

February 25, 2009

The Honorable Darrell E. Issa  
United States House of Representatives  
Room 211 Rayburn House Office Building  
Washington, D.C. 20515-0549

Dear Congressman Issa:

We are writing in support of your bill, H.R. 628, to establish a pilot program in certain U.S. district courts to encourage the enhancement of expertise in patent cases among district judges.

AIPLA is a national bar association whose more than 16,000 members are primarily lawyers in private and corporate practice, in government service, and in the academic community. AIPLA represents a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent, trademark, copyright, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property and thus have a keen interest in an efficient and expert federal judiciary.

AIPLA has supported similar legislation in the past. As was the case for the previous bills, your legislation is narrowly tailored to achieve concrete improvements to the patent system by targeting perceived inefficiencies in the litigation of inventors' rights. The fact is that most district judges rarely hear patent cases, and that the complex law and technology in such cases often occupies an inordinate amount of a district judge's time. Any resulting problems are amplified by the high stakes in patent litigation and by the high rate of reversal at the Federal Circuit.

To the extent that there are problems based on a lack of judicial experience, this legislation addresses those problems with an effective 10-year experiment that includes periodic reports to Congress on specific aspects of the program. Among other things, those reports will monitor Federal Circuit reversal rates on claim construction and substantive patent law, as well as the time from filing to the beginning of a trial or entry of a summary judgment. The reports will give Congress an opportunity to assess the benefits of directing patent cases to judges with a greater interest and expertise in patent law, and a chance to determine whether the program has improved the quality of judicial decisions in patent cases and has expedited the adjudication process.

AIPLA appreciates any effort to improve the level of competency of the federal judiciary regarding patent litigation. Much of the debate over the last several years on reforming the patent laws has focused on the problems encountered by parties during litigation. While this legislation may not solve every problem, we believe it has the potential to be a positive step to improve the situation.

AIPLA thanks you for your interest in improving the landscape for IP practitioners who have litigation before the federal courts. We appreciate your efforts and stand willing to assist you in any way we can.

Sincerely

A handwritten signature in black ink, appearing to read "Q. Todd Dickinson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Q. Todd Dickinson  
Executive Director