February 2, 2016

Honorables Darrell Issa  
Chairman, Subcommittee on Courts, Intellectual Property, and the Internet 
U.S. House of Representatives 
Washington, D.C. 20515

Honorables Jerry Nadler  
Ranking Member, Subcommittee on Courts, Intellectual Property, and the Internet 
U.S. House of Representatives 
Washington, D.C. 20515

Dear Chairman Issa and Ranking Member Nadler:

I write to express the views of the American Bar Association Section of Intellectual Property Law on H.R. 1057, the "Promoting Automotive Repair, Trade, and Sales Act of 2015" or "PARTS Act." These views have not been submitted to the American Bar Association’s House of Delegates or Board of Governors, and should not be considered as views of the Association.

Patents provide protections needed to help incentivize the outlay of investments required to develop new innovations. Design patents allow companies to protect the ornamental features that distinguish a company’s product from those of their competitors. They do not provide the patent owner with rights in the functional aspects of a product, only certain aspects that affect the product’s appearance. Design patents serve the important purpose of allowing original equipment manufacturers to recoup their investments in the products they design and sell by preventing unauthorized copying.

The PARTS Act would effectively void patent rights for design patents directed to automotive parts after only 30 months of what normally is a 15-year patent term. The shortening of the statutorily mandated term for any patent would deprive patent owners of significant rights, discourage innovation, and put original equipment manufacturers on unequal footing with all other patent owners.

There is no convincing argument for shortening the term of patents for any area of technology. Effects on competition due to ownership of patent rights are
sometimes a necessary result of a functioning patent system, but also encourage competitors to innovate and design around the original equipment manufacturer's design. And while this legislation is very narrowly tailored to impact only design patents covering automotive parts, the bill could easily be expanded or set a precedent for legislation that significantly shortens the patent terms of pharmaceutical drugs, software, or any valuable technology.

For those reasons, the ABA Section of Intellectual Property Law favors treating patent rights equally regardless of the area of technology to which those rights apply. We look forward to working with you to address these concerns.

Sincerely,

Theodore H. Davis, Jr.
Chair, Section of Intellectual Property Law
American Bar Association

Cc: Honorable Robert W. Goodlatte
Chairman, Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Honorable John Conyers, Jr.
Ranking Member, Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515