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NEWS & INFORMATION

Mid-America Equipment Retailers Association

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PATENT REFORM - FIRST IN 60 YEARS

The Senate recently passed the first big overhaul of the U.S. patent system in nearly 60 years, sending the bill to President Obama for his signature.

This gave Obama a victory one hour and 15 minutes before his speech outlining his jobs plan to a joint session of Congress. The president had been pushing Congress to pass the patent reform bill, which he said will create jobs by enabling high-tech companies to commercialize their innovations more quickly.

The bill, which already had passed the House, cleared the Senate on an 89-9 vote.

The new law will move the United States from a “first to invent” patent system to a “first to file” system. Supporters contend this change will make the patent system more efficient by reducing expensive disputes over who actually invented a new technology or process. The change brings the United States in line with the patent principles used by other nations, helping American companies protect their intellectual property overseas.

The legislation also will allow third parties to submit information about patent applications and creates a new post-grant review process for patents.

High-tech giants such as Apple Inc. and Google Inc. supported the legislation, as did most major business groups. However, some small tech companies and independent inventors opposed the bill, contending they’ll be hurt by the changes in patent law.

“This is a big corporation patent giveaway that tramples on the rights of small inventors,” said Sen. Maria Cantwell, D-Ore.

But David Kappos, director of the U.S. Patent and Trademark Office, said the law will give his agency “the tools it needs to effectively expedite application processing, drive down the backlog of unexamined patent applications and issue higher-quality patents that are less likely to be subject to a court challenge.”

One Cambridge lawyer noted that the full impact of the patent law overhaul may not be felt for several years, as various elements are implemented over time. However,

Craig R. Smith, a partner with Lando & Anastasi, singled out the first to file as the most significant change. “It’s going to require that attorneys educate companies and inventors that when they invent something they have to file right away. If someone else beats you to the patent office they are going to get the rights to it.”

Smith concurred that awarding patents to the first filer, rather than to the party that can prove they were the first to invent something, gives an advantage to larger, deep-pocketed companies that can afford to file more patents. However, he noted that the bill does bring the U.S. into step with the rest of the world, where first to file is the accepted practice.

Smith said that the provision allowing the Patent and Trademark Office greater control over the revenue that it brings in should help the agency fund a reduction in its backlog of 700,000 patent applications. “In the past, you could have a patent pending before the Patent Office for many years, often three to five years. For companies on the edge of technology that lag can be really bad,” he said, adding that technology-focused companies could miss an entire product lifecycle with such long delays.

Smith also noted that changes in how patent cases are litigated will smooth the process for defending a patent suit while eliminating some of the more frivolous claims by patent trolls.

Attorney Patrick Waller of Wolf Greenfield & Sacks in Boston also sees first to file having a disproportionate impact on small companies, saying, “This shift will mean evaluating promising ideas early, developing these quickly in preparation for filing, and dedicating resources to this process earlier than may have been the case in a first-to-invent system.”

He also sees small companies feeling the impact of a change in when inventors are allowed to discuss their inventions without giving up their future patent rights. “These small entities depend on securing outside funding in order to move ideas through the invention pipeline. Securing such funding involves getting out into the public and talking about your



ideas. Although the grace period exists for “self” disclosures and for “derived” third party disclosures, it is unclear how this will play out in practice,” said Waller. “If an inventor discloses his or her idea to a third party and this third party then makes a disclosure about this idea prior to the inventor’s filing date, that third party disclosure could be invalidating prior art to the application – unless the inventor can show such a disclosure was derived from him (or her). The burden falls on the applicant to show this, and it is unclear how the applicant would even be able to prove such derivation.”

-Courtesy of FEMA

AMERICANS SPENDING MORE ON AUTO REPAIRS

Business is picking up at auto-repair shops as economic concerns lead many drivers to repair old vehicles instead of buying new ones, CBS reports. Americans spent \$36 billion at auto-repair shops in 2010, up 10.5% from 2007, according to the Automotive Aftermarket Industry Association.

