



The U.S. patent system is recognized as the world's strongest intellectual property rights regime and a key driver of American innovative leadership. As Congress, the Administration and the federal courts weigh fundamental changes to this system, it is paramount to recognize that our nation's future economic growth is dependent upon a thriving community of research institutions, entrepreneurial companies of all sizes, and venture capital firms working together to implement innovation in the knowledge economy. To support this ecosystem, we must maintain a patent system that protects both emerging companies, whose business models are patent dependent, and larger organizations that seek relief from frivolous litigation.

Innovators, patent owners and stakeholders from a diverse range of industries have formed the Innovation Alliance ("the Alliance") to educate policymakers on the critical importance of maintaining a strong patent system that supports innovative enterprises of all sizes. Alliance members strongly favor targeted, balanced reform, as opposed to the massive restructuring sought by others of a system that has largely served us well for decades.

Innovation Alliance members believe that any changes to our patent laws should be narrowly focused on **improving patent quality, enhancing certainty, and preserving market-based valuations of patents**. Alliance members agree that patent reform measures **should not disadvantage emerging, pro-innovation, patent-dependent businesses and their surrounding ecosystem**. Specifically, the Innovation Alliance believes that:

- The patent system is not fundamentally broken or in need of sweeping reform, but can and should be improved through a legislative focus on improving patent quality. Frivolous litigation can be reduced through improving patent quality by: (a) fully funding the U.S. Patent and Trademark Office (PTO); (b) allowing the PTO to retain all of its user fees; and (c) encouraging the PTO to invest in additional human and other resources.
- Existing law concerning the determination of a patent's value and calculation of damages when a patent has been infringed provides courts appropriate flexibility to reach a fair conclusion on damages assessment. Maintaining that flexibility is critical for small companies and licensors to be able to protect their patents against larger, well-financed competitors.
- The PTO is currently over-burdened and Congress should not adopt legislation that imposes additional responsibilities on this organization. For example, the creation of a broad post-grant opposition procedure would lead to greater bureaucracy, less certainty, further delay in securing a valid patent, and expose emerging companies to meritless or commercially motivated challenges by deep-pocketed rivals. In contrast, more rigorous pre-grant scrutiny would improve patent quality, enhance predictability, and minimize opportunities and incentives for abuse of a new post-grant administrative procedure.
- Proposals to limit the ability of applicants to amend pending patent applications (so-called continuation applications), are overly restrictive and not only disadvantage smaller innovators, but may ultimately result in increased litigation.

Patent reform is often characterized as nothing more than a technical exercise. Nothing could be further from the truth. Fundamental alteration of litigation practice can have a tremendous impact on thinly capitalized, emerging companies that have fueled the nation's economic growth and which – across industries – rely heavily on intellectual property rights to attract venture capital, grow businesses and enter markets dominated by large players. A patent process that focuses on rigorous review prior to the granting of an application will better limit patent abuse than extensive litigation reform that could inadvertently disadvantage new market entrants and innovators. The Alliance is committed to working with policymakers on reforms that improve patent quality, preserve incentives to innovate and are sensitive to emerging patent-dependent business models.