



ASSOCIATION OF AMERICAN UNIVERSITIES

Executive Vice President

April 1, 2009

The Honorable Patrick J. Leahy, Chairman
United States Senate
Committee on the Judiciary
433 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Leahy:

I write on behalf of the Association of American Universities, the American Council on Education, the Association of Public and Land-grant Universities, the Association of American Medical Colleges, and the Council on Governmental Relations to convey our strong support for amendment GRA09451, which may be offered by Ranking Member Specter, Committee member Feinstein, and you at tomorrow's markup of S. 515, the Patent Reform Act of 2009.

This amendment effectively addresses the two primary concerns of the university community, the determination of damages and the scope of the *inter partes* reexamination procedure.

We believe that current case law provides the necessary flexibility for courts to assess damages appropriately based on the facts of a given case, and the "gatekeeper" language in the amendment will provide clear and consistent directions to courts on the procedures for handling damage assessment cases.

The amendment removes the very problematic "in public use or on sale" language from the *inter partes* reexamination procedure, thereby limiting evidence to patents and printed publications, avoiding the necessity of costly and complicated discovery processes, and making the procedure one more appropriate for administration by the USPTO.

The amendment also makes a number of additional helpful changes to S. 515. We very much appreciate your development of this amendment and hope the Committee will adopt it.

Sincerely,

John C. Vaughn
Executive Vice President