EXHIBIT 2010



September 19, 2013

The Honorable Patrick Leahy Chairman, Committee on the Judiciary **United States Senate** Washington, D.C. 20510

The Honorable Chuck Grassley United States Senate Washington, D.C. 20510

The Honorable Bob Goodlatte Chairman, Committee on the Judiciary United States House of Representatives Washington, D.C. 20515

The Honorable John Conyers, Jr. Ranking Member, Committee on the Judiciary Ranking Member, Committee on the Judiciary United States House of Representatives Washington, D.C. 20515

Dear Chairmen Leahy and Goodlatte and Ranking Members Grassley and Conyers,

On behalf of industry groups, professional organizations, and leading companies in America's most innovative industries, including technology, communications, manufacturing, consumer products, energy, financial services, medical devices, software, pharmaceuticals, and biotechnology, we are writing to express our opposition to recent legislative proposals expanding the America Invents Act's "covered business method patent" program. These proposals could harm U.S. innovators – a driving force of economic growth and job creation in this country – by unnecessarily undermining the rights of patent holders.

Under Section 18 of the America Invents Act ("AIA"), transitional post-grant review proceedings for "covered business method patents" (CBM program) allow the USPTO to take a second look at a patent after that patent's grant or reissuance, in order to determine its validity. A "covered business method patent" is a business method patent that relates to a "financial product or service." Unlike regular post-grant review proceedings, which require that a proceeding must be requested no later than nine months from a patent's grant date or reissuance date, a request for a "covered business method patent" proceeding can be made at any time until September 16, 2020 - the date the transitional program is scheduled to sunset.

During congressional consideration of the AIA, proponents of Section 18 argued that it was a necessary and temporary measure to review a very narrow class of financialservices-related patents. However, recently-introduced legislation proposes to make the transitional proceedings of Section 18 permanent and expand the definition of "covered business method patent" to include data processing patents used in any "enterprise, product, or service." This means that any party sued for or charged with infringement can always challenge an extremely broad range of patents at the USPTO. The request for a proceeding need not be related to financial products or services and can be submitted any time over the life of the patent.

This would have far-reaching implications, because data processing is integral to everything from cutting-edge cancer therapies to safety systems that allow cars to respond to road conditions in real time to prevent crashes. Subjecting data processing patents to the CBM program would thus create uncertainty and risk that discourage investment in any number of fields where we should be trying to spur continued innovation.



September 19, 2013 Page 2

The US patent system for more than 200 years has succeeded spectacularly in promoting "the progress of science and useful arts," as the Founders intended, in part because it has always provided the same incentives for all types of inventions. To expand and make permanent the CBM program would be to turn ill-advisedly and irrevocably in a new direction — discriminating against an entire class of technology innovation.

Moreover, expanding the CBM program could inadvertently undermine many valid patents by giving infringers a new procedural loophole to delay enforcement. Because of the way Section 18 works, infringers would be able to delay legitimate lawsuits they face in district court by initiating CBM proceedings at the PTO. This would buy time to gain market share on innovative, patent-holding competitors.

Expanding Section 18 will not only stymie innovation at home, but it could also impact the relationship of the United States with its trading partners. We have already received questions from our colleagues abroad regarding how this expansion could be justified as compatible with the obligation of the United States under the Agreement on Trade-Related Aspects of Intellectual Property Rights to make patents "available and patent rights enjoyable without discrimination as to . . . the field of technology." Apart from this question, however, it is clear that if this discriminatory treatment of a select category of patents opposed by special interests in the United States were to be made a permanent feature of U.S. law, it would create a harmful precedent for our trading partners to enact exceptions in their laws to protect special interests in their countries.

As innovators, educators, developers and US employers, we hope Congress will set aside the ideas related to expanding the CBM program as it looks to further improve our patent system.

We look forward to working with you to achieve those goals.

Sincerely,

3M
ActiveVideo Networks, Inc.
Adobe Systems
Advanced Technology Ventures
Allison Transmission, Inc.
Architecture Technology Corporation
Beckman Coulter, Inc.
BGC Partners, Inc.
Bi-Level Technologies
Biotechnology Industry Organization
Boston Scientific
Brash Insight Corp.
BSA - The Software Alliance



California Healthcare Institute (CHI) Cantor Fitzgerald L.P. Caterpillar, Inc. Ciencia. Inc. Cleveland Medical Devices Inc. Colorado Technology Consultants CONNECT Cotera Inc. The Cummins Allison Corporation **Dolby Laboratories Domain Associates** Donohue Consulting, Inc. The Dow Chemical Company DR Systems, Inc. **DuPont** Eatoni Ergonomics, Inc. Eli Lilly & Company Embedded Systems LLC **Entrepreneurs for Growth** Entropic Communications, Inc. ExploraMed Development, LLC Fairchild Semiconductor Fairfield Crystal Technology Fallbrook Technologies Inc. Flocel Inc. Forsight Labs ForSight VISION4, Inc. Foundry Newco XII, Inc. (d/b/a Twelve) Freescale Semiconductor GearMax USA Ltd. General Electric General Nanotechnology LLC **Global Network Computers** Great Lakes Neuro Technologies Inc. Holaira, Inc. **IBM IEEE-USA** Illinois Tool Works Inc. Innovation Alliance Inogen, Inc. Insight Legal Interknowlogy Inventors Network of the Capital Area IP Advocate IP Pipeline Consulting, LLC

Cabochon, Inc.



Irwin Research & Development, Inc.

September 19, 2013 Page 4

> Johnson & Johnson Karbonique, Inc. KeepSight LLC Kovogen, LLC Lauder Partners, LLC

Licensing Executives Society (USA & Canada), Inc.

Lightstone Ventures MediaFriends, Inc.

Medical Device Manufacturers Association

MH Systems, Inc. Micron Technologies Microsoft

Miramar Labs, Inc.
Morgenthaler Ventures-Life Sciences

National Association of Manufacturers (NAM)

Neodyne Biosciences, Inc.

NeoTract, Inc. NeuroPace, Inc.

NeuroWave Systems Inc.

Nevro Corp.

NuGEN Technologies, Inc.

NuVasive, Inc.

OL2, Inc. (OnLive) Orbital Research Inc.

Orbital Nesearch Inc.

Patent Office Professional Association

Power Auctions LLC Precision Combustion

PreEmptive Solutions

Procter & Gamble

Prometheus Research, LLC

Qualcomm

Rearden Companies, LLC

Restoration Robotics, Inc.

Sapheon, Inc.

Software Partners LLC

Soleon Robotics LLC

Tessera

The Foundry LLC

TM Technologies, Inc.

Trading Technologies

U.S. Business and Industry Council

Vibrynt, Inc.

Xerox Corporation

Cc: Members of the Senate Committee on the Judiciary Members of the House Committee on the Judiciary

