July 30, 2013

The Honorable Patrick J. Leahy
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Bob Goodlatte
Chairman, Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Chuck Grassley
Ranking Member, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable John Conyers, Jr.
Ranking Member, Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Dear Messrs. Chairmen and Ranking Members:

Members of both parties, the White House, legal scholars, economists, businesses, and public and private organizations increasingly recognize the need to address the growing problem of patent abuse. Wasteful and often frivolous litigation is burdening businesses and innovators across America. We need to ensure that our patent system promotes innovation and job creation, not abusive litigation. Real and lasting patent reform must deal with both symptoms — lengthy, expensive, and abusive lawsuits — and causes, including the flood of low-quality business method patents commonly behind the current epidemic of litigation.

Litigation brought by patent assertion entities (PAEs), commonly called trolls, has exploded in size and scope, and now represents a majority of all patent litigation.

In 2011 alone, patent troll activity cost productive companies $29 billion in direct payouts, and even more in indirect costs. Increasingly, PAEs are targeting small- and medium-sized companies in every sector of our economy.

Too often, abusive PAE litigation exploits low-quality business method patents. The vague and sweeping scope of many business method claims covering straightforward, commonsense steps has led to an explosion of patent claims against processes used every day in common technologies by thousands of businesses and millions of Americans. PAEs often buy questionable business method patents and assert them against dozens of diverse businesses that use standard technologies like document scanners and common features of the Internet, like promoting discounts or conducting live web chats with customers. Indeed, business method patents are litigated nine times more often than other types of patents. These low-quality claims fuel suits seeking settlement payouts based on the costs of litigation, not the merits of the case. It rarely makes sense for a defendant to spend years in litigation and millions in legal fees to prove that a PAE patent is invalid when it could settle for much less.

We need an alternative to expensive litigation that lets the victims quickly and efficiently challenge the validity of dubious business method patents. Expanding an existing Patent Office program, the Covered Business Method (CBM) Program, beyond its current limitation of "financial services" business method patents to all business method patents would accomplish this goal. An expanded CBM Program would enable the Patent Office to reconsider the validity of issued business method patents and provide a targeted "surgical strike" against the worst of these frequently abused patents. And it would increase certainty for innovators actually bringing new products to market, who now face an increasing threat of extortive demands based on low-quality patents.

We were pleased to see the Administration support this initiative, and equally pleased to see growing bipartisan and bicameral support in Congress for patent quality improvement. We strongly support a package of reforms that would expand the CBM Program and address the root causes of PAE litigation abuse and its detrimental impact on American innovation and job creation.

We appreciate your support of this important initiative.

Sincerely,

Amazon.com, Inc.
Seattle, Washington

AOL Inc.
New York, New York

Dell Inc.
Round Rock, Texas

Demandware, Inc.
Burlington, Massachusetts

Dropbox Inc.
San Francisco, California

EarthLink, Inc.
Atlanta, Georgia

eBay, Inc.
San Jose, California

Eddie Bauer LLC.
Bellevue, Washington

Facebook, Inc.
Menlo Park, California

Gilt Groupe, Inc.
New York, New York

Google Inc.
Mountain View, California

Hearst Corporation
New York, New York

HomeAway, Inc.
Austin, Texas

HTC Americas Inc.
Bellevue, Washington

J.Crew Group, Inc.
New York, New York

Netflix, Inc.
Los Gatos, California

Newegg.com Inc.
City of Industry, California

Overstock.com
Cottonwood Heights, Utah

Priceline.com Incorporated
Norwalk, Connecticut

Public Service Enterprise Group Inc.
Newark, New Jersey

QVC Inc.
West Chester, Pennsylvania

Rackspace Inc.
San Antonio, Texas

Red Hat, Inc.
Raleigh, North Carolina

Safeway Inc.
Pleasanton, California

Salesforce.com Inc.
San Francisco, California

Samsung Electronics America
Ridgefield Park, New Jersey

SAS Institute Inc.
Cary, North Carolina

Southern Company
Atlanta, Georgia

Spotify USA Inc.
New York, New York

SurveyMonkey
Palo Alto, California

Jewelry Television
Knoxville, Tennessee

The Kroger Co.
Cincinnati, Ohio

LinkedIn Corporation
Mountain View, California

Macy's, Inc.
Cincinnati, Ohio

Media Temple, Inc.
Culver City, California

Morgan Stanley
New York, New York

Mozilla
Mountain View, California

Twitter, Inc.
San Francisco, California

Verizon Communications Inc.
New York, New York

Wal-Mart Stores, Inc.
Bentonville, Arkansas

Whataburger
San Antonio, Texas

XO Communications
Herndon, Virginia

Yahoo! Inc.
Sunnyvale, California

Zynga, Inc.
San Francisco, CA

cc: Members of Senate and House Committees on the Judiciary