

April 21, 2015

The Honorable Michael C. Burgess
Chairman
Commerce, Manufacturing, and Trade
Subcommittee
Energy and Commerce Committee
United States House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515-6115

The Honorable Janice D. Schakowsky
Ranking Member
Commerce, Manufacturing, and Trade
Subcommittee
Energy and Commerce Committee
United States House of Representatives
2322A Rayburn House Office Building
Washington, DC 20515-6115

Re: The Targeting Rogue and Opaque Letters (TROL) Act

Dear Chairman Burgess and Ranking Member Schakowsky:

I am writing on behalf of the American Intellectual Property Law Association (AIPLA) to give our perspective on and support for the Targeting Rogue and Opaque Letters (TROL) Act, which clarifies that the sending of abusive and bad faith patent demand letters may violate the Federal Trade Commission (FTC) Act.

AIPLA is a national bar association with approximately 15,000 members who are lawyers in both private and corporate practice, judges, patent agents, academics, law students and patent and trademark office professionals. Our members practice in a wide and diverse spectrum of intellectual property fields, including patent, trademark, copyright, and unfair competition law, as well as other areas of law affecting intellectual property. They represent both owners and users of intellectual property, as well as those who litigate and prosecute before patent and trademark offices, giving AIPLA a unique and varied perspective on patent procurement, licensing and litigation practices.

AIPLA believes that some of the most troubling abusive practices driving the current calls for patent litigation reform are the sending of abusive or bad faith demand letters to businesses asking for nuisance value settlements for alleged infringement or seeking licensing fees for a technology allegedly being used by a business where no infringement arguably exists. These practices may be appropriately dealt with under the laws governing consumer fraud and deceptive trade practices, and we appreciate the Subcommittee's continued interest and hard work in this area.

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AIPLA agrees that clarifying FTC oversight with respect to these abusive practices as described in the TROL Act will directly address the abusive behavior itself, and hopefully ameliorate its negative impact on the patent system as a whole. Any action in this area needs to strike a balance between addressing the fraudulent activity while not inhibiting free speech or legitimate patent licensing and enforcement. AIPLA believes the approach of this draft bill with a properly crafted definition of bad faith strikes such a balance.

Further, we strongly support the inclusion of the federal preemption provision which will reduce inefficiencies and ensure that the law is applied consistently across the United States. This provision grows increasingly important as a patchwork of state laws has proliferated over the past two years.

AIPLA supports consideration of the draft bill at this time, and we look forward to working with the Committee on the legislation as the process moves forward.

Respectfully Submitted,



Lisa K. Jorgenson
Executive Director
American Intellectual Property Law Association

Cc: Members of the Subcommittee