

Hearing: Subcommittee on Oversight and Investigations
The Impact of Patent Assertion Entities on Innovation and the Economy
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Mr. Chairmen and Members of Congress:

I am Justin Bragiel; I am general counsel for the Texas Hotel and Lodging Association (THLA). Our organization was founded in 1903, and we represent over 2,000 hotels across the State of Texas. Our member properties range in size from small one-room bed-and-breakfasts, to the largest convention center hotels with thousands of rooms. THLA is the largest state hotel association in the nation in both the number of hotel properties and hotel rooms we represent. It is my pleasure to advocate for our industry, and we appreciate the opportunity to testify before the Subcommittee.

Marshall, Texas is home to the Eastern District of Texas, a federal judicial district that has become synonymous with patent lawsuits. Referred to colloquially as the “rocket docket,” the Eastern District of Texas often hears the most patent cases per capita. As a result, the Eastern District has developed an expertise in patent cases, and many patent lawsuits originate there.

Abuse of the patent litigation process by patent assertion entities (PAEs) has long been an issue for technology-related firms, and estimates from our coalition indicate this abuse costs the U.S. economy about \$80 billion every year in lost revenues and productivity. Recently, some PAEs have taken to targeting innocent product purchasers with allegations of patent infringement. Over the last year, almost 100 hotels in Texas have been subjected to lawsuits over alleged patent infringement by, simply because the hotel operates wireless internet devices (i.e. providing WiFi to hotel guests)

The effect on our industry has been detrimental and problematic. It is easy to put yourself into the shoes of a hotelier. Our guests expect WiFi internet connections at our lodging properties, and hotel brands require their franchisees to provide it. The hotelier contacts a vendor, purchases a wireless router or access point off the shelf, and installs it on the property. Months or years later, the hotelier receives a federal civil complaint, alleging that her operation of a WiFi device is infringing upon a PAE’s patent. The complaint is accompanied by a simple demand: Pay the PAE \$5,000, or risk going to trial. Defending a patent lawsuit can cost hundreds of thousands of dollars due to the complexity of the case. Meanwhile, our hotelier has done nothing more than purchase a device off the shelf, install it, and operate it exactly as the manufacturer intended.

Our member hotel properties do not have expertise in electrical engineering. It is not possible for us to verify whether a device manufacturer has licensed all appropriate patents before we purchase the device. We do not even know what devices and device manufacturers may be covered by a given

patent. Our business is selling hotel rooms and taking care of guests, yet we are being shaken down and forced into a settlement, simply for purchasing an electronic device.

We need smart reform in addressing the PAE problem. Under the current system, it is not possible for us to predict which hoteliers will be sued for which technology, which brands of devices to buy or avoid, how much the PAE will demand in settlement, or whether the device manufacturer will intervene and defend us. Instead, this is a drag on our business, and in addition to the settlement, it is costing us lost productivity and revenue.

The American hotel and lodging sector is an essential part of the U.S. economy. Over 600,000 Texans are employed in the travel and tourism industry, and we are an essential component of both the U.S. and Texas economy. Reforming PAE abuse will help ensure our long-term viability and give our industry predictability and economic growth.

Thank you.

Justin Bragiel
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