

# HUGE PATENT BACKLOG SAPS RESEARCH AND STARTUP ENERGY

**STATEWIDE** The staggering 770,000 patent backlog at the U.S. Patent and Trademark Office is sapping the energy behind research development and startups in Oregon. The backlog means applicants must wait several years to see if their patents will be approved.

“Patent protection is essential to providing incentive to private investors to get through the development phase,” says Don Gerhart, associate vice president for research and innovation at University of Oregon and a patent agent. When stakeholders must wait several years to see if their patent has been approved, “it makes it difficult to raise capital, build a team and hold a team together in startup companies as well as existing companies.”

Gerhart says that in his experience, the application process takes five to seven years (though the U.S. Patent and Trademark Office reports an average of 3.5 years).

In the latest Oregon Innovation Index, created by the Oregon Innovation Council, Oregon ranked fourth in the nation in 2007 in patents per million people.

The patent office has come under fire for the growing backlog, and several institutions have presented a plan for fixing the problem. The U.S. Chamber of Commerce recommends providing the patent office with adequate resources, improving retention of patent examiners and reforming the patent examiner production system.

The patent office is in the process of turning things around and is three years into a massive hiring effort, hiring 1,200 new patent examiners each year, according to Jennifer Rankin Byrne, director of public affairs for the patent office.

But the larger problem is not the backlog, it's the drop in the percentage of patents approved, according to William Noonan, partner at Klarquist Sparkman, which specializes in intellectual property legal services. In 2008, the USPTO approved 44% of applications, the lowest approval rate since at least 1975. **JENNIFER FURNISS**