



For Immediate Release

June 21, 2017

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Innovation Alliance Statement on Introduction of the Bipartisan STRONGER Patents Act of 2017

WASHINGTON, D.C. – Innovation Alliance Executive Director Brian Pomper today issued the following statement in response to the introduction of the bipartisan Support Technology & Research for Our Nation's Growth and Economic Resilience (STRONGER) Patents Act of 2017 by Senators Chris Coons (D-DE) and Tom Cotton (R-AR):

"The Innovation Alliance commends Senators Coons and Cotton for introducing the bipartisan STRONGER Patents Act of 2017. This comprehensive legislation is exactly what is needed to strengthen our patent system, which will promote American innovation, competitiveness and job creation.

"For roughly a decade now, we have seen a steady weakening of patent rights in the U.S., undermining the ability of inventors to protect their innovations from infringement from large corporations and foreign entities. The STRONGER Patents Act says 'enough is enough' and ensures that patent rights are protected as a fundamental underpinning of our innovation economy.

"Representing an updated and expanded version of Senator Coons' STRONG Patents Act of 2015, the STRONGER Patents Act takes critical steps to improve the patent system. It treats patents like any other property, permitting injunctions to protect patent owners against infringement during and after court cases. It ensures fairness in Patent Office administrative proceedings, limiting repetitive and harassing challenges against inventors. And it ends the diversion of patent application fees to other government spending, ensuring the Patent Office has the funding needed to grant high-quality patents without harmful delay.

"As the result of a series of patent-weakening Supreme Court decisions, legislative changes and administrative measures over the last decade, the U.S. patent system is no longer considered the global gold standard for intellectual property rights. While the U.S. has been curtailing patent protections, our foreign competitors, such as China and Germany, have been moving to strengthen those protections and promote innovation in their countries. Notably, in 2016, the U.S. fell to 10th place in the U.S. Chamber of Commerce's international [ranking](#) of patent system strength, falling behind countries such as Singapore, Spain and Italy.

"This weakening of U.S. patent rights has led innovation – and the jobs and economic growth that go with it – to increasingly move overseas, along with the venture capital that funds so

much of our start-up and entrepreneurial growth. In 2015, the U.S. share of global venture capital shrank to 54%, down from 83% in 1996, and many of the largest venture investments in the world are now occurring outside the U.S.

"At the same time, we have seen legislative proposals, such as the Innovation Act (H.R. 9) and the PATENT Act (S. 1137), that would further weaken patent rights. Had these bills passed, they would have greatly advantaged just a few companies to the serious detriment of American innovation.

"Patents provide a vital incentive for inventors, entrepreneurs, start-ups and universities to innovate and bring new technologies and medical breakthroughs to market. The American patent system, which is based on constitutionally-guaranteed patent rights, has been central to creating an innovation ecosystem that has produced the strongest economy in the world. The U.S. must adopt policies that strengthen our patent system, instead of further weakening it.

"The Innovation Alliance urges Congress to take up and pass the STRONGER Patent Act to help restore the U.S. to its position as the global leader in innovation."

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ABOUT THE INNOVATION ALLIANCE

The Innovation Alliance represents innovators, patent owners and stakeholders from a diverse range of industries that believe in the critical importance of maintaining a strong patent system that supports innovative enterprises of all sizes. Innovation Alliance members can be found in large and small communities across the country, helping to fuel the innovation pipeline and drive the 21st century economy. Learn more at www.innovationalliance.net.

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For Immediate Release

Contact: [George Goodno](mailto:George.Goodno@bio.org)
202-962-6660

BIO Statement of Support for the Introduction of the STRONGER Patents Act of 2017

Washington, D.C. (June 21, 2017) – The following statement on the introduction of the STRONGER Patents Act of 2017 by Senator Chris Coons (D-DE) may be attributed to BIO President and CEO Jim Greenwood:

“BIO supports balanced reforms to reduce abusive patent practices, while strengthening the strong incentives necessary to sustain our nation’s global leadership in biotechnology innovation and the creation of high-wage, high-value jobs throughout our country. With the introduction of the STRONGER Patents Act of 2017 Congress has begun the process of achieving that critical balance.

