



December 2, 2013

TO MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES

While the National Small Business Association (NSBA) supports reasonable efforts and reforms to protect small businesses from unnecessary and unwarranted patent infringement actions, NSBA believes that any legislation aimed at reforming our constitutionally-based patent system or the patent litigation process must adequately address and consider the concerns of the small business community, including the potential undue or unfair burden that certain provisions incorporated into the *Innovation Act* (H.R. 3309) may place on individual inventors, technology startups and innovative small companies. Failing to do so could inhibit economic growth and impede small-business patenting entities' ability to prosper and create jobs.

As currently written, the *Innovation Act* includes a number of provisions that NSBA cannot support without additional revisions, including, but not limited to, provisions limiting the scope of preliminary discovery, requiring more detailed information on patent ownership, and codifying the judicially-created doctrine of obviousness-type double patenting. The aforementioned provisions, among others, could place an unnecessary burden on individual inventors and legitimate small-business patentees, making it more difficult for them to grow their companies and raise much-needed capital.

In addition to the need for additional revisions, the *Innovation Act* has been shepherded through the House of Representatives at an alarming rate, leaving little if any time for further discussion and analysis of the potential impact that certain provisions included in this legislation could have on America's most dynamic and innovative sector, small businesses - who are more likely to develop emerging technologies than their larger counterparts. In fact, small-patenting companies produce five times as many patents per revenue dollar as large-patenting companies and roughly twenty times as many as universities.

Therefore, given the need for additional revisions and analysis and the speed at which the *Innovation Act* has moved through the House of Representatives, NSBA opposes the *Innovation Act* in its current form and urges Members to carefully consider the effect that certain included provisions could have on our nation's individual innovators, technology startups and innovative small businesses. Founded in 1937, NSBA is the nation's oldest nonpartisan small business advocacy organization, representing more than 65,000 entrepreneurs and small businesses in every state and virtually every industry throughout the country. Patent litigation reform is an important issue for NSBA and its members, and it is imperative that we work together to ensure that any new legislation or policy does not have a disproportionate impact on America's entrepreneurs and small business community.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd O. McCracken". The signature is stylized and includes a long horizontal line extending to the right.

Todd O. McCracken