



September 9, 2019

The Honorable Thom Tillis, Chairman
Subcommittee on Intellectual Property
Committee on the Judiciary
U.S. Senate
224 Dirksen Senate Office Building
Washington, D.C. 20515

The Honorable Chris Coons, Ranking Member
Subcommittee on Intellectual Property
Committee on the Judiciary
U.S. Senate
152 Dirksen Senate Office Building
Washington, D.C. 20515

My company, Chestnut Hill Sound Inc., has been victimized by a US Patent system that for nearly a decade has been in a sorry state. Changes wrought by the America Invents Act (AIA) in 2011, and other recent developments, cost my company and its investors millions of dollars and have allowed a large company to reap great profits at our expense. Even more unfortunately, our story is too typical of many others. Small businesses are the backbone of our economy and need to be cultivated as they are the most dynamic source of new jobs and competitive products and technologies. There have always been reports of large corporations stealing inventions from small businesses, but it used to be possible via the courts to vindicate their patent rights and obtain ultimate redress. The AIA, sold as a measure to protect big business from the expense and nuisance of so-called “patent trolls” has, instead, turned into a weapon of deep-pocketed big business to fund armies of expensive lawyers to let them steal inventions from small business and independent inventors, with impunity and all-but without access to the courts.

Owing to the AIA, the United States Patent and Trademark Office (USPTO) now issues patents following a fairly rigorous examination system and then turns around and revokes (at the request of big business) over 80% of those that are the basis for commercial disputes, depriving the inventors and small businesses that own them of even getting a chance to prove their merit in court. My own company has been victimized in this fashion, with the USPTO’s Patent Trial and Appeal Board (PTAB) canceling both of our patents that we believe Apple has infringed after they copied our invention despite a confidential disclosure agreement. This is disheartening and discouraging for me as well as our investors and inventors and startups in our community and all over our great country.



Study after study has shown that small business is the engine of job creation in this country and the source of numerous new technologies and products. In the 90's, our economy surged and numerous new products, inventions and companies were born. Many credited a robust patent system, revitalized in the 80's by the then-new US Court of Appeals for the Federal Circuit, as a prime factor in this success. The AIA, and the USPTO's implementation of it via the PTAB, has seriously undercut these positives. Inventors and investors now have to expect to spend many additional years and millions, if not tens of millions, of dollars more just to get to the point they can get an infringer in front of a judge and jury.

This turns the American dream upside down!

I strongly urge you to support giving inventors and small businesses the right to have their patent rights decided by a real judge and jury, instead of the PTO's tribunal, a body and a process that lacks basic rules of fairness.

Many of these issues are explained further in a documentary film you can find at https://www.amazon.com/Invalidated-Josh-Malone/dp/B07G2WGTK6/ref=sr_1_1?keywords=invalidated&qid=1566494842&s=instant-video&sr=1-1

As a case in point, Josh Malone, the inventor of "Bunch O Balloons," has said that his pursuit of infringer Telebrands has cost over \$20M, much of it due to the PTAB. Where is an inventor supposed to get that kind of money? Why should investors invest if it is going to take that much money and years of effort just to get the system to say "Stop, you're a thief"?

While we certainly don't want China stealing our technology rather than paying for it, why are we letting U.S.-based corporations steal technology from inventors right and left? Google, Apple, Amazon, Telebrands and other big corporations are constantly getting away with profiting from pirated products simply because we are not providing an effective, efficient, fair and reasonably priced system for taking them to task. Instead, we have let them make the rules, so that they know ahead of time they probably will win the game.

Senators, we need your help! Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Rob Friedman', written over a horizontal line.

Chestnut Hill Sound Inc.

By: Rob Friedman

Chairman & CEO