“I commend Senators Coons, Cotton, Durbin, and Hirono for their leadership in introducing legislation that cracks down on false or deceptive patent demand letters, ensures urgently-needed fairness and finality in Patent Office post grant proceedings, eliminates diversion of PTO user fees, and helps American research-intensive companies protect their investments in innovation.

“Strong patents are the lifeblood of the biotechnology industry. They are critical in ensuring a steady stream of capital to biotechnology companies developing innovative medicines, alternative energy sources and insect- and drought-resistant crops. And they are essential to the technology transfer process that leads from inventions in the lab to products on the shelves.

“The majority of biotechnology companies are small companies that have no products on the market, and thus their research and development activities are funded through massive amounts of private sector investment over many years, sometimes even decades. Without strong, predictable and enforceable protections for patented inventions, investors will shy away from investing in biotech innovation, degrading the ability to provide solutions to the most pressing medical, agricultural, industrial and environmental challenges facing our nation and the world.

“BIO supports the introduction of the STRONGER Patents Act of 2017 and will continue to advocate for passage of legislation to curb abusive patent practices, while

strengthening the ability of patent owners to defend their inventions and businesses against infringement.”

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University Associations Express Support for STRONGER Patents Act

JUNE 21, 2017

Washington, DC - The Association of American Universities, Association of Public and Land-grant Universities, Association of University Technology Managers, and Council on Governmental Relations today released the following statement regarding the introduction of the STRONGER Patents Act in the U.S. Senate.

“AAU, APLU, AUTM, and COGR thank Senators Coons, Cotton, Durbin, and Hirono for introducing the STRONGER Patents Act of 2017. This legislation would effectively crack down on the abusive practices of patent trolls without weakening the U.S. patent system. Universities rely on a strong patent system to ensure research discoveries can be transferred to businesses that can develop them into marketable products that improve our quality of life and fuel the economy. This measure would help ensure the strength of this technology transfer process, which significantly contributes to our nation’s leadership in science and technology. We look forward to continuing to work with Congress toward our shared goals of curtailing abusive patent litigation and reinforcing the strength of the U.S. patent system.”



MDMA Statement on the "STRONGER Patents Act"

Washington, D.C. – Mark Leahey, President and CEO of the Medical Device Manufacturers Association (MDMA), issued the following statement today regarding introduction of the "STRONGER Patents Act" in the United States Senate:

"MDMA applauds the bipartisan work of Senators Chris Coons, Tom Cotton, Dick Durbin and Mazie Hirono for devising legislation that thwarts frivolous patent lawsuits while leveling the playing field for inventors. The 'STRONGER Patents Act' provides a balanced, targeted approach to end abuse, support innovation and spur the lifesaving cures and therapies that patients and providers desperately need.

"MDMA has always supported targeted efforts to deal with patent litigation abuse, and the 'STRONGER Patents Act' will address this problem while not having the unintended consequences of weakening one's intellectual property rights. We look forward to working with Congress and all policy makers to help ensure that America's innovation ecosystem remains the envy of the world."

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June 21, 2017

Coons, Cotton, Durbin and Hirono Introduce STRONGER Patents Act of 2017

U.S. Senators Chris Coons (D-DE), Tom Cotton (R-AR), Dick Durbin (D-IL), and Mazie Hirono (D-HI) today introduced the Support Technology & Research for Our Nation's Growth and Economic Resilience (STRONGER) Patents Act of 2017. The bill is an expanded version of Senator Coons' STRONG Patents Act of 2015 that promotes innovation, competitiveness and economic growth. USIJ wholeheartedly supports this piece of legislation that aims to strengthen America's patent system.

The STRONGER Patent Act fights patent abuse and encourages positive reform by:

- Reducing repetitive and harassing attacks on patents by authorizing only one review per patent claim;
- Limiting entities making financial contributions to a patent challenge from making future challenges;
- Minimizing abuse of post-grant proceedings by ensuring that a petitioner has a business or financial reason to bring a patent case;
- Ensuring pleading standards for patent-infringement cases match the standards used for all other civil actions;
- Providing an "expedited" examination procedure instead of amending claims;
- Eliminating fee diversion from the USPTO; and,
- Permitting injunctions to protect patent owners against infringement during and after court cases, among other things.

USIJ would like to thank Senators Coons, Cotton, Durbin and Hirono for advocating for a U.S. patent system that helps inventors protect their innovations from infringement and safeguards patents as essential property rights.

