November 7, 2013

The Honorable John D. Rockefeller, IV
Chairman
Committee on Commerce, Science and Transportation
United States Senate
512 Dirksen Senate Office Building
Washington, DC 20510

The Honorable John Thune
Ranking Member
Committee on Commerce, Science and Transportation
United States Senate
512 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Claire C. McCaskill
Chairman
Subcommittee on Consumer Protection
Product Safety, and Insurance
512 Dirksen Senate Office Building
Washington, DC 201510

The Honorable Dean Heller
Ranking Member
Subcommittee on Consumer Protection,
Product Safety, and Insurance
512 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairmen Rockefeller, Ranking Member Thune, Chairman McCaskill, and Ranking Member Heller:

We, the undersigned trade associations, and members of the Stop Patent Abuse Now Coalition ("SPAN"), applaud today's hearing examining the deceptive practices by Patent Assertion Entities in the Senate Commerce Committee's Subcommittee on Consumer Protection, Product Safety and Insurance. As Congress begins to consider much-needed patent litigation reform legislation, we strongly urge you to work include provisions to address unfair and deceptive pre-litigation patent infringement demand letters.

As you will hear at today's subcommittee hearing, patent trolls are increasingly harassing businesses and not-for-profits of every size with demand letters. These letters come out of nowhere, and often allege that the use of commonplace 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 mere 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 engaging in a complicated and protracted legal battle. Put simply, it is often much more expensive to hire a patent attorney to review or defend against a suspect claim than it is to pay the requested "fee." This is the troll's calculated business model.

Pre-litigation demand letters are central to the patent troll problem. Many, if not most claims begin and end with a demand letter as companies quickly pay undeserved "licensing fees," to simply make the patent troll go away. We urge the subcommittee to examine 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. If you have any questions, please feel free to contact Elizabeth Oesterle (Etoesterle@venable.com) at Venable, LLP.

Sincerely,

American Association of Advertising Agencies

National Retail Federation

The Direct Marketing Association, Inc

The Mobile Marketing Association

Association of National Advertisers