



April 21, 2015

The Honorable Michael C. Burgess
U.S. House of Representatives
2336 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Burgess:

In advance of tomorrow's Commerce, Manufacturing, and Trade Subcommittee markup of the draft TROL Act, we write to offer our position on legislation to address patent demand letters. Intellectual Property Owners Association (IPO) is a trade association representing companies and individuals in all industries and fields of technology who own, or are interested in, intellectual property rights. IPO's membership includes more than 200 companies and more than 12,500 individuals involved in the association through their companies or as inventor, author, law firm, or attorney members.

IPO supports legislation to clarify that the high volume sending of bad faith demand letters, to end users who are not resellers, is a deceptive act or practice within the meaning of section 5(a)(1) of the Federal Trade Commission Act, provided that the language is carefully tailored to differentiate between abusive activity and legitimate, lawful activity. Legislation should include a clear identification of objective acts or practices that would deceive recipients, such as false statements of patent ownership or the right to enforce or license patents. We strongly believe that federal legislation regulating bad faith demand letters should preempt state legislation.

We oppose legislation requiring overly burdensome and detailed disclosures, for example, of information that could trigger declaratory judgment jurisdiction or the disclosure of confidential information, which could have the unintended consequence of increasing patent infringement litigation.

We encourage the Subcommittee to retain and clarify the requirement that communications covered be in bad faith, to retain the requirement of a "pattern or practice" of sending such communications, and to retain the federal preemption provision. We would be happy to discuss our position with you in more detail.

Sincerely,

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Johnson & Johnson

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General Electric Co.

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Procter & Gamble Co.

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Eli Lilly and Co.

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Covidien

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Praxair, Inc.

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Adobe Systems Inc.

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Hewlett-Packard Co.

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Air Liquide

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United Technologies, Corp.

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Roy Waldron
Pfizer, Inc.

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DuPont

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Amgen, Inc.

Charlotte Whitaker
Motorola Solutions, Inc.

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Roche Inc.

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Milbank Tweed

Executive Director
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