

THE COALITION FOR 21ST CENTURY PATENT REFORM

Protecting Innovation to Enhance American Competitiveness

THE COALITION FOR 21ST CENTURY PATENT REFORM BASIC PRINCIPLES

- ***Foster innovation by enacting a balanced package of patent quality and patent litigation reforms, as recommended by the National Academies of Science in 2004:***
 - Provide the Patent and Trademark Office (PTO) with adequate resources to assure quality examination of all patent applications.
 - At a minimum, significantly limit the “subjective elements” that make patent litigation so expensive and contentious, including removing the “best mode” defense for invalidating patents, if not repealing the “best mode” requirement outright; establishing safeguards against meritless allegations of “inequitable conduct”; and ensuring punitive damages for “willful infringement” are based on objective criteria.
 - Harmonize U.S. patent laws with those of major trading partners; *e.g.*, awarding patents to first-inventor-to-file, assuring simple, transparent and objective patentability determinations.
 - Provide fair, balanced PTO “open review” (post-grant opposition) to foster early challenges to questionable patents while protecting inventors against harassment by challengers.
- ***Incorporate “best practices” into patent application examination and review:***
 - Provide objective and reliable criteria for determining when an invention merits a patent.
 - Give patent examiners the best information possible by allowing the public to submit patents and publications (prior art) during patent application review.
 - Implement post-grant patent review proceedings with procedures that are fair, prompt and decided by administrative patent judges.
- ***Reject initiatives that are unfair to patent owners, diminish incentives for innovation and create international inconsistencies:***
 - Reject undermining of “reasonable royalty” damages that risk denying inventors adequate compensation for infringement of their patents and are unnecessary, *see Lucent Technologies, Inc. v. Gateway, Inc.*
- ***Streamline patent reform by eliminating controversial provisions that lack broad support and which are of questionable need or merit:***
 - Decline granting broader discretion to district courts for interlocutory appeals of “claim construction” rulings, which would significantly lengthen the time to resolve patent cases.
 - Refuse to restrict patent owners’ ability to enforce their patents in the most convenient venues (restrictions rendered unnecessary by *In re TS Tech USA Corporation*).
- ***Pass patent reform through an open and collaborative process aimed at building a balanced, streamlined and fair package of clearly-needed and broadly-supported improvements:***
 - Enact reforms addressing interests of all constituencies relying on the U.S. patent system.

**THE COALITION WELCOMES A CONSTRUCTIVE DIALOGUE
AMONG ALL STAKEHOLDERS TO BUILD SUCH REFORMS**