

UNITED *for* PATENT REFORM

March 23, 2018

The Honorable Steve Stivers
United States House of Representatives
1022 Longworth House Office Building
Washington, DC, 20515

The Honorable Bill Foster
United States House of Representatives
1224 Longworth House Office Building
Washington, DC, 20515

Dear Congressmen Stivers and Foster:

The undersigned write this letter to express serious concerns about the STRONGER Patents Act of 2018, which will not only undermine vital congressional reforms that American businesses have relied on to fight back against frivolous, abusive patent litigation, but also embolden litigation abusers and significantly worsen the ability of American companies of all sizes to grow, innovate, and create jobs.

Congress overwhelmingly passed the America Invents Act (AIA) of 2011 after years of careful bipartisan consideration, debate and negotiation. Among the most significant advancements made possible by the AIA was the creation of new post-grant review procedures, including the Inter Partes Review (IPR) program at the Patent and Trademark Office (PTO). The intent of Congress in creating IPR was to improve patent quality by allowing the PTO to take another look at patents of questionable validity, which are the primary fuel of patent litigation abuse.

Since its inception, IPR has proven to be a fair and successful program that improves the patent system. For example, through the IPR program the PTO has reconsidered and invalidated patents on basic processes like sending an email when a new real estate listing is posted, scanning a document and sending it to email, and posting a podcast. Each of these invalid patents fueled abusive litigation against American companies, many of which were small businesses and startups that could not afford to fight in court. The STRONGER Patents Act would dismantle this beneficial program, allowing licensing demands and litigation on poor quality patents that would continue to drain precious resources away from job creation and the development of new products and services.

In addition, the STRONGER Patents Act would dramatically increase the leverage those same abusers have to threaten all job-creating American businesses by overturning a

decade's worth of unanimous Supreme Court patent decisions that have clarified and improved the patent landscape. For example, the bill would usher in the return of automatic injunctions at district courts, allowing patent trolls who make no competing products and only want licensing payments to halt the availability of complex products covered by thousands of patents based on infringement of one patent by a trivial feature. The bill would also greatly expand the liability for induced infringement, allowing trolls to sue companies that merely provide general purpose goods and services because of the way their customers use them, even when the company has no control over the use or knowledge of the patent.

And while the STRONGER Patents Act includes provisions providing the FTC with authority to regulate bad faith assertions of patent infringement, those provisions do not address the abusive demand letters sent by patent trolls. The STRONGER Patents Act limits the FTC's authority, prevents state attorneys general from protecting their citizens from abusive patent trolls, and creates numerous loopholes that will allow trolls to escape liability. These changes will aid, rather than prevent, the abusive litigation tactics favored by trolls.

The STRONGER Patents Act will only distract Congress from the real problems facing the U.S. patent system and plaguing the American economy: abusive patent litigation by patent trolls and poor quality patents.

Sincerely,

4A's (American Association of Advertising Agencies)

Adobe Systems, Inc.

ADTRAN

Aerialink

Alliance of Automobile Manufacturers

Amazon

American Apparel & Footwear Association

American Gaming Association

American Hotel & Lodging Association

American Public Power Association

American Society of Travel Agents

American Trucking Associations

Association of Global Automakers

AT&T

Best Buy

BrandsMart USA

Brinker

Broadband Cable Association of Pennsylvania

Capstone Photography

Cisco Systems, Inc.

Coalition for Patent Fairness

Comcast
Computer & Communications Industry Association
Consumer Technology Association
Culver Franchising System, Inc.
Custom Electronic Design and Installation Association
Demand Progress
Developers Alliance
Dillard's, Inc.
Direct Marketing Association
Domino's
dotmailer
Dropbox
Electronic Transactions Association
Engine
Facebook
Fark.com
Food Marketing Institute
Ford
General Motors
GLHN Architects & Engineers
Google LLC
Hanna Andersson
High Tech Inventors Alliance
HSN, Inc.
HTC America, Inc.
Innovative Energy Inc.
Intel Corporation
International Franchise Association
Internet Association
Internet Infrastructure Coalition
Intuit Inc.
iZi Survey LLC
JCPenney
Kentucky Association of Manufacturers
Kentucky Grocers Association
Kickstarter
Macy's
Medici Ventures, Inc.
MPA-The Association of Magazine Media
National Apartment Association
National Association of Broadcasters
National Association of Convenience Stores
National Association of Home Builders
National Association of Realtors
National Council of Chain Restaurants
National Grocers Association
National Multifamily Housing Council
National Restaurant Association
National Retail Federation
Newspaper Association of America
NTCA – The Rural Broadband Association

Overstock.com, Inc.
Pegasystems Inc.
Pennsylvania Business Council
Printing Industries of America
QVC, Inc.
R Street Institute
Rackspace
Red Hat, Inc.
Retail Industry Leaders Association
Salesforce.com, Inc.
SAS
Seagate Technology
Security Industry Association
Small Business Majority
Software and Information Industry
Association

Southeastern Employment Services
Sprint
Starwood Hotels & Resorts Worldwide,
Inc.
Technology Association of Louisville
Kentucky
The Latino Coalition
Tyco International
USTelecom – The Broadband Association
U.S. Travel Association
USA Trail Cams
Verizon
Vizio
Whataburger
Yum! Brands, Inc.