



The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Chuck Schumer
Minority Leader
United States Senate
Washington, DC 20510

September 11, 2020

Dear Majority Leader McConnell and Minority Leader Schumer:

On behalf of the diverse membership of the Quality Patents Coalition, we encourage your support in pursuing a one year extension of the Covered Business Method (CBM) review program at the U.S. Patent and Trademark Office (USPTO), which is set to expire on September 15, 2020. Collectively, we support a short-term extension of this important program, which has led to decreased litigation involving business method patents, and positive effects on innovation, investment, and job creation.

Congress created the CBM program in 2012 as part of the American Invents Act (AIA), to help “cut back on the scourge of business method patents that have been plaguing American businesses.”¹ The late 1990s and 2000s saw an increase in patent litigation, driven largely by Non-Practicing Entities (NPEs) - sometimes referred to as patent trolls - who asserted low-quality business method patents and forced costly settlements on companies that facilitate commerce in the United States, including many of our members. The CBM program was created as an alternative to costly, meritless litigation, instead allowing the experts at PTO to review whether a patent should have been granted in the first place.

The program has been working. A [recent study by the Perryman Group](#) found the AIA and its collective review programs have “saved U.S. jobs and helped drive substantial economic gains over the past decade” including an estimated \$2.95 billion in GDP growth between 2014-2019. Compared to other

¹ Senator Schumer (D-NY), *Congressional Record* Volume 157, Number 132, Page S5409

court proceedings, the USPTO provides a process which takes less time to reach a decision, costs less to use and operate, and leverages a pool of over 200 judges with specialized patent experience.²

As we approach expiration, recent data confirms concerns ([referenced by GAO in March 2018](#)) that “some patent owners may be waiting to assert their business method patents until after the CBM program has expired.” Specifically, data shows that NPEs have begun rapidly stockpiling business method patents; secondary market activity is up 12.6% and the number of patents sold is up 69% (Q1 2020 v. Q1 2019). If these patents are asserted without the CBM program in place, the end result will be a tax on our economy at a time when many of our members are fighting to recover from the devastating economic impact of the COVID-19 pandemic.

The Quality Patent Coalition and its member companies are committed to leading the economy forward during this difficult time. We encourage you to extend the CBM program for a year to ensure that our efforts are not sidelined by an avalanche of meritless litigation.

Sincerely,

The Quality Patents Coalition

- American Bankers Association
- American Transaction Processors Coalition
- Bank Policy Institute
- Credit Union National Association
- The Clearing House Association
- Electronic Transactions Association
- Independent Community Bankers of America
- Innovative Payments Association
- National Restaurant Association
- National Retail Federation
- Retail Industry Leaders Association

² *American Intellectual Property Law Association, 2019 AIPLA Report of the Economic Survey*