

# THE COALITION FOR 21ST CENTURY PATENT REFORM

*Protecting Innovation to Enhance American Competitiveness*

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## **Oppose Any Amendment to Strike Inter Partes Review**

The Coalition opposed striking the Inter Partes Review provisions from S. 23 during the bill consideration on the Senate floor. This amendment would have eliminated the new “inter-partes review” provisions which would have provided a number of significant improvements over the “inter-partes reexamination” provisions of existing law. It would have moved the effort to reform patent law backward in the following respects:

- The existing inter-partes reexamination provisions have none of the procedural improvements that the new inter-partes review provides. These include a 1-year statutory time limitation in order to conclude the proceedings, the use of administrative patent judges to conduct the proceedings (in place of the patent examiners that are used today in inter partes reexaminations), and the availability of limited discovery in the new inter partes review (which is unavailable during an inter partes reexamination).
- Under the current law, the existing inter-partes reexamination can be commenced even in the absence of any reasonable likelihood that one or more claims of the patent are invalid. The new inter-partes review procedure of S. 23 corrected this defect in current law—and will conserve USPTO resources by moving ahead only where the request for review of the patent has apparent merit.
- The safeguards built into the new inter-partes review procedure against harassment of patent owners, including protection against subsequent serial challenges to their patents, have resulted in the university community and other constituencies expressing support for S. 23. A movement backwards on the issue of post-grant proceedings in the USPTO threatens the delicate compromise among competing interests that has led to the widespread support for the bi-partisan Senate compromise.

The Coalition has approximately 50 members from 18 diverse industry sectors and includes many of the nation’s leading manufacturers and researchers. The coalition’s steering committee includes 3M, Caterpillar, General Electric, Johnson & Johnson, Eli Lilly and Procter & Gamble. The Coalition has members in a variety of industry sectors including: Aerospace and Defense, Chemical, Computers, Diversified Financials, Diversified Technology, Energy, Food Production, Forest & Paper Products, Health Care, Household & Personal Products, Industrial Equipment, Medical Equipment & Devices, Network & Communications, Payroll Services, Pharmaceutical, Biotechnology, Semiconductors & Electronic Components, and Transportation Equipment. Visit <http://www.patentsmatter.com> for more information.