

THE COALITION FOR 21ST CENTURY PATENT REFORM

Protecting Innovation to Enhance American Competitiveness

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Coalition to Push for Patent Reform Measures at Full House Judiciary Committee

Washington, D.C. – Although the more than 40 diverse companies in the Coalition for 21st Century Patent Reform continue to believe the nation needs balanced reforms to strengthen the U.S. patent system, they have serious concerns with some provisions in H.R. 1908. Today, as the House Judiciary Subcommittee on Courts, the Internet and Intellectual Property marks up H.R. 1908, *The Patent Reform Act of 2007*, the Coalition pledges to work with Chairman Howard Berman to bring a balanced patent bill to the full House Judiciary Committee.

“Our member companies want and need balanced patent reform,” said Gary Griswold, President and Chief IP Counsel of 3M Innovative Properties Company. “In working with Chairman Berman over the past several weeks, it is clear he wanted the full House Judiciary Committee to consider and debate this important legislation. Rather than seek specific and needed changes during today’s subcommittee mark up, the Coalition will continue to work with the Chairman and the members of the full committee to obtain specific changes that will strengthen the U.S. patent system to further promote ingenuity and encourage American investment in research.”

The Coalition for 21st Century Patent Reform, which has member companies from 18 different industry sectors has concerns with several specific areas of the current legislation, including: Section 5 regarding the apportionment of damages for patent infringement; Section 6 regarding the availability of serial challenges in the post-grant opposition system and the absence of provisions on inequitable conduct which would allow patent applicants to openly engage in discussions during the examination process..

On the formula for determining how reasonable royalty damages are awarded in patent infringement cases, the Coalition shares the concerns of the American Bar Association Section of Intellectual Property Law that the bill would require a new test that has never been used by parties negotiating licenses. This test would reduce incentives for innovation by greatly diminishing damages obtainable from infringers.

For post grant review, the Coalition supports the National Academies of Science recommendation for an “open review” proceeding in which a patent’s validity could be challenged promptly after grant by a member of the public and decided by the U.S. Patent and Trademark Office. The current bill language, however, would allow multiple attacks on a patent during its life. Such serial challenges would undermine the value of a patent and the ability of the patent holder to develop a product and bring it to the marketplace.

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The Coalition for 21st Century Patent Reform has concerns about other areas of the bill as well, including: the failure to eliminate the “best mode” requirement, allowing interlocutory appeals of claim constructions, ceding substantive rule-making authority to the PTO and elements of the venue provision..

“Our Coalition believes the country needs a comprehensive and balanced patent reform bill that will strengthen the system and facilitate American innovation,” Griswold said. “This legislation needs significant refinements, but we look forward to working with the full Judiciary Committee and other members on patent reform.”

For a detailed analysis of the bill and specific one-pagers on patent issues, visit the coalition’s website: http://patentsmatter.com/issue/legalert_042507.php