



National Retail Federation[®]
The Voice of Retail Worldwide

June 21, 2011

The Honorable Lamar S. Smith
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Smith and Ranking Member Conyers:

I am writing in support of Section 18 of H.R. 1249, the American Invents Act of 2010. This provision would provide the Patent and Trademark Office (PTO) the ability to re-examine qualified business method patents against the best prior art.

As the world's largest retail trade association, the National Retail Federation's global membership includes retailers of all sizes, formats and channels of distribution as well as chain restaurants and industry partners from the U.S. In the U.S., NRF represents the breadth and diversity of an industry with more than 1.6 million American companies that employ nearly 25 million workers and generated 2010 sales of \$2.4 trillion. Retailers have been inundated by spurious claims, many of which, after prolonged and expensive examination, are subsequently found to be less than meritorious.

Increasingly, retailers of all types are being sued by non-practicing entities for infringing low-quality business method patents which touch all aspects of our business: marketing, payments, and customer service to name a few aspects. A vast majority of these cases are brought in the Eastern District of Texas where the statistics are heavily weighted against defendants forcing our members to settle even the most meritless suits.

Section 18 moves us closer to a unified patent system by putting business method patents on par with other patents in creating a post-grant, oppositional proceeding that is a lower cost alternative to costly patent litigation. The proceeding is necessary to help ensure that the revenues go to creating jobs and bringing innovations to our customers, not paying litigation costs in meritless patent infringement litigation.

We appreciate the opportunity to support this important section and oppose any efforts to strike or weaken the provision. Please do not hesitate to contact me with any questions.

Best regards,

David French
Senior Vice President
Government Relations

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