



July 31, 2007

VIA FAX

Honorable Patrick J. Leahy, Chairman
Honorable Arlen Specter, Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senators Leahy and Specter:

On behalf of the more than 850,000 members of the United Steelworkers union, I want to share with you concerns that have recently been brought to our attention by some of our domestic manufacturers regarding patent reform legislation that may be considered by the House and Senate in the near future. In its current state, The Patent Reform Act of 2007, H.R. 1908 and S. 1145, could undermine innovation and job creation in America.

Two aspects of these bills are particularly problematic for our members, namely the post award-patent review process and the strict guidelines limiting damages to patent holders from illegal infringers that have violated their patents. Additionally, we are concerned with the trade and competitiveness implications of the legislation.

For years, foreign firms have been trying to slow America's innovation engine under the guise of "harmonization" with foreign patent law. The American economy is more innovative than many of our competitors, precisely because it is more difficult to challenge patents here. The intellectual property we create is the lifeblood of our manufacturing sector – indeed, almost 70% of the patents filed in the U.S. come from manufacturing interests. These bills would allow an endless loop of legal challenges after patents are awarded that will make it more difficult for U.S. patent holders to prevail against frivolous challenges – often initiated by our foreign competitors. Companies with deep pockets could prevail against such challenges, but not the small manufacturers, universities and tech start ups upon which our innovation leadership depend.

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union

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Secondly, it would be better for U.S. manufacturing if the current system to determine damages for infringing patents remains intact. The U.S. judicial system over time has developed reasonable guidelines based on precedent to protect patents. If this bill were enacted, litigation would increase and patent certainty would decrease.

Finally, there are intellectual property, trade and competitiveness implications of this legislation, particularly as it relates to China. On April 10, 2007, the United States Trade Representative requested consultations with China over its failure to live up to its WTO intellectual property rights commitments. Very little progress is being achieved on these issues and Chinese government officials have accused the U.S. of being confrontational, when we are simply pressing for our rights under the WTO rules. Just as we are urging China to strengthen its intellectual property rights protections via a trade case at the WTO is precisely the wrong time to weaken U.S. patent law. The USTR's efforts to obtain progress from the Chinese will be undermined by downward harmonization of U.S. law.

Strong patents are vital to companies of all sizes committed to manufacturing in the United States. If companies cannot protect their innovation, their intellectual property with strong patents, they will license their technology to others who might be less committed to manufacturing in America. We already have a host of competitive pressures placed on American manufacturers and workers. The last thing that our members need is more incentives for manufacturers to move American jobs overseas.

We hope that you will consider our concerns. We stand ready to work with you and interested members of Congress to improve these bills and ensure that the final product balances the needs of the range of U.S. industries as well as encourages a more than 200-year tradition of American ingenuity and innovation.

Sincerely,

A handwritten signature in cursive script that reads "Holly R. Hart".

Holly R. Hart
Legislative Director