

February 11, 2008

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

The Honorable Arlen Specter
Committee on the Judiciary, Ranking Member
United States Senate
711 Senate Hart Office Building
Washington, DC 20510

Dear Senators Leahy and Specter:

Judge Randall Rader of the United States Federal Circuit Court of Appeals urged attendees at the American Intellectual Property Law Association's 2007 annual meeting to "*understand that there are international implications in our domestic (IP) debates that stretch beyond our understanding.*" The importance of the U.S. patent system to Israel's economy is one of those international implications.

Israel's venture capital industry, **universities** and inventors greatly rely on U.S. patents to defend our innovations from infringement. Specifically, the number of U.S. patents issued to Israeli inventors has grown from 315 per year in 1990 to 1,231 in 2006, facilitating a historic expansion of Israel's advanced technology industries and an equally historic increase in venture startups.

As this suggests, the U.S. economy is large and U.S. patents offer strong rights and remedies against infringement. By contrast, the reach, and power of Israel's domestic patent laws are limited because our population and national economy are small.

Because of our great reliance on U.S. patent laws, we share **many** of the concerns expressed in letters to you by the National Venture Capital Association (June 19, 2007) and a group of 31 leading U.S. venture capital companies (November 6, 2007) about several provisions of S. 1145 (The Patent Reform Act). We fear certain provisions in that legislation will weaken U.S. patents and thus harm small venture-backed companies Israel is so prolific in creating.

One major shared concern is that the legislation would change the calculation of damages upon infringement in a way that would harm small companies, which most of our new ventures are. Another concern is that the post-grant review process in S. 1145 could lead to the questioning of the validity of a new company's patents, which is often their core asset. Additionally, it will allow third parties to challenge a patent, with low evidentiary standards, for the duration of its life.

As the 31 U.S. venture capital companies noted in their letter, "Defending against infringement is disproportionately burdensome for small venture-backed companies, while the benefit of infringing relative to the cost is disproportionately attractive to large companies." The observation is particularly meaningful to Israel, as so many of our new ventures are small and thus vulnerable without the strong protections of a U.S. patent.

As with our U.S. colleagues, we appreciate your consideration of comments from Israel's venture companies, **universities and inventors**.

Sincerely,



Nava Swersky Sofer
Chief Executive Officer and President
Yissum Research Development Company of the
Hebrew University of Jerusalem