To promote transparency in patent ownership and make other improvements to the patent system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2013

Mr. LEAHY (for himself, Mr. LEE, Mr. WHITEHOUSE, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To promote transparency in patent ownership and make other improvements to the patent system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Patent Transparency and Improvements Act of 2013”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Transparency of patent ownership.
Sec. 4. Customer stay.
Sec. 5. Bad-faith demand letters.
Sec. 6. Small business education, outreach, and information access.
Sec. 7. Improved post-issuance procedures.
Sec. 8. Protection of intellectual-property licenses in bankruptcy.
Sec. 9. Codification of the double-patenting doctrine for first-inventor-to-file patents.
Sec. 10. Technical corrections to the Leahy-Smith America Invents Act.
Sec. 11. Reports.
Sec. 12. Effective date.

SEC. 2. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term “Director” means the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

(2) OFFICE.—The term “Office” means the United States Patent and Trademark Office.

SEC. 3. TRANSPARENCY OF PATENT OWNERSHIP.

(a) JUDICIAL PROCEEDINGS.—

(1) IN GENERAL.—Section 281 of title 35, United States Code, is amended—

(A) by striking “A patentee” and inserting “(a) IN GENERAL.—A patentee”; and

(B) by adding at the end the following:

“(b) INITIAL DISCLOSURE.—The court shall require a patentee who has filed a civil action under subsection (a) to disclose to the court and to all adverse parties, any persons, associations of persons, firms, partnerships, corporations (including parent corporations), or other entities
other than the patentee itself known by the patentee to have—

“(1) a financial interest (of any kind) in the subject matter in controversy or in a party to the proceeding; or

“(2) any other kind of interest that could be substantially affected by the outcome of the proceeding.

“(c) DEFINITIONS.—For purposes of this section, the terms ‘proceeding’ and ‘financial interest’ have the meaning given those terms in section 455(d) of title 28.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 290 of title 35, United States Code, is amended in the first sentence by inserting after “inventor,” the following: “any information that a patentee has publicly disclosed under section 281(b),”.

(b) PATENT AND TRADEMARK OFFICE PROCEEDINGS.—

(1) IN GENERAL.—Chapter 26 of title 35, United States Code, is amended by adding at the end the following:

“§263. Disclosure of information relating to patent ownership

“(a) DEFINITIONS.—In this section—
“(1) the term ‘period of noncompliance’ refers to a period of time during which the ultimate parent entity of an assignee of a patent has not been disclosed to the United States Patent and Trademark Office in accordance with this section; and

“(2) the term ‘ultimate parent entity’ has the meaning given the term in section 801.1(a)(3) of title 16, Code of Federal Regulations, or any successor regulation.

“(b) REQUIREMENT TO DISCLOSE ASSIGNMENT.—An assignment of all substantial rights in an issued patent that results in a change to the ultimate parent entity shall be recorded in the Patent and Trademark Office within 3 months of the assignment.

“(c) DISCLOSURE REQUIREMENTS.—A disclosure under subsection (b) shall include the name of the assignee and the ultimate parent entity of the assignee.

“(d) FAILURE TO COMPLY.—If subsection (b) has not been complied with with respect to a patent, in a civil action in which a party asserts a claim for infringement of the patent—

“(1) the party asserting infringement of the patent may not recover increased damages under section 284 or attorney fees under section 285 with
respect to infringing activities taking place during any period of noncompliance; and

“(2) the court shall award a prevailing accused infringer reasonable attorney fees and expenses incurred in discovering any previously undisclosed ultimate parent entities in the chain of title.”.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any patent issued on or after the date of enactment of this Act.

(3) CONFORMING AMENDMENT.—The table of sections for chapter 26 of title 35, United States Code, is amended by adding at the end the following new item:

“263. Disclosure of information relating to patent ownership.”.

SEC. 4. CUSTOMER STAY.

(a) IN GENERAL.—Chapter 29 of title 35, United States Code, is amended by adding at the end the following new section:

“§ 299A. Customer stay

“(a) DEFINITIONS.—In this section—

“(1) the term ‘covered customer’ means a party accused of infringing a patent or patents in dispute based on a covered product or process;

“(2) the term ‘covered manufacturer’ means a person who manufactures or supplies, or causes the
manufacture or supply of, a covered product or process, or a relevant part thereof; and

“(3) the term ‘covered product or process’ means a component, product, process, system, service, method, or a relevant part thereof, that—

“(A) is alleged to infringe the patent or patents in dispute; or

“(B) implements a process alleged to infringe the patent or patents in dispute.

