



State of North Carolina
Department of Justice

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July 18, 2014

The Hon. Fred Upton, Chairman
House Committee on Energy
and Commerce
2125 Rayburn House Office Bldg.
Washington, D.C. 20515

The Hon. Henry Waxman
House Committee on Energy
and Commerce
2322A Rayburn House Office Bldg.
Washington, D.C. 20515

Re: H.R. __, The "Targeting Rogue and Opaque Letters Act of 2014"

Dear Chairman Upton and Ranking Member Waxman:

I am writing to encourage your committee not to preempt state laws that are designed to protect consumers and businesses from questionable claims of patent infringement by Patent Assertion Entities (PAEs, sometimes called "patent trolls"). Section 4(a)(1) in the Targeting Rogue and Opaque Letters Act of 2014 could be interpreted to preempt these types of state laws. That provision should be removed or amended so as to preserve state authority.

Consumers and businesses are often targeted by PAEs because they purchase and use off-the-shelf commercial products that rely on common technology, such as printers, scanners, or wireless routers. PAEs are often successful at getting consumers and businesses to pay them because defending complex patent infringement lawsuits can be expensive. I am concerned about this issue and have opened an investigation based on complaints our office has received.

Moreover, North Carolina is in the final stages of adopting patent troll legislation HB 1032 that is designed to provide much needed protections for consumers and business. It is important to note that there is no attempt in this legislation to invade the province of federal patent law. A number of other states have passed similar laws or are in the process of considering similar laws.

I support adoption of effective, balanced patent troll legislation on the federal level but believe state authority should be preserved, not preempted. Consumers and

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businesses are better protected when there are more cops – both federal and state - on the beat. It is critical that states be able to move quickly to enforce their own laws and protect their own residents. This model has worked effectively in other areas of consumer protection and it would not serve our constituents well by intruding on state authority and preempting state laws here.

Thank you for your work on this important issue and for considering this input. If you have any questions, please feel free to contact me.

With kind regards, I am

Very truly yours,

A handwritten signature in black ink, appearing to read 'RC', with a stylized flourish extending from the end.

Roy Cooper

RAC/sm

cc: North Carolina Congressional Delegation
Rep. Tom Murry