

***Computer & Communications Industry Association
Statement in Support of Patent Reform***

The following statement was issued by the Computer & Communications Industry Association (CCIA) President & CEO Ed Black in support of Patent Reform Act of 2007:

CCIA wholeheartedly supports the Patent Reform Act of 2007. We believe that reform needs to go much further, especially in addressing the low standards that allow far too many patents to issue in our sector. However, we view the Act as a reasonable compromise given the controversy surrounding the patent system. As evidenced by the bicameral, bipartisan sponsorship, this bill occupies solid middle ground. It answers the need to pass meaningful legislation now to address the creative abuses of the patent system that plague our sector of the system.

Unfortunately, the spirit of compromise is not universally shared. In recent comments, Jim Greenwood, President of the Biotechnology Industry Organization (BIO), complained that the Act would allow a patent to be “broadly challenged administratively throughout its term – even years after the patentee and the public have come to rely on it, and years after biotech companies have invested hundreds of millions of dollars to bring a patented invention through clinical trials and regulatory approval.”

Yet Mr. Greenwood ignored the fact that even today a patent can be challenged throughout its term – through litigation. An administrative process serves an alternative to the sky-high costs of litigation for both patent owners and challengers.

Mr. Greenwood’s misplaced confidence in the validity of issued patents is belied by a survey of patent quality by the Intellectual Property Owners Association. The survey found that 54.5% of the responding chemical, pharmaceutical, and biotech firms rated the quality of patents issued as “less than satisfactory.”

Computer, electronics, and software companies saw patent quality roughly the same way in the IPO survey. The big difference is that IT companies develop and market extremely complex products that may contain tens of thousands of patentable functions. They must now build into their business planning the risk of encounter thousands of patents of questionable quality – not so much those held by competitors with whom they can cross-license but those of patent speculators who are free and motivated to hold hostage the products and services that drive our economy.

We freely acknowledge that biotech and pharmaceutical companies may expend hundreds of millions to get a patented invention through clinical trials and regulatory approval. But under those circumstances, it is entirely reasonable for companies to spend a few hundred thousand in the first place to make sure they get a patent that will withstand serious scrutiny. When such large sums are at stake, it makes no sense to rely on the say-so of an examiner who may not be a lawyer, who can only allot 18 hours to the application, and who has the burden of showing that the applicant is *not* entitled to a patent.

CCIA recognizes the central role that patents play in biotechnology and pharmaceuticals. Instead of blocking needed reforms, we call on these industries to recognize that patents, by their nature in IT products and the sheer force of numbers, play a different role in our sector. Patents are imposing risks and costs of doing business in IT that ultimately scare off our investors. We can all acknowledge that capital is scarce and investments should not be skewed by how well or how poorly the patent system is working in different sectors. We invite leaders in the biotechnology and pharmaceutical industries to seriously explore ways that the patent system can adapt to industry differences – rather than follow the model preferred by one sector.