###

The Alliance of U.S. Startups and Inventors for Jobs (USIJ) is a group of nearly 50 Silicon Valley-based inventive startups, inventors, investors and entrepreneurs. Collectively, we have launched dozens of companies in areas ranging from biotechnology to medical devices and wireless technology. We invent real things and create real companies. We also rely on the strength of the U.S. patent system to create these companies, breakthroughs and jobs.



Stephen J. Uhl
President & Chief Executive Officer

June 23, 2017

Senator Chris Coons
127A Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Coons:

PhRMA appreciates your efforts in crafting the STRONGER Patents Act of 2017 that will bring balanced reforms that would strengthen our nation's patent system.

As you know, intellectual property (IP) is the bedrock upon which the innovative biopharmaceutical industry is built. The U.S. biopharmaceutical industry supports more than 4.4 million jobs across the economy and is the single largest funder of domestic business research and development (R&D). While medicines developed by the industry have produced large improvements in health across a broad range of diseases, they come with significant costs and risks, as developing one new medicine takes over a decade and costs an average of \$2.6 billion.

America's biopharmaceutical companies make these substantial R&D investments – totaling more than \$60 billion in 2015 alone – in reliance on patents to protect their inventions, and to provide an opportunity to recover their significant development costs. Patents are critical for biopharmaceutical innovation given the research-intensive nature of this sector, and the substantial upfront investment needed to develop new medicines that meet Food and Drug Administration approval requirements.

However, the post-grant proceedings established under the America Invents Act (AIA), particularly the inter partes review (IPR) process, threaten to disrupt the delicate biopharmaceutical innovation ecosystem by permitting challenges to biopharmaceutical patents in multiple venues, including in unfair administrative proceedings conducted under standards that are different from those used in federal court. The IPR process has been implemented in a way that results in the same agency that considers and grants patents in the first place finding unpatentable at least some claims in over 80% of final written decisions. Entities, such as hedge funds, have abused the IPR process by shorting stock of companies holding patents and then filing IPRs in an attempt to drive shareholder value down and hedge fund profits up. Entities also have used the threat of IPRs in such a way that creates significant business uncertainty for biopharmaceutical companies, which diminishes their ability to raise capital and recoup development costs, which could ultimately chill future R&D investment.



Senator Chris Coons

June 23, 2017

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The STRONGER Patents Act would be a significant step to improve the patent system by acting to prevent abuses and bring balance to post-grant proceedings and protect the rights of patent holders. Among other things, the proposed legislation specifies that the standards for claim construction and burden of proof in post-grant proceedings would be in line with standards used in federal court, and adds provisions to curb abusive patent challenges.

PhRMA appreciates your strong leadership in seeking to strengthen our patent system to incentivize the next generation of great medical innovations.

Sincerely,

INTERDIGITAL CEO: SENATOR COONS' STRONGER ACT "WORKS TO STRENGTHEN AMERICAN INNOVATION"

WILMINGTON, Del., June 21, 2017 – William J. Merritt, President and CEO of mobile technology research and development company InterDigital, Inc. (NASDAQ:IDCC), today reacted to the new bipartisan STRONGER Patents Act authored by Senator Chris Coons (D-Del.) and introduced with Senators Tom Cotton (R- Ark.), Dick Durbin (D-Ill.), and Mazie Hirono (D-Haw.):

“This bill comes at a time when other countries have moved ahead of the U.S. in terms of intellectual property. Until this year, the U.S. patent system was ranked first worldwide by the U.S. Chamber of Commerce; it is now ranked tenth. The STRONGER bill helps pave the way for America to once again have the top patent system, improving our global competitiveness and providing a level playing field for small businesses and startups to compete with large incumbents. Senator Coons has proven himself to be a leader in protecting innovation, and we fully support his efforts to strengthen American industry and competitiveness through this bill.”

About InterDigital®

InterDigital develops mobile technologies that are at the core of devices, networks, and services worldwide. We solve many of the industry's most critical and complex technical challenges, inventing solutions for more efficient broadband networks and a richer multimedia experience years ahead of market deployment. InterDigital has licenses and strategic relationships with many of the world's leading wireless companies. Founded in 1972, InterDigital is listed on NASDAQ and is included in the S&P MidCap 400® index.

