

Thomas P. Riederer
Santa Barbara, California

*To promote the Progress of Science and useful Arts, by
securing for limited Times to Authors and Inventors the
exclusive Right to their respective Writings and Discoveries*

TO:

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

September 9, 2019

My name is Thomas Riederer and I am the inventor of several patented digital stereoscopic (3D) cameras, systems and their methods of use. I am the co-founder of TrueVision 3D Surgical, an entrepreneurial company which has revolutionized brain- and eye-surgery through the use of these inventions.

I support increasing the number of small “garage” inventors, entrepreneurs seeking investor-funding and ordinary folks with a brilliant “aha” moment who file for and attain patents. However, such accomplishment must be coupled with legislative actions that strengthen those patents. Patents have become liabilities for independent inventors thanks to the PTAB and lack of strong enforcement in court.

Entrepreneurs can no longer tout patent rights to potential investors, as there is no longer a definitive, protected “right”, such that an investment is significantly risky and uncertain.

In 2006 the Supreme Court ruled in the *Ebay vs MercExchange* decision that inventors no longer have a right to exclude others from using their inventions. Instead, a judge will decide who can use the invention and how much they must pay – a compulsory license, antithetical to free markets and property rights found in the US Constitution, enumerated above.

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In 2011 Congress passed the *America Invents Act* (AIA) that created the *Patent Trial and Appeal Board* (PTAB), which has utterly undermined the reliability of our patent rights. Patents can now be revoked at any time by the same agency that issued them. The promise of limited exclusivity in exchange for publishing the details of our invention has been compromised.

In 2018 the Supreme Court ruled in *Oil States vs Greene's Energy* that patents are not property rights, but instead are public franchises, like the right to erect a toll bridge. They ruled that a patent is a monopoly granted by the government, so the government is permitted to unilaterally revoke the patent. No judge, jury, or due process is necessary.

As an independent inventor I have written, prosecuted and obtained several patents entirely on my own, due to the significant costs involved should professional patent attorneys be utilized. Due to passage of the AIA, with its establishment of the PTAB and post-grant Inter-Partes Review (IPR) process, my business model has been made virtually obsolete. The IPR process through the PTAB, known informally as the Patent Death Squad with its high invalidation rate, is completely unfair to small operations like mine.

According to the *2017 AIPLA Report of the Economic Survey*, the estimated mean legal fees of an IPR proceeding through appeal runs nearly half a million dollars. If a patent is challenged and the patent owner loses, his patent is invalidated and his investment is lost. If he wins, he effectively “wins” nothing, since he still has a patent but there is no consequence to the challenger, often a large infringing company. A business such as mine could be bankrupted by a single IPR.

In order to retain some capital from my investment in my patents, I have recently sold the bulk of them. The only sale I could execute was for far less than previously appraised. Instead of pouring the capital back into further developing my technology, I am instead exploring endeavors such as the real estate business. The rights given by the government in real estate are not easily taken away, as is a patent “right”, now referred to as a “franchise”, irrespective of the definitive wording in the Constitution.

The purpose of this letter is to change the outlook for independent inventors and entrepreneurs. For example, a high school STEM student may have an ingenious project for the school Science Fair and is encouraged to file a patent to “protect” it. Once the student’s family finds out about the huge cost of defending a patent in an IPR, encouragement is lost, along with any aspiration for invention, directly contradicting the intent of such Science Fair.

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If the patents held by independent inventors and small entrepreneurs are not protected, their involvement in the patent system will be discouraged, and the *promotion of science and useful arts* is significantly diminished.

Sincerely,

A handwritten signature in black ink, appearing to read 'TP Riederer', with a long horizontal flourish extending to the right.

Thomas P. Riederer