



December 3, 2013

Speaker John A. Boehner
H-232 The Capitol
Washington, D.C. 2015

Minority Leader Nancy Pelosi
H-2-04 The Capitol
Washington, D.C. 2015

Dear Mr. Speaker and Leader Pelosi:

On behalf of the Biotechnology Industry Organization (BIO), I am writing to share our grave concerns with H.R. 3309: The Innovation Act of 2013, as reported by the House Judiciary Committee. H.R. 3309 was introduced with the goal of furthering reform of the patent system, particularly with respect to patent-related litigation. We support increased transparency and oppose abusive litigation tactics. Unfortunately, as currently drafted, provisions in the legislation would erect unreasonable barriers to access to justice for innovators, especially small start-ups that must be able to defend their businesses against patent infringement in a timely and cost-effective manner, and without needless and numerous procedural hurdles or other obstacles. While we have been working to improve the legislation and appreciate some of the modifications that have been made by the bill's sponsors, these changes have not been sufficient to adequately address our concerns, and therefore BIO cannot support the legislation in its current form.

BIO's primary concerns are that H.R. 3309 would:

- Routinely defer or suspend discovery and litigation on the merits in patent infringement cases, whether in whole or against certain parties;
- Permit parties to seek reimbursement of their litigation costs from other parties under a vaguely-defined and potentially very broad set of patent-related cases, and to join additional third parties to the litigation in ways that create unwarranted risks for licensors, business partners, and funders of legitimate patentees; and
- Require unreasonable amounts of pleading specificity, and disclosure and public recordation of patent ownership, litigation interests, and other business or confidential information.

Taken as a whole, the provisions bulleted above create opportunities for systematic delays in patent litigation and raise the time and expense of patent litigation, contrary to the legislation's purported goals. While many of the provisions are well-intentioned and aimed at addressing legitimate patent litigation concerns, the current language is overly broad and would

result in too many unintended and unknowable consequences for innovators who rely on the patent system to fund and protect their inventions. In short, we are concerned that, in an attempt to target abusive litigation practices by the few, the proposals impose unjustified burdens on too many legitimate patent owners seeking to enforce and defend their inventions in good faith. Accordingly, such proposals are not supportable at this time.

Sincerely,

A handwritten signature in black ink that reads "Jim Greenwood". The signature is written in a cursive style with a large, looping initial "J".

James C. Greenwood
President and CEO
Biotechnology Industry Organization