

**Support for S. 23**

Advanced Medical Technology Association (AdvaMed)

American Bar Association, Section of Intellectual Property Law

American Intellectual Property Law Association (AIPLA)

Association of American Universities

American Council on Education

Association of American Medical Colleges

Association of Public and Land-grant Universities

Association of University Technology Managers

Council on Governmental Relations

BASF Corporation

Biotechnology Industry Organization (BIO)

Bose Corporation

Dow Chemical

Louis Foreman, Enventys

Gary K. Michelson, MD

GE and IBM

Genentech

Hoosiers Supporters of S. 23

IGT

Illinois Tool Works Inc. (ITW)

Intellectual Property Owners Association

Iowa Business Coalition

Small Business & Entrepreneurship Council

Washington Post Op-Ed

701 Pennsylvania Avenue, Ste. 800  
Washington, DC 20004-2654  
Tel: 202 783 8700  
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www.AdvaMed.org



February 25, 2011

The Honorable Harry Reid  
Majority Leader, U.S. Senate  
522 Hart Senate Office Building  
Washington, DC 20510  
VIA FACSIMILE: (202) 224-7327

The Honorable Mitch McConnell  
Republican Leader, U.S. Senate  
361-A Russell Senate Office Building  
Washington, DC 20510  
VIA FACSIMILE: (202) 224-2499

**Re: Patent Reform and S. 23**

Dear Leader Reid and Leader McConnell:

The Advanced Medical Technology Association, AdvaMed, is the world's largest association of medical device manufacturers. AdvaMed member companies produce the medical devices, diagnostic products and health information systems that are transforming health care through earlier disease detection, less invasive procedures and more effective treatments. Our members produce nearly 90 percent of the health care technology purchased annually in the United States and more than 50 percent purchased annually around the world. AdvaMed members range from the largest to the smallest medical technology innovators and companies. America's medical technology companies depend on a fair and robust patent system to develop the world's leading life-saving and life-enhancing medical technologies.

We write in support of S. 23, "The Patent Reform Act of 2011." This bipartisan bill represents a strong compromise and a path forward on maintaining a strong patent system. We support the provisions on first-window post-grant review and inter partes review, as these measures decrease the potential for abusive challenges while increasing certainty and improving patent quality. We appreciate the retention of the "gatekeeper" compromise on damages and would strongly oppose any reversion towards apportionment of damages. AdvaMed is also pleased with the retention of the transition to a first-inventor-to-file system because it will promote international harmonization and generate efficiencies. Additionally, we support the false markings fix that is included in S. 23, and which will discourage deceptive patent markings while at the same time eliminating frivolous lawsuits.

We believe that S. 23 offers a balanced compromise that on the whole improves upon the existing U.S. patent system to preserve medical technology innovation. Accordingly, AdvaMed strongly supports S. 23. We are hopeful for early action and commit to working with the Congress, the Administration, and other stakeholders to advance the proposed legislation.



Thank you for your consideration of our perspectives. Please let us know if we may be of any assistance moving forward.

Very truly yours,

Christopher L. White  
Executive Vice President, General Counsel and Assistant Secretary  
AdvaMed- The Advanced Medical Technology Association

cc: The Honorable Patrick J Leahy  
The Honorable Charles Grassley

February 24, 2011

The Honorable Harry Reid  
Majority Leader  
United States Senate  
The Capitol, Room S-221  
Washington, DC 20510-7010

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
The Capitol, Room S-230  
Washington, DC 20510-7020

**RE: SUPPORT FOR S. 23, THE PATENT REFORM ACT OF 2011**

Dear Majority Leader Reid and Minority Leader McConnell:

On behalf of the American Intellectual Property Law Association (AIPLA), I am writing to express our **strong support for S. 23, the Patent Reform Act of 2011**, as it was recently Reported by the Committee on the Judiciary. We believe that, on balance, the current text achieves a reasonable compromise that has been carefully crafted to recognize the divergent interests of the U.S. patent community and that will benefit the system as a whole by significantly promoting American innovation.

AIPLA is a national bar association of approximately 16,000 members engaged in private and corporate practice, government service, and academia. AIPLA represents a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent and trademark law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property, and they have a keen interest in a strong and efficient patent system. We have been involved in the patent system since our founding in 1897, and we appreciate the opportunity for our voice to be heard in the current debate.

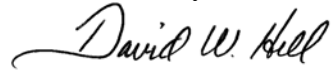
At its core, S. 23 as Reported will reduce the negative effects of patent litigation by reducing the subjective elements in patent law; it will address the harmful impact on the system caused by questionable patents; and it will protect the basic interests of patent owners with respect to damages, venue, and the best mode requirement. The legislation will also allow the USPTO to make necessary operational improvements and, by moving the U.S. to a first-inventor-to-file system, give small inventors greater opportunities to compete in a global environment, while reducing workload at the USPTO.

The Honorable Harry Reid  
The Honorable Mitch McConnell  
February 24, 2011  
Page 2

While it will begin to provide the USPTO with resources that it needs to realize urgently looked-for improvements, further efforts are imperative to ensure that the necessary funds reach the Office, and that matter must be addressed during Floor consideration of the bill. While we do not support every provision of the legislation, we again want to commend the Committee on the Judiciary and, in particular, Chairman Leahy and Ranking Member Grassley and their staffs for making such significant progress toward a long overdue but critical reform of our patent system.

AIPLA is committed to a strong, efficient, and predictable patent system and is eager to work with you to achieve that goal. We thank you for considering our views and urge you to support S. 23.

Sincerely,

A handwritten signature in cursive script that reads "David W. Hill". The signature is written in black ink and is positioned below the word "Sincerely,".

David W. Hill  
AIPLA President

**AMERICAN BAR ASSOCIATION****Section of Intellectual Property Law**  
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Chicago, IL 60654-7598  
(312) 988-5598  
FAX: (312) 988-6800  
E-mail: [iplaw@abanet.org](mailto:iplaw@abanet.org)  
[www.abanet.org/intelprop](http://www.abanet.org/intelprop)

February 28, 2011

Dear Senator:

This week the Senate will be considering S. 23, the "Patent Reform Act of 2011." I am writing to express the support of the Section of Intellectual Property Law of the American Bar Association for Senate approval of S. 23, and our opposition to any amendment that may be offered to strike the "first-inventor-to-file" provisions of the bill. These views have not been considered by the American Bar Association's House of Delegates or Board of Governors and should not be considered to be views of the American Bar Association.

