents. One structural reform, enhanced post-grant review, has been strongly recommended in reports authored by the National Academy of Sciences, the National Research Council, and the Federal Trade Commission. By adopting such a procedure, companies would be able to take advantage of an alternative path—potentially 50-100 times less expensive than patent litigation—for evaluating the validity of a patent. At present, litigation and licensing costs created by low-quality patents represent a significant tax on innovation; a post-grant review procedure could thus lower the costs to using the patent system and reduce the number of trivial or invalid patents while protecting true innovators.

Building on Progress

The Patent and Trademark Office has already taken a number of key steps using its administrative authority, including:

- Revising the patent examiner production reward system to increase efficiency, decrease re-work, and support high-quality search and examination.
- Adopting new, more comprehensive procedures for measuring the quality of patent examination, and beginning a process to reengineer the entire patent examination process from the time an application is filed to the grant of a patent.
- Redesigning the agency’s IT infrastructure, which, when complete, will support state-of-the-art search, examination, and work-flow capabilities.
- Planning to hire more than 1,000 new examiners in the next two fiscal years, including at the agency’s first branch office (on a pilot basis).
- Vastly increasing the amount of U.S. Patent information available at no charge on the Internet. The system is now in full production including all the current feeds that were previously only available by subscription.

The President appointed our nation’s first Intellectual Property Enforcement Coordinator (IPEC):

- The IPEC has already issued our nation’s first Joint Strategic Plan to combat intellectual property infringement (JSP) and facilitated a number of important new strategies to protect intellectual property.