

March 9, 2009

The Honorable Patrick Leahy  
Chairman  
Senate Judiciary Committee  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Arlen Specter  
Ranking Member  
Senate Judiciary Committee  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Specter:

We write today regarding the importance of the United States patent system to our transition to a clean energy economy. Our companies and those we represent are committed to nurturing the innovation pipeline and subsequent domestic manufacturing capacity that will build the next generation of energy efficient, renewable energy, and renewable fuel technologies, creating thousands of American jobs in the process. However, we are concerned with recent legislative proposals to make fundamental changes to the US patent system that we believe would weaken, rather than strengthen, patent protection, putting this innovation pipeline and subsequent American manufacturing capacity at risk.

The patent reform legislation that has been introduced would reduce penalties for patent infringement by changing the law of damages. This change would elevate the importance of one of the factors now considered in calculating patent damages. By giving this one factor – apportionment – a preeminent position in damage calculations, proponents of the legislation would have achieved the goal of reducing damage awards. This type of reduction in the value of intellectual property rights could adversely affect the future of our industries in the United States in two ways.

First, in order to meet the demands of a low-carbon energy future, the need for innovation in the areas of energy efficiency, energy crops, advanced biofuels, renewable energy, renewable fuels, carbon capture and storage, and environmental technologies is great. Our ability to rapidly innovate in these sectors is critical to ensuring that we and others will be able to effectively meet our mutual goals of reducing carbon dioxide emissions, thereby reducing the impact of global climate change and reinvigorating the American economy with the creation of green jobs. A significant reduction, or elimination of much of the value of the intellectual property that will be generated through this process will have an effect on the availability of the venture capital required, decreasing the speed at which innovation will occur.

Second, we anticipate that our economy will flourish as innovation in environmental and climate technology sectors drives the creation of green jobs. Our companies and our members create these jobs as we manufacture and market our patented products and technologies to domestic and international customers. If the current patent system is modified, making it less

costly to infringe on existing or future patent rights, we anticipate that our competitive advantage in the global marketplace will be reduced, impacting the creation of green jobs.

As proposals are made to change the U.S. patent system, we encourage you to take into account the impact of these proposals on the viability of our burgeoning green economy and its associated green jobs, as well as our ability to attract the capital required to innovate at the necessary pace to effectively combat global climate change. Drastic changes, such as reducing penalties for patent infringement, will only discourage innovation, resulting in reduced investment and lost jobs at a time when the country can least afford it.

We believe the American patent system is the best in the world and we look forward to working with you to ensure that it becomes even stronger. Thereby we can continue to encourage the kind of investment, product creation, and job creation that has been the hallmark of our economy for decades, and will ultimately drive our ability to meet the challenges posed by global climate change. Thank you for considering our views on an issue of fundamental significance to innovation in America.

Sincerely,

**National Organizations**

American Council on Renewable Energy (ACORE)  
Washington, DC

Biomass Coordinating Council  
Washington, DC

Ocean Renewable Energy Coalition  
Darnestown, MD

**Individual Organizations**

EESTech Inc.  
Chino Valley, AZ

Southwest Windpower  
Flagstaff, AZ

Ceres, Inc.  
Thousand Oaks, CA

Fallbrook Technologies Inc.  
San Diego, CA

Viryd Technologies Inc.  
San Diego, CA

Mendel Biotechnology, Inc.  
Hayward, CA

IP Checkups, Inc.  
Berkeley, CA

Environmental Energy Solutions  
West Hartford, CT

GreenWorld, LLC  
Arvada, CO

DuPont  
Wilmington, DE

EarthLinked Technologies  
Lakeland, FL

International Applied Engineering, Inc.  
Marietta, GA

Unicoi Energy Services  
Marietta, GA

Industrial Resource Group, LLC  
Schererville, IN

Konarka Technologies, Inc.  
Lowell, MA

Syngenta  
Golden Valley, MN

Monsanto  
St. Louis, MO

Solutia Inc.  
St. Louis, MO

Energy and Environment Research Center (EERC)  
Grand Forks, ND

Greentech Capital Advisors  
New York, NY

ECR International, Inc.  
Utica, NY

ArborGen, LLC  
Summerville, SC

PetroTex  
Cedar Hill, TX

The Stella Group, Ltd  
Arlington, VA

Powered Green LLC  
Madison, WI

Terra Moya Aqua, Inc.  
Cheyenne, WY

cc: The Honorable Harry Reid, Senate Majority Leader  
The Honorable Mitch McConnell, Senate Minority Leader