

**STATEMENT OF PAUL R. MICHEL
CHIEF JUDGE, UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT
BEFORE THE SUBCOMMITTEE ON FINANCIAL SERVICES AND
GENERAL GOVERNMENT
OF THE COMMITTEE ON APPROPRIATIONS
OF THE UNITED STATES SENATE**

March 21, 2007

Mr. Chairman, thank you for allowing me to submit my statement supporting the United States Court of Appeals for the Federal Circuit's fiscal year 2008 budget request.

Our request totals **\$28,442,000**, an increase of **\$3,131,000** (12 %) over the fiscal year 2007 appropriation of **\$25,311,000**.

I. Fifty-six percent (56%) of that increase, **\$1,761,000**, is for Congressionally- and contractually-mandated adjustments to base (such as COLAs and escalation in rent and contracts), as well as one adjustment to the base appropriation for lease of judges' workspace.

This lease increase, a request for **\$496,000**, will allow us to provide the work space necessary for four judges (and their staff) now eligible to take senior status and an additional three judges who become eligible to take senior status in fiscal year 2009. Even now

our courthouse simply does not have space for the judge who took senior status during the past year, much less offer chambers to seven other judges eligible to take senior status in this fiscal year and the next.

The retention of judges through senior status is what has allowed this court to remain current. Since this court's inception in 1982, the number of active judges on our court has remained the same, even though our caseload has nearly doubled and the technology of our patent caseload has become increasingly complex. Clearly, the provision of adequate work space for judges willing to take senior status (as opposed to leaving the court through retirement) is critical to our being able to retain these highly valuable contributors to our court's output. If adequate work space cannot be provided, it is likely that some judges may simply retire, or remain active resulting in a very significant loss of judicial capacity.

Funding for off-site leased space was not provided in our fiscal year 2007 appropriation even though requested. Nevertheless the Administrative Office of the United States Courts (AO) has authorized GSA to seek suitable off-site space and negotiate a lease for senior judges, in accordance with Judicial Conference policy. The search is on-going. We are told, and know from past experience, that securing a lease and preparing chambers will take six to 12 months, making it necessary for us to have the funding available in fiscal year 2008.

II. Forty-four percent, **\$1,370,000**, of the requested increase over the fiscal year 2007 approved appropriation is to fund programmatic increases for: (1) Additional law clerk positions; (2) upgrades to six of the court's automated systems; and (3) two-way video and audio transmission capability between the court and remote sites around the country.

(1) **Additional Law Clerk. \$732,000** of the amount requested covers the cost of hiring an additional law clerk for each of the court's active judges for six months of fiscal year 2008. The increased workload now requires funding a fourth law clerk. The court presently has funding for only three law clerks for each judge and one secretary. This added funding would provide a fourth law clerk or assistant for each active judge. Indeed, Article III judges serving in the other 12 circuits of the federal Judiciary have had funding for a fourth law clerk for years.

The Federal Circuit did not previously need parity, but I now ask for this funding for new positions because they are necessary in order to keep up with the sharp increase in the number of appeals filed. After years of steady increases in filings, case filings in fiscal year 2006 alone increased by 14 percent from fiscal year 2005. In addition, we face a sharp rise in the complexity of cases, many

involving advanced and emerging technologies of great economic importance for American businesses.

(2) **Upgrade to Automated Systems. \$388,000** of the amount requested under program increases is necessary to provide new and improved electronic information technology services to the court, namely (a) improved automated case tracking and management; (b) automated e-filing of briefs by attorneys; (c) e-voting and commenting by judges; (d) automated conflict screening; (e) improved public Web site with posting of all briefs and opinions; and (f) off-site continuity of operations set-up, configuration and support for a back-up computer system at the Administrative Office site in Missouri.

The court is developing an improved electronic case tracking system, as well as electronic filing, voting, and conflict screening systems. All of these systems are recommended or required by the Judicial Conference. Their development requires hiring contractors,

purchasing new equipment, and training court information technology staff. These new systems provide better, more accessible, and faster services for litigating lawyers, judges and judges' staffs, as well as making available to judges and court staff a more efficient method for tracking cases. The automated conflict screening system reduces the risk of judges inadvertently participating in cases despite a financial conflict, and thus assists in assuring compliance with ethics requirements. It also is required by Judicial Conference policy. The Web site is our primary contact system with attorneys, academics, and the interested public.

Funding is included in this amount for off-site back-up computer equipment necessary to support the continuing operations of the court if a disaster disables our courthouse in Washington, D.C., which is located very near to the White House -- a primary target for terrorists.

(3) **Remote Video Conferencing.** The remaining **\$250,000** of

the requested amount covers the cost to provide remote video conferencing in one of our three courtrooms, in accordance with Judicial Conference and Administrative Office policy on funding such capability. Recently, the Judiciary adopted information technology initiatives for reducing the reliance on paper, achieving economy in its business processes, and providing better service to citizens at locations around the country. These initiatives are especially critical to our court because with our nationwide jurisdiction, our lawyers and their clients are scattered all across the country. The request is based on recommendations from the Judicial Conference and the Administrative Office of the United States Courts to provide two-way video and audio transmission between courtrooms and remote sites. With this beneficial technology attorneys can present oral arguments from anywhere in the country and avoid the cost in time and money of traveling to Washington, D.C., and staying here overnight. In addition, the Court and citizens benefit greatly from hearing oral

arguments which might otherwise not be presented to the court.

I would be pleased, Mr. Chairman, to answer any questions the Committee may have or to meet with the Committee members or staff about our budget request.

Thank you.