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December 22, 2020

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Washington, D.C. 20230

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Dear President-Elect Biden and Vice President-Elect Harris,

Counsel
Rachel Kreppel

We are innovators and supporters of innovation. We write in support of durable and reliable intellectual property protection. Over the past several years, the United States Patent and Trademark Office (USPTO) has made significant improvements in policies and procedures that enhanced predictability in the patent process. This has restored confidence in the U.S. patent system, and led to increased investment in innovation and business formation. If the U.S. is to maintain its leadership in innovation and technological development, it is imperative that we retain and build upon these improvements.

Director
Julie Barnes-Weise

Since its earliest days, the U.S. recognized the importance of innovation, and rewarded inventors with limited exclusive rights to their inventions. This is at the root of America's economic success and leadership, from a humble agrarian society to the leading industrial power at the center of the innovation economy.

Director
Vincent Bergeron

The Founders' recognition of the importance of protecting intellectual property, and in particular, patents and copyrights, is reflected in the express provision found in our Constitution. Article I, Section 8, clause 8 is the only power conferred on Congress linked to an explicit purpose. In the case of patents, it is to promote the progress of the useful arts. Patents provide innovators – from the sole inventor toiling away in a garage to the R&D department of a multi-national corporation – with the ability to compete on a level playing field, often against more well-established market incumbents.

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IP-intensive industries are a major driver of the U.S. economy. In 2016 alone, these industries contributed more than \$6 trillion to U.S. GDP, and created 45 million jobs. U.S. Dep't of Commerce, *Intellectual Property and the U.S. Economy: 2016 Update* (2016) <https://www.commerce.gov/data-and-reports/reports/2016/09/intellectual-property-and-us-economy-2016-update>. Intellectual property rights also protect against the theft of ideas, both at home and abroad, and they ensure that everyone

Director
Karen Temple

Director
Eric Victory



who participates in the innovation ecosystem has a shot at the American dream.

The USPTO Director is charged with safeguarding the U.S. patent system, executing the necessary administrative functions consistent with our patent laws, and encouraging innovation for the public good. The current USPTO leadership has worked diligently and effectively to provide balance in the system by adopting policies and practices that have enhanced predictability and patent quality. These efforts have led to increased confidence in the U.S. patent system, which in turn stimulates investment in innovation.

From its earliest days, the U.S. has been a beacon of innovation and creativity. This did not come naturally. It is a byproduct of a finely tuned legal system that balances incentives for innovation with the public good. Throughout our history, the world has looked to the U.S. in creating pro-growth, innovation-oriented laws and policies. The genius of the U.S. patent system is its recognition of the inventor's inherent private property right.

Robust and reliable property rights is an essential element of any market economy. It fosters specialization, and facilitates collaboration among diverse enterprises. A properly balanced system of intellectual property rights enables many organizations to work together to solve the most complex challenges – whether solutions to a global pandemic or development of complicated communication systems (5G) – well defined property rights make those interactions less risky and more likely to occur favorably. In the absence of reliable IP protection, however, there is greater uncertainty, and thus reluctance to pursue those collaborations.

Policies and practices that undermine U.S. patent rights hurt American inventors, diminish innovation, and divert investment to foreign shores. If America does not respect innovation, we can expect two adverse effects: other nations will likewise fail to respect American innovation; and they will grant inventors the protections that we have forsaken. Innovators and investment will migrate toward more durable and reliable IP protection, and American jobs and economic growth will suffer.

Our country is at a critical juncture. We are facing unprecedented challenges of a global health and economic crisis while simultaneously witnessing profound changes in communications technologies that will have far-reaching, long-term implications. America can best address those developments by reinvesting in what we do best – creating new industries, jobs, and products from the fruits of innovation. Now is the time to reaffirm and support American leadership in innovation and economic growth by supporting the U.S. patent system. As we have shown throughout our nation's history, this is best done by rewarding innovators for innovating; and this is most efficiently achieved, as the Founders recognized, by granting inventors an exclusive right to their discoveries. Let us devote ourselves to ensuring every inventor is able to access that exclusive right, and that it is reliably bestowed.



As we move forward under a new administration and a new Congress, we urge you to retain and to build upon these improvements to our patent system. We are ready to assist you, and encourage you to call on us as you do so.

Respectfully,

Brian P. O'Shaughnessy
Senior Vice President for Public Policy
LES U.S.A. and Canada, Inc.

Mihaela D. Bojin, PhD, CLP
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cc: Members of the Senate Judiciary Subcommittee on Intellectual Property;
Members of the House Subcommittee on Courts, Intellectual Property, and the
Internet