S. 23 is a bi-partisan product of six years of study and development within the Judiciary Committee. By necessity, it contains a number of provisions that are the result of negotiation and compromise and it is unlikely that all of the Judiciary Committee co-sponsors favor each and every provision. We too would have addressed some issues differently. However, the perfect should not be the enemy of the good and we believe that this is a good bill. S. 23 and S.515, its close predecessor in the 111<sup>th</sup> Congress, are the only bills that we have endorsed in the six years that we have been following this legislation. The enactment of S. 23 would substantially improve the patent system of the United States and we support that enactment.

At the same time, we want to express our strong opposition to an amendment that may be offered to strike the provisions of S. 23 that would switch the U.S. patent system to one that awards a patent to the first inventor who discloses his invention and applies for a patent ("first-inventor-to-file"), rather than awarding a patent based on winning the contest to show the earliest date of conception or reduction to practice of the invention ("first-to-invent").

The United States is alone in the world in retaining the first-to-invent system. While a first-inventor-to-file system encourages inventors to file for a patent and disclose their inventions at an early date, the first-to-invent standard increases opportunity for competing claims to the same invention, and facilitates protracted legal battles in administrative and court proceedings, which are extremely costly, in both time and money.

Some have long thought that small and independent inventors would be disadvantaged in a first-inventor-to-file environment and that competitors with more resources might learn of their inventions and get to the U.S. Patent Office first with an application. This current legislation, however, makes it clear that the award goes to the first *inventor* to file and not merely to the first person to file.

**CHAIR**  
Marylee Jenkins  
New York, NY**CHAIR-ELECT**  
Robert A. Armitage  
Indianapolis, IN**VICE-CHAIR**  
Joseph M. Potenza  
Washington, DC**SECRETARY**  
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Billings, MT**MEMBERSHIP OFFICER**  
Susan McGahan  
Bedminster, NJ**SECTION DELEGATES TO  
THE HOUSE OF DELEGATES**  
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Houston, TXDonald R. Dunner (2012)  
Washington, DCSusan Barbieri Montgomery (2013)  
Boston, MA**ASSISTANT TO THE CHAIR**  
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Joan McGivern (2012)  
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Nancy J. Linck (2013)  
Ralph Oman (2013)  
Amy J. Benjamin (2014)  
George W. Jordan III (2014)  
Donna P. Suchy (2014)  
Marc K. Termin (2014)**SECTION STAFF**  
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[gregoryh@staff.abanet.org](mailto:gregoryh@staff.abanet.org)

Equally important, recent studies show that, under the present U.S. patent system, small and independent inventors who are second to file but who attempt in the U.S. Patent Office and court proceedings to establish that they were the first to invent, actually lose more patents than they would obtain had the United States simply awarded patents to the first inventor to file.

Moreover, since 1996, an inventor based in the United States faces a much more difficult task of ever obtaining a patent. For inventions made after 1996, the U.S. patent system has been open to proofs of inventions made outside the United States—creating for many U.S.-based inventors a new and potentially even more expensive obstacle to obtaining a patent under the current first-to-invent rule.

Finally, U.S. inventors more and more are facing the need to file patent applications both at home and abroad to remain competitive in our global economy. Requiring compliance with two fundamentally different systems places undue additional burdens on our U.S. inventors and puts them at a competitive disadvantage in this global economy.

We urge you to support enactment of S. 23 and to oppose any amendment to strike the “first-inventor-to-file” provisions.

Sincerely,

A handwritten signature in black ink, appearing to read "Marylee Jenkins", with a long horizontal flourish extending to the right.

Marylee Jenkins  
Chairperson  
Section of Intellectual Property Law

February 28, 2011

The Honorable Patrick J. Leahy  
433 Russell Senate Office Building  
Washington, DC 20510-4502

Dear Senator Leahy:

We write as the presidents of six university, medical college, and higher education associations to express the strong support of our associations for S. 23, the Patent Reform Act of 2011, which was reported by the Senate Judiciary Committee on a 15-0 vote and is scheduled to be considered by the Senate this week. This bipartisan agreement represents the successful culmination of a thorough, balanced effort to update the U.S. patent system to support more effectively the nation's economic competitiveness and job creation in the increasingly competitive global environment of the 21st century.

Our universities and medical colleges are this nation's principal source of the fundamental research that expands the frontiers of knowledge, strengthening the nation's innovative capacity. The patent system plays a critical role in enabling these institutions to transfer the discoveries arising from university research into the commercial sector for development into products and processes that benefit society.

S. 23 will:

- harmonize the U.S. patent system with that of our major trading partners, enabling U.S. inventors to compete more effectively in the global marketplace;
- improve patent quality by allowing third parties to submit information to the USPTO concerning patents under examination, and by creating an efficient, effective post-grant opposition proceeding to challenge patents for nine months after they have been granted, allowing challengers to eliminate weak patents that should not have been granted and strengthening those patents that survive the challenge;
- reduce patent litigation costs by establishing the new post-grant procedure noted above, and by significantly improving the current inter partes review procedure, which will provide a lower-cost alternative to civil litigation to challenge a patent throughout its lifetime, while significantly reducing the capacity to mount harassing serial challenges; and
- provide USPTO with increased resources by providing this fee-funded agency with critically needed fee-setting authority, subject to Congressional and Patent Public Advisory Committee oversight.

We wish to call your attention to two important amendments that may be offered during floor consideration:

- Senator Coburn is expected to offer an amendment to prevent diversion of fees collective by USPTO. This amendment is a critical accompaniment to the fee-setting authority provided by S. 23, allowing this seriously under-resourced agency to maintain the fees necessary to carry out its critical functions and reduce the backlog of patent applications. We urge you to support the Coburn amendment.

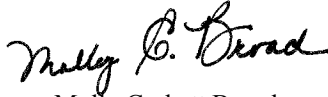
- Senators Feinstein, Boxer, and Reid are expected to offer an amendment to eliminate the transition to a first-inventor-to-file system. The National Academies, in its seminal report on patent reform, *A Patent System for the 21<sup>st</sup> Century*, strongly recommended moving from a first-to-invent to a first-inventor-to-file system. Adopting a first-inventor-to-file system will harmonize the U.S. patent law with that of our trading partners, add greater clarity to the US system by replacing the subjective determination of the first inventor with the objective identification of the first filer, and eliminate the costs of interferences and litigation associated with determining the first inventor. We urge you to oppose the Feinstein, Boxer, and Reid amendment.