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THE
AMERICAN
CONSERVATIVE
UNION

STRONGER Patents Act of 2017 Protects Innovators, Inventors, and Constitutional Patent System

June 21, 2017

WASHINGTON DC — Today, the American Conservative Union (ACU) announced its support for the STRONGER Patents Act of 2017. The measure, sponsored by Senator Tom Cotton (R-Ark.) and Senator Chris Coons (D-Conn.), protects American innovators, creators, and inventors by strengthening our constitutionally-protected patent system. The STRONGER Patents Act would implement commonsense modernization measures that allow our patent system to keep up with rapidly changing technologies that impact the lives of all Americans.

The bill includes a number of components that will positively impact intellectual property rights:

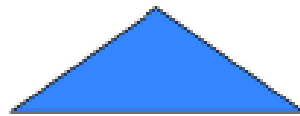
- Restores the foundation of patents as property rights
- Minimizes abuse of post-grant proceedings by strengthening qualifiers for legal standing
- Places priority of patent validity with the courts if legal proceedings have already begun
- Provides for expedited processes for patent owners seeking amendments to claims
- Eliminates repetitive proceedings

Congress remains a key player in making sure that intellectual property rights are strengthened and preserved so that IP continues to be a critical cornerstone of our economic well-being. The STRONGER Patents Act helps to achieve that goal.

“Our founders understood that real progress for future generations of Americans would only be possible if creativity and innovation were protected, encouraged, and allowed to thrive in a free-market atmosphere,” said ACU’s Dan Schneider. “The STRONGER Patents Act incorporates a limited government approach to strengthen our patent system, which will lead to economic opportunity. It will also discourage bad actors, foreign and domestic, from illegally benefitting from someone else’s hard work.”

ACU urges all members of the Senate to vote YES on the STRONGER Patents Act of 2017.

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Conservatives
for
Property Rights

June 20, 2017

The Honorable Chris Coons
127A Russell Senate Office Building
United States Senate
Washington, DC 20510

Dear Senator Coons:

Conservatives for Property Rights fully supports the STRONGER Patents Act. Thank you for your leadership on this important property rights matter.

CPR emphasizes the central importance of private property in all its forms — physical, personal, and intellectual. The right to private property ranks among the unalienable rights the Founders referenced in the Declaration of Independence. Thus, property rights should not be considered a conservative or liberal issue, although this coalition approaches property rights from a conservative philosophical perspective.

As a measure that seeks to strengthen private property rights, the STRONGER Patents Act fits within that vein. The bill would curb the worst aspects of the inter partes review proceedings, which have provided patent infringers, hedge funds, and speculators a playground to challenge patent validity repeatedly and viciously. Practically speaking, such misconduct and abuse has deprived inventors of a property right that the Constitution says is to be exclusive for a period of time. Your bill imposes limits on inter partes challenges, addresses problem areas such as claim construction, burden of proof, standing, appeals rights upon becoming a target of inter partes challenges, ascertaining challengers' real party in interest, deference to Article III judicial reviews of patent validity, amending patent claims, and providing greater due process to patent owners as to the postgrant PTAB judges involved at different stages. These measures would help alleviate some of the damage inflicted on our patent system, on inventors who face the prospect of lost commercial traction during what is supposed to be their exclusive ownership and use of their invention, and on the erosion of property rights in the patent space.

Further, CPR commends the bill's restoration of injunctive relief against patent infringers, elimination of patent application fee diversion from the PTO, closure of loopholes regarding patent infringement, attention to particular needs of small businesses and universities, and an appropriately balanced approach to abusive patent-related demand letters.

Conservatives for Property Rights commends the STRONGER Patents Act and looks forward to working with you to educate Senators on the underlying property rights at issue here.

Sincerely,

James Edwards
Executive Director

“protecting the exertions of talents and industry . . . securing to them their justly acquired fruits”
— *Alexander Hamilton*



The STRONGER Patents Act: Important Legislation to Protect Our Innovation Economy

David Lund / June 21, 2017 /

Today, Senators Chris Coons, Tom Cotton, Dick Durbin, and Mazie Hirono [introduced](#) the Support Technology & Research for Our Nation's Growth and Economic Resilience [\(STRONGER\) Patents Act of 2017](#). This important piece of legislation will protect our innovation economy by restoring stable and effective property rights for inventors.

