



April 16, 2015

**SUBMITTED VIA E-MAIL**

The Honorable Michael Burgess  
Chairman, Subcommittee on  
Commerce, Manufacturing, and Trade  
2125 Rayburn House Office Building  
Washington, DC 20515-3301

The Honorable Jan Schakowsky  
Ranking Member, Subcommittee on  
Commerce, Manufacturing, and Trade  
2125 Rayburn House Office Building  
Washington, DC 20515-3301

**Re: The Targeting Rogue and Opaque Letters Act (H.R. –)**

Dear Chairman Burgess and Ranking Member Schakowsky,

On behalf of the National Association of Convenience Stores (“NACS”), I write to express appreciation for the Subcommittee’s efforts to reign in the abusive practices of patent assertion entities or patent trolls that send American companies, including convenience stores, vague and deceptive demand letters that threaten business owners with often illegitimate patent litigation suits. NACS values your leadership on this issue and believes that the Subcommittee’s hearing on this topic is a helpful step toward finding solutions to this problem.

NACS is an international trade association composed of more than 2,200 retail member companies and more than 1,600 supplier companies doing business in nearly 50 countries. The convenience store industry operates approximately 150,000 stores across the United States and in 2013 generated almost \$700 billion in total sales, representing approximately 2.5% of United States GDP. Yet, the convenience store industry is truly an industry of small businesses. The vast majority of branded outlets are locally owned, more than 70 percent of the NACS’ total membership is composed of companies that operate ten stores or less, and more than 60 percent of the membership operates a single store.

Patent trolls pose a grave and costly threat to the U.S. convenience store industry. Every year, NACS members receive numerous patent demand letters that threaten litigation should the recipient refuse to pay a licensing settlement fee. Since most convenience stores do not have in-house (or outside) patent counsel and lack experience in patent litigation, it is often cheaper for NACS members to settle a patent infringement claim rather than fight it. Patent trolls recognize and exploit this, often asserting infringements claims that are not based on a legitimate patent claim.

Abusive patent trolls are particularly detrimental to our industry because most convenience stores operate with a slim one-to-three percent profit margin. Thus, all of the additional costs imposed on NACS members by patent trolls – such as the legal fees needed to battle patent trolls or the licensing fees used to pay them off – are extremely damaging to convenience store owners because they take away already scarce funds from investment and other economically productive opportunities. For this reason, NACS has been actively involved

with efforts to reign in abusive tactics by patent trolls through the United for Patent Reform Coalition.

Legislation to deal with abusive demand letters is necessary. The Targeting Rogue and Opaque Letters (“TROL”) Act (H.R. –) can be a vehicle for progress in this area, but we think it needs to be strengthened to protect business owners from those letters. Patent trolls making false and misleading statements and omissions in demand letters is unfair and deceptive. Doing that should be a violation of law without requiring the Federal Trade Commission to jump through additional hurdles to show the trolls violated the law a lot of times or had a specific state of mind. And, demand letters should provide the basic information necessary for a business to make sense of, and evaluate in some way, its claim.

NACS is committed to collaborating with the Subcommittee to strengthen the provisions in the TROL Act to ensure that it actually functions to protect businesses, like convenience stores, that have been victimized by abusive patent trolls. NACS supports the goals of the TROL Act and is eager to work with you to ensure that the legislation will effectively deal with the problem of abusive patent demand letters.

Sincerely,

A handwritten signature in black ink that reads "Paige Anderson". The signature is written in a cursive, flowing style.

Paige Anderson  
Director, Government Relations  
National Association of Convenience Stores