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Testimony before the House Committee on Government Reform  
Subcommittee on Civil Service and Agency Organization  
Hearing on Achieving Diversity in the SES Workforce  
October 15, 2003

Madam Chairwoman, Ranking Member Davis and Members of the Subcommittee,

I appreciate this opportunity to testify on behalf of the United States Patent and Trademark Office -- the USPTO -- on Senior Executive Service diversity issues.

**I. Diversity Among the Current USPTO SES Workforce**

President Abraham Lincoln, a great champion of the American patent system who was himself awarded a patent, noted that patents “added fuel to the fire of genius.” Today, all Americans can be proud that when they apply for a U.S. patent on a new and useful invention or register for a trademark for a product or service, they are relying upon one of the most diverse agencies in the federal government.

This wide diversity is well-represented within the agency’s SES ranks. Since 1999, we have seen substantial increases in the number of African-Americans, Asian-Americans, and women on our SES staff. Currently, 14 of the USPTO’s 46 SES members are women, including one Asian-American and three African-American women. This represents a 133 % increase over 1999, when there were six female SES members on our rolls. During the same four-year period, we have increased the number of African-Americans in our SES ranks by 100%, from two to four individuals, and the number of Asian-American SESers by 200% -- from one to three individuals.

The USPTO’s SES diversity profile compares favorably with that of the Federal government as a whole. The most recent government-wide SES demographics issued by the Office of Personnel Management in 2001, indicate that government-wide, 25% of SES members are women and nearly 14% of all SES appointments are held by minorities. At the USPTO, 30% of SES members are women and over 15% of all SES appointments are held by minorities.

## **II. The Continued Recruitment of Minorities into the USPTO SES Workforce**

As we replace retiring members of our existing SES corps over the next few years, we expect this diversity in our SES ranks to further increase because of the significant diversity of the pool of existing employees we have, in addition to outside applicants, from which to select. The USPTO currently has 46 SES members. Nineteen of these individuals -- 41 percent -- are now retirement-eligible or will become eligible over the course of the next two years.

Although a few of our existing SES positions -- like my own -- are in the financial and administrative area or the information technology field, the vast majority of the USPTO's SES positions are highly specialized in nature. In addition to the managerial skills normally required for SES positions, incumbents and applicants must possess extensive intellectual property knowledge in either patent or trademark law. Our SES members in the patent business area manage a workforce composed largely of scientists and engineers, and those in the trademark area direct a staff of intellectual property attorneys. Executives in both these areas must possess both the technical knowledge required to direct a professional workforce and a high degree of specialized knowledge about intricate, often complex examination rules, regulations and procedures. Much of this specialized knowledge can only be acquired through years of experience in the Office. As a result, virtually all of our patent and trademark SES positions are filled from within the USPTO.

Diversity is likely to increase in the USPTO's SES ranks because of the underlying diversity of the pool of patent and trademark professionals from which many of our future senior executives are likely to be drawn. Our current work force presents a recruitment pool of 370 patent professionals at the GS-15 level, most of whom occupy supervisory or managerial positions. Of this total, 83 are women, 31 are African-American, 84 are Asian-American, nine are Hispanic, and two are Native-American. We also have 72 attorneys at the GS-15 level, including 39 women, four African-Americans, three Asian-Americans, and two Hispanic Americans.

In order to enhance their qualifications for SES membership, many of these patent and trademark professionals have taken advantage of managerial, supervisory, leadership, and executive management training and developmental assignments offered or funded by the USPTO. We have put in place, and constantly seek to improve upon, developmental opportunities that have included managerial training provided by the Office of Personnel Management at the Federal Executive Institute and other facilities, a managerial certificate program designed especially for the USPTO by Syracuse University's Maxwell School of Citizenship and Public Affairs, in-house technical and managerial training, and opportunities for numerous career development details throughout the USPTO. The USPTO also currently has an SES candidate training program under development.

Our priority is always to select the best-qualified person regardless of race, national origin, sex, or religion for each SES position that we fill. Because we have so many talented women and minorities in our senior supervisory and managerial ranks, we are confident that many of them will rise to the SES level. In addition, we will continue to conduct the broadest possible searches for our financial, administrative and information technology SES vacancies.

### **III. USPTO Implementation of the “No FEAR Act”**

The USPTO is actively implementing the reporting and notification requirements pursuant to the No FEAR Act and the upcoming promulgated regulations. We have purchased software that will aid in meeting the reporting requirements and migration of current complaint data into a web-based format is now underway. We expect to generate reports using the new software by November 30, 2003. To meet the notification requirements, we have arranged to place a notification on each employee's printed pay stub and on the USPTO Internet website. The notice will explain the rights and protections guaranteed by federal anti-discrimination and whistleblower protection laws. We also have incorporated No FEAR Act information into the training module that is given to all new managers and supervisors at the USPTO. The Office of Personnel Management is currently drafting regulations on the implementation of the reimbursement requirements of the Act. We are prepared to take any steps necessary to implement these requirements as soon as the regulations are issued.

I appreciate this opportunity to share information with the Subcommittee regarding USPTO's commitment to promote diversity in its SES workforce. If you have any questions, I would be pleased to answer them.