The Coalition for 21st Century Patent Reform

2025 Agenda for Patent Reform in the 119th Congress -- Executive Summary

The Coalition for 21st Century Patent Reform ("21C") is a diverse coalition of American companies who rely on U.S. patents to protect their inventions and the value of their investments in R&D. 21C members develop and manufacture products protected by patents, license patents to and from others in furtherance of their business activities, and, when appropriate, enforce their patents against infringers and/or defend against patents asserted against them.[1]

21C believes that a strong U.S. patent system is necessary for the health, prosperity, and long-term success of our country. 21C believes that bipartisan patent reform is needed.

Future U.S. innovation depends upon the willingness of investors to continue to invest in and develop advanced technologies here. U.S. government sponsored research alone is not enough. Inventions made and/or patented elsewhere are less likely to be manufactured in the U.S. and more likely to prevent U.S. products from successfully competing in foreign markets. If done right, U.S. patent reform will fuel the investment, economic development, and job growth that is needed to secure our country and protect its position as the world's technological leader. With these objectives in mind, 21C proposes that Congress, the USPTO, and the courts focus their attention on the following priorities:

1. Make needed legislative changes to ensure that granted U.S. patents throughout their terms will enjoy quiet title consistent with their statutory presumptions of validity and will not be subjected to repeated administrative reconsideration absent significant new material evidence. Such changes should include provisions that place boundaries on serial or duplicative *inter partes* reviews (IPRs) and reject IPR petitions based on the same or substantially same prior art, arguments, or information previously considered by the USPTO, the PTAB or the district courts. In addition, safeguards are needed to ensure that all final decisions of the PTAB pertaining to a patent's validity will be subject to effective *de novo* review by Article III courts to preserve due process, fairness and commercial certainty for all involved parties.

2. Restore patent eligibility to its traditional, Constitutionally-appropriate scope by abrogating judicially-created exceptions that now deny patent protection for inventions of processes, machines, manufactures and compositions of matter that have practical utilities. Eligible subject matter should embrace all technological inventions, including but not limited to inventions in the fields of diagnostics, biotechnology, power-generation, transportation, and software that is directed to a specific technological solution and/or that is integrated into physical or operational systems, including those leveraging artificial intelligence.

3. Ensure that our patent system secures inventors exclusive rights to their inventions for limited periods of time by providing predictable access to monetary and/or equitable relief, including injunctive relief when appropriate, upon the establishment of infringement of one or more valid

[1] Over the past 20 years, 21C has periodically issued its recommendations as proposed agendas for legislative patent reform. These agendas have and continue to reflect the consensus view of the Steering Committee, which continue to evolve as the political and IP environments have changed. As a consensus view, the positions expressed herein should not be ascribed to that of any particular 21C Steering Committee member.

claims of the asserted patent. While the establishment of a likelihood of success on the merits should result in a rebuttable presumption of irreparable harm under eBay factor (1), any grant of equitable relief should still require careful consideration of eBay factors (2) (the adequacy or inadequacy of money damages), (3) (the balance of hardships that the proposed equitable relief would impose on the respective parties) and (4) (the public interest in granting or denying such relief). When a proposed injunction would disrupt complex manufacturing systems, established supply chains, aftermarket support, and/or critical infrastructure operations, care should be taken to ensure that any grant of equitable relief will not be disproportionate to the nature of the infringement, will not unduly harm third parties, and will not incentivize opportunistic assertions by non-practicing entities seeking outsized monetary settlements based on secondary disruptions rather than more limited awards that fairly reflect the damage caused by the infringement.

4. Restore the right of patent owners to sue infringers in judicial districts that have a meaningful connection to the patentee's research, development, and manufacturing, or where there are other substantial innovation activities related to the asserted patents.

5. (A) Overturn the Supreme Court's *Lexmark* decision to restore the right of U.S. manufacturers to use their U.S. patents to sue unlicensed foreign imports, and
(B) Limit the Supreme Court's *Helsinn* decision to preserve incentives for early disclosure and patent filing. Secret commercial exploitation should not facilitate delayed patenting, nor interfere with the examination and grant of patents based on publicly available information, as the AIA intended.