We believe S. 23 reforms current U.S. law in a way that balances the interests of the various sectors of the patent community and substantially improves the patent system overall, strengthening the capacity of this system to strengthen the nation's innovative capacity and economic competitiveness. We urge you to support this carefully crafted legislation.

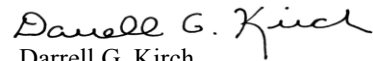
Sincerely,



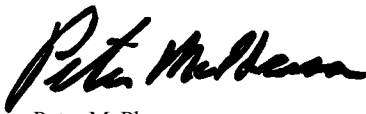
Robert M. Berdahl  
President  
Association of American Universities



Molly Corbett Broad  
President  
American Council on Education



Darrell G. Kirch  
President and CEO  
Association of American Medical  
Colleges



Peter McPherson  
President  
Association of Public and Land-grant  
Universities



Ashley J. Stevens  
President  
Association of University Technology  
Managers



Anthony P. DeCrappeo  
President  
Council on Governmental Relations

❖ This letter was sent to all members of the U.S. Senate



The Chemical Company

February 28, 2011

The Honorable Frank Lautenberg  
The Honorable Bob Menendez  
United States Senate  
Washington, DC 20510

Dear Senators Lautenberg and Menendez:

On behalf of BASF's North American headquarters located in Florham Park, New Jersey, I am writing to urge your support for S. 23, the *Patent Reform Act of 2011*.

At BASF, *We Create Chemistry*, and we pride ourselves on creating technological advances through innovation. We recognize that America's patent system is crucial to furthering this innovation and that the system is in need of modernization and reform. The United States desperately needs to enhance the efficiency, objectivity, predictability, and transparency of its patent system.

BASF likes S. 23 because we feel it will preserve the incentives necessary to sustain America's global innovation and spur the creation of high-wage, high-value jobs in our nation's economy. In particular, the shift to a "first to file" system, an appropriate role for the court in establishing patent damages, and improved mechanisms for challenging granted patents enhance the patent system in ways that would benefit all sectors of the U.S. economy.

I want to stress that BASF supports S. 23 in the form recently passed out of the Senate Judiciary Committee via a bipartisan 15-0 vote. This bill represents a great deal of work and hard fought consensus. We ask that you reject amendments on the floor that would substantively alter the bill, including one that would reportedly strike the "first to file" provision.

Please note, however, that BASF does support a planned amendment that would end the practice of diverting funds from the U.S. Patent and Trademark Office to other agencies. This amendment is necessary, since the USPTO is funded entirely by user fees and does not get any taxpayer money.

Our patent system has helped foster U.S. innovation and protect the intellectual property rights of inventors for more than 200 years, and it can continue to do so if it is updated to make sure it meets the challenges facing today's innovators, investors, and manufacturers. I urge you to work with your colleagues in the Senate to pass S. 23 without substantive amendment to the patent provisions and with language that would prevent diversion of USPTO funds.

Sincerely,

/s/

Steven J. Goldberg  
Vice President, Regulatory Law & Government Affairs

January 27, 2011

The Honorable Patrick J. Leahy  
Chairman  
Committee on Judiciary  
U.S. Senate  
433 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Charles Grassley  
Ranking Republican  
Committee on Judiciary  
U.S. Senate  
135 Hart Senate Office Building  
Washington, D.C. 20510

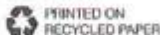
Chairman Leahy and Ranking Republican Grassley,

On behalf of the Biotechnology Industry Organization (BIO), I am writing to indicate our support for S. 23, the Patent Reform Act of 2011. BIO believes S. 23 is a consensus-oriented, bipartisan approach to patent reform legislation – one that will help strengthen and improve our nation's patent system for all users while preserving the incentives necessary to spur the creation of high-wage, high-value jobs and sustain America's global leadership in innovation.

We believe this bill – like its predecessor previously approved by the Committee – breaks the logjam on the major issues that have held up patent reform for the past several Congresses and will clear the path for a bill to be completed without undue delay. We greatly appreciate your tireless efforts, along with the other members of the Committee, to craft careful compromises on several key issues, including damages and post-grant review. Importantly, the compromise also creates a new supplemental examination procedure that – similar to the expanded opportunities for third parties to bring information relevant to patent validity to the PTO's attention – would permit, and indeed incentivize, patent owners to do the same, effectively leading to better, more unambiguously valid and enforceable patents.

**Innovation in biotechnology is possible because of the strength and predictability provided by the U.S. patent system.** Without strong and predictable patent protection, investors will shy away from investing hundreds of millions of dollars, over a decade or more, in high-risk biotechnology companies, and will simply put their money into projects or products that are less risky or offer a more immediate return – even though such projects may offer less long-term societal value and economic growth.

The Patent Reform Act of 2011 would improve the patent system in ways that would benefit all sectors of the U.S. economy by enhancing patent quality and the efficiency, objectivity,



predictability, and transparency of the patent system. BIO remains steadfast in our commitment to work with all Members of Congress as this legislation advances to ensure that the final bill remains true to these principles.

Sincerely,

A handwritten signature in black ink that reads "Jim Greenwood". The signature is written in a cursive style with a large, sweeping initial "J" and a stylized "G".

James C. Greenwood  
President and CEO  
Biotechnology Industry Organization



February 9, 2011

Sen. Patrick Leahy, Chairman, and Sen. Chuck Grassley, Ranking Member  
Senate Committee on the Judiciary  
Dirksen Senate Office Building, SD-224  
U.S. Senate  
Washington, DC 20510-6275

Dear Senators Leahy and Grassley:

I am writing to express support by Bose Corporation for S. 23, the Patent Reform Act of 2011, as amended by the Senate Judiciary Committee, particularly the inclusion of a provision to allow the virtual marking of patents. We believe that the patent laws of the United States need to be amended and urge quick action by Congress.

Bose Corporation engineers, manufactures, and distributes electronics and audio equipment. We have over 3,400 employees in operations in Framingham and Stow, Massachusetts, Columbia, South Carolina, and Yuma, Arizona.

Bose Corporation is not currently affiliated with any of the industry associations in this debate. We are inventors, manufacturers, and exporters. We are an important holder of US patents. We urge the Senate to act now.

We support the virtual marking of patents on products (35 USC 287(a)). Current law requires that Bose Corporation mark each product with a list of owned or pending patents used in that particular product. If we fail to mark or "mis-mark" a product, we can suffer commercial and legal consequences. Commercially, we run the risk of inadvertently giving our competitors a royalty-free license to our patent because we cannot sue for damages until we either begin marking or notify the infringer in writing of the infringement. Legally, we can be held liable and run the risk of penalties if we mis-mark a wrong or expired patent to one of our products.