First and foremost, the STRONGER Patents Act will bring some much-needed balance to the post-issuance review systems administered by the USPTO's Patent Trial and Appeal Board (PTAB). Until now, the PTAB has been a "[death squad](#)"; an arm of the USPTO killing patents that the same USPTO had previously issued. There are even examples where the PTAB has invalidated a patent that had [previously been upheld](#) by the Federal Circuit Court of Appeals.

[Data](#) analyzing PTAB outcomes demonstrates just how dire the situation has become. [Coordinated and repetitive challenges](#) to patent validity have made it impossible for patent owners to ever feel confident in the value and enforceability of their property rights. Only [16%](#) of patents reaching a final written decision at the PTAB have survived unscathed.

This is not surprising as the procedures have been [stacked against patent owners](#) from day one. We and others have noted how [broadly construing claims](#), [multiple filings](#) against the same patent by the same challengers, and the [inability](#) to amend claims, among other [abuses](#), severely disadvantage patent owners in PTAB proceedings. With the STRONGER Patents Act, these proceedings will move closer to a fair fight to truly examine patent validity. There are many aspects to this legislation that will improve the PTAB, such as:

- Harmonizing claim construction with litigation, focusing on the "ordinary and customary meaning" instead of the broadest interpretation a bureaucrat can conceive. Sections 102(a) and 103(a).

- Confirming the presumption of validity of an issued patent will apply to the PTAB just as it does in litigation. Sections 102(b) and 103(b).
- Permitting only those who are “charged with infringement” of the patent to challenge that patent, thus preventing the abusive and extortionate practice of challenging a patent to extract a settlement or short a company’s stock. Sections 102(c) and 103(c).
- Limiting abusive repetitive and serial challenges to a patent. Sections 102(d), (f) and 103(d), (f).
- Authorizing interlocutory review of institution decisions when “mere institution presents a risk of immediate, irreparable injury” to the patent owner as well as in other important circumstances. Sections 102(e) and 103(e).
- Prohibiting manipulation of the identification of the real-party-in-interest rules to evade estoppel or other procedural rules and providing for discovery to determine the real-party-in-interest. Sections 102(g) and 103(g).
- Giving priority to Federal Court determinations on the validity of a patent. Sections 102(h) and 103(h).
- Improving the procedure for amending a challenged patent, including a new expedited examination pathway. Sections 102(i) and 103(i).
- Prohibiting the same administrative patent judges from both determining whether a challenge is likely to succeed and whether the patent is invalid. Section 104.
- Aligning timing requirements for *ex parte* reexamination with *inter partes* review by prohibiting requests for reexamination more than one year after being sued for infringement. Section 105.

Second, the STRONGER Patents Act will make other necessary corrections to allow patents to promote innovation. For example, as Section 101 of the Act confirms, patents are property rights and deserve the same remedies applicable to other kinds of property. In *eBay v. MercExchange*, the Supreme Court ignored this fundamental premise by holding that patent owners do not have the presumptive right to keep others from using their property. Section 106 of the STRONGER Patents Act will undo the disastrous *eBay* decision and confirm the importance of patents as property.

Third, the STRONGER Patents Act will once and for all eliminate USPTO fee diversion. Many people do not realize that the USPTO is funded entirely through user fees and that no taxpayer money goes to the office. Despite promises that the America Invents Act of 2011 would end fee diversion, the federal government continues to redirect USPTO funds to other government programs. This misguided tax on innovation is long overdue to be shut down.

Each of the steps in the STRONGER Patents Act will help bring balance back to our patent system. In addition to the major changes described above, there are also smaller changes that will be important to ensuring a vibrant and efficient patent system. CPIP co-founder Adam Mossoff recently testified to Congress about the harms being done to innovation through weakened patent protection. It is great news to now see Congress taking steps in the right direction.



Coons-Cotton Patent Reform Bill Long Overdue

June 21, 2017

Fairfax, Va.—Americans for Limited Government President Rick Manning today issued the following statement urging members of the U.S. Senate to cosponsor legislation by Sen. Chris Coons (D-Del.) and Sen. Tom Cotton (R-Ark.), the STRONGER Patent Act:

“Protecting intellectual property is a cornerstone of American exceptionalism, as evidenced by the inclusion of patent rights in Article I of the Constitution. This has allowed us to lead the world in innovation, but changes in recent years have weakened those protections and the US has begun to lose its place as the innovation capital of the world. Sens. Coons and Cotton have introduced legislation that begins to lay out the framework to restore America as the best place in the world to protect intellectual property.

