

US Patents Should be “US Grade”

US manufacturing relies on high quality, “US Grade” patents. When the ribbon affixed to a US patent represents a meaningful sign of quality, manufacturers with patent rights can feel more comfortable investing the considerable resources required to bring an invention to market. This investment in turn benefits the US economy and American consumers while advancing our technology leadership position in the world. As a country, we benefit from the manufactured item itself, and not merely the idea of that invention. Airplanes, smartphones, microprocessors, automobiles are all much more useful to us as practical devices than as ink on paper.

On the other hand, low-quality invalid patents are a menace that constricts the growth of the US manufacturing sector, destroys jobs, and harms our country. The cost of defending against even a single patent lawsuit can be crushing - over five million dollars in fees alone, regardless of a win or a loss. And in that litigation, the quality of the patent is determined by a non-technical judge and jury. This reality allows parties with low-quality invalid patents to regularly extract large cash settlements from US manufacturers, and the expenses associated with these low-quality invalid patents must in turn be passed on to consumers. The America Invents Act was intended to help weed out these low-quality invalid patents.

Today there are those in the marketplace of ideas who argue - loudly - that patents should have greater certainty of being found valid than they have today. They say our patents should be stronger. We say our patents should be better.

We all benefit when our patent system ensures that our patents are truly “US Grade.” Ensuring quality moves inventors, manufacturers, consumers and US technology leadership forward. Eliminating the procedural safeguards that currently exist to remove low-quality invalid patents from the system would take us backward, and encourage the same exploitative assertion of low-quality, invalid patents that Congress intended to curb through the America Invents Act. Congress should protect those safeguards, preserve the post-grant review procedures created through the America Invents Act like the inter partes review, and defeat bills that undermine patent quality like the so-called Stronger Patents Act.