

January 24, 2008

The Honorable John Cornyn  
U.S. Senate  
517 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Cornyn:

As Texas employers and U.S. patent holders, we are writing to express our concerns about the Patent Reform Act (S. 1145) under consideration in the Senate. While we support efforts to update and improve our patent system, we are concerned that the legislation as reported out of the Judiciary Committee would minimize penalties for infringers, undermine the rights of patent holders, and hamper innovation.

Since the legislation was first contemplated, activities proceeding independently on multiple fronts have curtailed the rights of patent holders. A number of landmark decisions at the Supreme Court and Federal Circuit have addressed several key elements of patent reform. Recent regulations announced by the USPTO would limit the number of continuations and claims in patent cases. Certain provisions in the Committee bill would negatively compound the cumulative impact of these judicial and regulatory changes on patent holders.

Economic growth depends upon the continued strength and reliability of the U.S. patent system, which has recognized and protected the rights of inventors for more than two centuries. It is alarming that a number of diverse industries such as venture capital, biotechnology, nanotechnology, and manufacturing have registered concerns with S. 1145 that have not been addressed.

The concerns center primarily around the proposed changes to the well-established principles used to calculate damage awards and several issues related to a costly new post-grant opposition system. Further, the bill's change to patent venue rules would distort the current system in favor of defendants, creating backlogs in districts with a concentration of patent-using industries. We also support stronger reforms than currently in the bill to the judicially-created doctrine of inequitable conduct that will enhance the overall quality of patents issued by the USPTO and reduce excessive litigation costs.

The unintended consequences of S. 1145 in its current form are potentially harmful to the economy of Texas and the nation. We are hopeful that this legislation will be amended to address these and other concerns prior to floor consideration. We look forward to working with you to ensure that patent reform legislation will improve patent quality without diminishing patent rights and the strength of the U.S. patent system.

Abbott  
Austin and Irving, Texas

Agennix, Inc.  
Houston, Texas

Allergan  
Waco, Texas

AM Biotechnologies, LLC  
Galveston, Texas

Andro Diagnostics, Inc.  
Galveston, Texas

AptaMed, Inc  
Galveston, Texas

Asuragen  
Austin, Texas

AstraZeneca

BioHouston  
Houston, Texas

BioNumerik Pharmaceuticals, Inc.  
San Antonio, Texas

BioTHER Corporation  
Houston, Texas

Corning  
Keller, Texas

Cummins-Allison  
Dallas, Houston, Selma, Weslaco, Texas

Datalign, Inc.  
Houston, Texas

Deaton Engineering  
Georgetown, Texas

DeepNines  
Dallas, Texas

Endothelix  
Houston, Texas

Endovasc, Inc.  
Montgomery, Texas

Ethicon, Inc.  
San Angelo, Texas

Fairway Medical Technologies  
Houston, Texas

Freescale Semiconductor, Inc.  
Austin, Texas

INCELL, Inc.  
San Antonio, Texas

International Biomedical, Ltd.  
Austin, Texas

inVentiv Clinical Solutions LLC  
Houston, Texas

M.D. Anderson Cancer Center  
Houston, Texas

Lexicon Pharmaceuticals  
The Woodlands, Texas

Merck

Miller Instruments, Inc.  
Houston, Texas

Monebo Technologies, Inc.  
Austin, Texas

MyPort Technologies  
McKinney, Texas

Neurobiotex, Inc.  
Galveston, Texas

Neuro Resource Group

Plano, Texas

Novomedics  
Dickinson, Texas

NovoSci  
The Woodlands, Texas

Organ Transport Systems, Inc.  
Lubbock, Texas

Orthopeutics LP  
Georgetown, Texas

Pensar LLC  
Houston, Texas

PepsiCo

Pan American Veterinary Laboratories  
Austin, Texas

PLx Phrma, Inc.  
Houston, Texas

Qualcomm Inc.  
Austin and Richardson, Texas

Rearden  
Austin, Texas

Rules-Based Medicine, Inc.  
Austin, Texas

Stem Cell Innovations/Amphioxus Cell Technologies, Inc.  
Houston, Texas

Texas Healthcare and Bioscience Institute  
Austin, Texas

Texas Instruments  
Dallas, Texas

Texas Research Park Foundation  
College Station, Texas

ThromboVision, Inc.  
Houston, Texas

TrainingCampus.com  
Austin, Texas

Tyrell, Inc.  
Houston, Texas

Veterinary Clinical Resources  
Austin, Texas

Vidacare  
San Antonio, Texas

Vinson & Elkins, LLP  
Austin, Texas

VisiGen Biotechnologies, Inc.  
Houston, Texas