



July 23, 2024

Chairman Darrell Issa  
House Judiciary Committee  
Subcommittee on Courts, Intellectual Property,  
and the Internet  
2108 Rayburn House Office Building  
Washington, DC 20515

Ranking Member Hank Johnson  
House Judiciary Committee  
Subcommittee on Courts, Intellectual Property,  
and the Internet  
2240 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Issa and Ranking Member Johnson:

We write to commend you for holding today's hearing on IP Litigation and the U.S. International Trade Commission (ITC). The ITC has an important role in protecting the U.S. economy from unfair foreign competition. Unfortunately, when it comes to patents, this mission has been turned on its head: only 6% of the ITC's patent cases in recent years target only foreign defendants, with the remainder going after business with operations in the U.S. A growing number of these patent cases are being brought by patent speculation entities to the detriment of genuine U.S. domestic employers, consumers and our economy. Congress must act to modernize the ITC and ensure it is properly focused on its trade mission, instead of shifting its limited resources from protecting American business to promoting duplicative patent litigation. Your hearing is a key step toward these important reforms.

[ITC Modernization Alliance](https://www.itcmodalliance.org) members collectively employ hundreds of thousands of Americans across the country. We are some of the largest U.S. manufacturers and job creators. Yet, we are often targets of U.S. trade investigations brought by patent speculation entities that produce no goods and employ few, if any, U.S. workers outside of their litigation campaigns. These entities are often financed by unknown actors in international private equity and use foreign shell corporations to exploit the ITC legal process. Their ability to leverage the ITC's unique remedy, the exclusion order, to burden U.S. employers by pursuing abusive patent litigation flies in the face of the purpose of the ITC.

We own substantial patent portfolios and are ardent supporters of intellectual property rights. Additionally, we value the ITC's core mission to protect U.S. industries from unfair trade practices. That is why we want to ensure the ITC's ability to exclude products from the United States – and the finite resources it has to do so – are not abused by bad actors, such as foreign government adversaries and those with a non-existent domestic industry, who use the ITC as a point of leverage, to extract exorbitant patent settlements on terms that the U.S. District Courts would never award, rather than as a venue for resolving unfair trade practices. It is in the public interest to stop entities who seek to misuse the ITC to the detriment of American companies, workers, and consumers, and third-party litigation funding transparency can help achieve that goal.

We believe there are steps Congress can take to protect U.S. companies, modernize the ITC, and prevent gaming of the system, especially by entities that produce no goods or services. For example, Congress can clarify some key terms, such as what truly qualifies as a "domestic industry." Congress can ensure that the "public interest" remains paramount in the execution of the ITC's duties so that its decisions are not harmful to the American economy or consumers. Additionally, there must be requirements for

disclosure of parties in ITC litigation to ensure fairness and the proper use of our trade courts. To this end, we have supported the bipartisan Advancing America's Interest Act, H.R. 3535.

The reforms we have supported are narrowly tailored to address abuse and allow the ITC to focus on its core mission of supporting American economic strength and jobs. Patent cases that lack a real domestic industry to protect would simply be brought in federal court. Some cases simply do not belong in the ITC.

We appreciate your leadership on this issue, and we look forward to partnering with you on any next steps to protect American companies and jobs.

Sincerely,

ITC Modernization Alliance

cc: Chairman Jim Jordan

Ranking Member Jerry Nadler

Members of the Subcommittee on Courts, Intellectual Property, and the Internet