



June 29, 2018

The Honorable Thomas Massie  
U.S. House of Representatives  
2453 Rayburn House Office Building  
Washington, DC 20515

The Honorable Marcy Kaptur  
U.S. House of Representatives  
2186 Rayburn House Office Building  
Washington, DC 20515

Dear Representatives Massie and Kaptur:

On behalf of the National Small Business Association (NSBA), thank you for introducing the *Restoring America's Leadership In Innovation Act (RALIA) of 2018* (H.R. 6264), which is a necessary, small-business friendly alternative to other harmful patent reform initiatives currently pending before Congress. The RALIA Act offers various reforms and other improvements to the current U.S. patent system and helps to reverse prior bill's discouraging innovation in the U.S. by weakening patents.

Patent protections are particularly important for small inventors, who operate on much smaller margins and often rely more heavily on their intellectual property for revenue than large firms. According to the U.S. Small Business Administration, small businesses produce 16 times more patents per employee than large patenting firms, which has a direct correlation with job growth.

The RALIA Act markedly finds that the most recent comprehensive reforms to the U.S. patent system, the America Invents Act (AIA) enacted in 2011, resulted in unintended consequences which have damaged the ability of patent owners to protect their patents from infringement. By eliminating the race to the patent office, this bill restores the right of the first inventor to a patent, and reinstates a one-year grace period between first disclosure and the must-file deadline. These and other reforms in H.R. 6264 such as ending the diversion of patent fees and ensuring adequate, dependable funding for the U.S. Patent and Trademark Office, will all help boost U.S. competitiveness and strengthen property rights protections for inventors, small businesses, and other patent owners.

Central to patent reform legislation is the need to address the Patent Trial and Appeal Board (PTAB) which invalidates patents at an unreasonably high rate. This measure will eliminate the Patent Trial and Appeal Board, the inter parties review and post-grant review proceedings, and replace them with the former Board of Patent Appeals and Interferences (BPAI), set a new standard for invalidating a patent, and direct adverse BPAI decisions to the U.S. Court of Appeals for the Federal Circuit.

To ensure small patentees are not being unfairly and unjustly targeted, key provisions in the RALIA Act include ending the automatic publication of patent applications unless or until a patent issues, restoring clout to the patent "best mode" requirement, allowing for damages if

validity challenges originate in bad faith, and most importantly, offering the potential for permanent injunctions when unfairly infringed upon. These reforms will strengthen patents across the business community, enhance the U.S. patent system, and reestablish the attractiveness of creativity and encourage innovation.

As the nation's first small-business advocacy organization with 65,000 members across the country operating on a staunchly nonpartisan basis, I applaud your efforts to improve the U.S. patent system, and look forward to working with you on the passage of H.R. 6264.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd McCracken". The signature is stylized with a large, sweeping initial "T" and a long horizontal line extending to the right.

Todd McCracken  
President & CEO