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TECHNOLOGIES

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The Honorable Thom Tillis, Chairman
Subcommittee on Intellectual Property
Committee on the Judiciary
U.S. Senate
224 Dirksen Senate Office Building
Washington, D.C. 20515

The Honorable Chris Coons, Ranking Member
Subcommittee on Intellectual Property
Committee on the Judiciary
U.S. Senate
152 Dirksen Senate Office Building
Washington, D.C. 20515

My name is Arnold Beal and I am a 69-year-old independent inventor and currently owner of four patents. All are related to a unique new engine designed for reducing fuel consumption, emissions, size and weight compared to piston engines of similar power.

I am concerned about protecting my patent rights as intended by our forefathers and granted by the U.S. Patent & Trademark Office. For independent patent holders like myself, it is crucial that a generation of laws, regulations, and court decisions that have discouraged innovation by failing to secure to inventors the exclusive rights to their discoveries are reversed. Inventors in the United States will be harmed if the patent system remains in its current state.

We must increase the enforceability of issued patents, especially those issued to the independent inventors as they are most often attempting to start and build a business around their innovation without large company funding. Because of the PTAB and lack of strong enforcement in court, patents cost inventors far more than is ever returned. Patents are just liabilities. If the recommended legislation does not include increased protection of patents, we will end up destroying the businesses and lives of the very individuals, employees and innovation we intend to help.

Because of other inventors' experience with the PTAB with exorbitantly high costs, delays and ultimately resulting patent infringement, I am reluctant to invest further in additional patents on my engine and related business development, especially if my patent rights can suddenly belong to another entity not having the original rights to the innovation. These outcomes obviously weigh heavily on my strategic decision whether to continue to innovate and invest.

If an idea is successful, big companies will want to use it. They are happy to go to court. Most inventors can't afford the legal fees, so the big company immediately gets to "win" the trial and take the patented product with no compensation for the legal originator/inventor/patent owner.

On the small chance that the inventor can afford to go to court, there is an even smaller chance that the big company would ever lose. And even if they lose, there is no punishment more than being forced to pay a reasonable royalty. If the company takes the inventor to the PTAB, their likelihood of success goes through the roof. The very worst-case scenario for an infringing company is that they have to pay a royalty, so of course they choose to infringe. With the PTAB the infringer has the odds in their favor. The patent system has been turned backwards and protects infringers far better than inventors. If these problems are not addressed the persons who invest their lives and livelihood in patents, at the encouragement of the USPTO and Congress, will be utterly destroyed like the examples above. So much for the American dream and further advancement of our technologies and innovation.

Patents are the foundation for innovative companies. Due to extremely high PTAB invalidation rates, investors are not funding innovative companies built on patented ideas. It is incomprehensible that the Patent Office is attacking inventors in these proceedings – the complete opposite of promoting innovation! According to the 2017 AIPLA Report of the Economic Survey, the estimated mean cost of a post-grant proceeding through appeal runs at \$450,000.00. The USPTO must stop taking back patents from inventors.

Additionally, the “exclusive right” promised on the patent as granted by the USPTO must be enforced. The 2006 eBay decision revoked the inventor’s ability to decide how her invention is produced and by whom. The inventor cannot determine the price, quality, brand, included features, materials, factory location, working conditions, environmental sustainability, or any other concern. The legislative recommendation should include bolstered access to injunctions for individual inventors.

Finally, patent infringers must not profit by using an invention without permission from the legal patent owner. Current law limits most inventors who win in court to only a “reasonable royalty”, which in many cases does not cover legal fees and is too little to serve as a deterrent against large corporations with deep pockets. Few independent inventors can afford the millions of dollars and years required to enforce their patents in court. Even after winning, the inventor gets a small percentage of the profits while the infringer keeps the rest. Infringement is a good business decision under current law, but not for the creator/inventor. The legislative recommendation must include more severe penalties for willingly infringing on patents.

I appreciate the USPTO’s willingness to hear from real inventors. After watching the lives of many of our own be utterly destroyed because they invested and believed in the patent system, we know that this legislation will not achieve its goal – the goal of bringing success through patents – unless the patents actually provide the protection originally promised by our founders.

Sincerely,

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