

# Silicon Valley Patent Office Shelved

Martha Mendoza, AP National Writer

SAN JOSE, Calif. (AP) — Silicon Valley's high-tech firms are fighting what they consider a deeply personal federal cut this summer that shelves a planned patent office in this innovation-fueled region.

While most of the country is feeling some pinch from the automatic budget cuts known as sequestration, tech leaders say this one is unique and unfair, because the Commerce Department's promised satellite patent offices were never going to be funded by taxpayers. Instead, they're supported by the \$2.8 billion in annual patent fees collected from inventors, entrepreneurs and companies.

"We were really upset," said Emily Lam, a director at the Silicon Valley Leadership Group, an association representing local high tech firms. "It makes absolutely no sense that an office funded almost entirely by fees would be subject to sequester."

But U.S. Patent and Trademark Office chief financial officer Tony Scardino said the government's across-the-board austerity policy doesn't make exceptions for fee-supported programs. And if there's a "continuing budgetary stalemate" this fall, he said that could cause further delays.

Silicon Valley firms seek more U.S. patents than any other region in the world, and San Jose is the nation's top patent-producing city, with 7,074 patents last year. And California is the nation's patent leader, with seven of the top 10 patent-producing cities.

The U.S. Patent Office currently has a backlog of 590,000 nationwide, and it can take more than two years to have an application reviewed.

Until two years ago, the only U.S. Patent and Trademark Office was in Arlington, Va. Silicon Valley companies often would have to send a chief scientist to Arlington for a few days to meet with examiners, losing valuable time and money.

Then a 2011 law raised patent fees in exchange for promises from officials to use those new revenues to speed up the patent process and establish four satellite offices for the first time in the agency's 200-plus year history.

But that's not exactly what happened.

With budget cuts came a federal decision that 8.6 percent of all patent fees are

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immediately diverted from the Patent Office into the U.S. Treasury; in total, the U.S. Patent and Trademark Office will lose between \$120 million and \$130 million in patent fees it collects this year.

There are three satellite office projects underway: the first opened in Detroit in July, 2012, and permanent locations for others were selected in Denver and Dallas before sequestration.

Last month, the General Services Administration — which owns and operates federal properties — said it was suspending its search for permanent patent office space in Silicon Valley, dashing hopes of local startups.

"It was terribly disappointing," said Dave Clark, who launched a high tech pet products startup called Petzila in San Jose this year with his business partner Simon Milner.

Eight months into the pet-friendly technology business, they say at least 20 percent of their energy has gone toward getting a patent. That's time they'd rather spend developing, manufacturing, marketing and financing their first product: a wall mounted system called PetziConnect that allows pet owners to remotely say hello to their dog and, at the click of an icon, give Fido a treat.

"It would be a godsend if we could meet with a patent examiner; It would cut our costs and time in half, and cut our anxiety by 60 percent," said Clark. "Nothing compares to a face-to-face conversation."

A local patent office staffed with as many as 150 new examiners would have provided entrepreneurs with nearby staff familiar with high tech, and a streamlined process, business leaders said.

"The more educated about the technology the examiners are, the better job they're going to be able to do in figuring out what applications are patent worthy and which should be rejected," said senior patent counsel Suzanne Michel at Google, which has tens of thousands of applications pending.

A local Congressional delegation is now seeking a sequestration exemption for the office.

Rep. Mike Honda, D-Calif., whose district includes Silicon Valley, said shelving the office "is going to set us back in terms of our own competitive edge, like trying to run a race with your ankles hobbled."

"It's too bad," said Jonah Probell, who writes semiconductor intellectual property

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patents for a small firm in Sunnyvale, Calif.

For now, Silicon Valley Patent Office Director Michelle Lee, a former Google patent law division head, is working out of a small, temporary space with just a handful of administrative judges in rooms borrowed from another government agency in Menlo Park, Calif. — not nearly enough to meet the needs of the region.

Meanwhile, lawmakers and bureaucrats on the East Coast will decide when they can release funds to open a permanent, fully staffed Silicon Valley Patent Office. To date, officials have said they plan to go ahead with it, but they have provided no timetable.

"Which, who knows, that might be never," said Probell.

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