-Courtesy of CBS News

IRS ADJUSTS INFLATION EFFECTS ON MANY TAX BENEFITS FOR 2012

By law, the dollar amounts for a variety of tax provisions, affecting virtually every taxpayer, must be revised each year to keep pace with inflation. New dollar amounts affecting 2012 returns, filed by most taxpayers in early 2013, include the following: The value of each personal and dependent exemption, available to most taxpayers, is \$3,800, up \$100 from 2011. The new standard deduction is \$11,900 for married couples filing a joint return (up \$300), \$5,950 for singles and married individuals filing separately (up \$150), and \$8,700 for heads of household (up \$200). Nearly two out of three taxpayers take the standard deduction, rather than itemizing deductions. Tax-bracket thresholds increase for each filing status. For a married couple filing a joint return, for example, the taxable-income threshold separating the 15% bracket from the 25% bracket is \$70,700, up from \$69,000 in 2011. For an estate of any decedent dying during calendar year 2012, the basic exclusion from estate tax amount is \$5,120,000, up from \$5,000,000 for calendar year 2011. Also, if the executor chooses to use the special use valuation method for qualified real property, the aggregate decrease in the value of the property resulting from the choice cannot exceed \$1,040,000, up from \$1,020,000 for 2011. Several tax benefits are unchanged in 2012. For example, the additional standard deduction for blind people and senior citizens remains \$1,150 for married individuals and \$1,450 for singles and heads of household. Details on these inflation adjustments can be found in Revenue Procedure 2011-52, which was published in Internal Revenue Bulletin 2011-45 on November 7, 2011.

-Courtesy of AED News

FIGHT BACK AGAINST BLACKBERRY ABUSE

Look around the room the next time you are leading a meeting. How many people can you spot furtively checking message on mobile devices? They may think they are multitasking, but actually they are distracted and less effective than they should be.

Surprisingly, the answer may not be to ban mobile devices from the meeting room. You may have to accept that you cannot demand every attendee’s full attention for every minute of the meeting.

So what should you do? Instead of feeling frustrated by people’s inability to focus on the meeting, accept the onus for making the meeting irresistible. Focus on the agenda, keep it moving and deliver only essential information. Plan lively sessions, with presentations that rivet attendees’ attention. Perhaps most important, keep it short. Let people know the meeting will take less than 25 minutes, and ask them to abstain from using their mobile devices.

~ Adapted from “BlackBerry Etiquette Has Yet to Be Defined,”
Richard Baum, Leader-Post, www.leaderpost.com.

SAFETY IS THE TRADE-OFF FOR FUEL-EFFICIENCY RULES, ENGINEERS SAY

A fuel-economy requirement of 56.2 mpg by 2025 would put safety at risk in future cars and trucks, according to about three-fourths of automotive engineers surveyed by Wards Automotive. While a 54.5-mpg goal has been proposed, engineers say higher mileage requirements mean that vehicles will have to be smaller to meet such standards, which could mean safety is sacrificed.

-Courtesy of CNNMoney.com

In Memory

Bob Robeson, Vice President of Professional Services for IRON Solutions, Inc, tragically passed away Oct. 13 at the age of 63, following an accidental fall. After 43 years of service to equipment dealers across North America, he will be truly missed.



In the late 90s, Bob served on the IRON Solutions, LLC Board of Directors as one of its founding directors and was instrumental in the growth and re-launch of IRON Solutions, Inc. Throughout the 2000s, he led IRON’s Professional Services team, working with hundreds of equipment dealers to adopt and utilize technology to manage enterprise business systems for increased profitability. He led the implementation and training efforts for QPSS®, IRON HQ® and Enterprise xSellerator™, IRON’s leading customer and equipment lifecycle management services.

CONNECT WITH TELEPHONE CONTACTS

Do you ever feel as if it is becoming harder than ever to reach a live person on the phone? Between voice mail and on-the-go email, you can spend days going back and forth without connecting.

