

Opening Statement of the Honorable Fred Upton
Subcommittee on Commerce, Manufacturing, and Trade
Hearing on H.R. ____, a “Bill to Enhance Federal and State Enforcement of Fraudulent
Patent Demand Letters”
May 22, 2014

(As Prepared for Delivery)

I'd like to commend Chairman Terry for his continued work on addressing the growing problem of patent trolls and their practice of sending deceptive demand letters, extorting thousands of dollars out of small businesses. We have heard concerns from a range of businesses, from banks to hotels to retailers, that patent trolls are a real threat to their bottom line. Even our nation's homebuilders are on the front lines when it comes to this issue.

When we embarked upon this effort, it was clear that a balanced and effective solution would require a deliberate approach. On one hand, you have small businesses being intimidated by what sound like legitimate claim letters and deceived into paying large sums of money for licenses they don't need. On the other, you have patent-intensive companies and universities who send demand or licensing letters for legitimate purposes every day.

The importance of intellectual property – and the rights of inventors – was recognized in the earliest days of our country. Article 1, Section 8 of our Constitution declares, “Congress shall have power...to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.” The only way to protect one's rights is to put others on notice of your invention. The remedy is up to the patent holder – whether he or she demands an actor cease infringing or pay compensation for the right to continue using an invention.

We know that research and development is the lifeblood of our leading economic sectors, and we don't want to tread on the rights of innovators to engage in legitimate communications protecting their IP rights. We also don't want to make protecting one's rights overly burdensome. Concurrently, we don't want fraudsters to be able to bilk small businesses out of thousands of dollars.

Striking that balance is why we are here today. We know some of the concepts in this draft bill are not universally embraced, and I hope that through our dialogue today we can find a path forward. We need a solution that enables rights holders to continue protecting their inventions without overly burdensome regulation while impeding so-called trolls from shaking down hardworking Americans for money to which they have no claim.

Before I yield back, I'd like to take a moment to thank departing committee staff member Brian McCullough for his many years of dedicated service. Brian began his tenure under Chairman Bliley to work on securities issues, and he has been a key staffer on some of the most important commerce-related issues to come before this committee in the last several years. I want to thank him for his dedicated service and wish him well.

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