



1303 J Street, Suite 600, Sacramento, CA 95814-2939 T: (916) 438-4400 F: (916) 441-5756

May 14, 2015

The Honorable Mimi Walters
Member, House Committee on the Judiciary
236 Cannon House Office Building
Washington, DC 20515-0545

RE: SUPPORT FOR H.R. 9 (GOODLATTE) – INNOVATION ACT

Dear Representative Walters:

The California Bankers Association, representing the majority of banks doing business in California, urges you to support H.R. 9, which we believe will help prevent the abuse of the legal system by patent trolls. As you may be aware, banks of all sizes license innovation and technology to support consumer use, and, as a result, they are frequently targeted by patent trolls. Nationally, banks are now one of the top ten industries targeted by trolls. Like many industries, when faced with threats of expensive patent litigation (estimated to cost between \$500,000 and \$3.5 million), many banks, particularly smaller institutions, realize that their only option is to settle these questionable claims rather than face paying even higher litigation costs to defend themselves against frivolous claims of patent infringement.

While we support the litigation reforms included in the Innovation Act (H.R. 9), we are concerned that they could have a limited effect on the fraudulent practices of patent trolls in the context of settlement negotiations that may occur prior to the filing of an action in court. We strongly urge the House Committee on the Judiciary to add two additional provisions that would address these adverse impacts and strengthen the bill from our perspective.

First, CBA urges you to support the inclusion of an additional provision in H.R. 9 to help ensure that demand letters include clear and detailed information, such as the owner of the patent, what entities have a financial interest in the patent, what product or service is allegedly being infringed and how such product or service infringe the patent should be added to the bill. Failure to send a clear and detailed demand letter should result in the dismissal of any subsequent civil action by the patent troll against the recipient of the vague demand letter.

Second, we ask you to support inclusion of an additional provision in the bill that would make the Covered Business Method (CBM) program administered by the Patent Trial Appeal Board permanent, or at least extend it for a substantial period of time. The CBM program, created in September 2012, was established, in part, to provide an administrative process to assess the validity of questionable business method patents. Over the years, it has proven to be a successful low-cost alternative to

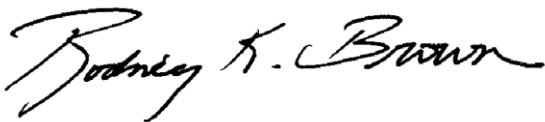
The Honorable Mimi Walters
Support for H.R. 9
May 14, 2015
Page 2

litigation of CBM patents. In fact, there are several CBM proceedings underway that could benefit banks and other financial institutions of all sizes. For example, overly broad patents held by the company, Data Treasury, used to extort more than *\$250 million* in settlements from many banks nationwide, were recently invalidated through the CBM review process.

Without intervening action by Congress, this important program will expire in 2020. Expiration of the program would be unfortunate, because every dollar spent on defending against frivolous claims brought by patent trolls reduces the availability of credit to meet the needs of small businesses looking to create jobs and grow the economy. Extension of the CBM program would benefit banks of all sizes by continuing to provide a relatively cost-effective way of challenging overly broad patents that are the bases for abuse by patent trolls.

Thank you for your continued diligence in addressing this issue in Congress. We strongly urge you to support H.R. 9 with additional provisions imposing pre-litigation demand letter requirements and extension of the CBM program, which we believe will benefit our members and thousands of banks and other financial institutions across the country.

Sincerely,

A handwritten signature in black ink that reads "Rodney K. Brown". The signature is written in a cursive, flowing style.

Rodney K. Brown
CBA President and CEO