

November 19, 2013

**Statement from the Higher Education Community on
Amendment in the Nature of a Substitute to H.R. 3309**

We write to communicate the views of the higher education community on the Amendment in the Nature of a Substitute to H.R. 3309. We commend Chairman Goodlatte for the improvements in this Manager's Amendment in comparison to the previous version of H.R. 3309. Included among those improvements, in our view, are the elimination of the expansion of the kinds of patents that can be reviewed under the AIA's post-grant review procedures for covered business method patents and retaining the transitional nature of those procedures, and the narrowing of the joinder provisions -- although we are concerned about some remaining aspects of these provisions.

Despite these improvements, however, we believe that a number of provisions in the Manager's Amendment are problematic, including the extremely broad scope of civil actions to which fee shifting would apply and the high, indefinite threshold for a court's waiver of that fee shifting, the extent of the heightened pleading requirements, the breadth of the information required in Sec. 4's transparency provisions, and the narrowing of the scope of the estoppel provisions in the AIA's new post-grant review procedure. It continues to be our view that the courts are best suited to manage litigation according to the facts of a case, and a number of the proposals unduly limit that court discretion in meritorious patent infringement cases. We are concerned that these proposals would undercut the value of a patent to encourage investment in new technology, which is why patents exist, and how universities use them.

We strongly encourage the addition of H.R. 3349 to the Manager's Amendment. Providing the USPTO with full access to its fee revenue is the most significant action that can be taken to enhance the quality and effectiveness of the U.S. patent system.

We respectfully request the Judiciary Committee to address these issues of concern as it considers the Manager's Amendment.