

**Statement of  
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on behalf of the  
National Association of Mutual Insurance Companies (NAMIC)  
and  
Property Casualty Insurers Association of America (PCI)**

**House Judiciary Committee, Subcommittee on Courts, Intellectual Property, and the Internet,  
Hearing on**

**H.R. 1057: the “Promoting Automotive Repair, Trade and Sales Act of 2015” or the “PARTS Act”**

On behalf of the Rockingham Group – a regional property/casualty company located in Harrisonburg, VA, which offers insurance on private passenger autos – the National Association of Mutual Insurance Companies (NAMIC), and the Property Casualty Insurers Association of America (PCI), I thank you for the opportunity to express our views on HR 1057, the “Promoting Automotive Repair, Trade and Sales Act of 2015” or the “PARTS Act”.

NAMIC and PCI are also a members of the Quality Parts Coalition (QPC), which represents the interests of the automotive collision parts industry, the insurance industry, seniors, and consumers.

We commend you for holding this important hearing and thank you and your staff for this opportunity to testify in support of the PARTS Act. Also, we applaud Representatives Issa and Lofgren for their bipartisan leadership in sponsoring the PARTS Act and its predecessors in previous legislative sessions.

**Background and Benefits of Competition in the Automotive Collision Repair Parts Market:**

More likely than not, you, a family member or someone you know has been involved in an auto accident where the car was damaged and in need of repairs. Having your vehicle out of commission is never a pleasant experience. But even though it may not have been apparent from the repair bill, you benefited from competition in the collision repair parts marketplace; competition that has existed for decades between car companies and alternative suppliers of such parts.

Generally speaking, these competitively sourced parts are not structural or safety-related parts designed to be part of a vehicle’s collision management system, like reinforcement bars or bumper brackets.<sup>1</sup> Instead they are the cosmetic, exterior parts of an automobile that typically get damaged in an auto accident or fender bender, such as fenders, quarter panels, bumper covers, grilles, and other similar parts.

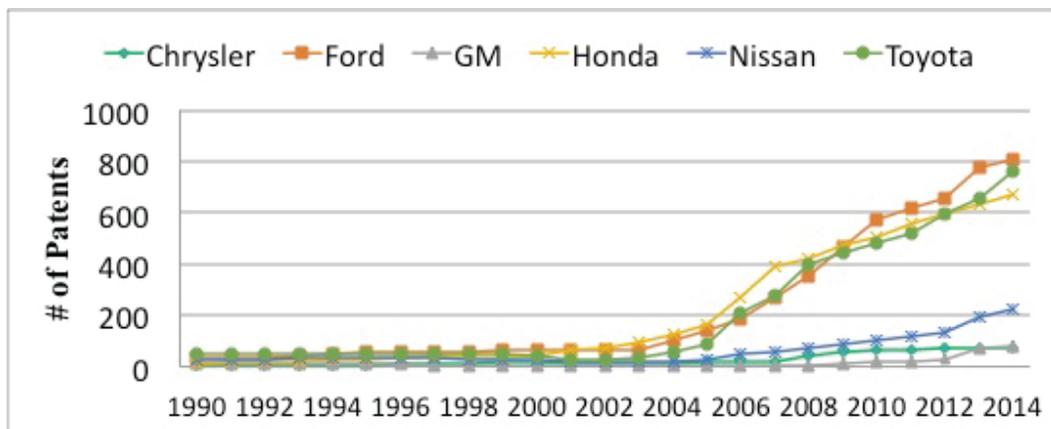
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<sup>1</sup> “Status Report,” Insurance Institute for Highway Safety, Vol. 35, No. 2, Feb. 19, 2000. See also, Insurance Institute of Highway Safety, Statement Before the Property-Casualty Insurance Committee of the National Conference of State Legislators, “Institute Research on Cosmetic Crash Parts,” July 7, 2005. In fact, the Insurance Institute for Highway Safety (“Institute”), through crash testing and crashworthiness evaluations, consistently has found that, generally speaking, cosmetic, exterior parts “serve no safety or structural function . . . [t]hey merely cover a car like a skin.” Moreover, the Institute has found that whether a cosmetic collision repair part is a car company part or an alternatively supplied part “is irrelevant to crashworthiness.” Id.

It is worth noting that the car companies already supply over 60 percent of the parts used in collision repair, while competitive alternative suppliers have less than 15 percent.<sup>2</sup> However, despite the alternative suppliers' relatively small market share, the competition they provide is still very important to consumers. That's because alternatively-supplied collision repair parts typically are 26% to 50% less expensive than the car company parts. Even if a more expensive car company part is used, the existence of competition has been shown to cause car companies to lower their parts' prices by an average of about 8%.<sup>3</sup> The estimated total benefit to consumers from the availability of competitive alternatives is approximately \$1.5 billion<sup>4</sup> a year in insurance costs alone.

**Design Patents Are Being Used to Eliminate Competition:**

Clearly, consumers benefit from the lower costs created by the competition from alternative suppliers of collision repair parts. However, some car manufacturers appear to have adopted a business strategy to eliminate competition and expand their already dominant share of the market by obtaining 14-year design patents on their collision parts and using the threat of enforcement against alternative suppliers. Beginning around 2003, several car manufacturers began to dramatically increase the number of design patents they were obtaining on individual component collision parts of the automobiles they manufacture. Obtaining design patents on these individual parts is a significant departure from the car companies' past behavior, when they may have obtained 14-year design patents on the overall design of their cars, but did not place much, if any, emphasis on the component collision parts. Below is a chart on the cumulative number of crash part design patents owned by a number of the major auto manufacturers. As you will see, some of the companies now have nearly one thousand 14-year design patents on a wide variety of collision parts that effectively restrain trade and competition.



