

Stop Trolls from Abusively Using Bad Patents  
Keep CBM Review Program Strong

November 19, 2013

Dear Members of the Judiciary Committee:

We write today to urge you to reject any amendments to strip Sec. 9(e), “Covered Business Method Patent Reviews”, from Chairman Goodlatte’s bipartisan Innovation Act (H.R. 3309). The undersigned organizations represent tens of thousands of companies employing tens of millions of Americans, as well as public utilities and public interest groups.

The Covered Business Method (CBM) Patent Review program provides relief from patent abuse by enabling patent trolls’ targets to challenge the trolls’ invalid business method patents at the U.S. Patent & Trademark Office (USPTO). Challenging these patents at the PTO instead of in federal court saves victims hundreds of thousands of dollars and reduces wasteful litigation that clogs our judicial system.

Section 9(e) of the Innovation Act does not expand the CBM program; it merely confirms that a recent PTO decision correctly decided that the existing CBM program covers the questionable business method patent challenged by SAP. That patent, which covered “any method of calculating pricing discounts” is precisely the type of overbroad financial products or services patent that the CBM program was created to address.

Many of the undersigned believe that the CBM program should be expanded to enable administrative challenges of all low-quality business method patents, so that more targets of patent troll abuse could defend themselves more efficiently and less expensively. First and foremost, however, it is imperative to preserve the scope of the existing program, as H.R. 3309 seeks to do.

Patent trolling is a rapidly growing industry. Nearly 7,000 companies were sued by patent assertion entities (PAEs) in 2011-2012, a 400% increase since 2006. The number of companies sued with business method patents has grown 28% each year on average since 2004. These suits frequently involve patents that cover common features of ecommerce, from sending shipment notification emails to customers to enabling hotel reservations over the Internet.

To avoid settling with a patent trolls over an invalid business method patent, companies need an effective administrative alternative for challenging the patent’s validity. Equally important is that once invalidated at the USPTO, a low-quality business method patent is removed from the system; it cannot be used to target other companies.

We strongly urge you to protect American companies and public power utilities from patent troll abuse by opposing any amendment to strip Sec. 9(e) from H.R. 3309. Please take a stand against patent trolls, and in defense of a strong patent system that encourages innovation and job creation.

Sincerely,

American Association of Advertising Agencies  
New York, NY

American Gaming Association

American Public Power Association

Application Developers Alliance

CoCo  
Minneapolis, MN

Computer & Communications Industry Association

Electronic Frontier Foundation  
San Francisco, CA

Engine Advocacy

International Franchise Association

Internet Infrastructure Coalition

National Association of Realtors

National Council of Chain Restaurants

National Retail Federation

Printing Industries of America

Public Knowledge

Public Patent Foundation  
New York, NY

The eMob  
New York, NY