“(b) MOTION FOR STAY.—In a civil action in which a party asserts a claim for relief arising under any Act of Congress relating to patents (other than an action that includes a cause of action described in section 271(e) of this title), the court shall grant a motion to stay at least the portion of the action against a covered customer that relates to infringement of a patent involving a covered product or process if—

“(1) the covered manufacturer and the covered customer consent in writing to the stay;

“(2) the covered manufacturer is a party to the action or a separate action involving the same patent or patents relating to the same covered product or process;

“(3) the covered customer agrees to be bound under the principles of collateral estoppel by any
issues finally decided as to the covered manufacturer
in an action described in paragraph (2) that the cov-
ered customer has in common with the covered man-
ufacturer; and

“(4) the motion is filed after the first pleading
in the action but not later than the later of—

“(A) 120 days after service of the first
pleading in the action that specifically identifies
the covered product or process as a basis for
the alleged infringement of the patent by the
covered customer, and specifically identifies how
the covered product or process is alleged to in-
fringe the patent; or

“(B) the date on which the first scheduling
order in the case is entered.

“(c) APPLICABILITY.—A stay issued under sub-
section (b) shall apply only to those asserted patents and
products, systems, methods, or components accused of in-
fringement in the action.

“(d) LIFT OF STAY.—

“(1) IN GENERAL.—A stay entered under this
section may be lifted upon grant of a motion based
on a showing that—
“(A) the action involving the covered manufacturer will not resolve a major issue in suit against the covered customer; or

“(B) the stay unreasonably prejudices and would be manifestly unjust to the party seeking to lift the stay.

“(2) SEPARATE ACTIONS.—In the case of a stay entered under this section based on the participation of the covered manufacturer in a separate action described in subsection (b)(2), a motion under paragraph (1) may only be granted if the court in such separate action determines that the showing required under paragraph (1) has been made.

“(e) WAIVER OF ESTOPPEL EFFECT.—If, following the grant of a motion to stay under this section, the covered manufacturer in an action described in subsection (b)(2)—

“(1) seeks or consents to entry of a consent judgment involving one or more of the common issues that gave rise to the stay; or

“(2) fails to prosecute, to a final, non-appealable judgment, a final decision as to one or more of the common issues that gave rise to the stay, the court may, upon motion, determine that such consent judgment or unappealed final decision shall not be binding
on the covered customer with respect to one or more of such common issues based on a showing that such an outcome would unreasonably prejudice and be manifestly unjust to the covered customer in light of the circumstances of the case.

“(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the ability of a court to grant any stay, expand any stay granted pursuant to this section, or grant any motion to intervene, if otherwise permitted by law.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 29 of title 35, United States Code, is amended by adding at the end the following new item:

“299A. Customer stay.”.

SEC. 5. BAD-FAITH DEMAND LETTERS.

(a) IN GENERAL.—Chapter 29 of title 35, United States Code, as amended by section 4 of this Act, is amended by adding at the end the following:

“SEC. 299B. BAD-FAITH DEMAND LETTERS.

“(a) DEFINITION.—In this section, the term ‘affiliated person’ means a person affiliated with the intended recipient of a written communication.

“(b) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—It shall be an unfair or deceptive act or practice within the meaning of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for a person, in connec-
tion with the assertion of a United States patent, to en-
gegage in the widespread sending of written communications
that state that the intended recipients or any affiliated
persons are infringing or have infringed the patent and
bear liability or owe compensation to another, if—

“(1) the communications falsely threaten that
administrative or judicial relief will be sought if com-
pensation is not paid or the infringement issue is not
otherwise resolved;

“(2) the assertions contained in the commu-
ications lack a reasonable basis in fact or law, in-
cluding, for example, because—

“(A) the person asserting the patent is not
a person, or does not represent a person, with
the current right to license the patent to, or to
enforce the patent against, the intended recipi-
ents or any affiliated persons; or

“(B) the communications seek compensa-
tion on account of activities undertaken after
the patent has expired; or

“(3) the content of the written communications
is likely to materially mislead a reasonable recipient,
including, for example, because the content fails to
include such facts reasonably necessary to inform
the recipient of—
“(A) the identity of the person asserting a right to license the patent to, or enforce the patent against, the intended recipient or any affiliated person;

“(B) the patent issued by the United States Patent and Trademark Office alleged to have been infringed; and

“(C) the reasons for the assertion that the patent may be or may have been infringed.

“(c) Enforcement by Federal Trade Commission.—

“(1) Violation of rule.—The engaging of a person in an act or practice described in subsection (b) shall be treated as a violation of a rule defining an unfair or deceptive act or practice described under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

“(2) Powers of Commission.—The Federal Trade Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section.
“(3) Privileges and Immunities.—Any person who engages in an act or practice described in subsection (b) shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).”.

