



June 10, 2015

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The Honorable Bob Goodlatte
Chairman, House Judiciary Committee
2309 Rayburn House Office Building
Washington, D.C. 20515

Subject: Opposition to the Manager's Amendment to H.R. 9, the Innovation Act

Dear Chairman Goodlatte:

The Small Business Technology Council (SBTC) is the nation's largest organization of small, technology-based companies in diverse fields. Our mission is to protect the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs to help grow the American economy, create jobs, and facilitate the public/private partnerships to develop the next generation of new technologies. SBTC is the largest organization representing SBIR/STTR award winners working across government agencies. SBTC serves as the Technology Council of the National Small Business Association. NSBA is a nonprofit small business organization that serves over 150,000 companies. For over 78 years, NSBA has provided small business advocacy, and was the founder of the "small business movement" in the United States.

On behalf of the 5,000 firms who participate in the [Small Business Innovation Research](#)¹ (SBIR) and [Small Business Technology Transfer](#)² (STTR) programs. I am writing to oppose H.R. 9, the "Innovation Act," due to the adverse effect it will have on small inventing companies. We would like to add small business to the list of universities, venture capitalists, technology startups, small inventor entrepreneurs, conservatives, liberals, former patent commissioners, and Patent Court judges that oppose H.R. 9 and support the TROL Act.

Small Businesses employ 37% of scientists and engineers.³ SBIR firms have received about 121,000 patents,⁴ and small businesses create **16.5 times** more patents per employee than large firms.⁵ And SBIR firms receive almost four times as many R&D 100 awards as the Fortune 500 companies,⁶ making SBIR firms the most innovative group in the nation.

While ostensibly aimed at curbing a small number of anecdotal instances of abusive patent litigation, the overbroad and sweeping proposed legislation in H.R. 9 will suppress patent rights of *all* patentees, and in particular, will hurt small high-tech, job-creating SBIR businesses, and the economy.⁷ Simply stated, patents are far more important to small businesses' survival than to large businesses. And licensed patents are the only way universities can commercialize their research.

SBTC has a number of concerns about the latest version of the bill. First and foremost is the inadequate representation of small inventing companies being allowed to testify and provide input. Rushing through a bill that will likely destroy the American innovation ecosystem is deleterious to the American economy and to job creation and only advances the interests of



large monopolistic companies. We believe that the Committee must hear from a broad range of affected parties prior to finalizing legislation presented to the full House.

There are a number of other issues such as the effect on serial entrepreneurs who do not necessarily have a “principal source of income or employment is employment with the party alleging infringement”. Since serial entrepreneurs start a number of companies, the proposed wording will not protect them. This will discourage those serial entrepreneurs who are the most significant job creators.

Also of great concern is the destruction of secondary markets for intellectual property. Why is intellectual property singled out as opposed to real property (for example people’s homes) and personal property (for example citizens’ automobiles)? No one would ever dream of destroying the ability to freely sell an American’s house or car when the owner desires to change. We don’t diminish the value of the real or personal property should when an American experiences financial distress and needs to sell their property. Only inventors and their investors are being singled out as heinous enough that they should have their property rights destroyed and not be able to avail themselves of corporate protection from their personal assets.

H.R. 9 shouts at inventors **“STOP INVENTING. STOP INVENTING!”** We do not believe that this is what America wants. We also have a number of other issues we would like to have the opportunity to discuss with the committee.

In contrast, the TROL Act avoids these negative consequences; hence, it has our strong support. And, we can support the STRONG Patent Act in the Senate. SBTC appreciates your desire to curb abusive patent litigation practices, but we must maintain and strengthen important patent-holder rights and protections. We also strongly support the state law pre-emption provision, which would apply the legislation’s standards uniformly in all 50 states.

Thank you for your efforts. Should you have any questions, please feel free to contact me at rschmidt@CleveMed.com or by phone at 216-374-7237.

