

	H.R. __ - Goodlatte Draft	H.R. 845 - "SHIELD"	H.R. 2024 - Deutch	H.R. 2639 - Jeffries	H.R. 2766 - Issa	S. 866 - Schumer	S. 1013 - Cornyn	President's Recommendations	IPO Position
<b>1. Cost Shifting Including Attorney Fees</b>	<ul style="list-style-type: none"> <li>Amends 35 U.S.C. § 285 by striking "in exceptional cases."</li> <li>Awards to party making an offer of settlement that is rejected (codifies Rule 68).</li> </ul>	<ul style="list-style-type: none"> <li>Awards to prevailing party asserting invalidity or noninfringement if patent owner is not: 1) an inventor or original assignee, 2) producing or selling item covered by patent, or 3) a university or technology transfer organization.</li> <li>Not required if exceptional circumstances make unjust.</li> </ul>	n/a	<ul style="list-style-type: none"> <li>Requires court to make findings regarding compliance with Rule 11.</li> <li>Upon a finding of a violation, court may impose sanctions including attorney fees.</li> </ul>	n/a	n/a	<ul style="list-style-type: none"> <li>Awards to prevailing party unless position and conduct "objectively reasonable and substantially justified" or exceptional circumstances make unjust.</li> <li>If losing party unable to pay, court may make recoverable against any interested party.</li> </ul>	Provide district courts more discretion to award fees under 35 U.S.C. § 285 .	<ul style="list-style-type: none"> <li>Award to prevailing party unless position and conduct of non-prevailing party were objectively reasonable and substantially justified.</li> <li>Not required if exceptional circumstances make unjust.</li> </ul>
<b>2. Disclosure of Real Party-in-Interest (RPI)</b>	<ul style="list-style-type: none"> <li>Disclosure to court, USPTO, and adverse parties in infringement suits.</li> <li>Disclosure to USPTO upon sending 20 or more demand letters within 1-year period.</li> <li>Includes ultimate parent, each entity with right to license, and exclusive licensees.</li> <li>Court may award adverse party costs incurred as result of nondisclosure, to discover correct information about RPI.</li> <li>Nondisclosure eliminates possibility of recovering treble damages.</li> <li>Enables Director to promulgate fee to implement.</li> </ul>	n/a	<ul style="list-style-type: none"> <li>Disclosure to USPTO of RPI and owner upon patent grant, payment of maintenance fees, and within 90 days after transfer of ownership.</li> <li>Includes ultimate parent, others with direct financial interest, exclusive licensees and others with right to enforce patent.</li> <li>Nondisclosing party may only recover damages prospectively from date on which disclosure requirement met.</li> </ul>	<ul style="list-style-type: none"> <li>Requires disclosure in complaint alleging patent infringement along with description of plaintiff's business, identification of assignees and exclusive licensees, and identity of any person known to have a legal or financial right to enforce patent.</li> <li>Court can join "interested party." Defendant must file motion within 120 days of first complaint, answer, or counterclaim and show that plaintiff's interest is primarily asserting the patent in litigation.</li> </ul>	n/a	n/a	<ul style="list-style-type: none"> <li>Requires disclosure in complaint alleging patent infringement, along with description of plaintiff's business, identification of assignees and exclusive licensees, any identify of any person known to have legal right to enforce patent or financial interest in outcome of proceeding.</li> <li>Court can join "interested party" upon showing by defendant that plaintiff's interest is primarily asserting the patent in litigation.</li> </ul>	<ul style="list-style-type: none"> <li>Disclosure to upon sending demand letters, filing infringement suit, or seeking USPTO review.</li> <li>Enable USPTO and district courts to impose sanctions for non-compliance.</li> <li>Directs USPTO to initiate rulemaking process to require disclosure of ultimate parent in proceedings before USPTO.</li> </ul>	<ul style="list-style-type: none"> <li>Expand current rules to include ultimate parent of owner.</li> <li>Oppose multiple mandatory disclosures at prescribed times and potential limitation of damages.</li> <li>Oppose requiring disclosure of non-ownership interests: direct financial interest, exclusive licensees and others with right to enforce patent.</li> </ul>
<b>3. Stays of Litigation Against End Users</b>	Allows manufacturer of allegedly infringing product to intervene and stay cases against downstream customers and retailers.	n/a	n/a	<ul style="list-style-type: none"> <li>Requires stay as to "secondary party" with respect to infringement related to a primary party in same or any other action concerning the same allegedly infringing product or process.</li> <li>Parties must consent to stay.</li> <li>Motion must be filed no later than 120 days after service of first complaint in action against primary party.</li> <li>Secondary party must agree to be bound by judgment entered against primary party.</li> </ul>	n/a	n/a	n/a	Stay suit against customer when suit has also been brought against manufacturer.	Support stay against customer while suit proceeds against manufacturer. Should be carefully tailored to avoid unintended adverse consequences to innovators, manufacturers and customers.
