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David Kappos Confirmed as USPTO Director

Written by [Gene Quinn](#)

Posted: August 8, 2009 @ 2:14 pm

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Newly confirmed PTO Director, David Kappos

With no notice to the public, and after the Senate was reported to have adjourned for their August recess, on Friday, August 7, 2009, David Kappos was confirmed as Undersecretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office. While I applaud the quick action by the Senate to get Kappos confirmed, I must admit that I am at the same time shocked and saddened. In my opinion, Kappos is the right person for the job, so I am glad he was confirmed. I think getting him in place sooner rather than later is exactly the right thing to do. Nevertheless, I am not a fan of government

rushing so fast that they forget basic principles of open government. Justice Brandeis famously said that sunlight is the best disinfectant, and he was 100% right. It seems that our government is increasingly rushing to do things, failing to read legislation they enact and not working for the people who hired them. So I am definitely glad that Kappos was confirmed, and confirmed quickly, but the Senate should have given notice of his confirmation vote. Absent such notice the vote should not have been taken. Had the Kappos nomination been controversial there would have been no time for opponents to contact Senators to express their concerns after he was reported out to the full Senate by the Judiciary Committee. Government by ambush is not something to be celebrated, even when I agree with the action taken.

Secretary of Commerce Gary Locke is quoted on the [USPTO website](#) as saying:

We are grateful to the Senate for its swift confirmation of David Kappos to lead the U.S. Patent and Trademark Office. "It's no secret that the agency currently faces significant and persistent challenges, but David is the right person to meet them and carry out my top priority for the USPTO — dramatically reducing the unacceptably long time it takes to process patent applications.

Robert Holleyman, president and CEO of the Business Software Alliance (BSA), said in a press release:

David Kappos possesses the deep experience and knowledge needed to tackle problems in the US patent system, and with the help of a willing Congress, he will shepherd in a new era for the USPTO that will streamline its operations and foster US innovation and economic growth.

We can expect in the coming days to hear from many more groups, companies and interested parties about how they are glad that David Kappos is at the helm. Everyone I talk to is very optimistic. Kappos has a lot to live up to, and I hope he can. I suspect he will live up to the expectations and hype, and our patent system will be better off for it.

Speculation will soon turn to what will become of now the former Acting Director John Doll, and the current Acting Commissioner for Patents, Peggy Focarino. To the extent that anyone cares what I think, I am hoping that "Acting" is removed from Focarino's title and she is once and for all made the Commissioner for Patents. I hope that John Doll steps aside and allows the new leadership team of

Kappos and Focarino, who will be advised by special counselor Nick Godici, to usher in the change that is so desperately needed.

I do not know John Doll personally, but there is no avoiding the truth that the overwhelming majority of those in the patent bar believe John Doll is responsible for many of the problems we now face. I am not going to say he did, or he didn't, but this is the undeniable perception among patent attorneys and agents. Therefore, I think it would be extremely helpful for him to step aside and allow us to be grateful for his stewardship of the Office during the days following Jon Dudas' resignation and the confirmation of David Kappose. Perhaps Doll can return to a different position at the USPTO outside of the top level management, although I suspect he would be much better off riding off into the sunset and taking one of what will likely be many offers from large law firms to become a special advisor.

I harbor no ill will toward Doll, but if we are going to move forward it is time to turn some pages and start fresh.

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One comment

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1. patent leather August 9th, 2009 2:09 pm

“but there is no avoiding the truth that the overwhelming majority of those in the patent bar believe John Doll is responsible for many of the problems we now face.”

You got that right. From spending USPTO resources on four failed rule packages (and completely ignoring the comments of the patent bar) to configuring the “second set of eyes” to be anti-allowance but pro-rejection which tormented applicants (and attorneys like me who had to deal with the “sorry I can’t allow anything” mentality in certain art units) and bankrupted the USPTO (and the worst is yet to come in around 2015 when 11th year issue fees are due), John Doll was in way over his head. This goes to show that the USPTO director and commissioner should have outside experience because people like Doll never prosecuted a patent in their life and have no clue what we have to deal with on the other side. I’m assuming Kappos will actually read the comments people submit to the USPTO.

The first thing I predict Kappos will do is withdraw the Tafas litigation as wasting court and USPTO resources. If the litigation isn’t withdrawn then I think it will just be serving as a test case for the USPTO so they can see what they can get away with in the future. But I doubt the USPTO is going to proceed in the same direction with those rules.

2. Eliot Bernstein August 10th, 2009 7:46 am *Your comment is awaiting moderation.*

Why is Foley & Lardner hosting David Kappos of IBM, new Obama candidate? Answer may lie in Trillion Dollar Lawsuit

MADOFF + STANFORD + DREIER + SATYAM + FISERV + ALBERT HU + The 1031 Tax Group LLC – Edward H. Okun = PROSKAUER ROSE + FOLEY & LARDNER
Foley partner Patricia J. Lane represented FISERV, sue Foley, read on.

Investors who have been burned in these scams should start to seek redress from the lawyers who were involved with these scams. I personally have been trying to notify regulators and authorities of a ONE TRILLION DOLLAR liability that is putting states like New York and Florida at huge risk, as well as, companies like Intel, Lockheed, SGI and IBM. The states and companies involved in the fraud fail to acknowledge the risk exposing shareholders and citizens to impending liabilities. Investigators, courts and federal agents ignoring the crimes and evidence, including a car-bombing attempt on my life. I know how Harry Markopolos felt trying to expose Madoff in a world without regulation.

Did I hear Proskauer Rose is involved in Madoff (involved many clients too) and acted as Allen Stanford’s attorney. Investors who lost money in these scams should start looking at the law firm Proskauer’s assets for recovery. First, Proskauer partner Gregg

Mashberg claims Madoff is a financial 9/11 for their clients, if they directed you to Madoff sue them. Then, Proskauer partner Thomas Sjoblom former enforcement dude for SEC and Allen Stanford attorney, declares PARTY IS OVER to Stanford employees and advises them to PRAY, this two days before SEC hearings. Then at hearings, he lies with Holt to SEC saying she only prepared with him but fails to mention Miami meeting at airport hanger. Then Sjoblom resigns after SEC begins investigation and sends note to SEC disaffirming all statements made by him and Proskauer, his butt on fire. If you were burned in Stanford sue Proskauer.

Proskauer Rose and Foley & Lardner are also in a TRILLION dollar FEDERAL LAWSUIT legally related to a WHISTLEBLOWER CASE in FEDERAL COURT. Marc S. Dreier, brought in through Raymond A. Joao of Meltzer Lippe after putting 90+ patents of mine in his own name, is also a defendant in the Federal Case.

The Trillion Dollar suit according to Judge Shira Scheindlin is one of PATENT THEFT, MURDER & A CAR BOMBING. For graphics on the car bombing visit

<http://www.iviewit.tv>.

Federal Court cases

US Court of Appeals for the 2nd Circ Docket 08-4873-cv – Bernstein v Appellate Division First Department Disciplinary Committee. – TRILLION DOLLAR LAWSUIT (07cv09599) Anderson v The State of New York – WHISTLEBLOWER LAWSUIT (07cv11196) Bernstein v Appellate Division First Department Disciplinary Committee (07cv11612) Esposito v The State of New York (08cv00526) Capogrosso v New York State Commission on Judicial Conduct (08cv02391) McKeown v The State of New York (08cv02852) Galison v The State of New York (08cv03305) Carvel v The State of New York (08cv4053) Gizella Weisshaus v The State of New York (08cv4438) Suzanne McCormick v The State of New York John L. Petrec-Tolino v. The State of New York

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