



March 7, 2011

The Honorable Patrick Leahy  
Chairman  
Senate Judiciary Committee  
433 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Chuck Grassley  
Ranking Member  
Senate Judiciary Committee  
135 Hart Senate Office Building  
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley:

AARP and Consumers Union strongly support policies that improve access to affordable, effective medications in order to lower health care costs for consumers. We are concerned that the current draft of the Patent Reform Act of 2011 substantially weakens the current inequitable conduct defense, which is critical to ensuring continued access to affordable medicines.

The inequitable conduct defense allows patent challengers to expose intentional misrepresentations and omissions of material information to the PTO during the patent application process. In the context of pharmaceuticals, this defense ensures that the PTO has the information it needs to warrant that the patents were properly obtained. Patents that were not properly obtained should lose the protections patent law offers so that other products can enter the market.

The inequitable conduct defense keeps the patent system strong, effectively safeguarding the quality of patents. By helping the PTO maintain only appropriate patents, the inequitable conduct defense works to ensure a competitive marketplace for pharmaceuticals to the benefit of consumers. When the PTO approves a patent application based upon misrepresentations or key omissions, affordable generics can be kept off the market unnecessarily, thereby depriving consumers and taxpayers of these important medicines.

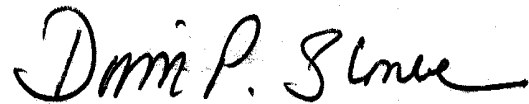
As you begin efforts in the 112<sup>th</sup> Congress to reform our patent laws or enhance operations of the U.S. Patent and Trademark Office, we respectfully urge you to strike any changes to the inequitable conduct defense and avoid legal barriers to timely access to affordable, high quality generic drugs. Once safe, equivalent generic drugs enter the market, prices can fall by as much as 75 to 80 percent, dramatically helping those consumers who have trouble paying for their medications. Weakening the inequitable conduct defense would create barriers to generic competition--a step in the wrong direction on costs.

At a time of great challenge for both personal and public budgets, it is especially important that safe, effective and affordable pharmaceutical alternatives make it into the marketplace. Any policy changes that would create barriers to these drugs do so at the expense of consumers as well as the public health system.

Sincerely,

A handwritten signature in black ink, appearing to read "De Ann Friedholm". The signature is fluid and cursive, with a prominent initial "D" and "A".

De Ann Friedholm

A handwritten signature in black ink, appearing to read "David P. Sloane". The signature is cursive and elegant, with a large "D" and "S".

David P. Sloane