

112TH CONGRESS
1ST SESSION

S. 23

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

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

Mr. LEAHY (for himself, Mr. HATCH, Mr. GRASSLEY, Ms. KLOBUCHAR, Mr. SESSIONS, Mr. KYL, Mr. LIEBERMAN, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Patent Reform Act of 2011”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. First inventor to file.
- Sec. 3. Inventor’s oath or declaration.
- Sec. 4. Damages.
- Sec. 5. Post-grant review proceedings.
- Sec. 6. Patent Trial and Appeal Board.

1 notice shall list the date on which the review shall com-
2 mence.

3 “(d) NO APPEAL.—The determination by the Direc-
4 tor whether to institute an inter partes review under this
5 section shall be final and nonappealable.

6 **“§ 315. Relation to other proceedings or actions**

7 “(a) INFRINGER’S ACTION.—An inter partes review
8 may not be instituted or maintained if the petitioner or
9 real party in interest has filed a civil action challenging
10 the validity of a claim of the patent.

11 “(b) PATENT OWNER’S ACTION.—An inter partes re-
12 view may not be instituted if the petition requesting the
13 proceeding is filed more than 3 months after the date on
14 which the petitioner, real party in interest, or his privy
15 is required to respond to a civil action alleging infringe-
16 ment of the patent.

17 “(c) JOINDER.—If the Director institutes an inter
18 partes review, the Director, in his discretion, may join as
19 a party to that inter partes review any person who prop-
20 erly files a petition under section 311 that the Director,
21 after receiving a preliminary response under section 313
22 or the expiration of the time for filing such a response,
23 determines warrants the institution of an inter partes re-
24 view under section 314.