CONGRESS SHOULD PASS THE UNLEASHING AMERICAN INNOVATORS ACT TO ENSURE EQUAL OPPORTUNITY IN INVENTION AND PATENTING

The U.S. Patent & Trademark Office (USPTO) and leading researchers have found that women, people of color, and individuals with lower incomes patent inventions at significantly lower rates than their representation in the population. Less than 13% of all inventors who hold a U.S. patent are women. Black and Hispanic college graduates patent at half the rate of white college graduates. Children in the top 1% of family income are ten times more likely to patent than children in the entire bottom half of family income. Closing these diversity gaps would quadruple the number of American inventors, increase annual U.S. GDP by almost $1 trillion, and result in exciting new inventions.

The Unleashing American Innovators Act (S.2773/H.R.8697) is a bipartisan, bicameral bill that would advance inventor diversity by strengthening the Patent Pro Bono Program and increasing USPTO outreach to diverse inventors. The legislation directs the USPTO to study and improve the Patent Pro Bono Program, expand eligibility for the Program, establish a new USPTO satellite office in the southeast region, and establish community outreach offices to increase engagement with prospective inventors. These policy changes will help ensure that everyone has the opportunity to invent and patent.

Strengthening the Patent Pro Bono Program Is Essential to Closing the Inventor Diversity Gaps

• The Patent Pro Bono Program is a nationwide network of independently operated regional programs that match volunteer patent professionals with financially under-resourced inventors and small businesses to offer free legal assistance in preparing and filing a patent application. Congress created the Patent Pro Bono Program as part of the America Invents Act in 2011 because many independent inventors could not afford an attorney to file their patent applications, forcing them to navigate the complexities of patent prosecution pro se.

• The Patent Pro Bono Program has proved to be a successful tool for increasing participation in the patent system by inventors with lower incomes. Since the Program’s inception, the regional programs have matched more than 3,400 people with volunteer patent practitioners, under-resourced inventors have filed more than 1,800 applications, and practitioners have donated more than 84,000 hours of legal services.

• A recent survey found that the Program is also an important resource for other underrepresented inventors, including women and people of color. Less than 13% of all inventors who hold a U.S. patent are women, but 41% of last year’s Program participants are women. In addition, the survey found that 30% are African American or Black, 1.5% are Native American, and 5.6% are Asian, Pacific Islander, or Hawaiian Native, which are all higher than proportions in the U.S. population, according to 2010 U.S. Census data.
• The Unleashing American Innovators Act would expand eligibility for the Patent Pro Bono Program to serve even more under-resourced inventors. Regional programs currently set their own eligibility requirements, and most regions have set income eligibility at 300 percent of the federal poverty line (FPL). The legislation would ensure that eligibility is set at 400 percent of the FPL, as a minimum, although individual programs could elect to set higher eligibility levels and thus serve more inventors.

• The legislation also strengthens the Program by directing USPTO to study and improve the Program, based on the study’s findings and recommendations. Among other things, the study must include an assessment of whether the Program has sufficient funding, whether it sufficiently serves underrepresented inventors, whether prospective inventors are aware of the Program, and whether any Program requirements deter prospective participants.

Establishing New USPTO Offices Will Help Connect Tens of Millions of Americans to Patent Resources and Increase Awareness About Invention and Patenting

• Approximately 240 million Americans live in states without any USPTO offices. The Unleashing American Innovators Act expands access to the USPTO to tens of millions of Americans by creating a new USPTO satellite office in the southeast region and a network of community outreach offices across the country.

• This legislation directs USPTO satellite offices to conduct outreach to increase participation of groups that are currently underrepresented in patent ownership. It also directs USPTO to study whether additional satellite offices would increase invention and patenting by members of underrepresented groups, better connect inventors with USPTO, and help with patent examiner recruitment and retention.

• This legislation directs the new USPTO community outreach offices to work with members of underrepresented groups and partner with local organizations to create community-based programs to educate the public about patenting, the benefits of innovation and entrepreneurship, and the resources available to them.