

March 30, 2009

The Honorable Ron Wyden
230 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Wyden,

On behalf of the undersigned employers and organizations whose investment, research, and development efforts are driving economic growth in Oregon, we are writing to express our concern regarding S. 515, the Patent Reform Act of 2009.

While we represent diverse industries and organizations, we all depend on a strong patent system to support and reward our investments in new technologies and innovation to drive economic growth. And we are not unique in Oregon. According to an annual report by the United States Patent and Trademark Office (USPTO), in FY 2008 Oregon received 6 patents for every 10,000 inhabitants, nearly twice the national average. In FY07, Oregon was deemed the 5th most innovative state as judged by patent activity. Strong patent protection is an essential part of translating Oregon's innovation into growth. Unfortunately, S. 515 includes provisions that would undermine patent certainty, incentivize infringement, and weaken the enforceability of patent rights.

We support balanced and reasonable efforts to improve the U.S. patent system and to craft consensus solutions that will strengthen our patent system. However, any legislative effort must be carefully considered so that it does not exacerbate the current challenges facing our economy.

In short, this bill does not have consensus and would negatively affect our organizations, our employees, our customers, and America's future economic growth and competitiveness. The most contentious issue remains the bill's damages provision, which would substantially weaken the value of patents and encourage infringement by making it less risky and less expensive. We oppose legislation that would limit infringement damages to a patent's "specific contribution over the prior art," or its "essential features", or any other untested concept that would lead to damages awards that are not based on market realities. The bill also has other serious problems. For example, we are very troubled by the creation of multiple new avenues to administratively challenge issued patents at the Patent and Trademark Office (PTO) without the protections available in courts of law, thus decreasing certainty about existing and future patent rights. And the bill fails to reform the judicially-created doctrine of inequitable conduct, which today chills open and productive communications between patent applicants and examiners and leads to excessive litigation costs.

We urge you to work toward a consensus position on the legislation which would improve the patent system for all stakeholders. We stand ready to work with you and other stakeholders to address these concerns.

Thank you for your consideration of our views and concerns.

Sincerely,

Advanced Vascular Dynamics
Portland

Beevers Manufacturing and Supply
McMinnville

Cummins-Allison Corporation
Portland

Gaylord Industries
Tualatin

Innovasa Corporation
Eugene

ITW Industrial Finishing
Cottage Grove

Life Technologies Corp.
Eugene

LightSmyth Technologies, Inc.
Eugene

Oregon Bioscience Association
Portland, Albany, Ashland, & Bend

PepsiCo
Beaverton, Portland and Salem

QuantRx Biomedical Inc.
Portland

S-Ray Corporation
Portland

UbiVac Inc.
Portland

Vesticon Inc.
Portland