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December 4, 2013

**Letter to the United States House of Representatives:  
Support the Innovation Act!**

Dear Representatives,

On behalf of the undersigned organizations, we write in strong support of Rep. Bob Goodlatte's H.R. 3309, the Innovation Act, which seeks to strengthen the patent system by protecting intellectual property rights while limiting the economic harm of predatory litigation. The bill's provisions to address heightened pleading, fee shifting, and discovery reform clearly fall into the category of litigation reform and serve to protect the property rights of legitimate patent holders.

Article I, Section 8 of the U.S. Constitution is explicit in calling for a patent system 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." Though many other provisions of the document drafted at the Constitutional Convention were controversial, this language was agreed to unanimously and without debate. This reflects the foundational importance our nation's framers placed on a robust legal structure protecting copyrights and patents.

Unfortunately, the current litigation environment surrounding our patent system frequently stifles innovation the Constitution sought to protect, and at a substantial economic cost. So-called "patent trolls" are entities that hoard overly broad patents, but do not use them to make goods or services. Instead, these entities maliciously threaten small businesses, inventors, and even consumers through rampant and costly litigation abuse.

Patent trolling works because patent trolls offer to settle for less than litigation would cost. That means they single out small businesses as targets. More than half of defendants in lawsuits brought by patent trolls are small businesses (\$10 million or less). Since litigation costs millions of dollars, businesses are forced to settle even when the claim against them is spurious. Patent troll lawsuits are thus effectively imposing a significant tax on investment and entrepreneurship.

The Innovation Act would discourage trolls by implementing several important reforms to the litigation process, such as shifting fees to losers of patent suits; adopting pleading standards that appropriately identify alleged infringements; improving transparency about who owns disputed patents; and reducing abuse of the discovery process.



FRONTIERS OF  
FREEDOM

Together, these reforms would reduce the cost of defending against spurious patent claims, and therefore make companies less likely to resolve such disputes by paying nuisance settlements. With these improvements, the Innovation Act would increase protections for smaller patent-holding innovators, while minimizing what it costs for legitimate plaintiffs to defend their patents

With these changes, H.R. 3309 would help reduce the economic harm associated with expensive and frivolous patent troll suits while improving the overall strength and quality of America's patent system. We strongly support its passage and look forward to seeing this important reform signed into law.

Sincerely,

R Street Institute

Generation Opportunity

Americans for Tax Reform

Americans for Prosperity

American Consumer Institute

Digital Liberty

Discovery Institute

Center for Individual Freedom

Frontiers of Freedom