Sincerely,

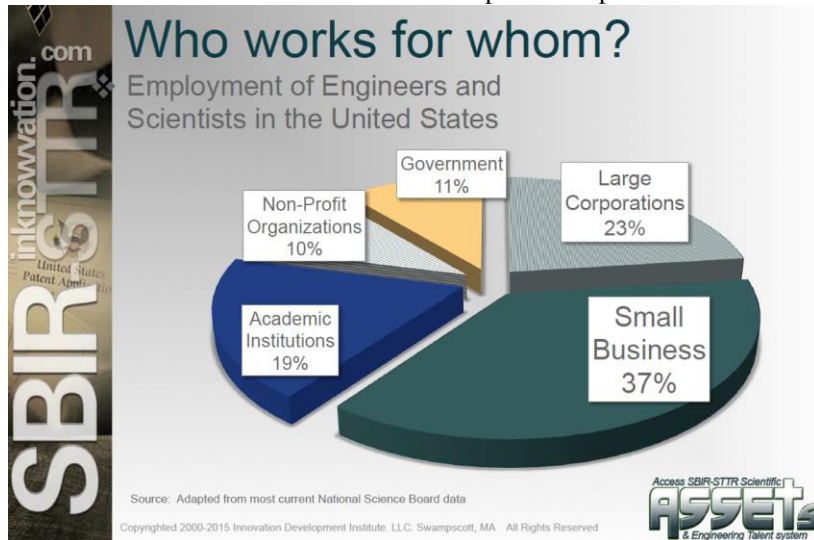
A handwritten signature in black ink, appearing to read "Robert N. Schmidt", is written over a light gray, semi-transparent signature strip.

Small Business Technology Council
Robert N. Schmidt, Co-Chair

¹ <https://www.sba.gov/offices/headquarters/oca/resources/6827>

² <https://www.sba.gov/offices/headquarters/oca/resources/6828>

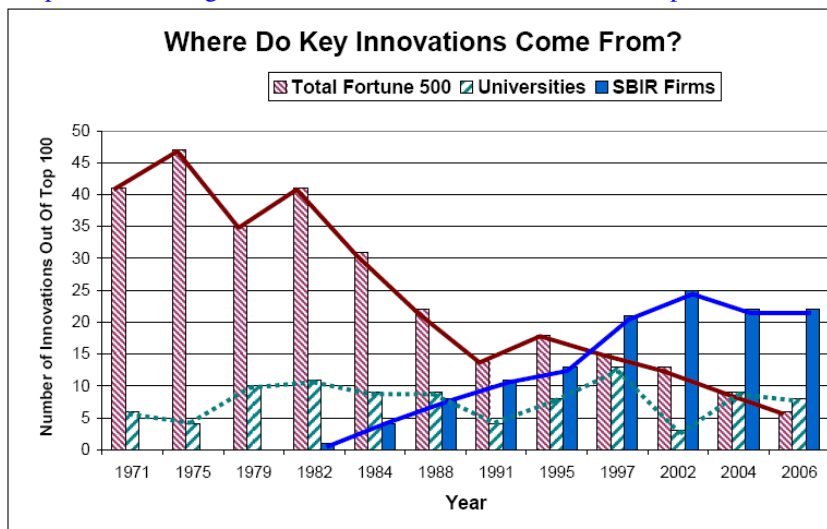
³ Source: Ann Eskesen of Innovation Development Corporation



⁴ www.Inknowvation.com

⁵ <https://www.sba.gov/sites/default/files/sbfaq.pdf>

⁶ http://www.itif.org/files/Where_do_innovations_come_from.pdf



SBIR firms receive about three to four times as many R&D 100 awards as Fortune 500 Companies, on a tiny fraction of the budget.

⁷ Patents are critical to the success of SBIR Program participants. The Innovation Act makes patents harder to get and to keep, which will likely retard some companies from commercializing, thus causing them to be removed from the program. This is another way the Innovation Act will decrease company success and employment in the US.