

May 21, 2015

The Honorable Congressman Bob Goodlatte
United States House of Representatives
2309 Rayburn House Office Building
Washington, DC 20515

Dear Representative Goodlatte:

We, the undersigned, express our concerns with the Innovation Act/H.R.9.

The bill will have unintended consequences and could deter investment in university research, U.S. companies, and other research and development (R&D) in America. The Innovation Act/H.R.9 actually reduces protections for patent holders and could ultimately weaken U.S. patents overall.

As proud members of California's research-based economy, we understand the importance of strong patent protections to continue to develop new innovative products and solutions for customers in our state and around the globe. Our strong patent system is the fuel for an economic engine that employs 7,386,553 here in California¹.

Companies, universities, and individual inventors rely on patents to attract investment to make, market, or license the creation of new - and by definition - useful products. This is a cycle that allows them to reinvest in future R&D if not just cover costs.

Equally important, agricultural innovation depends upon clear, predictable, and enforceable patent rights in developing new products used to produce healthful food, protect crops, preserve the environment, and improve human and animal health. Companies and universities expend tremendous resources researching and developing economically and environmentally beneficial technologies to help feed, fuel, clothe, and heal people and animals. But developing new products is a slow, uncertain, and expensive process. Commercializing a single product can take a decade or longer and cost more than \$100 million. Strong patents are critical to ensure return on investments of time and money and support future investments in an industry that directly benefits American agricultural producers.

¹ <http://www.theglobalipcenter.com/ip-creates-jobs/>

We are concerned that H.R.9, as currently drafted, will discourage investment in modern agricultural tools important to rural America by making patent rights more difficult to enforce and more challenging for companies and universities to cross-license agricultural technologies. H.R.9 also hinders the ability of legitimate patent holders to quickly resolve patent disputes. Any changes to the U.S. patent system should consider misuse of post-grant review proceedings at the Patent and Trademark Office (PTO) which unfairly increase the burden on patent holders when defending their patents.

We have substantial concerns with how post-grant and inter partes review proceedings have been implemented in practice. H.R. 9 does not go nearly far enough to fix the problems we now see with inter partes review (IPR).

Using a more lenient “preponderance of the evidence” standard in IPR and post grant review (PGR) proceedings, the PTO promotes inconsistent outcomes between the Patent Trial and Appeal Board (PTAB) and district courts. Therefore, patent claims should be presumed valid in post-grant review proceedings and a challenger should have to prove invalidity by clear and convincing evidence as in district court.

Given the critical role innovation plays in modern farming, we urge you to take these concerns into account when considering H.R.9 and any other federal patent legislation.

Sincerely,

Nick Matteis, Executive Director
California Association of Wheat Growers

Roger Isom, President/CEO
California Cotton Ginners and Growers Associations

Paul Wenger, President
California Farm Bureau Federation

Reneé Hargrove, Executive Director
El Dorado County Farm Bureau

Ryan Jacobsen, CEO/Executive Director
Fresno County Farm Bureau

Andrew Howe, General Manager
Horizon Nut Company

Norman C. Groot, Executive Director
Monterey County Farm Bureau

Kathy Nakase, Executive Director
Orange County Farm Bureau

Charlotte Mitchell, Executive Director
Sacramento County Farm Bureau

Bruce Blodgett, Executive Director
San Joaquin County Farm Bureau

Teresa D. Bontrager, Executive Director
Santa Barbara County Farm Bureau

Tiffany A. Martinez, Executive Director
Shasta County Farm Bureau

Tim Tesconi, Executive Director
Sonoma County Farm Bureau

Patricia L. Stever, Executive Director
Tulare County Farm Bureau

Roger Isom, President/CEO
Western Agricultural Processors Association

CC: California Congressional Delegation