

Conservative Action Project

The Conservative Action Project, founded by former **Attorney General Edwin Meese** and chaired by **The Honorable Becky Norton Dunlop**, is designed to facilitate conservative leaders working together on behalf of common goals. Participants include the CEO's of over 100 organizations representing all major elements of the conservative movement-economic, social and national security.

Memo for the Movement

Patent Protections

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Washington, DC

Conservatives Must Stand up for Our Constitutionally Protected Patent Rights and Reject Another Washington “Fix”

Our Founding Fathers recognized the importance of Intellectual Property by writing patent protections into the Constitution – Article 1, Section 8. They understood that the right to own your ideas was important to economic liberty. As a result of this tradition, and a long history of defending those rights, the US has led the world in invention and innovation.

Strong patent protections have set the United States apart from nations like China and India, among others, and have been critical to the creation of wealth and jobs and to the US’s role in the world.

For that reason, Conservatives should be wary when elected officials start talking about reforming the patent system. Certainly, some targeted changes may be warranted on occasion, but, as we have seen time and again, the leadership in Washington thinks every problem, large or small needs a “comprehensive” reform and overhaul. Obamacare and Dodd-Frank are just a couple of examples.

Recently proposed legislation in the House – the Innovation Act – and in the Senate – the PATENT Act – fall into this category. They are sweeping legislative overhauls that will undermine many of the current protections of our patent system, while claiming to address specific problems – like patent trolls.

As we have seen the proliferation of crony corruption throughout Washington, these bills are just the latest example. Many large and powerful tech companies – like Google - which have been supportive of the Obama agenda have lobbied aggressively for patent reform. The legislation would be great for their bottom line as it could drive down the cost of acquiring patents for them. Unfortunately, it would do so at the cost of small inventors who don’t have the same lobbying power. Most importantly it would also help those companies, at the expense of our cherished patent rights.

While the bill has had support from many Republicans in Congress, conservatives have begun to sound the alarm on this approach. Conservatives like Jim Jordan, Tom Massie and Dana Rohrbacher, among others, have spoken of their concerns. Sen. Ted Cruz is opposed to the PATENT Act, saying “I think we need to be particularly solicitous of protecting inventors,

protecting the little guy, protecting those who are asserting their rights protected by the United States Constitution to develop new innovations and I fear that if we lean too far against the small patent holder that in turn will hamper innovation in our economy.”

In addition, Heritage Action, the Club for Growth, Eagle Forum and the American Conservative Union have all declared their opposition to the House bill. Leading conservative legal experts like Chuck Cooper and C. Boyden Gray have written about these so-called reforms undermining our patent rights.

Congress just passed a patent reform in 2011 – the American Invents Act – and in recent years the Supreme Court has issued a number of rulings that are addressing some of the issues that supporters of reform claim to be concerned about. Changes already taking place have raised the bar for bringing suits and have made it easier for Judges to shift costs to those who bring frivolous lawsuits. This is why Heritage Action correctly said in its statement on the Innovation Act – “Rushed reforms, especially in the aftermath of a massive overhaul, are likely to produce unintended consequences like the weakening of patent rights. The House should give the system time to adjust to the 2011 reforms before moving forward on another set of transformational reforms.”

We call on Congress to take a step back on a rush to another Washington overhaul. Give the current reforms time to take effect and consider targeted and minimal reforms if necessary. The current approach, supported by the Obama administration and some Republican leaders in Congress would do much more harm than good. It would undermine our cherished property rights, selectively benefit a few powerful companies and surrender our competitive advantage.

We will stand united against such rushed and ill-advised reforms and continue to speak out to our allies and members about the importance of defending our patent system.

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