



May 6, 2015

Statement of the U.S. Alliance for Startups and Inventors for Jobs (USIJ) regarding the Senate Judiciary hearing entitled “S. 1137, the “PATENT ACT” – Finding Effective Solutions to Address Abusive Patent Practices.”

The members of USIJ are entrepreneurs, startups, venture capitalists, researchers and technology incubators. We invent real things, create real jobs and fund and develop real breakthroughs in areas ranging from biotechnology and medical devices, to clean energy, software and wireless technology. We are concerned that the Senate Judiciary Committee has chosen not to hear from anyone who truly represents the dynamic venture-backed startup community in the United States at today’s hearing. Had the Committee chosen to hear from an entrepreneur running a young venture-backed company that is creating, developing and patenting important fundamental inventions in the technology or life sciences field, or one of the venture capitalists who invest in such companies, it would hear a much different perspective on the PATENT Act than what is being presented by some of the large corporations and front groups represented today. The venture-backed startup community that is not represented at all today a critically important constituency for furthering U.S. technology and life science leadership and job growth, and it is also the community whose very existence is threatened by the PATENT Act. This omission will result in an unbalanced hearing and an unfair, false witness narrative that can not fully expose the significant damage to our invention economy that would result if the present form of the bill becomes the law.

On the introduction of the Protecting American Talent and Entrepreneurship (PATENT) Act of 2015 in the U.S. Senate:

Despite making very small improvements over the disastrous provisions contained in H.R. 9, the Innovation Act, the recently-introduced PATENT Act does nothing that will actually strengthen the patent system for inventive U.S. startups. Rather, it will make it far more difficult for small companies to protect and enforce their patented technologies against larger competitors, and based on the formation of today’s hearing witness list, we fear this might indeed be the intent.

We remain very concerned with provisions in the PATENT Act that will make the pleading and discovery processes much more complex, expensive and risky for startups and small businesses that must enforce their patents. Furthermore, the PATENT Act carries fee shifting provisions that could also deter startups and small businesses from

enforcing their patents and make investors reluctant to provide them capital. Overall, the complex intertwining of various sweeping and related provisions work together to make patent litigation of any kind too expensive and risky for small companies and inventor entities to take on the giant companies pressing for the legislation, whether the small companies be defendants or plaintiffs. This would greatly increase the significant advantages large companies now have over smaller competitors that create the new products and technology that fuels our economic growth, and would stifle venture investment in fundamental invention of all kinds. To make things worse, one of the main beneficiaries of the current form of the PATENT Act would be overseas competitors, such as Chinese company ZTE, who would be able to copy U.S. inventions with little concern of a meaningful enforcement action, or the need to pay for the right to do so.

We believe that the Committee could easily and effectively address concerns regarding patent litigation abuse with a much more focused set of provisions such as directly addressing demand letters sent to retailers and retailer patent lawsuits. We are ready to meet with you or your staff to discuss an approach to the stated patent litigation concerns in a way that does not weaken the patent system, benefit large companies at the great expense of smaller companies, or tilt the system against legitimate, inventive companies that must be able to efficiently and effectively protect their intellectual property in an increasingly competitive environment.

We hope that you will include organizations such as ours who represent the venture capital and startup community in the U.S. as you move forward with your consideration of the PATENT Act.

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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.