“Through changes, such as reforming the Patent Trial and Appeal Board process, which is stacked against patent owners, and ending the diversion of patent fees, this bill will boost U.S. competitiveness and strengthen property rights protections for innovators. These reforms are long overdue and deserve the support of those who want to advance economic growth and prosperity.”

Interview Availability: Please contact Americans for Limited Government at 703-383-0880 ext. 106 or at media@limitgov.org to arrange an interview with ALG experts.

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June 19, 2017

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Contributions to Eagle Forum
Education & Legal Defense Fund
are tax-deductible by U.S.
Treasury ruling since 1981.

The Honorable Chris Coons
127A Russell Senate Office Building
United States Senate
Washington, DC 20510

VIA E-MAIL

Dear Senator Coons:

Eagle Forum Education & Legal Defense Fund, a national public policy organization with members and leaders across the country, firmly believes in our nation's constitutionally grounded intellectual property rights and the ability of inventors to protect and defend their IP against those who would infringe their patents. Thank you for your leadership on helping to right the ship regarding the exclusive property right a patent is supposed to secure.

We note that policies such as those included in the STRONG Patents Act would advance the property rights of inventors, small businesses, universities, and other owners of intellectual property. This approach would level the playing field for the little guy by closing certain avenues for abusive tactics in quasi-judicial proceedings created by the America Invents Act. These post-grant review forums have recently come to light as to how hedge funds, patent infringers, and speculators play manipulatory games designed to devalue patents for their own private gain. Curtailing several predatory tactics for gaming the system at the Patent and Trademark Office to attack legitimate patents is urgently needed to curb tactics that drain resources from inventors and start-ups, to reduce uncertainty regarding patent validity, and to defend patent value.

Restoring the presumption of injunctive relief and closing loopholes that have made it harder to establish patent infringement would strengthen the ability of patent owners to defend their patents (that is, to protect their private property). And all sides agree on putting an end to the diversion of the user fees inventors pay the PTO to process their patent applications.

It is important to balance addressing abusive practices of demand letters and maintaining the legitimate ability of patent owners to defend their IP. A carefully tailored approach would allow inventors to defend their private property rights as well as relieve small business owners from false and misleading demand letters, without weakening patents or patent rights. The Federal Trade Commission could pursue unfair or deceptive practices using patent demand letters under its existing authorities.

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This approach, such as that the STRONG Patents Act takes, is far better than that of so-called "patent reform." A reasonable, focused, balanced policy would be consistent with the constitutional intellectual property right. Thank you for your pro-patent, pro-inventor approach on these matters.

Faithfully,

A handwritten signature in black ink, appearing to read "Ed Martin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ed Martin
President



July 5, 2017

The Honorable Chris Coons
U.S. Senator
127A Russell Senate Office Building
Washington, DC 20510

The Honorable Tom Cotton
U.S. Senator
124 Russell Senate Office Building
Washington, DC 20510

Dear Senators Coons and Cotton:

On behalf of our nation's venture capital investors and the entrepreneurs they support, thank you for introducing the bipartisan *Support Technology & Research for our Nation's Growth and Resilience Act* (STRONGER Patents Act). Venture capitalists work shoulder-to-shoulder with entrepreneurs to transform breakthrough ideas into high-growth companies that drive job creation and economic growth in the United States. Startups in fields as diverse as manufacturing, digital technologies, medical devices, and life sciences are critically dependent on patents to protect their investments as their companies grow and create jobs for Americans. The right to protect one's ideas is a bedrock principle of our country and a vital component to the health and well-being of the entrepreneurial ecosystem.

We commend and endorse the recognition reflected in the bill that patent rights must be enforceable if they are to serve their essential objective of fostering our nation's innovation economy. The venture capital community also supports the provisions of the STRONGER Patents Act that create mechanisms for addressing abusive behavior against small companies, as this has long been one of the purported objectives of patent reform. We believe your proposal to curb actual abuse of the litigation process is set forth nicely in the bill, which manages also to maintain a robust patent protection system so that small startup entrepreneurs can defend themselves and their patent rights.

