

April 20, 2017

President Donald J. Trump
The White House
Washington, DC 20500

*RE: U.S. Business Supports FTC Action to Curtail Abuses that Hold Back
U.S. Companies, American Innovation, and Domestic Jobs*

Dear Mr. President,

We are leaders of U.S. companies who collectively own more than one hundred thousand patents, develop and/or use U.S. technologies in our businesses, and account for hundreds of billions of dollars of the U.S. economy. We share the concerns expressed by U.S. antitrust agencies in the last decade over certain anti-competitive licensing practices involving standard essential patents or “SEPs.” We feel it is critically important for the U.S. government to curb these rising anti-competitive abuses, and we hope that the FTC’s lawsuit filed on January 20, 2017 in federal court in California¹ will be allowed to run its course without prejudice or political interference.

We represent a broad cross-section of the United States business community, including automakers and suppliers, application developers, personal computer makers, television manufacturers, telecom product suppliers, chip designers and manufacturers, and other technology developers. Collectively, we spend tens of billions of dollars annually in R&D in the United States to develop new technologies that improve the lives of U.S. consumers. We develop and rely on a variety of standardized and non-standardized technologies. We strongly feel that leadership and guidance by the FTC and other U.S. agencies to address patent abuse involving standardized technologies are vital to our nation’s innovation and economic development, and should be supported by the administration.

Standards are critical to the U.S. economy because they enable products from different manufacturers to work together, simplifying product development and reducing transaction costs. Standards also encourage competition, the development of new markets, and improved supply conditions.

However, the standard setting system is vulnerable to abuse because of the unique power that it can give to a patent holder whose patents are voluntarily incorporated into standards. Such abuse can occur when a patent holder commits to license its patents on fair and reasonable terms, but then reneges on its commitments once its patents have been included in standards and technological alternatives are excluded. The FTC’s recent lawsuit alleges exactly this type of conduct – abusing monopoly power to eliminate competition by other companies in the wireless telecommunications industry. Moreover, it is alleged in the FTC’s complaint that several companies in the telecommunications chip industry were recently forced to exit the market as a result of such SEP abuses, as well as other monopolistic conduct, and public reports indicate that these businesses were forced to eliminate thousands of jobs from the U.S. economy.

¹ *FTC v. Qualcomm*, Case No. 17-cv-220 (N.D. Cal.).

While we take no position here on the merits of this case, the critical issues it raises deserve a robust adjudication. Those that disagree with any of the allegations in the FTC’s complaint will have their day in U.S. court.

The U.S. intellectual property system and the U.S. courts have served – and continue to serve – as a model for the rest of the world. The FTC’s complaint is well in-line with mainstream, broadly supported legal approaches. By *not* acting, the U.S. might risk losing its voice or influence in foreign jurisdictions, particularly in jurisdictions where both protection for legitimate patent rights and enforcement against patent abuses is weak.

In short, the impartial and substantive determination of an FTC action in a U.S. court is critical to supporting a successful U.S. market and U.S. business environment. Such a process is, in the end, good for the U.S. economy and job market. We encourage the administration to support this robust agency and court process.

Sincerely,

ACT / The App Association²

Alliance of Automobile Manufacturers³

Computer Ways

Dell Inc.

**HARMAN International Industries,
Incorporated**

FMS, Inc.

HP Inc.

Intel Corporation

Jadware LLC

Juniper Networks, Inc.

PreEmptive Solutions

Samsung Electronics America, Inc.

² ACT | The App Association represents more than 5,000 app companies and information technology firms in the mobile economy. The organization advocates for an environment that inspires and rewards innovation while providing resources to help its members leverage their intellectual assets to raise capital, create jobs, and continue innovating. In addition to its small business membership, ACT | The App Association has several Sponsor Members including Apple, AT&T, BlackBerry, eBay, Facebook, Intel, Microsoft, Oracle, PayPal, VeriSign, Flurry, and Verizon. More information about the association is available at <http://actonline.org>.

³ The Auto Alliance is the leading advocacy group for the auto industry, representing 70% of all car and light truck sales in the United States, and including U.S., Europe, and Japanese manufacturers. Headquartered in Washington, DC, the Alliance also has offices in Sacramento, California and Detroit, Michigan. More information is available at <https://autoalliance.org>.

SpeedFind, Inc.

VIZIO, Inc.

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Cc: The Honorable Maureen Ohlhausen, Acting Chairman of the FTC
The Honorable Terrell McSweeney, FTC Commissioner
Abbott Lipsky, Acting Director of the FTC Bureau of Competition