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Small tech firms oppose patent reform bill

More than 100 organizations, including many small IT companies, feel the proposed patent reform tilts the playing field in favor of large corporations

By Grant Gross, IDG News Service

More than 100 organizations, including small technology firms, biotech companies, and venture capital groups, have raised concerns about a patent overhaul bill being debated this week in the U.S. Congress.

Many large tech vendors, including IBM, Cisco, and Microsoft, have voiced support for the Patent Reform Act, wide-ranging patent reform legislation scheduled to be debated and amended late Wednesday before the House Judiciary Committee's Subcommittee on Courts, the Internet, and Intellectual Property.

But AmberWave Systems, a New Hampshire semiconductor manufacturer; InterDigital Communications, a Pennsylvania wireless technologies developer; and LSI, a Pennsylvania networking and storage vendor, were among the companies that signed on to a letter, sent to congressional leaders this week, that said several parts of the legislation would be "devastating" to their businesses.

The bill, among other things, would limit the damages a patent holder can collect when an infringing technology is part of a larger product. This attempt to apportion damages based on the number of patents within a product is a "blatant sort of table tilt" away from patent holders, said Bryan Lord, vice president of finance and licensing at AmberWave Systems.

The bill would also allow new ways to challenge patents after the U.S. Patent and Trademark Office has granted them. The result would be "weakened protections" against patent infringement, said the letter, drafted by the Innovation Alliance, a trade group representing patent holders.

Large tech "aggregators" that hold thousands of patents may not care if one is challenged or weakened, Lord said. But small firms such as AmberWave depend upon a limited number of patents for their livelihood, he said.

The aggregated products that many large tech vendors ship will "inevitably" infringe some patents, he added.

"What [many large tech firms] have essentially said is that they ship product, and they need to get product out the door," Lord said. "Patents become basically trading chips in order to address infringement their products may have in the marketplace. If you're a large aggregator ... you basically care about volume."

Members of the Innovation Alliance and other organizations signing the letter said "measured" changes to the U.S. patent system may be appropriate. "Unfortunately, we also believe that some of the proposed reform provisions hold serious negative consequences for continued innovation and American technological leadership in the increasingly competitive 21st century global economy," the letter said. "The harm to investment in tomorrow's technologies would be felt immediately."

The concerns about the Patent Reform Act pits these small tech vendors against many large ones that have supported the bill.

Many large tech vendors have argued that the U.S. Patent and Trademark Office too often approves questionable patents, and that it's too easy for patent holders to sue, collect huge damages and shut down product lines that have a small infringing piece.

Microsoft praised the bill when it was introduced in April, calling it a "fair and balanced approach" toward improving the U.S. patent system. "If the U.S. patent system is to continue to serve its vital role in promoting innovation and economic growth ... remedies for patent infringement must be predictable and fair," the company said.

Both sides accuse the other of using patents as bargaining chips. Supporters of the bill complain about so-called patent "trolls" whose only business plan is to sue alleged infringers, while opponents of the bill accuse large patent holders of using their patents to cancel out alleged infringements from competitors.

Not all large tech vendors support the patent bill, which would change the U.S. patent-award system from first-to-invent to first-to-file, and would limit the jurisdictions where patent lawsuits can be filed. Qualcomm is a member of the Innovation Alliance opposing the bill, and Texas Instruments is a member of another group in opposition. Many pharmaceutical companies and small inventors also oppose the patent changes.