



May 6, 2015

SUBMITTED VIA E-MAIL

The Honorable Chuck Grassley
Chairman
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510-6050

The Honorable Patrick Leahy
Ranking Member
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510-6050

Re: The PATENT Act (S.1137)

Dear Chairman Grassley and Ranking Member Leahy,

On behalf of the National Association of Convenience Stores (“NACS”), I write to express support for the Protecting American Talent and Entrepreneurship Act of 2015 or “PATENT” Act (S. 1137), which addresses the serious threat to our country’s economy by patent trolls that bully American businesses, including many convenience stores, with deceptive and often illegitimate claims of patent infringement.

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.

The PATENT Act is a balanced bill that would take an important step forward to combat abusive patent troll tactics, which pose a serious and costly threat to the U.S. convenience store industry. All too often, NACS members receive vague and threatening patent demand letters that try to shake them down for money by threatening litigation should the recipient refuse to pay a licensing settlement fee. Most convenience stores lack experience in patent litigation and do not have in-house (or external) patent counsel. Thus, it is frequently cheaper for NACS members to settle a patent infringement claim rather than fight the claim in court. Patent trolls understand and take advantage of this, many times threatening to sue even when the underlying patent claim is not legitimate.

Since most convenience stores operate on slim one-to-three percent profit margins, patent trolls are particularly harmful to our industry where extra costs – such as the licensing fee to pay off a troll – raise consumers’ costs and can threaten the viability of individual businesses and the jobs they create. To reign in abusive patent trolls, therefore, NACS has been actively involved with the efforts of the United for Patent Reform Coalition.

Overall, the PATENT Act is a strong piece of legislation that will help address abusive patent troll behaviors. In particular, NACS appreciates the bill's provision to protect product end users, such as convenience store owners, from litigation. Generally, the manufacturer of a product rather than the product's purchaser is the best equipped company to litigate a patent case. It follows that manufacturers should litigate the central issues in a case about one of their products without later disadvantaging end users who may have to go to court in the future. NACS also welcomes the bill's provisions dealing with the sending of abusive patent demand letters, which would make it more difficult for trolls to get away with such behavior and thus protect American small businesses.

S. 1137 is a very important piece of legislation that will have a positive impact on American businesses. NACS supports the PATENT Act and its ultimate passage and thanks you and your fellow co-sponsors: Senators John Cornyn (R-TX), Chuck Schumer (D-NY), Orrin Hatch (R-UT), Amy Klobuchar (D-MN) and Mike Lee (R-UT) for your tireless efforts on this important issue.

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