

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
June 6, 2007

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Chairman, Senate Judiciary Committee
Hearing on "Patent Reform: The Future of American Innovation"
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On April 18th, we took a momentous step toward ensuring America's continued leadership in innovation and production: on a bipartisan and bicameral basis, we introduced the Patent Reform Act of 2007. We left partisanship at the door and simply focused on the promotion of American innovation and ingenuity. I thank Senator Hatch, with whom I have worked on patent issues for many years. Indeed, our work together spans more than a decade; our last major patent bill was the American Inventors Act, which we began in 1997 and passed in 1999. I thank the other cosponsors of this bill as well, including Senators Cornyn, Schumer, and Whitehouse, who also serve on this Committee.

The issues we are discussing here rated a front page story in the Wall Street Journal today, which noted that the Supreme Court has "underscored the patent system's disrepair in a series of rulings rejecting the way lower courts have been interpreting existing law. The justices have declared, in effect, that the patent system, as it has developed through the courts, has deviated from the balance Congress set a half-century ago between promoting innovation and spreading the fruits of progress." In this, the Court is exactly right.

Over the years, our patent laws have served our inventors and our economy well, but they were crafted for a different time when smokestacks, rather than microchips, were the emblems of industry. It is far past time to update our laws for the 21st Century and the future of American innovation. We have spent several years working on just such legislation. Last year, Senator Hatch and I introduced S. 3818, which I said at the time was the first step down a road to real, constructive patent reform. Since that bill was introduced, we have spoken with all manner of interested parties and incorporated many of their suggestions into this year's bill, S. 1145, the Patent Reform Act of 2007.

We are working to refine - and to finish - this bill. We continue our collective effort to select just the right words to convey our agreed-upon meanings. Today, we focus on our overall effort but also on specific aspects of the bill on which we have asked a distinguished group of witnesses to share with us their views on the structure of post-grant review, venue, and interlocutory appeal of so-called Markman hearings.

We have already come a long way in each of these areas, and we have made important modifications from last year to address concerns that were raised. I am hoping that we will make further progress, so that we are all well-prepared for our final drafting efforts, and then for marking up the bill in the Judiciary Committee. As we move ever closer toward the finish line to enact legislation that will create the landscape necessary that American innovators need to flourish, we are focusing our debate on the specifics. These matters may seem dry but they are important to getting our work done and done right in order to enact meaningful reform.

I look forward to the testimony of our witnesses today, and appreciate the expertise they bring to bear on these important issues.

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