We support the virtual marking provision in S. 23 whereby we and other companies would be allowed to add or delete patent numbers from a list on our website. The public (and the competitors) would be better able to access the relevant patents by product, without even having to purchase the product just to search for the patent marking. We are constantly issuing new patents on existing products, requiring us to change the labels on those products. When the list of patents gets too long to fit on an existing label, we must design a larger label and execute an Engineering Change Order to modify equipment on the manufacturing line to handle it.

Virtual marking also would solve the problem of how to mark products that are too small to include patent numbers or in cases where the product is embedded, such as computer chips. In these cases, we put the patent marking on the packaging, which the customer throws away, thus defeating the public notification goal of the patent marking statute. We think the public



would be better served by a reference to our website and a thorough list of current and pending patents by product that can easily be kept up-to-date by companies like Bose.

Thank you for your consideration.

Sincerely,

BOSE CORPORATION

A handwritten signature in black ink that reads "Mark E. Sullivan". The signature is written in a cursive style with a large, sweeping initial "M".

Mark E. Sullivan  
General Counsel & Secretary



The Dow Chemical Company  
1776 Eye Street, N.W.  
Suite 1050  
Washington, DC 20006  
USA

February 23, 2011

Via Fax: 202-228-0604

The Honorable Robert P. Casey  
United States Senate  
Washington, DC 20510

Dear Senator Casey:

On behalf of The Dow Chemical Company, I am writing to urge you to support S. 23, as it recently passed out of the Senate Judiciary Committee in a bipartisan 15-0 vote.

Dow has proudly declared its mission is to innovate what is essential to human progress by providing sustainable solutions to our customers. Dow's investment in innovation helps to create jobs and benefits for our society, but this can only be justified when adequate protections exist for the resulting intellectual property to protect the return on the investment. Our patent system in the U.S. is in need of modernization and reform in order to be able to continue to foster investment and job creation.

As the leader for intellectual property matters at The Dow Chemical Company, I understand the need to modernize our patent system and, as such, fully support S. 23. A significant amount of bipartisan effort beginning in the last Congress provided the foundation for patent reform now embodied in S. 23. I believe this pending legislation strikes the right balance among stakeholder interests that will strengthen the U.S. patent system, protect the rights of individual inventors, and help keep U.S. manufacturers competitive.

Our patent system has helped foster U.S. innovation and protect the intellectual property of innovators like those at Dow for more than 200 years. The U.S. patent system can only continue to fulfill this purpose if it is updated to make sure it meets the challenges facing today's innovators, investors, and manufacturers. I urge you to work with your colleagues in the Senate to pass S. 23, and ensure that meaningful and balanced comprehensive patent reform legislation is adopted by Congress soon as possible.

Sincerely,

A handwritten signature in black ink that reads "Michael L. Glenn".

Michael L. Glenn  
Associate General Counsel, IP Law



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charlotte, nc  
28202

**phone:** 704.333.5335  
**fax:** 704.333.5115  
**web:** [www.enventys.com](http://www.enventys.com)

February 14, 2011

The Honorable Patrick J. Leahy, Chairman  
The Honorable Chuck Grassley, Ranking Member  
United States Senate  
Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

First, please accept my congratulations on the overwhelming, bipartisan Judiciary Committee vote on compromise patent reform legislation. I strongly urge you to continue your efforts toward comprehensive reform by pushing for a vote on the Senate floor at the first available opportunity.

Your bill will make independent inventors, such as myself, more competitive in today's global marketplace. America's economic future rests on our ability to innovate new technologies that change the way people work, live and play. Yet, as you know, today's patent system hinders this process, rather than cultivating entrepreneurship and the new ideas needed to create more jobs and foster economic growth.

As executive producer of the Emmy Award-winning series, "Everyday Edisons," and publisher of Inventors Digest, a long-standing publication serving the independent-inventor community, I am continually in contact with individuals across the country dedicating their lives in search of the next big idea. Some of these efforts bear fruit, while others falter. However, what ensures the continuity of their efforts, are the legal protections afforded under U.S. patent law.

I started my first business as a sophomore in college and twenty years later, I can point to 8 successful start-ups, along with being an integral part of twenty additional ventures. As a result, I have registered ten U.S. patents and my firm has helped develop and file another 400 patents. These experiences have shaped my views on how the current system functions at a practical level for those attempting to translate their inventions into a profitable business endeavor. Let me begin by commending the USPTO for its tireless efforts to make the current system work in an efficient manner. Unfortunately, the USPTO is hampered by a system that is in dire need of reform.

From my perspective, the Judiciary Committee-passed bill helps independent inventors across the country by strengthening the current system for entrepreneurs and small businesses by including the following:

- Lower fees for micro-entities;
- Shorter times for patent prosecution creating a more predictable system;
- First-Inventor-to-File protections to harmonize U.S. law with our competitors abroad while providing independent inventors with certainty;
- Stronger patent quality and reliability by incorporating “best practices” into patent application examination and review, making it easier for independent inventors to attract start-up capital; and
- Resources for the USPTO to reduce the current patent backlog of 700,000 patents.

Your efforts in the Committee represent a critical milestone for passage of comprehensive reform and highlight an opportunity for progress. I also hope that Committee action paves the way for vigorous bicameral discussions on enacting legislation in the near future.

We cannot afford to wait. The need for these types of common sense reforms dates back to 1966 when the President’s Commission to the Patent System issued thirty-five recommendations to improve the system. Some of these measures have been enacted over the years, but the economic challenges inherent in today’s global market necessitate a broader modernization of the patent system. The 2004 National Research Council of the National Academy of Sciences report echoed this sentiment pointing to how economic and legal changes were putting new strains on the system.

America’s economic strength has always rested on our ability to innovate. While a number of positive economic indicators provide hope for the future, the environment for small businesses remains mixed. Patent modernization is a tangible way to help America’s small entrepreneurs in a fledgling economy. Not only will these reforms help create new jobs and industries, but they will help ensure our economic leadership for years to come.

Please do not hesitate to contact me if I can be of any assistance in helping expedite passage of this critical legislation.

Sincerely,



Louis J. Foreman  
Chief Executive Officer  
Enventys  
520 Elliot Street  
Charlotte, NC 28202

Gary K. Michelson, M.D.

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Dear Senator Leahy:

As Abraham Lincoln said “The Patent system added the fuel of interest to the fire of genius”.