When you finally do connect, you need to be ready to make a great impression fast. Remember these strategies:

- **Return telephone messages.** When someone leaves you a voicemail message, pick up the phone and call back right away. Your availability will let people know that you want to work together.
- **Set telephone appointments.** If someone says that now is not a good time, ask when you should call back. Follow through to create a reliable image. If you have important matters to discuss, set a formal appointment just as you would for an in-person meeting.
- **Prepare for calls like in-person meetings.** Know the reason for your call and jot down key points to discuss, like an agenda. Putting your goals in writing keeps you focused and increases call productivity. Take notes to capture the important information you discuss.

- Adapted from "7 Tips for Business Etiquette on the Phone," Lynda Goldman, Lynda Goldman's Communication Capsules,

KY: HEALTH AND WELFARE COMMITTEE DISCUSSES STATEWIDE SMOKE-FREE LAW

Kentucky is getting one step closer to kicking its bad smoking habit. The Interim Joint Committee on Health & Welfare has discussed a proposed statewide smoke-free law. Rep. Susan Westrom (D-Lexington) presented her plan to sponsor a bill in the 2012 legislative session that would institute a comprehensive, statewide smoke-free law in all indoor workplaces, restaurants, bars and other public places in Kentucky. She was joined by several other supporters, including Dave Adkisson, president and CEO of the Kentucky Chamber.

-Courtesy of Kentucky Chamber

KY: PROHIBITED SALES TAX ADVERTISING

The department has noticed several incidents recently where advertisements have occurred in violation of KRS 139.210. In place since 1960, this law prohibits any retailer from advertising or holding out or stating to the public or customer, directly or indirectly, that the sales tax required to be collected from the customer will be assumed or absorbed by the retailer or the tax will not be added or not refunded if added. In addition, KRS 139.210 requires the retailer to collect the tax from the consumer. The department strives to immediately address those incidents when reported or found. Violators will be contacted to immediately correct or retract the advertisement. Willful violation of this law may result in penalties.

-Courtesy of KY Sales Tax Newsletter

FOCUS PROBLEM SOLVING TO SUCCEED

Finding common ground is your No.1 challenge when you draw in a diverse group to solve a communication problem. Use these strategies to encourage solution-oriented conversation:

- **Prep.** Before the meeting, list your concerns and questions as well as options you can see. Looking at that list, decide what issues to address first. Will you need to cover everything in the same meeting? What are the absolute "must discuss" items on the list? What can you cover later, perhaps in a phone call or email follow-up?
- **Use positive language.** Identify your concerns and the outcome you would like to see. Say "I would like us to focus on ..." and "I am certain that we will find a good solution." Avoid questions that begin with why or who - those words often spark defensiveness.

Ask what and how questions instead: "What are some of the options ...?" "How can we find time for ..?"

- **Speak for yourself.** Do not finish attendees' sentences or put words in their mouths, even if you feel certain you know what they are going to say. Rephrase their comments if you need clarity: "What I think you are saying is ___. Is that right?"

~ Adapted from "Communication Tips for Building Strong Partnerships," The PEAL Center; www.pealcenter.org

4 BASICS FOR LIFTING MORALE

Turning the calendar to a new year is akin to wiping a slate clean. It's a chance to wipe away the negative patterns that held your employees back in the past year and to start them out right as they face the coming year's challenges. Make sure you do the following:

1. **Clarify goals.** Fuzzy goals drain and limit. Staffers need to know how to go from point A to point B as well as when you expect them to do that. What, exactly, is the result you want from them? What resources are available to them?
2. **Build experience.** What do staffers want to do on the job? What untapped skills do they possess? If they know how to do something - or want to learn how - but are not being allowed to exercise that skill, they may feel overlooked or unappreciated. Ask "What would you like to do more of this year?"
3. **Create limits.** If they spend too much time on assignments, they may be doing too much or doing the wrong things. Communicate expectations and limits so staffers know how much is too much.
4. **Add challenge.** Workers who do not stretch and grow quickly stagnate, growing discontented and inefficient. Keep them moving and learning useful skills at a reasonable pace, and you will keep morale high and your team strong.