We commend you for introducing legislation that will bring appropriate reforms to our patent system. The entrepreneurial ecosystem thanks you for your leadership on this important issue.

Sincerely,

A handwritten signature in black ink that reads "Bobby Franklin". The script is cursive and fluid, with the first letters of each name being capitalized and prominent.

Bobby Franklin



July 18, 2017

STRONGER Patents Act of 2017 Introduced

In late June, the Support Technology and Research for Our Nation's Growth and Economic Resilience (STRONGER) Patents Act of 2017 was introduced in the Senate by co-sponsors Sen. Chris Coons (D-Dela.), Sen. Tom Cotton (R-Ark.), Sen. Dick Durbin (D-Ill.) and Sen. Mazie Hirono (D-Hawaii). The bill is an expanded version of Senator Coons' STRONG Patents Act of 2015 that promotes innovation, competitiveness and economic growth.

The STRONGER Patents Act takes critical steps to improve the patent system. It treats patents like any other property, permitting injunctions to protect patent owners against infringement during and after court cases. It ensures fairness in Patent Office administrative proceedings, limiting repetitive and harassing challenges against inventors and it ends the diversion of patent application fees to other government spending, ensuring the Patent Office has the funding needed to grant high-quality patents without harmful delay.

[A one-pager on the STRONGER Patents Act](#) explains why the bill was drafted in the first place. The overview cites changes wrought by the U.S. Supreme Court and unintended consequences of activities at the [Patent Trial and Appeal Board \(PTAB\)](#) created by the [America Invents Act \(AIA\) of 2011](#) which have undermined the U.S. patent system. According to the one-pager, the impact of undermining the patent system will be significant to patent-intensive industries creating high paying jobs with wage premiums of 74 percent and the \$85 billion trade surplus that the U.S. enjoys due to the licensing of intellectual property. At the same time, the bill also has aspects which target the abuses of bad-faith demand letters as well as provide full funding for the U.S. Patent and Trademark Office (USPTO) to create high quality patents.

Specifically, the STRONGER Patent Act fights patent abuse and encourages positive reform by:

- Reducing repetitive and harassing attacks on patents by authorizing only one review per patent claim;
- Limiting entities making financial contributions to a patent challenge from making future challenges;
- Minimizing abuse of post-grant proceedings by ensuring that a petitioner has a business or financial reason to bring a patent case;
- Ensuring pleading standards for patent-infringement cases match the standards used for all other civil actions;
- Providing an "expedited" examination procedure instead of amending claims;
- Eliminating fee diversion from the USPTO; and,
- Permitting injunctions to protect patent owners against infringement during and after court cases, among other things.

The major bulk of the bill consists of amendments to both inter partes review (IPR) and post-grant review (PGR) proceedings at the PTAB. [A two-pager providing a section-by-section review of the](#)

bill summarizes the various amendments made to IPRs and PGRs. First, the bill would harmonize the claim-construction standard used in PTAB proceedings with the standard used in district court, requiring claims to be construed as they would under patent validity challenges made under [35 U.S.C. Section 282\(b\)](#) for the ordinary and customary meaning of the claim while also taking into account claim constructions from previous court rulings. In terms of burden of proof, the bill also harmonizes IPRs and PGRs with district court proceedings by maintaining the presumption of patent validity governed by [35 U.S.C. 282\(a\)](#) and placing the burden of proving unpatentability “by clear and convincing evidence” on the petitioner. For standing, the bill would amend IPR and PGR statutes to ensure that petitioners have either been sued by the patent owner or have been charged with infringement, limiting standing to those parties with a real financial or business interest in the patent to limit incentives for privateering or extortion of nuisance settlements. The bill would also amend existing U.S. code surrounding patent law to provide discovery of real parties in interest in PTAB petitions, including setting forth procedures for the deposition of witnesses submitting affidavits or declarations.

Patent protections are particularly important for small businesses, which operate on much smaller margins and often rely more heavily on their intellectual property for revenue than large firms. According to the U.S. Small Business Administration, small businesses produce 16 times more patents per employee than large patenting firms, which has a direct correlation with job growth.

The STRONGER Patents Act offers a balanced solution to stop the practice of fraudulent and abusive patent demand letters and various other improvements to the current U.S. patent law, and stops short of weakening existing patents and discouraging innovation in the U.S. for years to come.