



8 April 2014

The Honorable Lee Terry, Chairman
Energy & Commerce Committee
Subcommittee on Commerce, Manufacturing, and Trade
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Terry,

IEEE-USA would like to express concerns related to today's hearing on *Trolling for a Solution: Ending Abusive Patent Demand Letters*. We agree with the goal of curbing abusive patent practices. Clearly, there are bad actors, deceptive demand letters, and frivolous litigation in the patent system. But we contend that Congress is being driven to revise the patent system on the basis of rhetoric and anecdote instead of objective evidence.

Last November 7th, the Senate held a similar hearing on this subject entitled, *Demand Letters and Consumer Protection: Examining Deceptive Practices by Patent Assertion Entities*. Adam Mossoff, co-chair of the IEEE-USA Intellectual Property Policy Committee and Professor of Law at George Mason University, provided testimony which lays out our position that the patent licensing business model has long played an essential role in distributing patented innovation through the marketplace, and that mistakenly applying the "troll" stigma to all who assert their patents may do more harm than good. (His official written testimony can be downloaded at http://www.commerce.senate.gov/public/?a=Files.Serve&File_id=c5cc328a-af61-4f12-bea7-e2ae6fb42ce3.)

The Senate is proposing S. 2049, *the Transparency in Assertion of Patents Act*, legislation intended to curtail abusive practices in the patent system commonly referred to as "patent trolls," but which IEEE-USA believes will do more harm than good by mandating that the FTC actively insert itself into patent licensing negotiations. Proponents of the bill produced no evidence of a systemic problem requiring a revision to permissible commercial speech that singles out the patent system. The Patent and Trademark Office (PTO) and courts have long had the legal tools to weed out bad patents and punish bad actors, and these tools were significantly expanded two years ago with the enactment of the America Invents Act. Expanding the FTC's authority to regulate requests for licensing royalties under vague evidentiary and legal standards only weakens patents and creates costly uncertainty.

IEEE-USA is an organizational unit of the Institute of Electrical and Electronics Engineers, Inc. (IEEE) founded in 1884 by such prolific inventors as Nikola Tesla, Thomas Edison, and Edward Weston, and joined by notables such as Alexander Graham Bell. IEEE is the world's largest organization for technical professionals, and a leading educational and scientific

association for the advancement of technology. IEEE-USA fosters technological innovation for the benefit of all, including more than 200,000 U.S. engineers, scientists, and allied professionals in all 50 U.S. states who are members of the IEEE.

Our members serve on the “front line” of the US patent system and current membership includes today’s inventors who create and use cutting-edge technology, who research and publish professional articles and journals, and who develop published standards that form the bases of widely adopted and critical technologies. IEEE-USA members are more than merely scientists and research engineers; they are also entrepreneurs and employees of firms that acquire, license, and market patented technology; proper operation of patent law is a critical interest of IEEE-USA.

We look forward to a continuing dialog with you and other members of the Energy & Commerce Committee to address the concerns we have with attempts to reform patent laws during this legislative session.

Sincerely,

A handwritten signature in black ink that reads "Gary L. Blank". The signature is written in a cursive style and is placed on a light-colored rectangular background.

Gary L. Blank, Ph.D.
IEEE-USA President

cc: The Honorable Jan Schakowsky, Ranking Member
Members of the Subcommittee on Commerce, Manufacturing & Trade