

Patent Reform

The current patent system is incredibly important to small businesses and the innovation economy. ACT believes that policymakers must take steps to ensure its continued effectiveness by addressing three main concerns:

1. Continue protecting the rights of small businesses, including those whose intellectual property is software patents;
2. Improving pre-grant systems within the USPTO: including full funding for the USPTO, increased funding for examiner education, and enhances prior art searches. Additional, the USPTO should begin a dialogue with industry and examiners to improve claims construction for software patents; and
3. Rebalancing the cost structure of litigation to ensure abusive litigants face increased costs for misuse of the patent system.

Protecting the Value of Intellectual Property

Many businesses, large and small alike, rely on intellectual property like patents to recoup the costs associated with invention.

Efforts to devalue software patents are counterproductive and serve only to cause confusion for businesses that rely on intellectual property. The proposed expansion of the CBM program would add additional litigation costs for small businesses and would not enhance the value of their intellectual property.

Improving Pre-Grant Process

Many businesses, large and small alike, rely on intellectual property like patents to recoup the many costs. The key to having a robust and fair patent system is improving the pre-grant process. In order to prevent the granting of patents which do not meet the true standard of new, useful, and non-obvious, examiners need better tools, such as improvements in prior art searches and better developer education especially around software and software patents.

In order to make these improvements, the USPTO needs full funding. Examiners need the training and the tools that those resources can provide. Without full funding, the USPTO will be understaffed and not have the ability to quickly and efficiently give proper review to patent applications.




Rebalance the Cost of Litigation

Patent trolls are abusing the current system and not facing any cost consequences. Changes need to be made to ensure that the burden of litigation costs does not fall solely on the businesses the trolls target. Current proposed legislation includes several mechanisms which would help rebalance the cost of litigation—for our members fee shifting is of the greatest importance. Fee shifting allows small business the confidence that if they choose to fight, a win in court will not result in an economic cost.

For those who are intimidated into paying license fees to avoid litigation, Congress, the FTC, and state governments need to improve transparency around patent demand letters and provide resources to those small businesses facing patent trolls.

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