April 14, 2026

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jamie Raskin
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Jordan, Ranking Member Raskin and members of the Committee on the Judiciary,

On behalf of organizations representing consumers, patients, health care providers, and academic experts in pharmaceutical policy and patent law, we urge you to mark up and advance favorably the ETHIC Act (H.R.3269).

More than 4 in 10 U.S. adults report rationing medicine due to cost.[i] High drug costs are driven by prescription drug companies' monopoly pricing power, derived from government-granted patents. Many of these companies have adopted a well-worn strategy of using legal tricks to strengthen and lengthen patent monopolies, allowing them to charge higher prices for longer by delaying generic and biosimilar competition. One way they employ this strategy is through patent thicketing.

Drug companies build patent thickets by filing numerous patent applications with small changes that build on a previously filed parent patent. These continuation patents are obvious variants of previously issued patents. Drug firms even admit that these are obvious variants. However, companies can use a procedural tool, called a 'terminal disclaimer' to prevent the patent office from rejecting these applications as obvious variations of previously patented inventions. The disclaimers shorten the protection period to that of the parent patent. But even though these weak patents may not extend the patent life for the product, when companies secure multiple patents with interlocking claims covering the same invention, it becomes more difficult and costly for generics and biosimilars manufacturers to mount legal challenges and bring competition to market. While challenging a small number of patents may be manageable, requiring generic entrants to confront seven or eight patents imposes a substantially greater litigation burden.

When drug corporations form dense patent thickets that strengthen their ability to extract monopoly revenues, it exposes our health system and patients to higher costs, limits access, and weakens incentive for companies to attempt to make true therapeutic advancements. Ultimately, this leads to poorer health outcomes for American patients.

The ETHIC Act would help combat this monopoly abuse by allowing branded drug companies to assert only one patent per family of patents linked by terminal disclaimers in litigation. This would make it less onerous and costly for generics and biosimilars firms to challenge originator patents and bring price-lowering competition to market.[ii]

For example, experts in pharmaceutical patent law and policy with Harvard Medical School's Program On Regulation, Therapeutics, And Law (PORTAL) noted that the patent thicket surrounding mega-blockbuster Humira, held by AbbVie, "consist[ed] of 105 patents connected by 436 terminal disclaimers."[iii] The Humira patent thicket "helped AbbVie reach settlement agreements that delayed biosimilar market entry in the US by five years compared to entry in Europe."[iv] Were ETHIC in place, AbbVie would have only been able "to sue potential competitors to prevent market entry with a maximum of 24 patents instead of 105," [v] potentially decreasing the cost of entry for adalimumab biosimilars.

In addition to the ETHIC Act, we urge policymakers to go further to combat patent thicketing by requiring that when one patent is held unpatentable or invalid by a Federal court or the Patent and Trademark Office (PTO)[vi], all the other patents in its "family" of patents, linked by terminal disclaimers, are also unenforceable. This policy, previously proposed by the PTO[vii,viii], would complement ETHIC by deterring companies from using continuation patents to build patent thickets in the first place, as weak continuation patents would put enforceability of earlier linked patents at risk.[ix]

We urge all members of the committee to support the ETHIC Act and for the committee to mark up the legislation as soon as possible, to help curtail duplicative patenting and limit anticompetitive tactics by pharmaceutical corporations that deprive U.S. patients of more affordable generic and biosimilar alternatives.

Sincerely,

Organizations

ACA Consumer Advocacy
AIDS Healthcare Foundation
American Economic Liberties Project
Beta Cell Action
Center for Medicare Advocacy
Doctors for America
Generation Patient
Health GAP
Initiative for Medicines, Access & Knowledge (I-MAK)
Interfaith Center on Corporate Responsibility (ICCR)
Labor Campaign for Single Payer
Medicare Rights Center
National Committee to Preserve Social Security and Medicare
NETWORK Lobby for Catholic Social Justice
Popular Democracy
Progressive Democrats of America (PDA)

Public Citizen
Social Security Works
T1International
Technology & Policy Research Initiative (Boston University)
Treatment Action Group
U.S. PIRG
Universities Allied for Essential Medicines
Voices of Health Care Action
Washington Community Action Network

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[1] Affiliations are provided for identification and do not represent institutional endorsement.

[i] “Public Views on Prescription Drug Costs: Regulation, Affordability and TrumpRx”, KFF, March 13, 2026. https://www.kff.org/public-opinion/public-views-on-prescription-drug-costs-regulation-affordability-and-trumprx/

[ii] "Combating Pharmaceutical Patent Thickets In The Trump Administration", Health Affairs Forefront, August 13, 2025. DOI: 10.1377/forefront.20250811.410352

[iii] Chao B, Whalen R, Kesselheim AS, Tu SS. Clearing Dense Drug-Patent Thickets. N Engl J Med 2024; 39(23): 2180-2182 https://www.nejm.org/doi/full/10.1056/NEJMp2412999

[iv] "Combating Pharmaceutical Patent Thickets In The Trump Administration", Health Affairs Forefront, August 13, 2025. DOI: 10.1377/forefront.20250811.410352

[v] Chao B, Whalen R, Kesselheim AS, Tu SS. Clearing Dense Drug-Patent Thickets. N Engl J Med 2024; 39(23): 2180-2182 https://www.nejm.org/doi/full/10.1056/NEJMp2412999

[vi] (and all appeal rights are exhausted)

[vii] “Terminal Disclaimer Practice To Obviate Nonstatutory Double Patenting”, Notice of Proposed Rulemaking, United States Patent and Trademark Office, Department of Commerce. May 10, 2024. https://www.federalregister.gov/documents/2024/05/10/2024-10166/terminal-disclaimer-practice-to-obviate-nonstatutory-double-patenting

[viii] “Public Citizen Comments to USPTO on Proposed Rule Changing Terminal Disclaimer Practice to Obviate Nonstatutory Double Patenting”, Public Citizen, July 9, 2024. https://www.citizen.org/article/public-citizen-comments-to-uspto-on-proposed-rule-changing-terminal-disclaimer-practice-to-obviate-nonstatutory-double-patenting/

[ix] Chao B, Whalen R, Kesselheim AS, Tu SS. Clearing Dense Drug-Patent Thickets. N Engl J Med 2024; 39(23): 2180-2182 https://www.nejm.org/doi/full/10.1056/NEJMp2412999