

Colorado will soon be a player in the patent wars

By Caleb Hannan

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The future home of Denver's satellite patent office.

[The patent system in America](#) may seem hopelessly dysfunctional, but there are people trying to improve it — including a Denver lawyer. On July 1 this year, the U.S. Patent and Trademark Office announced that the Mile High City will be one of three cities — along with Dallas and San Jose — in which it will open a new satellite office.

For John Posthumus, an intellectual-property attorney with the law firm Sheridan Ross, this was an announcement four years in the making.

In the summer of 2008, Posthumus was elected treasurer of the Intellectual Property Section of the Colorado Bar Association. The section had long wanted to bring a satellite patent office to Colorado, but it had been stymied by the agency's stubborn unwillingness to expand beyond its headquarters in Alexandria, Virginia.

Initially this resistance made sense. For most of its 200-year history, the patent office was a strictly analog affair: If an examiner wanted to find another patent, he or she had to manually search through the agency's special drawers, known as "shoe boxes." (The name is said to have come from the fact that Thomas Jefferson stored his patents in shoe boxes, though historians have largely debunked that tale. Historians ruin *everything*.)

By the time Posthumus took his position, however, the agency had digitized its files. The argument for a single centralized office no longer made sense, especially since private companies of the same size had an average of thirty offices to the federal agency's one. There was also the matter of brain drain. Ever since its

creation, the patent office had experienced the sort of revolving-door dilemma familiar to many government agencies. It spent time and money training examiners, only to watch as the vast majority of them left within a couple of years for better-paying jobs with private companies.

For Posthumus, a satellite office was the solution to this problem. It's not cheap to live in the greater Washington, D.C., area — and insisting on a single office automatically meant eliminating any potential examiners who weren't willing to relocate to the nation's capital.

Posthumus first took these arguments to the agency in the summer of 2009, when he and other members of his section met with an aide in President Barack Obama's new administration. (Obama's choice for head of the patent office, David Kappos, wouldn't be confirmed until months later.) He also began making the rounds to the offices of Colorado's congressional leaders, where he found a lot of support, especially from Senator Michael Bennet. "We were the only area of the country wanting this, advocating this," says Posthumus.

So it was bittersweet when, on December 16, 2010, Kappos announced that the agency's first-ever satellite office would open not in Denver, but in Detroit. "That was the low point of our efforts," remembers Posthumus.

It wasn't until two months later, during a meeting at Bennet's D.C. office, that Posthumus realized there might be another way. The patent system hadn't undergone a significant change in half a century, but a new bill, one that would eventually be known as the America Invents Act, was then winding its way through the Senate. Bennet's staff came up with an amendment — Section 23 — that required the agency to open three more satellite offices within three years. When President Obama signed the act into law seven months later, Posthumus realized that he and Colorado had another shot. And they didn't waste it.

Ultimately the patent office received 500 submissions from fifty different cities hoping to be chosen; it was a little like a science fair. And while most of the other entries looked like last-minute Alka-Seltzer volcanoes, Colorado's was a successful cold-fusion reaction. It was the only one to include an estimate of economic impact from an independent source: \$440 million in the first five years, according to a study by the University of Colorado's Leeds School of Business. Along with letters of support from every major legislator in the state, the submission also included one from Senator Mike Enzi of Wyoming — just to underscore the regional, not just statewide, benefits of the satellite office.

"Every time we could take the extra step, we did," remembers Adam Bozzi, Senator Bennet's communications director. "This was like a glossy, magazine-looking submission. It was incredibly comprehensive."

This past August, the patent office announced that Denver's satellite office would be located downtown, in the Byron G. Rogers federal building. The announcement also included a projection of how many people it would employ within five years: 600, most of whom would be paid close to six figures a year.

Those stats are obviously great, says Posthumus. But it's the ancillary benefits of having an agency like the patent office located here that he's most excited about. Benefits like attracting new companies and inventors who, instead of having to fly to Washington to defend their applications, can now do so in person blocks away from Coors Field. And the potential for generations of Denver schoolchildren to be influenced by field trips to a place that encourages entrepreneurship.

"It's one of those things worth fighting for," he says.

And he should know, since it was his fight that brought it here.