



July 9, 2015

The Honorable John Boehner  
Speaker  
U.S. House of Representatives  
Longworth House Office Building, 1011  
Washington, DC 20515

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
Cannon House Office Building, 233  
Washington, DC 20515

Dear Speaker Boehner and Minority Leader Pelosi:

On behalf of BSA | The Software Alliance, I am writing to express support for the Innovation Act (H.R. 9) and urge that certain changes and clarifications be made to the bill as the legislation is prepared for consideration by the House of Representatives.

The Innovation Act represents a solid framework for much-needed reform to address the rampant abuses occurring in patent litigation. These abusive practices impose a heavy burden on companies of all sizes across our nation's economy. BSA members are the world's leading innovators, and they also are some of the leading victims of abusive patent lawsuits. **Passage of the Innovation Act by the House of Representatives will send a powerful signal that Congress is committed to stopping those who take advantage of the patent system.**

The Innovation Act, as reported by the Judiciary Committee, includes strong fee shifting and venue provisions. The fee shifting provision will deter frivolous patent infringement lawsuits by ensuring that parties undertaking irresponsible practices in litigation are faced with the consequence of paying the losing party's attorneys' fees. The venue provision ensures that patent infringement suits are only brought in judicial districts that have some reasonable connection to the dispute. These provisions, along with others in the bill, provide important safeguards for American businesses and increase efficiency, fairness and transparency in litigation for all participants in the patent system. BSA applauds these provisions.

BSA urges two further improvements to the Innovation Act as reported by the Judiciary Committee:

- The pleadings provision needs to be strengthened to require patentees to articulate their allegations of infringement for every claim being asserted. This is a commonsense improvement that will make patent cases more efficient without undermining the ability of inventors to assert their patent rights.
- The provision to alter the current United States Patent and Trademark practice of using the Broadest Reasonable Interpretation (BRI) standard during all post grant review challenges should be deleted from the bill. Moving away from BRI to the less rigorous standard used by district courts will undermine post grant review procedures that have proven to be an effective and useful tool in weeding out the weak patents that are often asserted in the most abusive of patent cases.

Finally, BSA strongly opposes any efforts to expand or extend the Transitional Program for Covered Business Method Patents (CBM) established by the 2011 America Invents Act. An amendment to extend the CBM program was considered and soundly rejected by the Judiciary Committee in June. The CBM program should be allowed to sunset in 2020 as Congress intended when the program was created fewer than four years ago.

The House of Representatives demonstrated that it takes the problem of abusive patent litigation seriously when it passed the 113<sup>th</sup> Congress' version of the Innovation Act by a strong bipartisan vote of 325-91. We urge Members to move this important legislation toward enactment in 2015 by passing the Innovation Act, with the improvements we have suggested, during this work period.

Sincerely,



Victoria A. Espinel  
President and CEO