

Statement of
The Honorable Herb Kohl

United States Senator
Wisconsin
February 3, 2011

Statement of Senator Herb Kohl
Senate Judiciary Committee
The Patent Reform Act of 2011, S. 23
February 3, 2011

Mr. Chairman, I am pleased to support S. 23, the Patent Reform Act of 2011. This bipartisan bill is the product of a great deal of debate and negotiation. It represents a reasonable compromise that on balance will promote stronger intellectual property rights and a more efficient patent approval process.

Strong intellectual property rights are invaluable to American innovation, global competitiveness, and economic growth. Patents are vital components in the research and development cycle that helps create small businesses and jobs. In my home state of Wisconsin, more than fifty start-up companies have been fueled by patents that resulted from research at the University of Wisconsin. And, there are countless other Wisconsin companies that rely on patents to sustain and grow their business.

I am able to support the Patent Reform Act because of the improvements made to the bill since it was first introduced. As is the nature of compromise, I recognize that we cannot all get every change we want. So I thank you, Mr. Chairman, for making substantial changes to accommodate many of my concerns.

Specifically, I appreciate your willingness to strike a major section of the bill regarding prior user rights - which would have done serious harm to the University of Wisconsin and its patent licensing business. You incorporated additional changes that were important to research universities, including provisions related to venue, grace period for first inventor to file, oath, and collaborative research. Patent protection will be stronger with the inclusion of "could have raised" estoppel, strong administrative estoppel, and explicit statutory authority for the Patent and Trademark Office (PTO) to reject petitions by third parties and order joinder of related parties. Improvements have also been made regarding damages. I expect that these changes will remain part of the legislation when it is considered by the full Senate.

I believe we still have work to do to address the PTO's funding needs. While Congress has a duty to carefully oversee the PTO, we also have an obligation to ensure that it has the resources necessary to issue top-quality patents in a timely manner.

Mr. Chairman, I thank you for your leadership and hard work on this issue.