

THE PATENT REFORM ACT

SECURING AMERICAN INNOVATION – CREATING AMERICAN JOBS

What The Patent Reform Act Means For Labor

The Patent Reform Act (S. 515) includes many important provisions supported by labor organizations across the country, including the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and the United Steelworkers (USW). Since the Patent Reform Act was first introduced three Congresses ago by Senator Patrick Leahy (D-Vt.) and Senator Orrin Hatch (R-Utah), Congress has worked with interested parties, including labor representatives, to make important revisions to the proposed legislation.

The Patent Reform Act is Good for Labor

The substitute amendment proposed by sponsors of the Patent Reform Act makes important changes to the patent system that will spur economic growth and create jobs, including:

- Provides the PTO with the resources it needs to **reduce the backlog of patent applications**, which will encourage innovation that leads to jobs
- **Makes important changes to inter partes review**, including raising slightly the threshold for instituting and inter partes review to a “reasonable likelihood”; creating additional safeguards to prevent a challenger from using the administrative process to harass patent owners; and inserting “reasonably could have raised” estoppel, preventing a challenger from raising in court an argument that could have been raised during an inter partes review instituted by the challenger
- Creates a new, **first-window post-grant opposition**, open for nine months, to weed out patents that should not have been issued and which therefore impede innovation

Labor Support for the Patent Reform Act

“The agreement reached under the leadership of Chairman Leahy, together with the underlying bill...has our support....[E]normous progress has been made in balancing different interests on a very difficult issue...[W]e believe this bill should be considered by the Senate in the near future.” -- *William Samuel, Director, Government Affairs Department, AFL-CIO, March 25, 2010*

“On behalf of the United Steelworkers, I am writing to express our strong support for the proposed managers’ amendment to S. 515, the Patent Reform Act...The bi-partisan agreement reached...together with the underlying bill reported by the Committee last April, addresses to a significant degree, our concerns and has our support...We believe this bill warrants consideration by the Senate in the near future.” – *Leo W. Gerard, International President, United Steelworkers, March 29, 2010*

Background on the Patent Reform Act

The Patent Reform Act was introduced in the Senate on [March 3, 2009](#), by Senator Patrick Leahy (D-Vt.) and Senator Orrin Hatch (R-Utah). The Senate Judiciary Committee held a hearing about needed reforms to the nation’s patent system on [March 10](#). The Committee considered amendments to the legislation during business meetings on [March 26](#) and [March 31](#), and on [April 2](#), a bipartisan majority of the panel voted to advance the legislation to the full Senate for consideration. A Committee Report to accompany the legislation was filed on [May 12](#).

On [March 4, 2010](#), Leahy, Hatch and others unveiled compromise legislation addressing outstanding concerns involving first-window post-grant review, inter partes review, willfulness, interlocutory appeals, PTO funding, and supplemental examinations.