

1 ALDERSON REPORTING COMPANY

2 HJU104000

3 MARKUP OF H.R. 1249, THE AMERICA INVENTS ACT

4 Thursday, April 14, 2011

5 House of Representatives

6 Committee on the Judiciary

7 Washington, D.C.

8           The committee met, pursuant to call, at 10:35 a.m., in  
9 Room 2141, Rayburn Office Building, Hon. Lamar Smith  
10 [chairman of the committee] presiding.

11           Present: Representatives Smith, Sensenbrenner, Coble,  
12 Gallegly, Goodlatte, Lungren, Chabot, Issa, Pence, Forbes,  
13 King, Franks, Gohmert, Jordan, Poe, Chaffetz, Griffin,  
14 Marino, Gowdy, Ross, Adams, Quayle, Conyers, Berman, Nadler,  
15 Scott, Watt, Lofgren, Jackson Lee, Waters, Cohen, Johnson,  
16 Pierluisi, Quigley, Chu, Deutch, Sanchez, and Wasserman  
17 Schultz.

1430 I will recognize myself in opposition to the  
1431 amendment.

1432 This amendment expands the inter partes review program  
1433 from 12 months after the filing of a civil action to 30 days  
1434 after the Markman hearing. This amendment could create an  
1435 open-ended process because there is actually no guarantee  
1436 that a Markman hearing will even take place. The inter  
1437 partes proceeding in H.R. 1249 has been carefully written to  
1438 balance the need to encourage its use while at same time  
1439 preventing the serial harassment of patent holders. This  
1440 bill represents a delicate balance, and making such a core  
1441 change to the deadline may turn the inter partes program  
1442 into a tool for litigation gamesmanship rather than a  
1443 meaningful and less expensive alternative to litigation.

1444 For those reasons, I oppose the amendment.

1445 Are there other members who wish to be heard on this  
1446 amendment?

1447 [No response.]

1448 Chairman Smith. If not, we will vote on it. All  
1449 those in -- the gentleman from California, Mr. Berman, is  
1450 recognized.

1451 Mr. Berman. Mr. Chairman, the issue you raise -- I