Many inventions allow a worker to be more productive. That is to provide more service or more product with no increase in the work performed. For example in the era of the building of the great canals in America steam shovels appeared such that one man and such a machine (an invention) could displace 100 men with shovels. Similarly a large room full of typists with typewriters were replaced by a single person with a word processor (an invention) who was then capable of turning out an unlimited supply of originals.

Now the paradox. While it is clear from the preceding examples that a given worker’s productivity was increased it would also seem that many others should have become unemployed. Yet our real world experience contradicts that expectation. Not so long ago this country enjoyed what economists labeled as “full employment”. That is there were more jobs available than there were skilled workers to fill them.

In his recent State of the Union Address the President had this part right. New Innovations create the opportunity for high paying jobs and education fills them.

At the heart of all of this as noted by President Lincoln is the United States patent system. Companies both large and small will not create these jobs nor invest their time, money, and resources into uncertainty. Investment in these job creating new technologies requires that all parties are motivated to invest their own time and resources into developing them and that they will then be rewarded with the certainty that only a certificate of intellectual property rights (a patent) can convey.

The United States patent system with its origins in the constitution of the United States has now stood for more than two centuries as a guiding light to the rest of the world. But, it is a rapidly changing world and the United States, without hyperbole, is in serious danger of being left behind. Looking inward the damage to the United States economy including the failures to have job formation from a U.S.P.T.O. that has not been fully modernized to function at its best is incalculable.

And now for the good news. No one has their hand out. No one is asking Congress for money. No one is asking to place one more burden on the American tax payer.

All that is required at this time is to give the U.S.P.T.O. fee setting authority, end diversion (since the U.S.P.T.O. is fee funded, diverting funds from the U.S.P.T.O. to the general ledger is quite literally a tax on innovation), and to modify the rules by which the U.S.P.T.O. operates to allow it to stand on an equal footing with the other economic powers of the world.

For example, first to invent versus first to file is the proverbial tempest in a teacup (smaller than a teapot). All sound and fury signifying nothing. The low cost and ease of filing a provisional patent application (a placeholder for the first to invent) should render any discussion of fairness moot. I believe that first to file is both fair and beneficial to all inventors; and is an important change to correctly position the U.S.P.T.O. as the leader in what will become a worldwide patent system

Though late in this letter, by way of introduction, my name is Gary Michelson. I am a Board Certified Orthopedic Spinal Surgeon. I have some 250 issued United States Patents and at last count over 950 issued or pending patent applications throughout the world. Millions of Americans have benefited from my inventions which have included new procedures, implants, and surgical instruments that have made spinal surgery faster, safer, more effective and less expensive. Many jobs were created in the manufacturing and sale of these inventions. The productivity of those who benefited from these innovations was also improved. In some instances people who were in wheelchairs collecting disability payments were restored to a level of function where they were able to leave their wheelchairs behind and return to work.

Finally I am an independent inventor who has greatly benefited from the United States patent system. I support the pending patent legislation before you and would urge you to do the same.

I am fully available to you or your staff to discuss any aspect of this matter,

Sincerely yours,

Gary K. Michelson, M.D.

Cc: Senate of the United States

February 28, 2011

Dear Senator:

IBM and GE are two of the pre-eminent innovation companies in the world. We have joined together to urge your support for the Patent Reform Act of 2011, S. 23, because we believe that patent reform is extremely important to our country's continued national competitiveness and economic health.

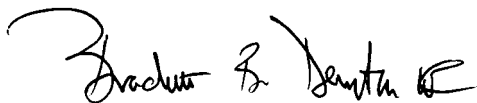
The laws governing our patent system have been largely unchanged for the past 50 years, while the nature and complexity of innovation has changed dramatically. Reform of the U.S. Patent system is essential to fostering U.S. technology leadership, revitalizing economic growth and spurring job creation. After years of debate and study, it is time for action.

Innovation is central to both GE and IBM. Our companies invest billions of dollars each year in research and development, and a contemporary and efficient U.S. patent system is essential to our ability to protect these investments and our shareholders' interest.

GE and IBM have occasionally had different views on aspects of the various proposals in the patent reform debate, but we have always shared a belief that reforms should represent the interests of all innovators. The bill put forward by Sen. Pat Leahy and Sen. Chuck Grassley represents a common-sense set of compromises that balance the interests of all stakeholders. We believe the bill gives the U.S. Patent and Trademark Office the tools it needs to more efficiently process patents, reduce the staggering backlog of pending patent applications, and improve patent quality. Controversial provisions that previously prevented broad consensus have been appropriately addressed in the bill. As a result, the bill enjoys support from a broad cross section of U.S. companies large and small, as well as the patent bar, industry associations, and universities.

We are encouraged that S. 23 passed the Senate Judiciary Committee unanimously. We also are hopeful that the House will soon take up similar legislation and consider it expeditiously. We respectfully ask that you support quick passage of this important legislation.

Sincerely,



Brackett B. Denniston  
Senior Vice President and  
General Counsel  
General Electric Company



Robert C. Weber  
Senior Vice President, Legal and  
Regulatory Affairs, and General Counsel  
IBM Corporation



*A Member of the Roche Group*

February 25, 2011

The Honorable Patrick Leahy  
Chairman, Senate Judiciary Committee  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Chuck Grassley  
Ranking Member, Senate Judiciary Committee  
152 Dirksen Senate Office Building  
Washington, DC 20510

Dear Senators Leahy and Grassley,

For many years, Genentech has actively supported efforts to enact meaningful patent reform. To be considered successful, patent reform legislation must deliver greater security and predictability in patent rights than exists today, and must reduce the uncertainties and inefficiencies of patent litigation. We believe S.23, in the form it was reported from your Committee earlier this month, will go far in achieving these goals, and hope the Senate will take action on this important bill.

We recognize that S.23 is a compromise. For example, it does not directly reform the law governing the inequitable conduct doctrine, which contributes disproportionately to the uncertainty and waste of patent litigation. But, it provides a helpful supplemental examination procedure that Senator Hatch proposed last year to correct errors and omissions that may have occurred during examination of the patent. The supplemental examination procedure is an important addition to the patent system and will help mitigate some of the problems that you have recognized exist with the current state of the inequitable conduct doctrine.

The bill also would change our patent system to a first-to-file model. This is another important feature of the bill, as it will promote early disclosure of innovation and allow the U.S. to more efficiently share the work of examining patents with authorities of other countries. We believe the first-to-file system being proposed in S.23 also addresses past concerns over a change to "first-to-file" by including important new safeguards for inventors. One of these is a new PTO proceeding that can be used to resolve claims over copying or theft ("derivation") of inventions.

