

October 28, 2013

Rep. Goodlatte Files Patent Trolling Legislation

On Wednesday, October 23, House Judiciary Committee Chairman Bob Goodlatte (R-VA) introduced the [Innovation Act](#) (H.R. 3309). The bill is intended to reduce abusive patent litigation, commonly referred to as patent trolling. Chairman Goodlatte [introduced the bill](#) Wednesday at an event at the Capitol, and gave further details Thursday morning in [a speech](#) at the American Enterprise Institute. Chairman Goodlatte had previously released two drafts of the legislation, which he said he has been developing for over a year, taking industry feedback into consideration. He added that he has worked closely with Senate Judiciary Chairman Patrick Leahy (D-VT) and believes they have the consensus to move a bill forward in a timely fashion. According to Chairman Goodlatte, Chairman Leahy will soon introduce his version of patent trolling legislation in the Senate and the two bills will be very similar. He acknowledged that there may be some differences but dismissed the idea that they could halt the legislation, saying that they would be worked out in committee in order to ensure passage of reform. The bill is intended to build upon the [America Invents Act](#) by limiting frivolous litigation and also makes some other technical changes to that legislation.

In an effort to limit the discovery process, the bill would require patent holders to provide basic details about their products and explicitly detail how intellectual property rights are being infringed. It provides enhanced initial pleading requirements that would require a patentee to identify the patents and claims infringed, and more specificity as to exactly how they are infringed. Upon filing the initial complaint the plaintiff is required to provide parties, the Court and the U.S. Patent and Trademark Office (PTO) with basic information about the patent. The bill aims to provide more clarity surrounding initial discovery, case management, joinder and the common law doctrine of customer stays. The bill includes a modernized version of Section 285 fee shifting that aligns fee shifting in patent cases with the standard that is used for awarding fees against the U.S. under the Equal Access to Justice Act. This allows judges to hold the losing party to the lawsuit responsible for paying legal fees.

The bill targets abusive patent litigation behavior and not specific entities, which Chairman Goodlatte said was a necessary approach considering the difficulty of defining a patent troll. The legislation includes heightened pleading standards and transparency provisions and is designed to create disincentives for filing frivolous lawsuits. Representative Lamar Smith (R-TX) called the legislation “the single most important patent reform and high-tech bill this Congress [will] consider.” The bill provides for small business education and outreach by the

U.S. Patent and Trademark Office.

Original cosponsors of the bill include Representatives Peter DeFazio (D-OR), Howard Coble (R-NC), Zoe Lofgren (D-CA), Lamar Smith (R-TX), Anna Eshoo (D-CA), Jason Chaffetz (R-UT), Spencer Bachus (R-AL), Tom Marino (R-PA), Blake Farenthold (R-TX), and George Holding (R-NC).

A copy of the legislation can be found [here](#) and a section-by-section can be found [here](#).

Other news about the bill can be found at in the following articles:

[Goodlatte defends patent reform bill](#)

[This patent reform bill might actually pass. Here's what's in it.](#)

[House Judiciary Chairman Goodlatte Seeks to Curb 'Patent Trolling'](#)