

February 15, 2024



U.S. Representative Jason Smith
Chair, House Committee on Ways and Means
1101 Longworth House Office Building
Washington, D.C. 20515



U.S. Representative Richard Neal
Ranking Member, House Committee on Ways and Means
372 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Smith and Ranking Member Neal,



Patents help protect the innovation that is at the heart of America's economic growth and competitiveness in the global marketplace. We are writing to urge your support for H.R. 3535, the "Advancing America's Interest Act" (AAIA), to help make sure that the U.S. patent system continues to foster innovation by preventing bad actors from misusing the International Trade Commission (ITC) to line their own pockets with money from spurious patent litigation settlements.



Often called patent trolls, these non-practicing patent assertion entities (PAEs) do not make or design anything. Rather than grow the U.S. economy or support innovation, PAEs purchase or otherwise acquire low-quality patents from others and weaponize them by suing productive domestic manufacturers and other legitimate businesses on often dubious claims of patent infringement. Instead of bringing their claims in federal court, which can award appropriate monetary damages, PAEs are increasingly flocking to the ITC, where they can allege that productive companies have violated a law known as Section 337. This allows them to threaten these companies with a sweeping ITC exclusion order, a drastic punishment banning the importation and sale of the company's products in the U.S.



Faced with the potential of such a devastating penalty, many companies – rather than expend significant resources to fight back – are forced to give in and agree to pay patent trolls what essentially amounts to extortion money. This unacceptable business strategy on the part of non-productive PAEs stifles innovation and depletes domestic capital that could be spent instead on everything from inventing groundbreaking medicines to developing new, safer, and better products for U.S. consumers.



Passage of the AAIA would deter PAEs and make it harder for them to misuse the ITC for their own financial gain. By modernizing and reforming Section 337, the ITC would be better able to adhere to the original intent of the law as conceived by Congress. The AAIA would also ensure that any patents asserted at the ITC are actually being used to develop a product, which is rarely the case when patent trolls are involved, and that any relief the ITC awards is in the public interest.



It's important that the ITC gets back to its intended mission. It is more than troubling when PAEs misuse the ITC as a venue for profit-motivated schemes instead of a resource for domestic companies can to level the playing field against foreign competitors. This abuse of the ITC works in direct opposition to other federal agencies that seek to increase U.S. economic output and job creation. The AAIA will restore balance to the system and ensure that all federal agencies are rowing in the same direction, toward expanded American innovation and a stronger, more vibrant U.S. economy.

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