# Genentech

*A Member of the Roche Group*

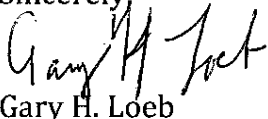
We also support the measures in the bill to provide improved administrative procedures for reviewing patent validity at the Patent and Trademark Office. S.23 would improve the current inter-partes reexamination system, and create a new, more expansive procedure available only for a limited period after the PTO grants a patent. As drafted, these measures are balanced and fair, and will provide an important option for the public to contest patents outside of litigation.

We believe the bill's approach to resolving the impasse over patent damages should be preserved. These measures will improve the environment of patent litigation, and address the source of some of the problems of modern patent litigation.

On balance, we support enactment of S.23 in its present form as being a fair balance of reforms that will benefit all users of the patent system.

Thank you for your continued efforts to improve the U.S. patent system. We look forward to Senate action on your bipartisan compromise, and commit to work with you towards enactment of this important bill.

Sincerely,



Gary H. Loeb

Vice President, Intellectual Property  
Genentech, Inc.

# Hoosiers Support S. 23, the Patent Reform Act of 2011

February 28, 2011

The Honorable Richard Lugar  
United States Senator  
1180 Market Tower  
10 West Market Street  
Indianapolis, Indiana 46204

Dear Senator Lugar,

We urge you to cosponsor and support the Patent Reform Act of 2011, S.23. As leading Hoosier innovators we are pleased that the Senate will consider this important bipartisan bill. We believe that passage of S. 23 will result in the development of new technologies and the creation of jobs in Indiana and across the United States.

As you know, the need to improve the patent system has been under discussion for several years and was the subject of House and Senate hearings in the last Congress. One measure of the broad, bipartisan level of consensus this bill has engendered is the recent 15-0 unanimous vote of the Senate Judiciary Committee.

One provision that is not included in S. 23 but is vitally important would enable the U.S. Patent and Trademark Office to set and retain patent application fees. In past years over \$800 million in patent fees have been diverted away from PTO operations. This practice of fee diversion must cease and we ask you to support an amendment that will be offered on the Senate floor to stop fee diversion.

We are a diverse group of Hoosier innovators who support the balanced set of provisions contained in the legislation. If enacted, we believe that our patent laws will be more transparent, objective, predictable and simple. The increased speed and certainty this bill will provide users of the patent system will translate into innovation and jobs. This compromise bill has drawn wide support from universities, unions, manufacturers and other key stakeholders in the patent system. We hope you will join us in the effort to pass the Patent Reform Act of 2011.

Sincerely,

Indiana University

Tomco Plastics

Caterpillar

Illinois Tool Works

Bridgestone Americas, Inc.

Eli Lilly and Company

ITW Automotive Finishing Group

Hobart Corporation

Red Head

Reddi-Pac

PepsiCo, Inc.

Boston Scientific

Zimmer, Inc.

Johnson & Johnson

Monsanto



February 22, 2011

The Honorable Harry Reid  
United States Senator  
522 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Reid:

I am writing on behalf of IGT to express our support, and respectfully request your support, for Senate Bill 23, the Patent Reform Act of 2011 a bi-partisan measure offered by Senate Judiciary Committee Chairman Patrick Leahy and Ranking Member Charles Grassley.

As you are aware, IGT has worked closely with you and your staff on the issue of patent reform for the past several years. During that time IGT has gone from staunch opposition of a measure passed by the House of Representatives in a previous Congress to actively supporting the bipartisan compromise package adopted by the Senate Judiciary Committee in April of last year. With the dawn of the 112<sup>th</sup> Congress it is only fitting that S. 23 picks up where all the hard work and compromise in the 111<sup>th</sup> Congress left off. This measure represents a major breakthrough on a number of difficult issues that have stymied progress on patent reform to date.

As Nevada's largest manufacturing company, who invests as much as \$200 million per year in research and development and as a result now holds the largest IP portfolio in the gaming industry, IGT continues to have a significant interest in insuring that the United States has an effective and efficient patent system that continues to promote world class innovation while effectively protecting those who have invested in the development of intellectual property.

S. 23 achieves the goal of establishing a simpler and more transparent patent system by creating new post-grant review procedures of patents when they issue, strengthening the capabilities of the United States Patent and Trademark Office, bringing more balance and predictability to patent infringement litigation, and moving the United States patent system into greater consistency with the international patent community.

At IGT we feel that S.23 strikes a careful balance between the concerns of various industry and higher education segments of the patent community. We believe S. 23 represents a balanced compromise that is worthy of your support and certainly worthy of consideration by the full Senate Chamber.

**International Game Technology**

IGT Las Vegas  
6355 South Buffalo Drive  
Las Vegas, NV 89113-2133  
www.IGT.com



In closing I would like to again express the sincere appreciation of IGT and all our employees for the support you and your staff have provided over the years, on a variety of issues, as we have continued to grow and prosper as a major Nevada based company competing on a global scale.

Most sincerely,

A handwritten signature in blue ink, appearing to read "R. Melendres", is written over a horizontal line.

Robert C. Melendres  
*Chief Legal Officer & Corp. Secretary*

/cs

cc: David Krone, *Chief of Staff*  
Senate Majority Leader Reid's Office

Mike Castellano, *Senior Counsel & Senior Policy Advisor*  
Senate Majority Leader Reid's Office

Illinois Tool Works Inc.  
Corporate Headquarters  
3600 West Lake Avenue  
Glenview, IL 60026-1215  
Direct Dial 847.657.4073  
Facsimile 847.724.4160  
E-Mail mcroll@itw.com

Mark W. Croll  
Vice President  
Intellectual Property

February 11, 2011



The Honorable Lamar Alexander  
455 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senator Alexander:

On behalf of Illinois Tool Works and its 398 employees in Tennessee, I am writing to urge your support for S 23, The Patent Reform Act of 2011. This bipartisan legislation, co-authored by Sens. Patrick Leahy (D-VT) and Chuck Grassley (R-IA), would improve and modernize our current patent system while preserving the overall balance of that system that has been a major contributor to United States technological and economic leadership for more than 200 years.

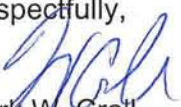
As a diversified manufacturer of advanced industrial technology, including highly engineered fasteners and components, equipment and consumable systems, and specialty products and equipment for customers around the world, innovation is critical to ITW's success. That innovation, and the ability to efficiently obtain the intellectual property that protects that innovation, stimulates investment in new products and the factories and employees required to produce them here in the United States. Quite simply, comprehensive patent reform means jobs.

