

AMENDMENT NO. _____ Calendar No. _____

Purpose: To clarify the venue and jurisdiction rules relating to civil actions for patent infringement.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 1145

To amend title 35, United States Code, to provide for patent reform.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 On page 44, strike line 7 and all that follows through
2 page 45, line 4, and insert the following:

3 (a) VENUE FOR PATENT CASES.—Section 1400 of
4 title 28, United States Code, is amended by striking sub-
5 section (b) and inserting the following:

6 “(b) Notwithstanding section 1391 of this title, in
7 any civil action arising under any Act of Congress relating
8 to patents, a party shall not manufacture venue by assign-
9 ment, incorporation, or otherwise to invoke the venue of
10 a specific district court.

1 “(c) Notwithstanding section 1391 of this title, any
2 civil action for patent infringement or any action for de-
3 claratory judgment may be brought only in a judicial dis-
4 trict—

5 “(1) where the defendant has its principal place
6 of business or in the location or place in which the
7 defendant is incorporated, or, for foreign corpora-
8 tions with a United States subsidiary, where the de-
9 fendant’s primary United States subsidiary is lo-
10 cated;

11 “(2) where the defendant has committed sub-
12 stantial acts of infringement and has a regular and
13 established physical facility that the defendant con-
14 trols and that constitutes a substantial portion of
15 the operations of the defendant;

16 “(3) where the primary plaintiff resides, if the
17 primary plaintiff in the action is an institution of
18 higher education as defined under section 101(a) of
19 the Higher Education Act of 1965 (20 U.S.C.
20 1001(a)); or

21 “(4) where the plaintiff resides, if the sole
22 plaintiff in the action is an individual inventor who
23 is a natural person and who qualifies at the time
24 such action is filed as a micro-entity pursuant to
25 section 123 of title 35, United States Code.

1 “(d) If the plaintiff brings a civil action for patent
2 infringement in a judicial district under either subsection
3 (b) or (c), the district court may transfer that action to
4 any other district or division where—

5 “(1) any of the parties has substantial evidence
6 or witnesses; or

7 “(2) venue would be otherwise appropriate
8 under section 1391 of this title, if such transfer
9 would be appropriate under section 1404 of this
10 title.”.