

December 18, 2007

The Honorable Wayne Allard
United States Senate
Washington, DC 20510

Dear Senator Allard:

The numerous undersigned organizations represent innovative companies in diverse industries across Colorado. We are writing to express our concern regarding S. 1145, "The Patent Reform Act of 2007." While we welcome efforts to make valuable improvements to the U.S. patent system, we clearly oppose S. 1145 as approved by the Senate Judiciary Committee. This bill contains provisions that would create uncertainty and weaken the enforceability of issued patents.

In addition, the bill would weaken incentives for innovation, would weaken the ability of the small/medium business sector to compete with large corporations, would deter investment in technology development, and open the gates to infringing products made offshore. Some of the proposed provisions, such as an expanded apportionment of damages, an indefinite post-grant opposition process, excessive venue restrictions, burdensome and expensive mandatory search requirements, and unworkable interlocutory appeal provisions, pose serious negative consequences for continued innovation and American technological leadership in a competitive global economy.

In addition, the bill codifies the current inequitable conduct doctrine, rather than making broadly supported reforms to eliminate litigation abuse of the doctrine. We have attached an addendum that elaborates on these issues, and that expresses our views in more detail. No compelling case has been made for a bill written in this fashion. Arguments by proponents are based on claims of a crisis in the current patent system that does not exist and are supported by selective assertions which do not hold up under scrutiny.

Importantly, the bill fails to take into account the impact of numerous court decisions and administrative rules that have occurred recently regarding major patent issues. We believe the authors of the legislation must make fundamental changes to the legislation if it is to have a positive effect on all American innovators.

We would like to arrange a meeting with you, in Colorado, to discuss this matter over the holiday break. In that meeting, we will urge you to vote against the bill on the Senate floor, unless such fundamental changes are made. We are currently working with your staff to arrange such a meeting. We remain committed to strengthening the U.S. patent system in ways that will preserve and promote innovation across the broad spectrum of the American economy, and we look forward to meeting with you to express our concerns.

Sincerely,

Amaix, Inc. (Arvada)
Aspiration Innovation, Inc. (Fort Collins)
Cable Television Laboratories, Inc. (Louisville)
Cochran Freund & Young LLC (Fort Collins)
Colorado BioScience Association (Denver)
Colorado Photonics Industry Assoc. (Denver)
Dako Colorado, Inc. (Fort Collins)
Electronic Analysis & Repair, LLC (Greeley)
Educators Outlet (Fort Collins)
Financial Health Systems, Inc. (Centennial)
Gates Corporation (Denver)
Hunt Control Systems, Inc. (Fort Collins)
Ice Energy, Inc. (Windsor)
Jorgensen Laboratories, Inc. (Loveland)
Keeton Industries, Inc. (Wellington)
L&T Riser LLC (Commerce City)
LandNet Corporation (Loveland)
Look Dynamics, Inc. (Longmont)
LSI Logic Corporation (Colorado Springs and Fort Collins)
Meadowlark Optics, Inc. (Frederick)
MKS Instruments, Inc. (HPS Products Division) (Boulder)
MX Logic (Denver)
OmniCharts, LLC (Highlands Ranch)
OmniTech International, Inc. (Arvada)
Otter Products LLC (Fort Collins)
PE Fusion, LLC (Fort Collins)
Qualcomm (Boulder)
S3, Inc. (Fort Collins)
So Sound Solutions LLC (Lafayette)
Ranch-Way Feed Mills (Fort Collins)
Snaptron, Inc. (Windsor)
Terra Moya Aqua, Inc. (Cheyenne, WY)
Walker Manufacturing Company (Fort Collins)