April 29, 2015

The Honorable Charles Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable John Cornyn
Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Patrick Leahy
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Mike Lee
Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Orrin Hatch
Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Amy Klobuchar
Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Charles Schumer
Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Grassley, Ranking Member Leahy, Senators Cornyn, Lee, Hatch, Klobuchar and Schumer:

I want to take this opportunity to thank you all for introducing Protecting American Talent and Entrepreneurship (PATENT) Act of 2015 and for your sustained and continuing efforts to enact meaningful and effective legislation to reduce abusive patent litigation. This legislation should go a long way to strengthening and restoring an essential balance to the patent litigation system that is urgently needed.

The Software & Information Industry Association (SIIA) is the principal trade association for the software and digital information industries. The more than 700 software companies, data and analytics firms, information service companies, and digital publishers that make up our membership serve nearly every segment of society, including business, education, government, healthcare and consumers.¹ As leaders in the global market for software and information products and services, they are drivers of innovation and economic strength—software alone contributes $425 billion to the U.S. economy and directly employs 2.5 million workers and supports millions of other jobs.²

¹ A list of SIIA’s member companies may be found at: http://www.siia.net/membership/memberlist.asp.

SIIA and its members have a significant interest in patent issues. On the one hand, SIIA members use patents to protect their products and services, which improve the global competitiveness of our nation. At the same time, SIIA members increasingly face frivolous and harassing patent infringement suits from Patent Assertion Entities (PAEs) that are diverting critical resources away from innovation.

Patent litigation abuse by PAEs is the most significant problem facing the patent system and innovation more generally. PAEs do not innovate, make or sell anything, but exist simply to buy patents from others for the sole purpose of suing legitimate companies for patent infringement. They exploit flaws in both the patent system and litigation practices to their advantage and to the disadvantage of the innovative industries, their customers and the public.

These abusive patent litigation tactics threaten our country’s economic health and technological development. Several recent rulings by the Supreme Court have helped address the problem somewhat, but PAEs continue unimpeded to exploit the loopholes in the law – loopholes that only Congress can fix. These PAEs are filing lawsuits at historically high rates, forcing not just software companies but businesses of all sizes and types to divert billions in resources that could otherwise be put towards research, innovation and jobs.

Action needs to be taken to stop these abusive tactics. While there are ways that the PATENT Act can be improved, we think the bill provides an excellent platform for addressing the PAE problem by including important provisions relating to transparency, heightened pleading standards, and core document discovery limitation. Working together, these are essential components of any effective patent litigation abuse legislation.

It is our hope that Congress will act quickly this session to take strong and effective steps to control abusive patent litigation, as we work to ensure our nation’s patent system continues to spur innovation and economic growth. We look forward to working with you and other stakeholders in coming weeks and months as the PATENT Act moves forward.

Sincerely,

Mark MacCarthy
Vice President, Public Policy

cc: The Honorable Mitch McConnell, Majority Leader, United States Senate
    The Honorable Harry Reid, Minority Leader, United States Senate
    The Honorable Members of the Senate Committee on the Judiciary