

113th Congress, 1st Session – IPO Positions on Bills/Recommendations Directed at Abusive Patent Litigation

Issue	H.R. 3309 - Goodlatte	H.R. 2024 - Deutch	H.R. 2639 - Jeffries	H.R. 2766 - Issa	S. 1612 - Hatch	S. 866 - Schumer	S. 1013 - Cornyn	Obama	IPO Position
1. Cost Shifting Including Attorney Fees	✓		✓		✓		✓	✓	<ul style="list-style-type: none"> • Award to prevailing party unless position and conduct of non-prevailing party were objectively reasonable and substantially justified. • Not required if exceptional circumstances make unjust.
2. Disclosure of Real Party-in-Interest (RPI)	✓	✓	✓				✓	✓	<ul style="list-style-type: none"> • Expand current rules to include ultimate parent of owner. • Oppose multiple mandatory disclosures at prescribed times and potential limitation of damages. • Oppose requiring disclosure of non-ownership interests: direct financial interest, exclusive licensees and others with right to enforce patent.
3. Stay of Litigation Against End Users	✓		✓					✓	Support stay against customer while case proceeds 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.
4. Heightened Pleading Standard for Patent Infringement	✓		✓				✓		Support modifying Form 18 to include identification of at least one claim alleged to infringe, statement explaining such infringement, and statement addressing any indirect infringement alleged.
5. Claim Construction in Post-Grant and Inter Partes Review	✓								Require USPTO to change approach to claim construction in PGR and IPR
6. Eliminating Post-Grant Review Estoppel Provision	✓								<ul style="list-style-type: none"> • Support eliminating provision barring PGR petitioner from later asserting in civil action or at ITC that a claim is invalid on any ground petitioner “reasonably could have raised” during PGR.
7. Expanding §18 Program for Covered Business Method Patents	✓			✓		✓		✓	Oppose
8. Core Discovery and Discovery Fee Shifting	✓		✓				✓		
9. Bankruptcy Protection	✓								Support
10. Repeal of §145	✓								Oppose