STATEMENT OF REP. JOHN CONYERS, JR.
Courts, the Internet, and Intellectual Property Subcommittee
Hearing on "Patent Reexamination and Small Business Innovation"
June 20, 2002

When we passed the patent reform bill in 1999, after years of negotiations, we were certain we improved how patents are granted and reviewed. For years, inventors and patent owners had been telling us that the Patent and Trademark Office was awarding patents that were too broad or even undeserved.

That's why in 1999, we made it easier for people to challenge patents that already had been granted. We left out one thing, though. If the PTO reexamines a patent it issued and then rules in favor of the patent owner, the challenger has no recourse; the patent stands. But if the PTO rules against the patent owner, the patent owner can appeal to Court of Appeals for the Federal Circuit. In short, we created a lopsided system.

Chairman Coble introduced H.R. 1886 to remedy that. The bill, which already has passed the House, lets third party challengers appeal a PTO reexamination decision to the Federal Circuit.

I see from this hearing that some independent inventors – people not affiliated with a large company – who hold patents oppose the bill. They say the legislation would make it easier for big companies to tie them up in court over the validity of their patents.

I agree that the bill could prolong litigation, but the essence of it is that patent owners, independent or institutional, who hold monopolies on inventions should do so only if they can withstand the scrutiny of intense examination. Bad patents should not be upheld simply because the PTO may have made a bad call on the law and ruled against a challenger with a valid argument.