<b>4. Heightened Pleading Standard for Patent Infringement</b>	Eliminates Form 18; requires creation of new form(s) setting out model allegations of patent infringements to meet these requirements: notify accused infringers of asserted claim(s), products or services alleged to infringe, and plaintiff's theory of how each accused product or service meets each limitation of each asserted claim.	n/a	n/a	<ul style="list-style-type: none"> <li>Requires pleading with particularity each asserted claim, product or service alleged to infringe including identification of names and model numbers, and plaintiff's theory of how each accused product or service infringes each asserted claim.</li> <li>Requires amendment of Form 18 consistent with these requirements.</li> </ul>	n/a	n/a	<ul style="list-style-type: none"> <li>Requires pleading with particularity each asserted claim, product or service alleged to infringe including identification of names and model numbers, and plaintiff's theory of how each accused product or service infringes each asserted claim.</li> <li>Requires amendment of Form 18 consistent with these requirements.</li> </ul>	n/a	n/a
<b>5. Post Grant Review and Inter Partes Review</b>	<ul style="list-style-type: none"> <li>Changes estoppel provision for PGR proceedings.</li> <li>Requires USPTO to change approach to claim construction in PGR and IPR.</li> </ul>	n/a	n/a	n/a	n/a	n/a	n/a	Permit wider range of challengers to petition for review of issued patents before PTAB.	Require USPTO to change approach to claim construction in PGR and IPR.

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<b>6. Expanding Transitional Program for Covered Business Method Patents</b>	<ul style="list-style-type: none"> <li>Construes Section 18(d) of AIA consistently with PTAB decision in <i>SAP v. Versata</i> that the statute does not require literal recitation of terms financial products or services and thus encompasses patents claiming activities incidental and complementary to financial activity.</li> <li>Eliminates 8-year sunset provision from AIA section 18.</li> </ul>	n/a	n/a	n/a	<ul style="list-style-type: none"> <li>Broadens definition of "covered business method patent by deleting limitation to "a financial product."</li> <li>Eliminates 8-year sunset provision from AIA section 18.</li> <li>Requires USPTO Director to work with and support IP law associations within established <i>pro bono</i> programs, to assist "financially under-resourced resellers, users, etc., of allegedly infringing product or process.</li> </ul>	<ul style="list-style-type: none"> <li>Broadens definition of "covered business method patent by deleting limitation to "a financial product."</li> <li>Eliminates 8-year sunset provision from AIA section 18.</li> </ul>	n/a	Broaden definition of "covered business method patent."	n/a
<b>7. Identification of Core Discovery and Discovery Fee Shifting</b>	<ul style="list-style-type: none"> <li>Each party responsible for producing "core documentary evidence," defined as documents relating to: application for patent at issue; technical operation of allegedly infringing item; potentially invalidating prior art; license agreements; revenue generated by allegedly infringing items; each party's financial statements and organizational structure, including RPI; knowledge of accused infringer; marking or other notice of patents at issue.</li> <li>Party seeking "additional discovery" bears costs including attorney fees.</li> </ul>	n/a	n/a	<ul style="list-style-type: none"> <li>Requires court to stay discovery until after court rules on any motion to dismiss, transfer venue, and Markman hearing, except where discovery required to rule on these issues.</li> </ul>	n/a	n/a	<ul style="list-style-type: none"> <li>Each party responsible for producing "core documentary evidence."</li> <li>Party seeking "additional discovery" bears costs including attorney fees.</li> <li>Limits discovery until after claim construction has been completed.</li> </ul>	n/a	n/a
<b>8. Bankruptcy Protection</b>	Bars bankruptcy trustee from terminating certain licenses.	n/a	n/a			n/a	n/a	n/a	Support
<b>9. Double Patenting</b>	Codifies doctrine of double patenting for first-inventor-to-file patents.	n/a	n/a			n/a	n/a	n/a	n/a
<b>10. Repeal of 35 U.S.C. §145</b>	Prevents patent applicant rejected by the USPTO from filing suit in district court.	n/a	n/a			n/a	n/a	n/a	Oppose