



December 4, 2013

Dear Member of Congress:

As a trade association representing more than 20 Internet companies of all sizes, The Internet Association writes to urge your support for H.R. 3309, the “Innovation Act.” This important legislation will help combat today's widespread abuse of our patent system. It will also discourage certain patent assertion entities— “PAEs” or “patent trolls”—from exploiting imbalances in our current system to extract huge and undeserved settlement payouts from legitimate businesses in all industries. This exploitation costs our economy \$80 billion each year and prevents fledgling, innovative businesses from further growth due to uncertain and potentially crushing legal risk.

Patent trolls target both small and large companies. To avoid the exorbitant cost of litigation and the disruption to their day-to-day operations, targeted companies often will settle cases even when asserted patent may be invalid or not infringed. Those settlement fees divert resources that would otherwise go to creating new jobs and investing in new technologies. By contrast, patent trolls are entirely insulated from risk as they operate through a web of shell companies that have no assets whatsoever. This makes patent assertion a no-risk, high-reward business. As a result, patent litigation has increased by 400% since 2006 and defendants’ litigation costs have increased 70% since 2001.

The Internet Association supports the Innovation Act, which contains a number of fair, common-sense adjustments to patent litigation:

- By requiring more information in the initial pleading, the Innovation Act will make litigation more transparent and encourage early adjudication of infringement claims.
- By limiting initial discovery to claim construction and instructing the Judicial Conference to explore cost-shifting for extravagant discovery requests, and develop case management procedures to help identify and address potential dispositive legal issues more efficiently, the Innovation Act will deter patent trolls from abusing discovery to run up litigation costs and settlement demands.
- By clarifying the standard for fee shifting in patent litigation, the Innovation Act will ensure that trolls who bring meritless cases cannot shield themselves entirely from responsibility by operating through shell companies.
- By requiring a court to stay suits against customers when a manufacturer agrees to defend against alleged infringement, the Innovation Act will deter trolls that prey on those who are most vulnerable and least able to defend against an infringement claim.

We applaud the White House's support of the bill and will continue to work with the Senate to ensure the passage of strong and effective legislation that deters the most abusive litigation practices of patent trolls and encourages innovation and economic growth. On behalf of Internet companies and their users, we strongly encourage Congress to pass this legislation.

Sincerely,

Michael Beckerman, President & CEO