

Startup Investors Nationwide Support Broad Patent Reform

17 March 2015

Dear Congress:

Each year, we invest hundreds of millions of dollars in software and information technology businesses and other emerging technologies. Together with other investors, we commit more than \$1 billion annually in angel and venture capital that ensures continuing growth of young, high-tech companies employing 1.4 million people. Collectively, we have invested in companies such as Netflix, Twitter, Facebook, Dropbox, Palantir, Kickstarter, and countless other technologies that power American businesses everywhere.

This investment has spurred a startup ecosystem that has created world-changing technologies, and is responsible for all net new job growth in the United States. Despite this, we find our portfolio companies facing a dangerous patent troll problem. When a troll sues, or even threatens, a small startup, the results can be disastrous. Many of us have seen young companies fail in the face of such threats. In fact, a recent survey found that 70% of VCs have portfolio companies that have received patent demands, the majority of which come from so-called patent trolls. This is not sustainable.

To promote continuing growth in our startup economy, we need comprehensive patent reform legislation that will provide small companies the tools to fight back against patent trolls and will curb the worst behavior of the most egregious actors. Specifically, legislation should:

- Increase transparency by requiring patent trolls to specify, in complaints and demand letters, which patent and what claims are infringed, specifically how the offending product or technology infringes, and who is the real owner of the patent(s) at issue.
- Limit the scope of expensive litigation discovery, which pushes companies to pay unjustified settlements priced cheaper than defending against spurious claims.
- Allow courts to use their discretion to require patent trolls to pay legal fees and other costs incurred by prevailing defendants.
- Protect end users of technology (e.g., wi-fi, printers and scanners, and APIs) from being liable for infringements by technology providers.

Many of our companies own patents, and we believe in a robust patent system. We do not want to undermine legitimate enforcement of properly-issued patents by responsible patent owners. Moreover, we are encouraged by recent changes to the system. However, tens of thousands of patents are still issued every year in the high-tech space alone, many of which will end up being exploited by trolls during their 20 years of life. Litigation by non-practice entities has increased tenfold in the last decade and only comprehensive legislation will effectively reverse that trend.

Our Constitution favored a patent system to incentivize innovation and benefit all Americans. Unfortunately that system has been hijacked by some intent on exploiting Patent Office weakness, and all too frequently it now hinders innovation and chills investment, harming the new companies it was designed to foster and imposing a patent troll tax on new technologies. We urge Congress to immediately pass comprehensive patent reform legislation that will restore balance to the system.

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