

Boulder-area businesses bullish on local patent office opening in Denver

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It came as a surprise to Boulder-based entrepreneur Jennifer Spencer when she heard how long it could take for a design patent for her Agloves touchscreen gloves to receive approval.

Ballpark: three years.

At the time she submitted the application -- in September 2011 -- the U.S. Patent and Trademark Office was working through 700,000 patent applications in its pipeline.

"Apparently, there are remedies, but it's still a long time for things to happen," Spencer said. "It opens up some risk for us. ... We just have to keep saying, 'patent-pending,' 'patent-pending.'"

Such a wait is not uncommon -- in certain cases, three years actually is fairly good -- but the delays have created uncertainty for Spencer and many others as they bide their time for the papers that could bring further validation, security and financial stability to their ideas. The inefficiencies in U.S. patent processes could suppress innovation and economic growth, some businesspeople and politicians have argued.

"That delay, that lag really lessens the value of the whole patent process," said Michael L. Drapkin, a local Holland & Hart attorney who -- along with fellow patent attorneys Tom Franklin, of Kilpatrick Townsend & Stockton LLP, and John Posthumus, of Sheridan Ross P.C. -- has spent the past four years lobbying for a patent office in Colorado.

Recent steps taken to reform the nation's patent system include -- for the first time in history -- the opening of satellite patent offices across the United States in Denver, Dallas-Fort Worth, Detroit and San Jose, Calif., to bolster the work being done at the U.S. Patent and Trademark Office headquarters in Virginia.

The Detroit office, which was announced in 2010, opened two weeks ago. The selections of Denver, Dallas-Forth Worth and San Jose were announced earlier this month.

The decision to have Denver house one of those offices has local businesses, educators, patent attorneys and lawmakers bullish about the effects on Colorado's economy and for "innovation hubs" such as Boulder County, which ranks 30th in the nation in the number of patents granted from 2006 to 2010.

"I think that opening up a Denver office will greatly increase the amount of innovation that goes on in the Denver/Boulder area," said Brett Huston, vice president of human resources and general counsel for Boulder-based data storage firm Spectra Logic Corp. "To actually say that Denver and the central part of the western United States is a major hub of innovation, it's only going to draw a tremendous number of highly paid positions and people to this area."

Big business

Colorado's economic benefit from a satellite patent office in Denver could be in the realm of \$439 million in the first five years, according to a study by University of Colorado researchers.

"It's a huge opportunity for innovative companies; it makes their lives easier, too," said Phil Weiser, dean of CU's Law School. "...I believe this office is going to continue to reverberate positively for Colorado and will be a good advertisement for Colorado."

The Denver office also could spur some ripple effects, including growth in patent attorneys and sub-sectors to the patent industry and also increases in venture capital, said Brian Lewandowski, a research associate in the Business Research Division at CU's Leeds School of Business.

"I think it could only help that Colorado ends up being more of that one-stop shop," he said.

In addition to culling the patent application lag time, the Denver satellite office also could provide boosts to tourism, a reduction in travel expenditures from local firms, increased education about the process and a potential for stronger patents because of more one-on-one interviews, local businesses and officials say.

"We're happy the satellite office is coming here," Scott McCarty, a spokesman for Broomfield-based Ball Corp., said in a statement e-mailed to the Camera. "It will assist us in our efforts to obtain patents in a cost-effective manner, and is a benefit to Colorado economy. From a local business perspective, it may also help reduce travel costs to Washington, D.C."

The full makeup of Denver's office -- including the location, number of employees and specific offerings -- remains in development. Patent officials are next expected to visit potential sites and connect with local officials during the week of Aug. 6.

Initially, the site is expected to employ 125 people. That number could grow depending on the need and level of talent, said Azam Khan, the U.S. Patent and Trademark Office's deputy chief of staff.

"We think we can be extremely effective in recruiting and attaining top engineering talent (in Colorado)," he said.

It is unclear when the Denver office could open. Under the Leahy-Smith America Invents Act -- a law passed in September 2011 that brings a slate of sweeping changes to the patent process -- the U.S. Patent and Trademark Office has to open at least three satellite offices by Sept. 16, 2014.

Cutting the backlog

When Denver and the others do come online, the expectation is that they would further eat away at the backlog that currently sits at 630,000 applications.

"We're definitely headed in the right direction," Khan said. "We're not near where we want to be yet."

Optimally, patent officials want to halve that inventory, bring the number of applications in process down to 300,000 and have applicants receive a "first action" from the patent office in 10 months with a 20-month average for the final action.

The lessening of the backlog is welcome to IBM Corp., said Manny Schechter, the technology giant's chief patent counsel. Big Blue, which is Boulder County's largest employer, invests about \$6 billion in research and development annually and receives about \$1 billion in income from licensing intellectual property.

"The thing that concerned us for a long time was that we were going the wrong direction, pendencies were getting longer," Schechter said. "That meant the ability to protect our technologies or developments were weakening."

Brett Huston, the general counsel at Boulder's Spectra Logic, said the delays have not hindered his local firm to any dramatic extent. However, increasing the efficiency of the patent process should benefit firms such as Spectra Logic that view patents as valuable and necessary assets.

During the past 10 years, Spectra Logic filed close to 150 patent applications. The firm also awards bonuses to employees who invent and patent technologies.

"We've gone from a \$25 million-a-year company to close to a \$100 million-a-year company in the last 10 years," Huston said. "And in some part (that is) due to the fact that we have so many patents in our portfolio."

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