They should hang their heads in shame …

In February 2011, the US Senate's Judiciary Committee voted unanimously in favour of the America Invents Act. When the legislation went to the full Senate, it was passed by 95 votes to five. Among the act's most significant sections is one ending fee diversion from the self-funding US Patent and Trademark Office (USPTO).

Fee diversion – the process by which money raised and collected by the USPTO is allocated to other parts of the federal government – has been a longstanding bugbear of the US IP community. It has prevented successive USPTO directors from instituting long-term plans to recruit new patent examiners, retain existing ones and invest in a top- class IT infrastructure.

The overall effect of fee diversion is to increase the backlog of patent applications, slow down the examination process and, ultimately, reduce the quality of issued patents. Those who suffer are innovators looking for certainty as they seek to develop products and services, grow companies, hire staff and build revenues.

On 15th April, the US Senate was required to approve a federal budget that, among other things, diverted US$100 million from the USPTO to other parts of the government. When it came to the vote, 13 of the 18 members of the Senate Judiciary Committee were in favour. Overall, 81 out of 100 senators gave their approval. The budget was then signed into law by President Obama, who had previously described the IT system at the USPTO as "embarrassing". Less than a year before, he had written to the-then speaker of the House of Representatives, Nancy Pelosi, asking her to support proposals to allow the USPTO extra funds in order to "to reduce backlogs in processing patent applications by spurring innovation and reforming US Patent and Trademark Office operations to make them more effective".

A few days after the vote, USPTO Director David Kappos outlined the consequences of the budget approved not just by the President and the Senate, but by the House of Representatives too. They were: no overtime; a hiring freeze; all except mandatory training cut; severe cuts in PCT search funding; the creation of a satellite office in Detroit postponed; no IT infrastructure investments except those deemed "mission-critical"; the indefinite postponement of the expedited examination programme; and mandatory expenses reductions.

Any reasonable person surveying all this would conclude one of two things: either the president and legislators do not mean it when they talk about the importance of US innovation; or they took their eyes off the ball and did not notice what they were approving.

The charitable may be inclined to the second explanation. But that does not let any of those who passed the budget off the hook. What it means is that they care so little for the innovation process that alarm bells did not ring when they inspected the proposed legislation. For a relatively paltry US$100 million, this lack of oversight could cause more damage to the US economy than countless other minor cuts or tax rises would ever have done.

Of course, the final budget proposal was the result of painstaking, controversial and protracted negotiations; a deal had to be done to keep the government going. But it seems that no one even gave the diverted money a moment's thought. That speaks volumes about the difference between political words and action when it comes to innovation.

The simple truth is that 15th April was a terrible day for the US. The country's political leaders – Democrat and Republican – should hang their heads in shame. ■