



INTERNATIONAL FEDERATION OF PROFESSIONAL & TECHNICAL ENGINEERS AFL-CIO & CLC

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August 3, 2007

Hon. Patrick J. Leahy, Chair
Sen. Arlen Specter, Ranking Senator
U.S. House Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20515

Dear Chairman Leahy and Ranking Senator Specter,

As President of the International Federation of Professional & Technical Engineers, I am writing to express my concern that the passage of the *Patent Reform Act of 2007* (H.R. 1908 & S. 1145) could seriously threaten our nation's competitive edge in industries that rely on innovation.

As the International president of a labor union that represents over 80,000 knowledge workers in the private, federal and public sectors across industries such as aerospace, energy, research, health care, civil engineering and public administration, I place a high value on policies that foster the science and technology leadership of the United States. Throughout our membership are over 1,000 inventors and thousands of professionals engaged in design, research and development. These American workers produce and add to the intellectual property that contributes to U.S. competitiveness in the global economy. IFPTE believes that left as it is, S. 1145 would significantly impact our ability to retain our competitive edge.

In particular, IFPTE has the following concerns with this legislation:

- **Subsection 4(b):** By allowing an application for a patent to be filed by a person other than the inventor, this section would abrogate the rights and prerogatives of individual inventors which our current patent system derives from the constitution. Additionally, by moving the U.S. to a "first to file" system in Section 3, the proposed legislation would reward the fastest filers over the original inventor and further undermine the rights of inventors and their incentive to innovate. In other words, individual inventors not familiar with the filing requirements, versus corporate interests whose lawyers could quickly navigate the patent filing maze, would be unreasonably penalized by the language included in this section. Subsection 4(b) should be removed from the bill.
- **The 18-month publication provision:** This forces disclosure of innovations before there has been a determination as to what patent protection, if any, the inventor will receive. Even if a patent issues, competitors would already have had the opportunity to exploit the technology in the marketplace and establish a dominant market position. This provision undermines the protection of patents and should be removed.
- **The post grant opposition provision:** This language is essentially a hunting license for entrenched competitors to attack patents of small innovative companies in order to tie up a patent in a long expensive proceeding. This would deplete small innovative companies of resources — resources that could be used to continue with innovation — while competitors unfairly copy the patented technology with impunity. This should also be removed from the bill.

- **Work Conditions for Patent Examiners:** A strong patent system requires high patent standards and quality examination. Unfortunately, the United States Patent and Trademark Office (USPTO) puts pressures on too few examiners to speed up patent production, and the methods of allocating work have reportedly reduced the capacity of examiners to do their jobs effectively. Quality patent examination requires well-trained and motivated examiners with up-to-date search and examination tools and, most importantly, the time necessary to apply their training and tools to the examination process. According to the Union that represents USPTO workers, the pressure to increase patent production has reduced the sense of job satisfaction of examiners, who feel unable to take the time to do the job properly and effectively. I urge you to consider including in this legislation an authorization for providing more patent examiners as well as a concomitant increase in the examination time allocated to complex patent applications so that the USPTO workforce can effectively search and examine patent applications.

While I applaud the Subcommittee and Full Committee for working in a bipartisan manner to address this important issue, I believe that S. 1145 misses the opportunity to focus in on the underlying causes of the problem. I believe that the changes called for in the underlying bill will not only be harmful to the members of IFPTE who are inventors, but will also be damaging to the overall competitiveness of our nation. Having said that, and in light of the Subcommittee's and Full Committee's recent approval of the legislation, I am hopeful that you each will take another look at this legislation and reconsider this legislation in your Committee. In this regard, IFPTE stands ready to assist each of you and your respective staffs in this effort.

I thank you in advance for your consideration of IFPTE's views on this bill. Should you have any questions, please feel free to contact me, or IFPTE Legislative Director Matt Biggs, at (301) 565-9016.

Sincerely,



Gregory J. Junemann,
President

Cc: Hon. Harry Reid, Majority Leader