



March 3, 2011

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

The Honorable Chuck Grassley
Ranking Member, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley:

The National Venture Capital Association (NVCA) appreciates your continued efforts to enact comprehensive patent reform legislation that protects our country's innovators. As you know, the venture capital industry is the primary funding source for emerging high technology and life-sciences companies. In 2010 alone the industry committed \$21.8 billion to these start-ups that remain the heart of innovation and the backbone of job creation in the United States. Comprehensive patent reform promises to impact these companies like no other sector and we are closely following developments in this area.

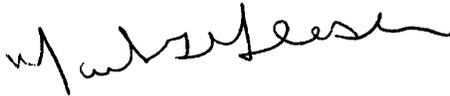
Last Congress, NVCA supported your efforts in engaging interested stakeholders in this debate and moving S. 515, the Patent Reform Act of 2010. We believed this bill struck an appropriate balance on several critical issues important to many diverse industries and companies of all sizes. Endorsing and strengthening the current case law standard for determination of damages was an important provision supporting strong intellectual property protections. This balanced other provisions, such as first to file and post grant review, that will be more burdensome to the entrepreneurial economy, but were strongly desired by large companies. Moreover, the post grant review proposal was very finely crafted to prevent abuse. These compromises were critical for innovation, job growth and a flourishing economy and served as the basis for our support for S. 515.

Unfortunately we cannot offer the same support for S. 23 as currently proposed.

NVCA would not be able to support a final bill that does not include a clear statement of Congressional support for the current case law standard on damages and weakens the post-grant review safeguards against abuse contained in the compromise that was included in S. 515 during the last Congress.

These proposed changes will have a significant impact on the certainty of our patent system. We need to ensure that all stakeholders have an opportunity to provide input in crafting legislation that will achieve an appropriate balance, promote U.S. job growth, and advance U.S. innovation. We look forward to working with you towards this important goal.

Sincerely,

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

Mark G. Heesen
President