

Congress of the United States
Washington, DC 20515

July 14, 2015

Dear Colleague,

We write to ask that you join us in opposing patent legislation in the form of H.R. 9 when it comes to the floor. As members of the Judiciary Committee, we have been deeply involved over the last four years in improving the patent system. In the last Congress, we supported a similar version of this legislation as a means of protecting consumers and small businesses from frivolous patent lawsuits. However, we believe that Congress must take into account significant changes in patent law that have occurred over the past two years before passing another comprehensive patent bill.

The patent landscape has changed dramatically in the past two years, and the changes are working to eliminate the need for the sweeping changes proposed in H.R. 9. The Supreme Court decided six patent cases last year that together make it easier to defeat weak patents-the kind asserted in abusive litigation-and discourage frivolous lawsuits. For example, Octane Fitness reinforced judicial discretion to award attorney's fees in appropriate cases. Five other Supreme Court decisions have rewritten patent law, further protecting businesses from litigation abuse. The Judicial Conference of the United States recommended-and the Supreme Court adopted-changes to the Rules of Civil Procedure that raise pleading standards to the level of every other federal civil case.

In addition to changes in the courts, the U.S. Patent and Trademark Office (USPTO) continues to implement the Leahy-Smith America Invents Act of 2011 (AIA), which was the most significant patent legislation in six decades. The AIA, which aimed to increase patent quality and reduce abusive practices, was only fully implemented two years ago, and its effects are only now beginning to register. This new legal landscape means that only a bill that is narrowly tailored to target abusive practices and does not adversely affect the rights of legitimate patent owners can be justified. H.R. 9 does not meet that test.

We strongly believe that American businesses and consumers should be free from harassment by meritless and abusive lawsuits. But the need to combat abuse must be balanced by the need to protect the legitimate rights of inventors, universities, startups, and other patent holders. Our nation's ability to create jobs and grow the economy depends on it.

Throughout the Committee process, the bill sponsors rejected reasonable requests to modify the bill to address the concerns of patent holders, including those suggested by the Director of the U.S. Patent and Trademark Office. Surely, Members of Congress can work together to find a solution that allows innovation to flourish while targeting abusive practices.

We hope that improvements can still be made to reflect these concerns. However, if they are not, we will have to oppose H.R. 9 and we respectfully request that you do the same.

Sincerely,



THEODORE E. DEUTCH
Member of Congress



KAREN BASS
Member of Congress