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## **Small businesses send mixed message on patent reform Trolls, innovators, and infringers on the agenda**

By Grant Gross

U.S. lawmakers heard mixed reviews of patent reform proposals Thursday, with some small businesses saying changes to the current patent system would give them fewer tools to protect themselves against large infringers with deep pockets.

But other businesses, including one with about 400 employees, called for changes in the U.S. patent system. Huge infringement awards covering a small piece of a larger product drives up legal costs and gives technology firms less money to research and create new products, said Mitchell Gross, chairman and CEO of Mobius Management Systems Inc., which makes records management software.

"The United States' patent system is broken and needs to be fixed," Gross told the House of Representatives Small Business Committee. "If I had to characterize the problem in a few words, I might say, 'too much risk of losing a fight when a bad patent stands up against innovation'."

Gross and Emily Ward, associate general counsel for eBay Inc., called on Congress to limit the damage awards in patent infringement cases. Ward asked Congress to reintroduce legislation that would cap damage calculations based only on the value of the patented piece of a larger product, instead of the current practice of allowing a patent holder to claim damages based on the value of the entire product.

Large damage awards against technology vendors hurt small businesses, which pay for the cost of those awards in increased product prices, Ward said. "There's so much money being spent on lawyers," she said. "Abuses are so common in the system."

Patent reform has been on the agenda of many large tech vendors for several years. Patent reform advocates have called for improved quality of patents, a new process of challenging patents after they have been granted, limiting damage awards and other changes.

But Bryan Lord, vice president for finance and licensing for the 23-employee AmberWave Systems Corp., questioned whether large businesses would pump any money saved from litigation back into research and development. Proposals to limit damages and to allow new reviews of patents after they are granted would help large companies at the expense of small patent holders, he added. A proposed post-grant review process generated by opponents of a patent would favor large businesses that have the money to go through the process, he said.