

The Innovation Act Will Level the Playing Field for Small Businesses and Start-Ups

The patent system is complex. Unfortunately, bad actors are using that complexity against small businesses and start-ups through abusive patent litigation tactics using patents that are not worth the paper they are printed on. This is distorting the very purpose of patent laws, which were enacted to create jobs and innovation. Small businesses are being forced to spend resources on litigation rather than on innovating and growing their businesses.

H.R. 3309, the Innovation Act, will level the playing field for small businesses by enacting commonsense patent litigation reforms which will bring more sunshine to the patent litigation process. Specifically, the Innovation Act will:

- Require parties to disclose who the owner of a patent is before litigation, so that it is clear who the real parties behind the patent litigation are.
- Require parties to include more details in their initial pleadings about how the defendant is infringing their patents, in order to give small businesses more information up front and to discourage frivolous patent claims.
- Require courts to make decisions about whether a patent is valid early in the litigation process so that invalid patents cannot be used to extort money from small businesses who are not experts in patent law.
- Require courts to delay the highly expensive discovery process until after the merits of the patent are determined, so that abusive parties cannot use the high costs of discovery to extort money from small businesses who are not experts in patent law.
- Create a voluntary process for small businesses to postpone expensive patent lawsuits while their larger sellers complete similar patent lawsuits against the same plaintiff (in order to allow frivolous claims to be litigated by those who can afford to do so).
- Require more specificity in demand letters/pre-suit notifications for proving willfulness damages in order to level the playing field between aggressive patent litigation abusers and small businesses who receive these letters.
- Require abusive patent litigants who file frivolous patent claims to pay the attorneys' fees of their victims if the claims are found to be meritless.

On November 20, 2013 the Innovation Act passed out of the Judiciary Committee on a 33-5 vote.

Please contact House Judiciary at 5-3951 with any questions.