

November 5, 2013

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

The Honorable Robert Goodlatte
Chairman, Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

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

The Honorable John Conyers
Ranking Member, Committee on the
Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

Dear Messrs. Chairmen and Ranking Members:

We, the undersigned trade associations and public interest organizations, applaud bipartisan efforts in Congress to curb abusive patent litigation. As Congress considers this much-needed legislation, we strongly urge you to include provisions to address unfair and deceptive patent infringement demand letters.

Patent trolls are increasingly harassing businesses and not-for-profits of every size, across the wide swath of industries represented here, with demand letters. These letters come out of nowhere, and often allege that the mere use of everyday technology violates the patent holders' rights. Further, these questionable letters typically state vague or hypothetical theories of infringement, often overstate or grossly reinterpret the patent in question, and, in some cases, make allegations of infringement of expired or previously licensed patents.

At their core, demand letters use the threat of litigation as leverage to extract a "licensing fee" from the recipient business. Recipients often simply settle these nuisance claims rather than run the risk of protracted litigation in federal court. Put simply, it is often much more expensive to hire a lawyer to review or defend against a suspect claim than it is to pay the requested "fee." This is the troll's business model.

While many in Congress are appropriately focusing on litigation reform and changes to procedures at the U.S. Patent and Trademark Office ("USPTO") to curb abusive practices, we believe that pre-litigation demand letters must also be addressed. We appreciate that Chairman Leahy and other leaders in Congress, as part of the overall patent reform effort, support legislative proposals to have the Federal Trade Commission ("FTC") look into unfair or deceptive demand letters and, using their current consumer protection enforcement powers, rein in bad actors that target main street businesses.

Demand letters are central to the patent troll problem. Indeed, many claims begin and end with these letters as companies quickly pay undeserved "licensing fees," given the expense and complication of defending on the merits in court. We urge Congress to enact meaningful legislative solutions to protect businesses of all sizes from these "smash and grab" tactics. The fight for patent litigation reform and demand letter relief is truly a main street issue impacting

businesses and not-for-profits in communities across the country. We look forward to working with you on this important issue.

Sincerely,

American Association of Advertising Agencies

National Retail Federation

The Direct Marketing Association, Inc

National Council of Chain Restaurants

National Restaurant Association

The Mobile Marketing Association

Application Developers Alliance

Association of National Advertisers

The Food Marketing Institute

National Association of Convenience Stores - NACS

Public Knowledge

American Hotel & Lodging Association

National Grocers Association

Independent Insurance Agents & Brokers of America

National Association of Realtors – NAR

Competitive Carriers Association

Retail Industry Leaders Association

American Apparel & Footwear Association

Engine Advocacy

American Public Transportation Association

American Public Power Association

CC: All members of the Senate Judiciary Committee
All members of the House Judiciary Committee

