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Patent Troll Legislation Statement

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Washington, DC -- The Association of American Universities, Association of Public and Land-grant Universities, Association of American Medical Colleges, American Council on Education, Association of University Technology Managers, and Council on Governmental Relations today released the following statement on the introduction of the PATENT Act by Senators Grassley, Leahy, Cornyn, Schumer, Hatch, Klobuchar, and Lee.

We thank the Senate sponsors of the PATENT Act for listening to the concerns of the higher education community in drafting this legislation. While we need to examine the legislation further in the coming days, this bill is a substantial improvement over H.R. 9, the Innovation Act. In our view, it takes a more measured approach to addressing the abusive litigation practices of patent trolls while protecting the integrity of our patent system.

Although we will have improvements to suggest during the legislative process, we appreciate that the sponsors are working to achieve a careful and appropriate balance between addressing the costly and corrosive problem of abusive patent litigation and preserving the ability of patent holders to legitimately enforce their patent rights. We also understand that some senators might offer constructive amendments. We look forward to reviewing any such amendments, some of which may receive university support.

We have consistently raised fee-shifting and joinder as our most significant concerns with patent legislation. We are encouraged that, in contrast to H.R. 9, the PATENT Act creates a non-presumptive fee-shifting standard, as well as a mechanism for recovery of fees that would discourage patent trolls from litigating through judgment-proof shell companies but not sweep in universities and other good-faith patent holders.

Our universities and academic health centers are the originators of a vast array of discoveries and inventions. They deplore the abusive litigation practices of patent trolls. The patent troll business model of intimidation cynically exploits the legal system to undermine the constitutionally established system for promoting invention and discovery.

Moreover, our members take seriously their role in facilitating the transfer of federally funded research discoveries to private sector entities that can scale up and commercialize them into innovations that drive our economy and improve public health and quality of life. This technology transfer process and, therefore, the health of the U.S. innovation ecosystem, depend on a strong patent system, including the ability of patent holders to enforce their rights in good faith.

We look forward to continuing our positive, productive discussions with the sponsors, other members of Congress, and stakeholders in working towards our shared goals of curbing abusive patent litigation and maintaining the strength of the U.S. patent system.