



June 10, 2015

The Honorable Bob Goodlatte
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

The Honorable John Conyers
Ranking Member
Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

Dear Chairman Goodlatte and Ranking Member Conyers,

As you continue to assess necessary changes to H.R. 9, the Innovation Act, we remain concerned that the views and positions of inventive startups and entrepreneurs have not been taken into account or even fully solicited.

The Alliance of U.S. Startups and Inventors for Jobs (USIJ) is a diverse group of Silicon Valley-based inventors, entrepreneurs, venture capitalists, startup companies, incubators and research institutions.

The research and development that our companies and institutions do has led to numerous breakthrough technologies in fields including medical devices, drug products, clean tech, mobile technologies and cloud computing. We create real products, and real companies that continue to drive the U.S. economy, but it seems increasingly hard to be heard and included in the conversation. We believe the Innovation Act, including changes made as part of the Manager's Amendment under consideration, will have devastating consequences for our ecosystem, by wiping out the incentive to invest in fundamental inventions and small businesses.

Our entrepreneurs, venture capital members and incubators have – for many years – founded and financed dozens of companies that have created billions of dollars of value and thousands of jobs. We are indicative of the contributions that startups and small businesses make to the U.S. economy. In fact, **U.S. small businesses currently produce 16.5 times more patented inventions** per employee than large firms.

USIJ and the venture-backed start up community have consistently made our concerns with the Innovation Act clear, but the recently released Manager's amendment demonstrates that, unfortunately, our concerns have not been heard.

This is despite of the fact that USIJ working in collaboration with leaders in the venture capital community recently provided detailed recommendations to the Committee to address specific concerns that we continue to have.

Without specific reforms to sections of the Innovation Act dealing with fee shifting requirements, joinder provisions, pleading requirements and discovery stay, USIJ must continue to strongly oppose the bill.

The Innovation Act will make the pleading and discovery processes much more complex, expensive, and risky for startups and small businesses that must enforce their patents. Furthermore, the bill carries fee shifting provisions that would also deter startups and small businesses from enforcing their patents and make investors reluctant to provide them capital.

Overall, the complex intertwining of various sweeping and related provisions in the Innovation Act work together to make patent litigation of any kind too expensive and risky for small companies and inventor entities to take on the large corporations pressing for the legislation. This would greatly increase the significant advantages large companies now have over the dynamic startups that create most of the new products and technology that fuels our economic growth. If you take away the ability of inventive startups to protect their intellectual property you will see fewer breakthroughs and you will stifle venture investment in fundamental invention of all kinds.

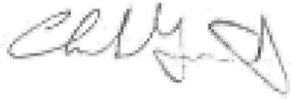
We believe that the Committee could easily and effectively address concerns regarding patent litigation abuse with a much more focused set of provisions such as directly addressing demand letters sent to retailers and retailer patent lawsuits.

We also believe that the Committee must do much more to address the disastrous unintended consequences that the USPTO's inter partes review (IPR) process is having. The IPR process has been expanded beyond Congressional intent to become a blunt force tool that is being used by large companies and hedge funds to undercut competitors and manipulate stock prices. Clearly, Congress can do more than the minor tweaks in the Manager's amendment. At a minimum, IPR petitioners should have some standing relative to the patent(s) they are challenging and the USPTO should use the same evidentiary standard to assess a petition under an IPR as is used in federal court.

We remain interested in meeting with you or your staff to discuss an approach to the stated patent litigation concerns in a way that does not weaken the patent system, benefit large companies at the great expense of smaller companies, or tilt the system against legitimate, inventive companies that must be able to efficiently and effectively protect their intellectual property in an increasingly competitive environment.

Patents and invention drive the U.S. economy. It is crucial that we consider the significant impact that any proposed changes will have on American inventors, investors and entrepreneurs.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles Giancarlo". The signature is written in a cursive style with a large, stylized initial "C".

Charles Giancarlo
Chairman of the Board of Advisors
The Alliance of U.S. Startups and Inventors for Jobs