



The U.S. House of Representatives Reintroduces a Patent Reform Bill in an Effort to Limit Abusive Patent Litigation

Feb 9, 2015

Reading Time : **2 min**

By: Rachel J. Elsby

On February 5, House Judiciary Committee Chairman Bob Goodlatte (R-Va.) introduced H.R. 9, a patent reform bill, to the U.S. House of Representatives. House Bill H.R. 9, titled the “Innovation Act,” proposes substantial changes to the patent laws under Title 35 for the primary purpose of reducing abusive patent litigation by “nonpracticing entities.” The Innovation Act places a number of additional obligations on a plaintiff when filing a patent lawsuit, and potentially affects a plaintiff’s litigation strategy by limiting discovery and awarding attorneys’ fees. Below we highlight some of the major proposals in the Innovation Act:

- Stricter pleading requirements for patent infringement, including, but not limited to, the identification of (1) each patent and each claim infringed, (2) the accused instrumentality alleged to infringe each claim, (3) the name or model number of each accused instrumentality, (4) a clear and concise statement of how each limitation of each claim is found in the accused instrumentality, (5) plaintiff’s principal business, and (6) whether a standardsetting organization has declared the patent essential or having potential to be essential to a standard;
- Award of attorneys’ fees to the prevailing party, including the ability to obtain attorneys’ fees from the parent company of a nonpracticing entity;
- Delay discovery until after the conclusion of claim construction proceedings;
- Limits on the overall scope of discovery, document production, and email searching;
- Customersuit exception that stays a case against a customer if the manufacturer is also sued on the same patents and products; and

- Disclosure of all “interested parties” related to the asserted patents, and transparency with the ownership of any asserted patents.

While the goal of the Innovation Act is to limit abusive litigation tactics by nonpracticing entities, the proposed changes would globally affect all patent litigations going forward. Thus, any plaintiffs in a patent lawsuit—including competitor cases—would be subject to the stricter requirements in the Innovation Act.

Whether the Innovation Act will ever become law is still up for debate. The Innovation Act is the same patent reform bill that passed the House in 2013, but failed in the Senate. Moreover, whether the bill will actually curtail patent lawsuits by nonpracticing entities is unknown. These entities have successfully weathered other recent changes to the patents laws authored by the courts, and have continued to use the risk and cost of litigation to extract value from their patents. But considering the potential effect of the Innovation Act on patent litigation, Akin Gump will continue monitoring the bill as it progresses through Congress.

Innovation Act, H.R. 9, 114th Cong. (2015).

Categories

Infringement

Claim Construction

© 2025 Akin Gump Strauss Hauer & Feld LLP. All rights reserved. Attorney advertising. This document is distributed for informational use only; it does not constitute legal advice and should not be used as such. Prior results do not guarantee a similar outcome. Akin is the practicing name of Akin Gump LLP, a New York limited liability partnership authorized and regulated by the Solicitors Regulation Authority under number 267321. A list of the partners is available for inspection at Eighth Floor, Ten Bishops Square, London E1 6EG. For more information about Akin Gump LLP, Akin Gump Strauss Hauer & Feld LLP and other associated entities under which the Akin Gump network operates worldwide, please see our Legal Notices page.