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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510–6275

June 20, 2013

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Chairwoman Ramirez:

Abusive behavior by some holders of low-quality patents continues to impede innovation and harm small businesses and consumers in Vermont and across the country. We must combat the abusive behavior to preserve and advance the patent system envisioned by the founders and provided for in our Constitution.

In April, you testified before the United States Senate Committee on the Judiciary's Subcommittee on Antitrust, Competition Policy, and Consumer Rights. In a question for the record following the hearing, I asked whether the Federal Trade Commission (FTC) has the authority under the consumer protection laws to combat patent assertion entities that make unsubstantiated infringement claims, and whether you would take appropriate action to address this abusive behavior. You responded that the FTC does, and that the FTC would use its authority to prevent harmful practices by patent assertion entities.

I am writing to encourage the FTC to prioritize investigations of and enforcement actions to prevent unfair and deceptive trade practices in patent infringement allegations. The situation is particularly egregious when a patent owner sends numerous demand letters threatening an infringement action without having made a reasonable inquiry into the claims, and therefore having no actual intent to file a civil action, for which the owner would be subject to sanctions. These letters are simply used to extract unwarranted payments.

I also encourage the FTC to create on its website a user-friendly page through which small businesses and other targets of trolling activity can report it to the FTC to seek relief where appropriate.

While I continue to work on bipartisan legislation to combat patent trolling, I encourage you to use aggressively the consumer protection and competition laws already in place that will bolster the American economy and ensure the patent laws are used to encourage invention, not to impede innovation.

Sincerely,

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PATRICK LEAHY
Chairman