

The Honorable Patrick Leahy
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

March 26, 2014

Dear Chairman Leahy and Ranking Member Grassley,

We write on behalf of the public interest and technology startup communities to urge you to support comprehensive patent reform legislation. Patent abuse has detrimental effects on American consumers, American jobs, and the American public. Thus, Congress should act quickly to protect the public and to prevent abusive patent tactics.

Abusive patent assertion and patent litigation raise the cost of necessary products and services. Time and resources wasted on fighting patent trolls and their often low-quality patents translate to higher costs, fewer products, and fewer job opportunities for Americans. Furthermore, technology is more prevalent today than it ever has been. When patent trolls use patents of questionable validity to target every day technologies, such as the Internet or smart phones, it is a direct affront to the public and the consumer interest.

Strong and comprehensive laws will enhance the patent system and protect consumers. No single provision will eradicate abusive patent assertion or deceptive litigation practices. We need comprehensive legislation that will attack the problems in our patent system at all angles, to foster invention, protect consumers, and create a system that discourages abuse. Specifically, we urge reforms including:

- **Curbing deceptive demand letters:** An abusive threat of patent litigation can cost American jobs and keep valuable products and services from consumers. These harms are especially felt by small and growing businesses. Unfair and deceptive demand letters are a consumer problem that demands oversight.
- **Promoting meaningful fee shifting:** When patent trolls have nothing to lose, they assert low-quality patents and take unjustified positions on them, undercutting the public's

access to technology. Curbing patent trolls will require a strong message that baseless and abusive lawsuits will presumptively warrant fee shifting.

- **Requiring fair notice in pleadings:** Patent trolls frequently hide behind barebones complaints and shell companies. Requiring a clear, informative complaint will give fair notice to the parties, facilitate early settlement, and inform the public.
- **Balancing the financial burden of discovery:** Patent litigation discovery is often unnecessarily costly. Provisions that carefully rebalance the time and burdens of cost will correct that unnecessary imbalance.
- **Protecting customers in patent litigation:** Small businesses and consumers who buy off-the-shelf technology products should be shielded from the complexities of patent litigation, when there is a willing manufacturer who is better equipped to handle the litigation.

We recognize that the civil justice system is important to protecting the public against corporate abuse and widespread harm. We fundamentally believe in keeping the courthouse doors open to everyone. But patent litigation is different from other types of litigation. The public interest here lies in preventing the abusive assertion of overbroad patents, ensuring availability of justice to those facing improper infringement claims, and reducing the threat of monopolies that unduly take away from the public domain.

Patent policy is not just about big businesses and patent owners. New technologies play an important role in the daily lives of all people. Patent trolls and patent abuse create a chilling effect on those technologies, an unfair tax on the people, and an offense against the public interest. We urge you to adopt these critical provisions, pass a comprehensive patent reform bill, and protect the future of American consumers.

Sincerely,

Public Knowledge
Engine Advocacy
Electronic Frontier Foundation
Application Developers Alliance