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Computer & Communications Industry Association

April 14, 2010

Sent via U.S. Mail and Electronic Mail

President Barack Obama
The White House
1600 Pennsylvania Avenue
Washington, DC 20500
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Re: The Need for a Tech Savvy Nominee Given Issues Supreme Court Will Face

Dear Mr. President,

As the Administration once again searches for a candidate for the Supreme Court, many are discussing the need for diversity. During the previous nomination process there was some public debate about bringing more diverse work backgrounds to the Court.

We need Justices with different career backgrounds who have had an in depth exposure to a wide range of our citizens and understand the realities of their daily lives. We need Justices who may have worked for a cross section of citizens as part of another branch of government, especially locally elected officials including the “peoples” House of Representatives. We need Justices who, if in private law practice, didn’t just work for major corporations, but dealt with those living in a variety of socio-economic circumstances. A non-appeals court background would be a welcome change for a court appointee, and historically such backgrounds have produced some great Justices.

As we are living in an information economy where everything is becoming digital, we would advocate picking someone with a deep understanding of technology issues. This would bring a needed diversity to the Court and would be fitting with your Administration’s unique understanding of how technology issues are intertwined with every aspect of government – and our daily lives.

Technology is interwoven into how we communicate with others as well as what businesses, advertisers, Internet Access Providers and the government now can know about us as we seek information and communicate. Over the next five years, the Supreme Court will likely have the chance to rule on issues from privacy to free speech to Internet access and antitrust to intellectual property. A justice who can understand the tech economy and how the technology behind these issues works would be able to ask probative questions of counsel.

Many of the laws which lower courts are applying were made years before cell phones, lap tops, remote data storage and processing, and also before the interconnected business models under which many innovative companies now operate. The lower courts have often interpreted these laws differently. A technologically savvy Supreme Court can resolve divisions in among federal courts that cause uncertainty and slow innovation. Innovation is

part of America's economic success in the past and will be in the future.

An understanding of Constitutional law is always discussed when considering Supreme Court nominees. As technology rapidly changes, someone who understands how technology works would be very valuable in determining how to uphold the intentions of our founding fathers while embracing the innovation of our sons and daughters.

We also need someone on the high court who understands intellectual property, as company assets in the United States are no longer primarily tangible assets. U.S. company assets today are predominately ideas – intellectual property. Previous concepts of infringement are changing as products become more interoperable and depend on licensing. As this trend grows, intellectual property rules likely will be recalibrated to meet the modern world.

That brings us to antitrust issues, which the Court could be asked to take up. We applaud you for renewing the country's antitrust oversight in the Department of Justice and the Federal Trade Commission, and see someone with an understanding and background in antitrust issues as valuable to the High Court as well. Ensuring fair robust competition among various industries sounds like a corporate issue, but in the end is a jobs issue.

We would further offer the name of a Congresswoman who has shown she deeply understands both the technology and the needs of those using it and those making their living through innovation. Rep. Zoe Lofgren, D-Calif., understands where the law and technology intersect and has applied current law and sought to make new law when necessary to ensure technology is a force for good in society by expanding equal access to opportunities through open Internet access. She has also acted as a watchdog when the government or others infringed on the privacy of Internet users – or broke the law when collecting information on Americans. Lofgren has been a solid voice promoting fair, balanced competition that boosts innovation and our economy. Lofgren's sharp mind, deep understanding of tech issues and common sense approach to resolving issues would be an asset to the High Court. We hope you would consider tapping her to expand her service to our country as you consider this Supreme Court vacancy.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Black". The signature is fluid and cursive, with a large initial "E" and "B".

Ed Black
President & CEO
Computer & Communications Industry Association