MEMORANDUM

Good start Joe
Remind me to talk to Patsy

TO: Senator
FROM: Joe
RE: Funding for the Patent and Trademark Office
DATE: May 14, 1979
COPIES: Nels, Tom, P.A., Kevin, Jim, Patsy, Ann H. and Leg

I wanted to bring you up-to-date on the progress of your efforts to increase funding for the Patent and Trademark Office (PTO).

I was first made aware of the situation at the PTO when I met Patent Commissioner Donald Banner (a Purdue graduate) in Atlanta at a meeting of the Society of University Patent Administrators. He told me that the major problem with our patent system was the continued underfunding that the Patent Office has received over the last 10 years. The American Patent Law Association confirmed this problem and when made aware of your interest sent to you some draft questions which you submitted to Assistant Secretary of Commerce Jordan J. Baruch when he presented the Commerce Department budget before Sen. Holling's Subcommittee on State, Justice, and Commerce.

The answers that we received to your questions indicated that the situation was certainly serious. The Patent and Trademark Office is missing 2 to 28% of its patent files for every subclass which means that challenged patents are frequently found to be invalid in court. The enactment of the Patent Cooperation Treaty last year committed the PTO to process more foreign patents (estimated to cost $1,084,000 in FY 1980) without any additional funding being provided. Only a small percentage of the patent files are protected by a security system. The Office is unable to train and hire the necessary number of patent examiners and is unable to computerize its operations which leads to greater delays in the processing of patent and trademark applications. The Patent and Trademark Office is able to return to the U.S. Treasury an estimated 30% of its budget in fees which it receives for its work so it is one of the few agencies which actually brings income into the Government.

Don't recall does this mean Foreign Patents have priority over domestic?

On April 12 you drafted a letter to Sen. Hollings outlining the problem and requesting that the PTO budget be raised $14,267,000 to insure the integrity of the patent system. The BNA Patent and Trademark Journal reprinted your letter in full (I sent a copy up to you).

Warren Kane of Sen. Hollings staff in a talk with Patsy indicated that he could see the need for an increase of $4-5 million in the PTO budget, and would need a directive from Sen. Hollings before the full $14 million could be added. The American Patent Law Association took a delegation in to see Rep. John Slack (Sen. Hollings counterpart in the House Appropriations Committee) and he was agreeable to increasing the funding provided that Sen. Hollings went along.

Mike Blommer of the APLA said that Sen. Hollings has some familiarity with the patent system and because of the beating that South Carolina textiles are taking from foreign competition should be interested in bolstering American productivity by guaranteeing the integrity of the patent system. The Appropriations Committee should be taking up the Commerce Department budget in early June. I think that if you could talk directly with Senator Hollings he would agree on the need for increasing the PTO budget and that the House Appropriations Subcommittee would go along. This issue is a very good compliment to the work that you have done on the University and Small Business Patent Procedures Act and I understand that the Indiana patent attorneys were very excited by your letter to Senator Hollings.

I have attached a copy of your letter to Sen. Hollings and a copy of the answers to your questions that you submitted to Assistant Secretary of Commerce, Baruch.