



February 4, 2015

The Honorable Bob Goodlatte  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

The Honorable John Conyers  
Ranking Member  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Chuck Grassley  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

The Honorable Patrick J. Leahy  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Chairman and Ranking Members of the House and Senate Committee's on the Judiciary,

As the 114<sup>th</sup> Congress begins its consideration of patent legislation, NVCA believes it is essential that Congress take a measured and targeted approach in determining what steps, if any, are needed to address perceived abuses of the U.S. patent system. Major parts of this country's innovation-driven economy, which is the envy of the rest of the world, are critically dependent on patents to protect investments of time, money, and other resources from competitors and copyists, both foreign and domestic. For thousands of venture-backed companies across a broad spectrum of industries, preservation of their ability to obtain and enforce patents is fundamental to survival. If a congressional effort to address abusive litigation practices were to have the practical effect of making patent enforcement more risky, cumbersome and expensive, it will have a far greater impact on some of these highly innovative companies than on the few entities perceived to be abusing the litigation process.

NVCA looks forward to working with members of Congress to help develop a better understanding of the innovation process and the role that patents play in that process. As the voice of the venture capital industry, NVCA represents 90 percent of all U.S. venture capital under management. Venture capitalists work closely with entrepreneurs and inventors to transform breakthrough ideas into emerging growth companies that drive U.S. job creation and economic growth. Almost all venture capital investing involves risk, and usually the more innovative and disruptive a breakthrough idea, the greater the risk facing those who would commercialize it. The primary task of venture capital investors centers on analyzing and assessing these risks. The greater the perceived risk is in an investment, the greater the projected

return must be to justify moving forward. It is extremely important that any legislation addressing abusive behavior by patent owners be crafted so as not to increase the risk facing legitimate patent owners and their investors in trying to enforce patents when necessary.

NVCA recognizes that some companies have business models in which intellectual property, such as patents, does not play a particularly significant role. Indeed, there are a number of well-established companies whose size alone provides better protection for their markets and investments than do their patents. What is important for Congress to recognize and understand, however, is that for thousands of other companies, patents are the only way to insure a return on investment sufficient to justify the risks involved. This group includes companies developing digital technologies that employ inventive hardware and/or software, energy technologies, communication technologies, new polymers and metallurgical materials, information technologies, medical devices, biologics and pharmaceuticals. For these companies, a highly structured and rigid approach to patent enforcement is likely to have unintended and unforeseeable consequences that could have a significant and devastating impact to the point that incentives to invest are diminished or—worse yet—extinguished.

If Congress chooses to move forward with legislation, NVCA hopes it will consider this sensitive balance so that investment in innovative start-ups in all sectors of our economy will continue to thrive. Congress also should take into consideration recent developments in the federal courts and at the U.S. Patent & Trademark Office and the Federal Trade Commission, all of which collectively have reduced significantly the number of new patent cases and promise to reduce them even further as the full impact of those developments begins to be felt.

Thank you for your leadership on these complex issues. We look forward to working with you and the other members of the two Committees on legislation that balances the need to curb patent litigation abuses with the need to maintain strong protection for patent-dependent startups.

Sincerely,

A handwritten signature in cursive script that reads "Bobby Franklin".

Bobby Franklin  
President & CEO

Cc: House and Senate Judiciary Committee members