

Chairman Smith: Patent Reform Creates Jobs

(Source: <http://judiciary.house.gov/news/2011/march/Patent%20Reform%20Bill.html>)

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Washington, D.C. – House Judiciary Committee Chairman Lamar Smith (R-Texas) today introduced a proposal to modernize and reform the patent system. Similar to legislation that passed the Senate earlier this month, the *America Invents Act* implements a first-inventor-to-file standard for patent approval, creates a post-grant review system to weed out bad patents, and helps the Patent and Trademark Office (PTO) address the backlog of patent applications.

Chairman Smith: “The strength of our economy relies on our ability to protect new inventions and build on innovation. Patents protect intellectual property and encourage the creativity that generates jobs and increases productivity.

“Unfortunately, our outdated patent system has become a barrier to innovation and invites lawsuits from holders of questionable patents seeking to extort millions of dollars from companies. We cannot protect the technologies of today with the tools of the past.

“We need reforms that discourage frivolous suits, enhance patent quality and streamline international principles. Better patents lead to products and innovations that generate jobs and drive economic growth. After six years of bipartisan efforts, I look forward to crossing the finish line on patent reform.”

Below is a summary of some of the main components in the House patent reform bill:

First Inventor to File: Creates more certainty about patent ownership by adopting a first-inventor-to-file standard for awarding patents.

Post-Grant Review: Establishes a new administrative construct called post-grant opposition that allows disputes involving patent quality and scope to be settled.

Business Method Patents: Authorizes a special *ex parte* reexamination of business-method patents. This process allows business method patents to be re-examined using the best prior art as an alternative to expensive litigation and helps invalidate poor-quality patents.

Third-Party Submission of Prior Art: Prevents bad patents from being awarded by permitting third parties to submit information regarding a patent application that may be relevant for the patent examiner to review.

PTO Fee-Setting Authority & Revenue Retention: Authorizes the PTO Director to establish patent and trademark fees to recover the costs of services rendered to inventors and trademark filers. Allows the PTO to retain revenue generated by these fees in order to hire new examiners and address the patent backlog.

Best Mode: Retains the best mode requirement for purposes of submitting an application, but prevents a defendant from claiming that a plaintiff failed to comply with the best mode requirement when filing for a patent.