~ Adapted from "Five Ways to Max-Up Your Motivation at Work" Lindsay Swinton ManagementfortheRestofUs, www.mftrou.com

IRS ISSUES GUIDANCE ON TAX TREATMENT OF CELL PHONES

The IRS issued guidance designed to clarify the tax treatment of employer-provided cell phones. The guidance relates to a provision in the Small Business Jobs Act of 2010 that removed cell phones from the definition of listed property, a category under tax law that normally requires additional recordkeeping by taxpayers. The notice issued last week provides that when an employer provides an employee with a cell phone primarily for noncompensatory business reasons, the business and personal use of the cell phone is generally nontaxable to the employee. The IRS will not require recordkeeping of business use in order to receive this tax-free treatment. Simultaneously with the notice, the IRS announced in a memo to its examiners a similar administrative approach that applies with respect to arrangements common to small businesses that provide cash allowances and reimbursements for work-related use of personally-owned cell phones. Under this approach, employers that require employees, primarily for noncompensatory business reasons, to use their personal cell phones for business purposes may treat reimbursements of the employees' expenses for reasonable cell phone coverage as nontaxable. This treatment does not apply to reimbursements of unusual or excessive expenses or to reimbursements made as a substitute for a portion of the employee's regular wages. The guidance is reprinted in FastFacts #0055. IRS.gov.

NTSB RECOMMENDS COMPLETE PHONE BAN FOR CMV DRIVERS

The National Transportation Safety Board is making recommendations to the FMCSA to "prohibit the use of both handheld and hands-free cellular telephones by all commercial driver's license holders while driving in commercial operations, except in emergencies." NTSB officials issued the recommendation to the Federal Motor Carrier Safety Administration in response to probable cause findings from a high-profile crash that led to 11 deaths in March 2010. Investigators determined that a 45-year-old truck driver was distracted by a cellphone leading up to a crash with a passenger van on Interstate 65 near Munford, KY. It is already illegal for a commercial vehicle operator to send text messages or emails while operating a truck, bus or train. NTSB officials also issued recommended the Federal Highway Administration install median barriers in areas where crossover crashes are prone to occur.

- Courtesy of Land Line eNews

CARS WILL CONSUME MORE CORN THAN LIVESTOCK AND POULTRY

For the first time in history, more of the U.S. corn crop is expected to be consumed by automobiles this coming year than by livestock and poultry. The shift is the result of several years of decline in feed use along with a steady increase in ethanol production. A big reason for the shift is that high corn prices have forced livestock producers to shrink livestock and poultry stocks to reduce costs and get a better price. USDA projected in its August crop production and supply demand estimates that ethanol plants will use 200 million more bushels of corn than animals will consume.

- Courtesy of SW Farm Press

HOW SMALL BUSINESSES MAY BE AFFECTED BY DEBT DOWNGRADE

The key effects of the credit downgrade of U.S. debt by Standard and Poor's for small businesses are: (1) The U.S. government's leverage to pump up the economy has gone down even further. That means that cuts in federal spending along with increases in taxation are going to come a lot sooner. This may lead to even more weakening of the growth in the U.S. economy in the short to medium term, and increasing business and personal tax rates for small business owners will not help. (2) Interest rates will go up in near future as the cost of borrowing money in the U.S. will rise. Lack of credit access coupled with higher interest rates will raise the cost of capital for small businesses, both further hurting their bottom line and slowing job growth even more. The dollar will fall, thereby raising the costs of imports, including gasoline, and consumers will probably begin spending less as their bank accounts take a hit. Coupled with weak real estate prices, this means small businesses should be braced for tough times.

-Courtesy of NFIB, Small Business Trends

