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February 24, 2016

The Honorable David Vitter
Chairman
Senate Committee on Small Business and
Entrepreneurship
516 Hart Senate Office Building
Washington, DC 20510

The Honorable Jeanne Shaheen
Ranking Member
Senate Committee on Small Business and
Entrepreneurship
506 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Vitter and Ranking Member Shaheen:

On behalf of the more than one million members of the National Association of REALTORS® (NAR), who facilitate nearly 5 million home sales, boosting the American economy, I thank the Committee for holding this important hearing and urge your strong support for strong comprehensive patent litigation reform. Litigation and threatened litigation from abusive patent trolls divert resources away from more productive activities, including working with Americans looking to purchase a place to live or work, as well as investment in new technologies that enhance the consumer’s real estate experience and lead to job creation.

NAR, whose members identify themselves as REALTORS®, represents a wide variety of real estate industry professionals. REALTORS® have been early adopters of technology and are industry innovators who understand that consumers today are seeking real estate information and services that are fast, convenient and comprehensive. Increasingly, technology innovations are driving the delivery of real estate services and the future of REALTORS® businesses.

The real estate sector is impacted by specious infringement claims asserted by non-practicing entities (NPEs), or “patent trolls.” Meaningful reform legislation to curtail abuses when NPEs claim intellectual property rights in “sham” patents that are overly broad and lack integrity, send poorly researched but threatening demand letters to extort licensing fees from business owners, and file vague and frivolous lawsuits is critical to the nation’s self-employed and small businesses. For these reasons, NAR is strongly supporting S. 1137 (Grassley, Schumer), (The PATENT Act) which will curb abusive patent litigation that threatens our members businesses.

In 2015, patent trolls accounted for 67 percent of all patent litigation up from 61 percent in 2014. Clearly, the patent troll problem is growing not slowing. A growing majority of firms sued by patent trolls are small businesses like NAR members. Real estate businesses, tenants, brokers and service providers have been threatened and targeted with spurious patent infringement claims, in contexts that include the following:

- Brokers implementing website technology to allow zooming in to located points of interest on a map and creating home search alert function;
- Building owners and tenants that use standard, off-the-shelf routers to provide Wi-Fi access for hotspots in lobbies, restaurants, atriums, and other common areas of buildings;
- The Multiple Listing Service, a critical tool for real estate agents that uses location-based search capabilities to identify homes and other properties available for sale or lease; and
- Businesses that attach scanned documents to emails to execute contracts, closings, and other commonplace real estate transactions.

Rather than researching and litigating patent infringement claims, our members wish to channel their resources to serve their core functions to satisfy the real estate needs of the American people – and create jobs in the process. NAR supports S. 1137 and urges the Senate to bring it to the floor for a vote early this year.

Sincerely,

Tom Salomone
2016 President, National Association of REALTORS®

cc: Senate Committee on Small Business and Entrepreneurship



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