

From: ACUS Information nfo@acus.gov
Subject: FW: Small Claims Patent Court Comments
Date: August 26, 2022 at 1:30 PM
To: [REDACTED]

From: Manus Cooney [REDACTED]
Sent: Friday, August 26, 2022 1:30 PM
To: ACUS Information <info@acus.gov>
Subject: Small Claims Patent Court Comments

Dear Madam/Sir:

I appreciate the opportunity to provide a few comments on the Small Claims Patent Court effort.

In the interest of full disclosure, I am a managing partner at a public policy/lobbying firm (ACG Advocacy) and much of my practice centers on promoting a strong domestic IP regime. Clients include companies in the biotech, apparel, technology, news, and entertainment industries. I regularly find myself on the other side of the policy table from large technology companies when they push for proposals to change (weaken) US patent law. Accordingly, my comments below should take this into consideration.

It should come as little surprise that, with many patent owners, there exists a significant amount of distrust of government and policy elites given the dramatic changes US patent law has undergone over the last two decades. I suspect that inventors who oppose the idea of a small patent claims court do so because they fear such a court would have the effect of further marginalizing their financial, legal, and business interests. The current list of ACUS consultants has several respected experts. But it is difficult to discern who among that list has been included because of his/her fidelity to the needs and views of small inventors. Accordingly, robust involvement of small inventors plus a commitment to transparency at all levels of the project is needed. Independent inventors, startup interests (that are not funded by big-tech), and similar stakeholders deserve to be well-represented in your consultative group.

Finally, the list of consultants is populated with too many academics (more than half). I would "hazard" to guess that most of them have never invented anything much less tried to obtain a patent and then enforce it against an infringer. Many of today's IP academics are skeptical of strong patent protections and have taken positions supporting policy reforms that are strongly opposed by traditional inventors. While the input of academics will likely prove beneficial and while many of the academics are accomplished and respected, some of these same academics are known to serve on the boards of organizations or affiliate with interests funded by companies on record supporting policies that would: diminish patent rights; expand the power of the PTAB; and/or make the enforcement of patents more complicated and expensive. This argues for ACUS to be transparent about such potential appearances of conflict (or influence).

Thank you for considering my views and good luck.

Manus Cooney

Manus Cooney
Managing Partner
ACG Advocacy, LLC
1800 M Street, N.W.
Suite 500 South
Washington, DC 20036