

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS



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LEGISLATIVE ALERT!

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July 24, 2007

Honorable Patrick Leahy
United States Senate
Washington, D.C. 20510

Honorable Arlen Specter
United States Senate
Washington, D.C. 20510

Dear Senators Leahy and Specter:

Recently we have heard from a number of manufacturers regarding their concerns with certain sections of S. 1145 and the effect it will have on the U.S. patent system. Many of our union members work in manufacturing, and we want to make sure that patent law reforms do not undermine our leadership in innovation, and that they help the American economy produce good new jobs and products at home.

The National Academies of Science (NAS) has suggested a set of improvements for the patent system. However, the Patent Reform Act of 2007, while offering some needed changes, does not reflect the body of improvements suggested by NAS and would, in some ways, weaken our patent system. We are concerned in particular that two sections of the proposed legislation, the post-patent review process and apportionment of damages, may have a negative impact on innovation and research.

The courts already follow a multi-point system for considering damages. This system should remain intact, rather than be constricted to limit damage settlements. Similarly the bill would add a third step to the two existing post-patent review steps, potentially opening the door to serial patent challenges, which for some, can become a business strategy designed to elicit a settlement. For the firms facing challenges, it is often easier to outsource products to a vendor rather than deal with the legal process.

At a time when the Chinese government is constantly being challenged to live up to its intellectual property obligations, we do not want to take actions that may weaken ours. We urge you to take the concerns of the manufacturing sectors of these issues into account in developing the final version of the Patent Reform Act of 2007, S. 1145.

Thank you for your consideration.

Sincerely,

William Samuel, Director
DEPARTMENT OF LEGISLATION