H.R. 1249, AMERICA INVENTS ACT – JOB CREATION

June 2011

In April, H.R. 1249, the "America Invents Act" was voted out of the House Judiciary Committee 32-3. This vote came on the heels of a 95-5 vote in the Senate in March. The product of 4 Congresses, dozens of hearings and several bill iterations, the Act reduces the costs of frivolous litigation, increases patent certainty and promotes the creation of American jobs. Accelerating economic growth and job creation and expanding America's ability to innovate will be key to our nation's continued growth and success.

JOB CREATION AND ECONOMIC GROWTH:

- ***Future is Innovation*** – A fair, balanced and effective patent system is indispensable to promoting R&D investment, job creation, global competitiveness, and economic growth.
- ***Innovators Depend on Patents*** – Innovators depend in significant part on patents to build their business plans, including their hiring plans and their plans to invest in additional R&D. These investments can generate additional patentable ideas, creating a crucial cycle of innovation and growth.
- ***Innovation Produces High-Paying Jobs*** – Studies by the Federal Reserve show that innovation in capital goods is the primary driver of increases in real wages. Without innovation, wages would be much lower. Worldwide, 75% of differences in income can be explained by differences in innovation-driven productivity.
- ***Technological Change Drives Growth*** – Without technological innovation per capita growth would trend to zero.
- ***Patent Reform is Unique*** – It involves no taxpayer dollars and will expand our nation's innovative output while not adding a dime to the federal deficit.

KEY STATISTICS:

- ***Economic Growth*** – Technological innovation is linked to three-quarters of the nation's post-WWII growth rate. Two innovation-linked factors – capital investment and increased efficiency – represent 2.5 percentage points of the 3.4% average annual growth rate achieved since the 1940s.
- ***Jobs*** – Innovation produces high-paying jobs. Average compensation per employee in innovation-intensive sectors increased 50% between 1990 and 2007 – nearly 2.5 times the national average.
- ***Investment*** – Highly innovative firms rely heavily on timely patents to attract venture capital – 76% of startup managers report that venture capital investors consider patents when making funding decisions. Owning patents correlates with success acquiring first and additional rounds of VC financing.

PATENT OFFICE REFORMS WILL REDUCE COSTS:

- ***Ending Fee Diversion (PTO Funding)*** – Ending the practice of fee-diversion at the PTO, ensures that non-taxpayer, user-provided examination fees are not diverted for unrelated projects or earmarks. This provision in the bill effectively lowers taxes on innovators and innovation.
- ***Reducing the Patent Backlog*** – Delay in the granting of rights has substantial costs. Recent reports conclude that the U.S. backlog (1.2 million waiting a final decision, including the 700,000 applications pending first office action) could ultimately cost the U.S. economy billions of dollars annually in "foregone innovation."
- ***Fee-Setting Authority*** – The fee-setting authority this bill gives to the USPTO will contribute significantly to the agency's planned 40% reduction in patent pendency.
- ***Post-Grant Review*** – The enhanced post-grant review programs – the process by which a patent's validity may be challenged through an administrative appeal in front of the PTO – offer a cost effective and speedier alternative to litigation. The cost of such proceedings is expected to be 50-100 times less expensive than litigation and could deliver $8 to $15 in consumer benefit for every $1 invested.