



STATEMENT FOR THE RECORD
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Prepared For The
UNITED STATES HOUSE OF REPRESENTATIVES
HOUSE JUDICIARY COMMITTEE
HEARING ON
H.R. 9, THE “INNOVATION ACT”

APRIL 14, 2015, 2:00 P.M.
2141 Rayburn House Office Building

IEEE’s U.S. members are the men and women whose ideas and innovations depend on the protection of the U.S. patent system. They are among the most frequent users of the USPTO, and therefore have a compelling interest in ensuring that the legal principles governing patent policy are consistent. By virtue of the practical experience of IEEE’s members – which include inventors, designers, independent entrepreneurs, small business owners, and employees of firms that acquire, license and use intellectual property – the IEEE-USA respectfully believes that our views can assist this committee in evaluating the effect of patent law revisions on innovation, especially that of independent inventors and small businesses.

IEEE-USA supports legislative proposals that enhance our members’ ability to secure patent protection as well as enforce their intellectual property rights, the lack of which would harm American competitiveness, our economy, and the possibility of future technological advancements.

IEEE-USA believes that our nation’s global competitiveness and economy are tied directly to the ingenuity of all inventors – be they employed independently, by small businesses, by research laboratories and universities, or by Fortune 500 companies. The historical growth of more than one Fortune 500 company can be traced to the success of a startup which obtained funding primarily due to the promise of their intellectual property. Therefore, when implementing changes to the patent system, the voice and concerns of the independent inventor and small businesses must be considered along with those of larger entities.

IEEE-USA supports the Judiciary Committee’s critical efforts to explore the complicated issue of patent law revisions. We agree that there are valid concerns about bad faith litigants and frivolous lawsuits. However, current legislative proposals do not target the specific problems. Instead, H.R. 9 is a one-sized fits all overhaul of the patent system which is likely to result in negative unintended consequences. H.R.9 affects small businesses and start-ups most of all, but the legislation will also adversely affect university invention and spin-offs.

Legislative proposals should target the specific known problems and create a patent system which enables the continuation of our highly innovative economy, and the successes of small inventors, businesses, and startups. While some of the bill's provisions may seem sensible and tailored to provide greater transparency, the reality is that they are extraordinarily burdensome to smaller entities which are responsible for most of the new job creation in this country. According to one report, since January of this year, 83 percent of new jobs are attributed to small businesses.ⁱ

It is important to note that H.R. 9 is not a form of tort reform. The problem of excessive litigation within the patent system is already being addressed through several 2014 U.S. Supreme Court decisions. Patent litigation has dropped 40 percent over the past year and the rate of patent lawsuits has affected on average, only two percent of all patents for decades.

Congress should consider all viewpoints and assess all concerns. If legislative proposals react to concerns about the so-called patent trolls – a term which no one is willing to define – without assessing the consequences for all patent holders who are subjected to true infringement, then Congress risks implementing legislation that could do real damage to the very innovation system that you are trying to protect.

IEEE-USA promotes the careers and public policy interests of more than 200,000 engineering, computing and technology professionals who are U.S. members of IEEE. With 436,000 members in more than 160 countries, IEEE is the world's largest technical professional society. Their collective efforts promote our nation's prosperity, security, and competitiveness by fostering technological innovation.

ⁱ *ADP National Employment Report*, January 2015. <http://adpemploymentreport.com/2015/January/NER/NER-January-2015.aspx>