



February 24, 2021

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20230

The Honorable Kamala D. Harris
Vice President of the United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20230

Dear President Biden and Vice President Harris,

Congratulations on your election and on the early, decisive actions of your Administration.

As you face the unprecedented challenge of combatting a devastating global pandemic and reinvigorating the U.S. economy it is clear that the ingenuity and determination of America's entrepreneurs, inventive companies and workers will be critical to our shared recovery.

The Alliance for U.S. Startups & Inventors for Jobs (USIJ) is a coalition of startup companies and their affiliated entrepreneurs, inventors and investors that depend on stable and reliable patent protection as an essential and necessary foundation for making long-term investments of capital, time commitments and careers to high-risk businesses that create and prove out the majority of important new technologies. This includes investments in strategically critical areas such as medical devices, core wireless technologies, life sciences, semiconductors, AI and technologies that can help address the significant challenge of climate change.

Inventing, developing and commercializing breakthrough technologies in these and other industry areas typically requires hundreds of millions of dollars of venture capital and, based on academic analysis and our personal experience, these commitments cannot and will not be made without the assurance that comes from strong patent protection for the fundamental R&D involved. Ownership of the intellectual property contained in the invention itself must be successfully defended from copying without proper compensation. The strong IP protections historically afforded by the U.S. patent, trademark and copyright system are precisely why our citizens, workers and government have enjoyed the benefits of the world's most innovative economy.

It is therefore our view that the U.S. cannot sustain its global economic leadership without a strong patent system. This is especially true as we face increasingly aggressive competition from China, a country which is moving to dramatically strengthen its own patent system to support its domestic champions.

A strong patent system is also critical to addressing concerns about the increasing concentration of power within a handful of large technology companies. An organization that has gained near monopoly power will naturally seek to undercut the ability of any smaller competitor to challenge it. This is why we have seen many large, incumbent technology companies fight to degrade the U.S. patent system. They know that a disruptive competitor with a better idea that is protected by the patent system is one of the few things that can actually challenge them. If you weaken the U.S. patent system you diminish the chances that a new startup will shake the foundations of an established monopoly.

As active entrepreneurs, inventors and venture investors we are in the business of developing breakthroughs that create new companies, new technologies and new jobs. We are looking to the Biden Administration to support strong patent protections as a critical tool to enable us and the thousands of others like us to compete and thrive.

The first step is to appoint a Director of the U.S. Patent and Trademark Office (USPTO) who is committed to maintaining a system that delivers high-quality patents and supports their predictable enforcement. The USPTO has weathered the COVID crisis well based on effective leadership and a committed and flexible workforce. Course corrections made over the past several years to rebalance the processes at the USPTO to better protect U.S. inventors have led to higher-quality patents that are less susceptible to serial attack from big technology companies. Still, much needs to be done and we cannot afford to backslide as we look to match competitors such as China who are making huge investments in the creation of breakthrough technologies and targeting our most innovative industries. A strong and inclusive U.S. patent system that hears the voice of startups and smaller companies will also incentivize a more diverse invention community in the U.S.

We therefore urge you to prioritize the selection of the next USPTO Director and consider a number of proven criteria as you weigh this decision.

First, it is crucial that the Director be committed to the core principle that the creation of intellectual property has historically been the driving force of the U.S. economy. This has led to tremendous economic growth, the creation of new companies and entirely new industries. The prioritization of invention and creativity in our economy is also an entirely American phenomenon, and the U.S. patent system must continue to be the highest international standard for intellectual property rights. At a time of increasingly aggressive competition and often predatory IP practices from countries like China, and dominance in certain markets by the largest and most powerful companies that have ever existed, we believe that the role of the USPTO Director must be to empower new, inventive U.S.

companies to gain a foothold in the market. They can only do this with a strong patent system that encourages risk-taking and attracts venture investment. More than ever, this is the time to ensure experienced USPTO leadership that prioritizes reliable and predictable protection for investments in high quality patents, and aggressively supports their effective enforcement at home and abroad. The role of the USPTO in providing these protections is critical if the U.S. hopes to retain its leadership in key sectors such as, life sciences, clean energy, information technology, semiconductors, AI, chemicals and the industrial markets.

Second, it is of critical importance that the Director maintain an objective view towards the very diverse stakeholders in the American IP system. Our system must work for all, and the Director should have experience representing a variety of patent holders, and not be biased in favor of, or against, any specific group or industry. Specifically, it is important to avoid both actual as well as perceived bias. The USPTO Director is in many ways the chief advocate for intellectual property, and as such, nominees should not have a history that criticizes American IP rights or come from a company or an industry known for such criticisms.

Third, to understand how to maintain and grow the benefits of the U.S. patent system for our country, it is essential that the USPTO Director be an exceptional IP attorney, with extensive, real-world litigation and transaction experience. Patent law is one of the most intricate areas of U.S. statute and case law, and the interests of stakeholders, whether they are inventors, R&D-intensive companies or users of patented technologies, often lead to resolution through litigation either in court or at the USPTO. It is impossible to drive successful patent policy at the USPTO without extensive, first-hand experience in patent litigation and transactions in order to understand the consequences these policies have.

Fourth, it is also clear that the Director must have significant management and leadership experience. The USPTO is a large and incredibly complex organization that can impact markets, effect major employment and investment decisions, and that operates on a global stage. It is our view that to effectively lead such a large and demanding organization, the Director must be a proven and accomplished executive manager, with a demonstrated ability to operate in a highly collaborative environment such as exists in large U.S. government agencies.

Fifth, the USPTO Director should be expected to be a leader in expanding diversity in U.S. invention, both demographic and geographic. USIJ members and many other business leaders worked closely with former Director Iancu on the SUCCESS Act and the USPTO's implementation of it, and we applauded the creation of the National Council for Expanding American Innovation. Many leading industry CEOs, university presidents and venture capitalists are on the council. This highly successful group is working to open up U.S. invention opportunity to under-represented groups. The next Director should be committed to continuing these efforts.

Finally, we stress the important role that the USPTO Director plays as one of America's leading international advocates for intellectual property rights and innovation. The Director must be capable of successfully representing the U.S., as a strong advocate for American intellectual property at key international bodies such as the World Intellectual Property Organization and with major trading partners. This requires vision, compelling leadership and diplomacy in working with other IP leaders around the world to create consensus towards robust intellectual property protection and enforcement systems.

We appreciate this opportunity to share the views of USIJ with you as we believe they represent the perspectives of many other inventors, entrepreneurs, investors and workers who depend on a strong and enforceable U.S. patent system. We look forward to the opportunity to collaborate with you and leaders in your Administration to confront our current challenges, and, through American innovation, build a better, stronger and more inclusive economy.

Sincerely,

USIJ Member Companies:

Aegea Medical	ExploraMed
BioCardia	Fogarty Institute for Innovation
Convelo Therapeutics	ForSight Labs, LLC
DivX, LLC	Headwater Research
EarLens Corporation	IL-2Rx
Lauder Partners, LLC	Prescient Surgical
Materna Medical	Puracath Medical
MedicalCue	Rearden Companies
Moximed	Siesta Medical
NC8	Tallwood Venture Capital
Pavey Investments	The Foundry
Precision Biopsy	

cc:

Ronald Klain, White House Chief of Staff
Governor Gina Raimondo, Secretary of Commerce Nominee
Don Graves, Deputy Secretary of Commerce Nominee