<sup>2</sup> According to Mitchell, International, aftermarket parts represent 14 percent of the total cosmetic crash parts market. In contrast, OEM and other parts represent 85 percent of the total crash parts market.

<sup>3</sup> Consumer Benefits from a Competitive Aftermarket for Crash Parts., R.W. Boulten, MiCRA Consulting & Research Associates, Inc., 2008.

<sup>4</sup>Aftermarket Parts: A \$1.5 Billion Benefit for Consumers: Property and Casualty Insurers Association of America, January 2013.

Since 2005, some car manufacturers have pursued infringement actions, both at the International Trade Commission (ITC) and in the courts. In each case, the car manufacturer reached a settlement with one alternative supplier, granting an exclusive distribution license for those patented parts. While these settlements allow a competitive product to be available, they also have a limiting effect on competition, and of course, there is nothing that prevents any of these car companies holding these design patents from pursuing an infringement action in the future. Therefore, despite the temporary settlements, we cannot assume that the car companies will simply ignore future opportunities to exploit their design patents and wipe out competition. Faced with these realities, Congress must act now, before it is too late.

**Consumers Would Bear the Harmful Effects of Eliminating Competition on Collision Repair Parts:**

There is no question that consumers would bear the economic burden of eliminating competition in the collision repair parts market. If competition is eliminated, the insurance industry estimates that \$1.5 billion would be added to insured automobile repair costs every year. Ultimately, the higher costs of those repairs would be passed on to consumers in the form of higher insurance premiums.<sup>5</sup>

But the impact of reduced competition on collision repair parts would not be limited to consumers' auto insurance costs. Consumers that pay for their own repairs out of pocket would bear these costs directly, or might be forced to make the dangerous choice to forgo repairs, at best leading to more rapid deterioration and depreciation of their vehicles. Higher repair costs also mean that there is an increased likelihood of a vehicle being declared a total loss. This leaves the vehicle owner either to replace the vehicle, pay off a loan that may exceed the value of the vehicle, or seek financing for the purchase of a replacement vehicle, all of which depletes savings.

It is also important to consider that the average vehicle on the road today in the United States is over 11 years old, three years less than the 14-year enforcement period. Design patents on parts discourage competition by reducing the size of the market for alternative parts, making it far less likely that a competitive part would ever be brought to market.

No matter their economic circumstances, consumers are injured by these additional costs. But the impact is greatest on those low- or fixed-income consumers who can least afford it.

**The PARTS Act is Good Public Policy, Carefully Balancing Intellectual Property Rights and Consumer Benefit:**

In February of this year, Representatives Issa and Lofgren re-introduced the PARTS Act<sup>6</sup> in order to address the clear and present danger posed by car companies' use of design patents to eliminate competitive choice in the aftermarket for collision repair parts. The PARTS Act carefully balances the car companies' intellectual property rights with the need to protect consumers by preserving competition which has existed for decades.

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<sup>5</sup> Aftermarket Parts: A \$1.5 Billion Benefit for Consumers: Property and Casualty Insurers Association of America, January 2013.

<sup>6</sup> The PARTS Act is similar to legislation that Rep. Lofgren introduced in the 111th Congress, H.R. 3059, the "Access to Repair Parts Act."

Specifically, when a part is being used “for the purpose of repair of a motor vehicle so as to restore [it] to its appearance as originally manufactured” the PARTS Act would effectively reduce the monopoly period from 14 years to 2.5 years.

The PARTS Act also recognizes that car manufacturers invest a lot in their design of a vehicle and does nothing to deter car companies from protecting their intellectual property by allowing them to obtain 14-year design patents on their collision parts and enforce them for up to 14 years against other car companies to prevent copying each another’s vehicle designs in the new car sales market. Therefore, the PARTS Act does nothing to change the incentive of the car companies to continue to innovate and design their cars to compete against each other.

While the PARTS Act respects investment made by the car companies in intellectual property when designing their cars, when a consumer buys a car for \$35,000 or more, puts the title in her pocket, and drives it off the lot, it is her property, and the car manufacturer has already been compensated for that investment. American consumers should not be forced to pay a monopoly price on a part such as a fender or a quarter panel whenever it has been damaged in an accident and needs repair. Yet consumers will find themselves burdened with higher costs and fewer alternatives as car manufacturers enforce their design patents on collision repair parts against alternative suppliers – unless Congress enacts the PARTS Act. The PARTS Act addresses the problem in a manner that is similar to how many countries in Europe and Australia have confronted identical concerns regarding the preservation of competition for collision repair parts, which was by passing legislation very similar to the PARTS Act.

The cost of car ownership is already significant and growing and Americans are increasingly dollar conscious. We believe it is in the public interest to ensure that U.S. patent law does not shut out from competition more affordable competitive collision repair parts. The PARTS Act does not mandate the use of alternative collision repair parts, nor does it have the government facilitating new entry in the marketplace. Rather, the legislation would simply preserve the place in the market for competition in the sale of collision repair parts that has existed and benefited consumers for decades.

**Conclusion:**

***At its core, this is a consumer issue; the costs of auto body repair are borne by consumers, either reflected in their insurance costs, or directly when they pay for repairs out of their own pockets. The PARTS Act will preserve competition in the market for collision repair parts and benefit consumers. On behalf of NAMIC and PCI members, I thank you again for holding this important hearing and thank Representatives Issa and Lofgren for their continued leadership on the PARTS Act.***