

Judiciary Committee Chairman Lamar Smith Opening Statement (As Delivered) H.R. 1249, the "America Invents Act"

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Chairman Smith: The foresight of the Founders in creating an intellectual property system in the Constitution demonstrates their understanding of how patent rights benefit the American people.

Technological innovation from our intellectual property is linked to three-quarters of America's economic growth.

And American IP industries account for over half of all U.S. exports. These industries also provide millions of Americans with well-paying jobs.

Our patent laws, which provide a time-limited monopoly to inventors in exchange for their creative talents, help create this prosperity.

The last major patent reform was nearly 60 years ago. Since then, American inventors have helped put a man on the moon, developed cell phones and created the Internet.

But we cannot protect the technologies of today with the tools of the past.

The current patent system is outdated and dragged down by frivolous lawsuits and uncertainty regarding patent ownership.

Unwarranted lawsuits that typically cost \$5 million to defend prevent legitimate inventors and industrious companies from creating products and generating jobs.

One problem with the patent system is the lack of resources available to the PTO. The bill allows the Director to adjust the fee schedule with appropriate congressional oversight and authorizes the agency to keep all the revenue it raises. This will enable PTO to become more efficient and productive. Patent quality will improve on the front end, which will reduce litigation on the back end.

Inventors, businesses and other groups interested in patent reform don't agree on every issue that we've debated for the past six years. Our patent system doesn't affect each individual or company in the same way because they use the patent system in many different ways.

The patent system envisioned by our founders focused on granting a patent to be awarded to the first inventor to register their invention, as long as it was not in public use when the inventor conceived of their invention.

There are some who look at this bill thinking that it will hurt small businesses and independent inventors. But this bill was designed to ensure that these inventors are able to compete with the larger companies and globally, which the current system does not enable them to do.

This bill includes new programs at the PTO that will reduce litigation costs, and create true patent certainty. We have also included, at Mr. Griffin's suggestion, a provision that makes the Small Business Ombudsman at the PTO permanent. That means that small business will always have a champion at the PTO looking out for their interests and helping them as they secure patents for their inventions.

This bill not only protects small business and independent inventors, it creates jobs and even helps bring manufacturing jobs back to the United States.

I also know that there are some members on the large business side, particularly in the tech community, who still want more. I've been a consistent ally of theirs since this project began six years ago. Given the political context in which we must legislate, I think we've been fair to tech industries and fair to all sides.

For example, at their request the bill doesn't address many litigation reform issues because the courts are addressing these issues through decisions on damages, venue, and other subjects.

And in response to requests from tech firms, this bill lengthens the filing deadlines for post-grant opposition and inter-partes reexam and enhances prior-user rights in ways that manage to preserve the support of other stakeholders.

It is impossible for any one group to get everything they want. This bill represents a fair compromise and creates a better patent system than exists today for inventors and innovative industries.

Now is the time to act. I urge my Judiciary Committee colleagues to support the "America Invents Act."