(b) Technical and Conforming Amendment.—
The table of sections for chapter 29 of title 35, United States Code, as amended by section 4 of this Act, is amended by adding at the end the following:

“Sec. 299B. Bad-faith demand letters.”.

c) Rule of Construction.—Nothing in any amendment made by this section shall be construed to limit the authority of the Federal Trade Commission under any other provision of law or to provide the Federal Trade Commission with any additional authority.

SEC. 6. SMALL BUSINESS EDUCATION, OUTREACH, AND INFORMATION ACCESS.

(a) Small Business Education and Outreach.—

(1) Resources for small business.—Using existing resources, the Director shall develop educational resources for small businesses to address concerns arising from patent infringement.

(2) Small business patent ombudsman.—
The Patent Ombudsman Program established under
section 28 of the Leahy-Smith America Invents Act (35 U.S.C. 2 note) shall coordinate with the existing small business outreach programs of the Office to provide education and awareness on abusive patent litigation practices.

(b) Improving Information Transparency for Small Business and the United States Patent and Trademark Office Users.—

(1) Web site.—Using existing resources, the Director shall create a user-friendly section on the official Web site of the Office to notify the public when a patent case is brought in Federal court and with respect to each patent at issue in such case, the Director shall include—

(A) information disclosed pursuant to section 290 of title 35, United States Code, as amended by section 3(b) of this Act; and

(B) any information the Director determines to be relevant.

(2) Format.—In order to promote accessibility for the public, the information described in paragraph (1) shall be searchable by patent number, patent art area, and entity.
SEC. 7. IMPROVED POST-ISSUANCE PROCEDURES.

(a) Post-Grant Review Amendment.—Section 325(e)(2) of title 35, United States Code, is amended by striking “or reasonably could have raised”.

(b) Use of District-Court Claim Construction in Post-Grant and Inter Partes Reviews.—

(1) Inter partes review.—Section 316(a) of title 35, United States Code, is amended—

(A) in paragraph (12), by striking “; and” and inserting a semicolon;

(B) in paragraph (13), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(14) providing that for all purposes under this chapter—

“(A) each claim of a patent shall be construed as such claim would be in a civil action to invalidate a patent under section 282(b), including construing each claim of the patent in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent; and

“(B) if a court has previously construed the claim or a claim term in a civil action in
which the patent owner was a party, the Office shall consider such claim construction.”.

(2) **Post-grant Review.**—Section 326(a) of title 35, United States Code, is amended—

(A) in paragraph (11), by striking “; and” and inserting a semicolon;

(B) in paragraph (12), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(13) providing that for all purposes under this chapter—

“(A) each claim of a patent shall be construed as such claim would be in a civil action to invalidate a patent under section 282(b), including construing each claim of the patent in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent; and

“(B) if a court has previously construed the claim or a claim term in a civil action in which the patent owner was a party, the Office shall consider such claim construction.”.
(3) Technical and Conforming Amendment.—Section 18(a)(1)(A) of the Leahy-Smith America Invents Act (Public Law 112–29; 126 Stat. 329) is amended by striking “Section 321(c)” and inserting “Sections 321(c) and 326(a)(13)”.

(4) Effective Date.—The amendments made by this subsection shall take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act, and shall apply to any proceeding under chapter 31 or 32 of title 35, United States Code, for which the petition for review is filed on or after such effective date.

SEC. 8. PROTECTION OF INTELLECTUAL-PROPERTY LICENSES IN BANKRUPTCY.

(a) In General.—Section 1520(a) of title 11, United States Code, is amended—

(1) in paragraph (3), by striking “; and” and inserting a semicolon;

(2) in paragraph (4), by striking the period at the end and inserting “; and”; and

(3) by inserting at the end the following new paragraph:

“(5) section 365(n) applies to intellectual property of which the debtor is a licensor or which the debtor has transferred.”.
(b) TRADEMARKS.—

(1) IN GENERAL.—Section 101(35A) of title 11, United States Code, is amended—

(A) in subparagraph (E), by striking “or’’;

(B) in subparagraph (F), by striking “title 17;’’ and inserting “title 17; or’’; and

(C) by adding after subparagraph (F) the following new subparagraph: “(G) trademark, service mark, or trade name, as defined in section 1127 of title 15;’’.

(2) CONFORMING AMENDMENT.—Section 365(n)(2) of title 11, United States Code, is amended—

(A) in subparagraph (B)—

(i) by striking “royalty payments” and inserting “royalty or other payments”; and

(ii) by striking “and” where it appears after the semicolon;

(B) in subparagraph (C), by striking the period and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(D) in the case of a trademark, service mark, or trade name, the trustee shall not be
relieved of a contractual obligation to monitor
and control the quality of a licensed product or
service.”.

(c) Effective Date.—The amendments made by
this section shall take effect on the date of the enactment
of this Act and shall apply to any case that is pending
on, or for which a petition or complaint is filed on or after,
such date of enactment.

