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To: WorldClassPatentQuality

Subject: Comments--Patent Quality

Mail Stop Comments—Patents

Commissioner for Patents

Attn: Michael Cygan, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy

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Dear Mr. Cygan,

I would like to start by thanking the U.S. Patent and Trademark Office for opening a dialogue about patent quality and working to enhance the quality of patents issued by the USPTO. In March 2014 I filed comments with the USPTO where I expressed concerns that broader patent reforms overlook design patents, which are becoming increasingly important in the intellectual property space. In order to improve design patent quality, however, Congress will need to act.

Design patents lack the same pre-grant publication process as utility patents. Utility patents are published 18 months from the application filing date, and usually at least a year prior to grant. As the pendency of design patents is much shorter than utility patents, Congress should consider proposals to publish design patents after six months. This would also make our system consistent with the publication afforded under the Hague (which will take effect in the U.S. May 13, 2015). Pre-grant publication would allow for third party submissions that can be seen by stakeholders, and therefore enhance the database and increase transparency, leading to higher quality patents. The USPTO's database is admittedly lacking and it is very difficult to search designs as they are reliant on images, not written descriptions. Pre-grant publication also allows innovators, applicants, and manufacturers to see what patents are being considered, rather than having them emerge at a later date, surprising the

relevant market. When Congress created the American Inventors Protection Act of 1999, they exempted design patents from pre-grant publication; thus creating a shroud of secrecy throughout the design patent application process.

The design patent process, like the utility patent process, allows for third party submissions but without a pre-grant publication term, stakeholders are left in the dark. Third party submissions enhance the database and result in higher quality patents overall. Part of the America Invents Act (AIA) brought transparency and openness to the USPTO, and an opportunity for third party submissions on design patents is necessary to accomplish this.

In order to increase patent quality, the design patent process needs to be more open and transparent, and this can be achieved through pre-grant publication. The U.S. utility patent system has made significant strides through recent reforms, yet design patents have remained overlooked and that needs to change.

Sincerely,

Julie Hopkins

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