

# THE SPOKESMAN-REVIEW

---

*This column reflects the opinion of the writer. To learn about the differences between a news story and an opinion column, [click here](#)*

OPINION > GUEST OPINION

## Jan Gee: Protect food industry from patent trolls

Sun., Sept. 6, 2020



**By Jan Gee**

Washington Food Industry Association

Since the beginning of the COVID-19 pandemic, the Washington Food Industry Association and the independent supermarkets, convenience stores and coffee houses that make up our membership have been working hard to ensure that Washingtonians can safely access the stores upon which they rely and that our employees can service those customers safely.

Unfortunately, challenging times like these also incite predatory behavior from those who seek to take advantage of crises to make a quick buck.

We are seeing an old problem resurface: patent trolls.

Patent trolls, or nonpracticing entities, use patents to sue essential businesses and force them to pay a settlement or otherwise end up in expensive (and likely business-ending) litigation. Trolls do this all the time, but now they are using the COVID-19 crisis to do it more frequently and attack businesses that are already struggling in this pandemic.

The patent troll business model is to buy vague, low-quality patents which they use to threaten businesses with meritless litigation and demand a settlement payment to drop their suit. The amount of money patent trolls demand is significant – typically tens of thousands of dollars – but they bank on the fact that a settlement costs much less than it would to litigate the case – typically millions of dollars. Businesses can hardly afford to fight patent trolls in court in normal times, much less now.

In July, for example, a prolific patent troll sued the supermarket chain Albertsons, which has over 30 locations in Washington. The troll claims that Albertsons is infringing on its three patents on using a remote server to connect to mobile devices – in other words, offering a mobile app for customers. These are vague patents on a ubiquitous concept that stores like Albertsons use to let customers order delivery or curbside pickup through a mobile app, a lifeline for people trying to get groceries safely. Now Albertsons has to deal with a frivolous lawsuit in addition to serving its customers safely and protecting the health of its employees.

The pandemic cements the need for Congress and the U.S. Patent and Trademark Office to protect policies that help legitimate businesses challenge low-quality patents and patent trolls. Policies like “inter partes review,” allow anyone to ask the Patent Office to reevaluate if a low-quality patent should have been granted in the first place. If it finds the patent was incorrectly granted, the Patent Office revokes the patent so that it cannot be used in further abusive patent litigation. It is an efficient, inexpensive alternative for businesses to challenge low-quality patents without settling a lawsuit or going through litigation.

For critical industries like ours that are frequent targets of these patent trolls, Congress and the Patent office must resist any efforts to weaken programs like inter partes review and work to apply them stringently against bad patent actors trying to exploit the legitimate businesses like those in the food industry that are helping us through this pandemic.

Jan Gee is chief executive officer and president of the Washington Food Industry Association.

## Local journalism is essential.

Give directly to The Spokesman-Review's Northwest Passages community forums series -- which helps to offset the costs of several reporter and editor positions at the newspaper -- by using the easy options below. Gifts processed in this system are not tax deductible, but are predominately used to help meet the local financial requirements needed to receive national matching-grant funds.



## Don Chareunsky

Don Chareunsky is a foodie at heart. Whether it's interviewing acclaimed chefs such as Anita Lo or heading up The Spokesman-Review's features team, Don helps tell the stories that keep the Spokane region in the know, and well-fed.

**The Spokesman-Review** →

Serving the Inland Northwest since 1883. Spokesman.com provides breaking and in-...



## Support Local Journalism