Much has been said about the need to improve U.S. manufacturing competitiveness and create jobs. We agree, and we believe the single most important thing that Congress could do in the short run to address those issues is to pass meaningful patent reform as embodied in S 23.

S 23 passed out of the Senate Judiciary Committee February 3, by a vote of 15 to 0, and it now awaits action by the full Senate. I urge you to support its swift passage.

Thank you for your consideration.

Respectfully,

  
Mark W. Croll  
Vice President  
Intellectual Property

MWC:lsf



February 25, 2011

The Honorable \_\_\_\_\_  
United States Senate  
\_\_\_\_ Senate Office Building  
Washington, DC 20510

RE: Amendments to S. 23, the "Patent Reform Act of 2011"

Dear Senator \_\_\_\_\_:

Intellectual Property Owners Association (IPO) is pleased that the Senate is planning to proceed with consideration of S. 23, the "Patent Reform Act of 2011."

IPO is one of the largest and most diverse trade associations devoted to intellectual property rights. Our 200 corporate members cover a broad spectrum of U.S. companies in industries ranging from information technology to consumer products to pharmaceuticals and biotechnology.

We wish to give you our advice on amendments that we understand might be offered during consideration of S. 23:

- Vote AGAINST any amendment to delete the "first-inventor-to-file" and related provisions in section 2 of the bill. First-inventor-to-file, explained in a 1-page attachment to this letter, is central to modernization and simplification of patent law and is very widely supported by U.S. companies.
- Vote FOR any amendment guaranteeing the U.S. Patent and Trademark Office access to all user fees paid to the agency by patent and trademark owners and applicants. Current delays in processing patent applications are totally unacceptable and the result of an underfunded Patent and Trademark Office.
- Vote AGAINST any amendment that would interpose substantial barriers to enforcement of validly-granted "business method" patents. IPO supports business method patents that were upheld by the U.S. Supreme Court in the recent *Bilski* decision.

For more information, please call IPO at 202-507-4500.

Sincerely,

Douglas K. Norman  
President

Enclosure

President  
**Douglas K. Norman**  
Eli Lilly and Co.  
  
Vice President  
**Richard F. Phillips**  
Exxon Mobil Corp.  
  
Treasurer  
**Carl B. Horton**  
General Electric Co.

Directors  
**T.J. Angioletti**  
Oracle USA, Inc.  
**Russell W. Binns, Jr.**  
Avaya, Inc.  
**William J. Coughlin**  
Ford Global Technologies LLC  
**Timothy Crean**  
SAP AG  
**Robert DeBerardine**  
Sanofi-Aventis  
**Barl Eppenaue**  
Microsoft Corp.  
**Mark Farber**  
Covidien  
**Scott M. Frank**  
AT&T  
**Michael L. Glenn**  
Dow Chemical Co.  
**Bernard J. Graves, Jr.**  
Eastman Chemical Co.  
**Krish Gupta**  
EMC Corporation  
**Jack E. Haken**  
Koninklijke Philips Electronics N.V.  
**Dennis R. Hoerner, Jr.**  
Monsanto Co.  
**Soonhee Jang**  
Danisco U.S., Inc.  
**Michael Jaro**  
Medtronic, Inc.  
**Philip S. Johnson**  
Johnson & Johnson  
**George W. Johnston**  
Roche Inc.  
**Lisa Jorgenson**  
STMicroelectronics, Inc.  
**Dean Kamen**  
DEKA Research & Development Corporation  
**Charles M. Kinzig**  
GlaxoSmithKline  
**David J. Koris**  
Shell International B.V.  
**Mark Lauroesch**  
Corning Inc.  
**Richard J. Lutton, Jr.**  
Apple Inc.  
**Scott McDonald**  
Mars Incorporated  
**Jonathan P. Meyer**  
Motorola Solutions, Inc.  
**Steven W. Miller**  
Procter & Gamble Co.  
**Jeffrey L. Myers**  
Adobe Systems Inc.  
**Sean O'Brien**  
United Technologies, Corp.  
**Kevin H. Rhodes**  
3M Innovative Properties Co.  
**Mark L. Rodgers**  
Air Products & Chemicals, Inc.  
**Manny Schecter**  
IBM, Corp.  
**Steven Shapiro**  
Pitney Bowes Inc.  
**David Simon**  
Intel Corp.  
**Dennis C. Skarvan**  
Caterpillar Inc.  
**Russ Slifer**  
Micron Technology, Inc.  
**Daniel J. Staudt**  
Siemens Corp.  
**Brian K. Stierwalt**  
ConocoPhillips  
**Thierry Sueur**  
Air Liquide  
**James J. Trussell**  
BP America, Inc.  
**Cheryl Tubach**  
J.M. Huber Corp.  
**Danise van Vuuren-Nield**  
Coca-Cola Co.  
**Roy Waldron**  
Pfizer, Inc.  
**Michael Walker**  
DuPont  
**BJ Watrous**  
Hewlett-Packard Co.  
**Stuart Watt**  
Amgen, Inc.  
**Jon D. Wood**  
Bridgestone Americas Holding, Inc.  
**Paul D. Yasger**  
Abbott Laboratories  
  
Executive Director  
**Herbert C. Wamsley**

# INTELLECTUAL PROPERTY OWNERS ASSOCIATION

February 25, 2011

## FIRST-INVENTOR-TO-FILE IN S. 23, THE “PATENT REFORM ACT OF 2011”

Section 2 of S. 23 simplifies and modernizes U.S. patent law by awarding the patent to the first of two competing inventors to file in the U.S. Patent and Trademark Office (PTO), a change from the traditional system of awarding the patent, in theory, to the first inventor to invent. First-inventor-to-file in S. 23 has these advantages:

- Eliminates costly and slow patent interference proceedings conducted in the PTO and the courts to determine which inventor was the first to invent.
- Creates legal certainty about rights in all patents, the vast majority of which never become entangled in interference proceedings in the first place, but which are still subject to the possibility under current law that another inventor might come forward and seek to invalidate the patent on the ground that this other inventor, who never applied for a patent, was the first to invent.
- Encourages both large and small patent applicants to file more quickly in order to establish an early filing date. Early filing leads to early disclosure of technology to the public, enabling other parties to build on and improve the technology. (Applicants who plan to file afterward in other countries already have the incentive to file quickly in the U.S.)
- Makes feasible the introduction of post-grant opposition proceedings to improve the quality of patents, by reducing the issues that could be raised in a post-grant proceeding, thereby limiting costs and delay.
- Follows up on changes already made by Congress that (1) established inexpensive and easy-to-file provisional patent applications and, (2) in order to comply with treaty obligations, allowed foreign inventors to participate in U.S. patent interference proceedings.

