

THE COALITION FOR 21ST CENTURY PATENT REFORM
Protecting Innovation to Enhance American Competitiveness

For Immediate Release
September 7, 2007

Contact: Bill Mashek
202.354.8275
bmashek@pstrategies.com

Coalition to Continue to Work for Consensus Patent Legislation

Washington, D.C. – Over the past several months the Coalition for 21st Century Patent Reform, comprising more than 45 companies and representing a wide variety of industries and technologies, has worked to support fair and balanced legislation that promotes U.S. investment and research while strengthening the patent system. While progress was made in several areas, the Coalition did not support H.R. 1908 as passed by the U.S. House of Representatives.

The Coalition released the following statement on the House passage of H.R. 1908, the Patent Reform Act of 2007:

“The Coalition for 21st Century Patent Reform continues to support patent reform. While we appreciate the progress that was made in several areas, the bill that passed the House remains neither fair nor balanced. The nation needs patent reform legislation that will protect and encourage the investments and research needed to bring new and innovative products to the market. Unfortunately the House-passed bill favors infringers over inventors. As such, it weakens the U.S. patent system, particularly in the important area of damages. The damages section in the House passed bill proposes a new, untested ‘prior art subtraction’ requirement that is fundamentally flawed and unworkable.

The damages methodology mandated by H.R. 1908 heavily favors infringers, as most inventions are not as valuable at the time they are first conceived as they are after the inventor invests time and money to develop, manufacture and market them. Moreover, it is widely accepted that the economic value of an invention at the time it is made is largely unrelated to its current commercial value. Many great technological advances are simply ahead of their time, and do not become commercially valuable, if ever, for years after their creation. This is why, under current law, reasonable royalty damages are determined by looking to the marketplace value of the use of the invention at the time infringement began. This is the only fair way to compensate an inventor for what has been taken from him by the infringer.

Not surprisingly, the damages provision in H.R. 1908 has drawn widespread criticism from stakeholders as diverse as America's labor unions to the Chief Judge of the Federal Circuit Court of Appeals. This provision is opposed by every major patent bar association, the Bush Administration, professional inventors and industry associations including the National Association of Manufacturers.

(MORE)

What all of these critics recognize is that by reducing the reasonable royalties available to compensate an inventor for infringement we are sending an international message that patented American technology may now be copied with little or no consequence.

This is the wrong time to send this message. For America to maintain its position as a technological leader, we must encourage and support our inventors, and those who invest and rely on their efforts, and deter those who seek to profit from infringement. Our nation should set an example for the world that intellectual property rights should be respected, and that their violation will continue to carry with it appropriate damages.

Discussions over the past few months in the House and Senate, suggest that consensus legislation is still achievable. In that regard, during today's debate, we were encouraged that the bill's sponsors agreed to address several areas of concern, including the damages provision, as the legislation works its way through the process. With additional time and effort, we remain hopeful that patent legislation can be developed that all stakeholders will be able to support.

Our Coalition looks forward to continuing the dialogue in the Senate and to developing reform legislation that will produce a fair and balanced patent system for the 21st Century.”