

June 3, 2015

The Honorable Chuck Grassley  
Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Bldg.  
Washington DC 20510

The Honorable Bob Goodlatte  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
2138 Rayburn House Office Bldg.  
Washington, DC 20515

The Honorable Patrick J. Leahy  
Ranking Member  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Bldg.  
Washington, DC 20510

The Honorable John Conyers, Jr.  
Ranking Member  
Committee on the Judiciary  
U.S. House of Representatives  
2138 Rayburn House Office Bldg.  
Washington, DC 20515

Dear Messrs. Chairmen and Ranking Members:

We write to thank you for your leadership in advancing the health of our nation's patent system and to share our perspectives regarding proposals to reform the system to deter litigation abuses while maintaining incentives to innovate.

Our Constitution empowers Congress "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." By these simple terms, the Constitution both recognizes the importance of the spark of creative genius to the future of the Nation and the importance of rewarding that genius with an exclusive property right. In today's knowledge-based economy, patents are more important than ever. Patent rights encourage innovation by ensuring that inventors are able to exercise their patent rights, leverage those rights to attract capital essential for job creation and growth, and enforce their rights when necessary. The cornerstone of the US patent system – and the key to its sustained ability to foster innovation across all areas of technology and sectors of the economy – has been its "unitary," non-discriminatory treatment of all inventions.

With this foundational goal in mind, we urge you to reject calls to prolong the Transitional Covered Business Method (CBM) Review Program established by sec. 18 of the America Invents Act. The CBM program was intended as a *temporary* program to address a category of weak business method patents. In the three years since the program was first implemented, the Supreme Court's *Alice* decision has provided clearer rules for assessing sec. 101 challenges to business method patents in district court and other administrative review mechanisms at the USPTO are providing effective tools to challenge weak

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patents under programs and rules that do not discriminate against software innovation.

In our view, there is no justification for extending a discriminatory review procedure that prejudices software innovators at home and stands as a tempting and harmful precedent to be followed by other governments eager to erode protection for US innovators. We believe the transitional CBM review program should be allowed to expire in 2020, as rightly intended by the AIA.

We appreciate the opportunity to share our views and look forward to working with you as balanced, litigation-focused patent reform moves forward.

Sincerely,

Phil Kerpen  
President  
American Commitment

Steve Pociask  
President  
American Consumer Institute Center for Citizen Research

Jeffrey Mazzella  
President  
Center for Individual Freedom

Thomas A. Schatz  
President  
Citizens Against Government Waste

Charles Sauer  
President  
Entrepreneurs for Growth

Karen Kerrigan  
President  
Small Business & Entrepreneurship Council

David Williams  
President  
Taxpayers Protection Alliance