# Iowa Supports Patent Reform Act of 2011

February 28, 2011

The Honorable Tom Harkin  
United States Senator  
731 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Harkin,

As employers and organizations committed to a strong patent system to protect American innovation, and on behalf of our employees in Iowa who benefit from that innovation, we respectfully request your support for the Patent Reform Act of 2011. We believe the legislation offered by Senate Judiciary Committee Members Leahy, Hatch, and Grassley provides common sense reforms that will improve our patent system.

***According to the U.S. Patent & Trademark Office from 2004-2009 there were more than 1,365 patents issued in Iowa.*** From individual inventors to research universities to major corporate research and development organizations, Iowa is dependent upon a strong and dependable patent system.

The Act achieves the goal of establishing a simpler, transparent patent system by creating new post-grant review procedures of patents when they issue, strengthening the capabilities of the United States Patent and Trademark Office, bringing more balance and predictability to patent infringement litigation, and moving the United States patent system into greater harmony with the rest of the world.

We ask that you join as a co-sponsor of the Patent Reform Act of 2011 and support bringing it to the Senate floor for consideration at the earliest opportunity.

Thank you again for the time that you and your staff have devoted to understanding how these issues would impact our companies, associations, and universities, and other employers in Iowa. We look forward to continuing to work with the Senate, the House of Representatives, and the Administration to finalize, pass, and enact this important legislation.

Sincerely,





February 28, 2011

The Honorable Patrick Leahy  
United States Senate  
433 Russell Senate Bldg  
Washington, D.C. 20510  
*Via electronic mail*

Dear Senator Leahy:

The Small Business & Entrepreneurship Council (SBE Council) and its members across the nation have been strong advocates for patent reform. We are pleased that you have introduced the Patent Reform Act (S.23), and we strongly endorse this important piece of legislation.

An effective and efficient patent system is critical to small business and our overall economy. After all, the U.S. leads the globe in entrepreneurship, and innovation and invention are central to our entrepreneurial successes. Indeed, intellectual property – most certainly including patents – is a key driver to U.S. economic growth. Patent reform is needed to clarify and simplify the system; to properly protect legitimate patents; and to reduce costs in the system, including when it comes to litigation and the international marketplace.

Make no mistake, this is especially important for small businesses. As the Congressional Research Service has reported: “Several studies commissioned by U.S. federal agencies have concluded that individuals and small entities constitute a significant source of innovative products and services. Studies have also indicated that entrepreneurs and small, innovative firms rely more heavily upon the patent system than larger enterprises.”

The Patent Reform Act works to improve the patent system in key ways, including, for example, by lowering fees for micro-entities, and by shortening time periods for patent reviews by making the system more predictable.

During the debate over this legislation, it is expected that two important areas of reform will come under attack.

First, the U.S. patent system is out of step with the rest of the world. The U.S. grants patents on a first-to-invent basis, rather than the first-inventor-to-file system that the rest of the world follows. First-to-invent is inherently ambiguous and costly, and that’s bad news for small businesses and individual inventors.

In a 2004 report from the National Research Council of the National Academies (titled “A Patent System for the 21st Century”), it was pointed out: “For those subject to challenge under first-to-invent, the proceeding is costly and often very protracted; frequently it moves from a USPTO administrative proceeding to full court litigation. In both venues it is not only evidence of who first reduced the invention to practice that is at issue but also questions of proof of conception, diligence, abandonment, suppression, and concealment, some of them requiring inquiry into what an inventor thought and when the inventor thought it.” The costs of this entire process fall more heavily on small businesses and individual inventors.

As for the international marketplace, patent harmonization among nations will make it easier, including less costly, for small firms and inventors to gain patent protection in other nations, which is critical to being able to compete internationally. By moving to a first-inventor-to-file system, small firms will in no way be disadvantaged, while opportunities in international markets will expand.

Second, as for improving the performance of the USPTO, it is critical that reform protect the office against being a “profit center” for the federal budget. That is, the USPTO fees should not be raided to aid Congress in spending more taxpayer dollars or to subsidize nonrelated programs. Instead, those fees should be used to make for a quicker, more predictable patent process.

Thank you for your leadership Senator Leahy. Please feel free to contact SBE Council if we can be of assistance on this important issue for small businesses.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Kerrigan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Karen Kerrigan  
President & CEO

# The Washington Post

## Why the patent process should be overhauled

Friday, February 25, 2011; 9:41 PM

MORE THAN 60 years have passed since a major overhaul of the U.S. patent system has taken place. And it shows.

The U.S. patent system lags woefully. One example: Patents in the United States are given to those "first to invent." This approach is out of step with the rest of the world's "first to file" approach and is highly inefficient. It invites people to come out of the woodwork years after a product has been on the market to claim credit and demand royalties.

The secretive and lengthy U.S. process also too often results in patents for products that are neither novel nor innovative. It leaves manufacturers vulnerable to infringement lawsuits and damage awards long after their products have gone to market.

The Senate is poised to take up a bill on Monday that would eliminate these defects and bring the U.S. system into the 21st century.

[The Patent Reform Act](#), introduced by Sens. Patrick J. Leahy (D-Vt.) and Orrin G. Hatch (R-Utah), would recognize the "first inventor to file" standard, creating a bright line - the date on which a patent application was filed - and bringing certainty to the process. Yet the bill is not inflexible and wisely keeps in place protections for academics who share their ideas with outside colleagues or preview them in public seminars.

The bill also would increase protections for those with legitimate gripes. Third parties, currently shut out of the process, would be given clear rules and time limits to challenge patents that have not yet been approved. They'd also have a chance to lodge objections after a patent has been granted; the [U.S. Patent and Trademark Office](#) (PTO) would resolve these disputes. This safety valve should reduce the litigation costs associated with court challenges.

The PTO has long been overwhelmed and underfunded. The bill would allow the agency to set the amount it charges for filings while providing discounts to solo inventors and small companies. An amendment likely to be introduced by Sen. Tom Coburn (R-Okla.) would allow the agency to keep all of its fees, thereby ensuring it the resources it needs to carry out the bill's mandates.

The president made much of "winning the future" in his State of the Union address. A patent system that protects innovators and encourages meaningful breakthroughs would help achieve that goal.