SEC. 9. CODIFICATION OF THE DOUBLE-PATENTING DOC-
TRINE FOR FIRST-INVENTOR-TO-FILE PAT-
ENTS.

(a) Amendment.—Chapter 10 of title 35, United
States Code, is amended by adding at the end the fol-
lowing new section:

“§ 106. Prior art in cases of double patenting
“A claimed invention of a patent issued under section
151 (referred to in this section as the ‘first patent’) that
is not prior art to a claimed invention of another patent
(referred to in this section as the ‘second patent’) shall
be considered prior art to the claimed invention of the sec-
ond patent for the purpose of determining the nonobvious-
ness of the claimed invention of the second patent under
section 103 if—
“(1) the claimed invention of the first patent
was effectively filed under section 102(d) on or be-
fore the effective filing date of the claimed invention
of the second patent;

“(2) either—

“(A) the first patent and the second patent
name the same inventor; or

“(B) the claimed invention of the first pat-
ent would constitute prior art to the claimed in-
vention of the second patent under section
102(a)(2) if an exception under section
102(b)(2) were deemed to be inapplicable and
the claimed invention of the first patent was, or
were deemed to be, effectively filed under sec-
tion 102(d) before the effective filing date of
the claimed invention of the second patent; and

“(3) the patentee of the second patent has not
disclaimed the rights to enforce the second patent
independently from, and beyond the statutory term
of, the first patent.”.

(b) REGULATIONS.—The Director shall promulgate
regulations setting forth the form and content of any dis-
claimer required for a patent to be issued in compliance
with section 106 of title 35, United States Code, as added
by subsection (a). Such regulations shall apply to any dis-
claimer filed after a patent has issued. A disclaimer, when
filed, shall be considered for the purpose of determining
the validity of the patent under section 106 of title 35, United States Code.

(c) CONFORMING AMENDMENT.—The table of sections for chapter 10 of title 35, United States Code, is amended by adding at the end the following new item:

“106. Prior art in cases of double patenting.”.

(d) EXCLUSIVE RULE.—A patent subject to section 106 of title 35, United States Code, as added by subsection (a), shall not be held invalid on any nonstatutory, double-patenting ground.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to a patent or patent application only if both the first and second patents described in section 106 of title 35, United States Code, as added by subsection (a), are patents or patent applications that are described in section 3(n)(1) of the Leahy-Smith America Invents Act (35 U.S.C. 100 note).

SEC. 10. TECHNICAL CORRECTIONS TO THE LEAHY-SMITH AMERICA INVENTS ACT.

(a) Technical Corrections.—

(1) INVENTOR’S OATH OR DECLARATION.—

(A) Amendment.—Section 115(g)(1) of title 35, United States Code, is amended—

(i) in the matter preceding subparagraph (A), by striking “claims the benefit”
and inserting “is entitled, as to each invention claimed in the application, to the benefit”; and

(ii) in subparagraph (A), by striking “meeting the requirements of subsection (a) was executed by the individual and was filed in connection with the earlier-filed application” and inserting the following: “executed by or on behalf of the individual was filed in connection with the earlier-filed application and meets the requirements of this section as effective on the date such oath or declaration was filed”.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall be effective as if included in the amendment made by section 4(a)(1) of the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 293).

(2) NOVELTY.—

(A) AMENDMENT.—Section 102(b)(1)(A) of title 35, United States Code, is amended by striking “the inventor or joint inventor or by another” and inserting “the inventor or a joint inventor or another”.

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(B) **Effective date.**—The amendment made by subparagraph (A) shall be effective as if included in the amendment made by section 3(b)(1) of the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 285).

(3) **Assignee filers.**—

(A) **Benefit of earlier filing date; right of priority.**—Section 119(e)(1) of title 35, United States Code, is amended, in the first sentence, by striking “by an inventor or inventors named” and inserting “that names the inventor or a joint inventor”.

(B) **Benefit of earlier filing date in the United States.**—Section 120 of title 35, United States Code, is amended, in the first sentence, by striking “names an inventor or joint inventor” and inserting “names the inventor or a joint inventor”.

(C) **Effective date.**—The amendments made by this paragraph shall take effect on the date of the enactment of this Act and shall apply to any patent application, and any patent issuing from such application, that is filed on or after September 16, 2012.

(4) **Derived patents.**—
(A) AMENDMENT.—Section 291(b) of title 35, United States Code, is amended by striking “or joint inventor” and inserting “or a joint inventor”.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall be effective as if included in the amendment made by section 3(h)(1) of the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 288).

(5) SPECIFICATION.—Notwithstanding section 4(e) of the Leahy-Smith America Invents Act (Public Law 112–29; 125 Stat. 297), the amendments made by subsections (c) and (d) of section 4 of such Act shall apply to any proceeding or matter, that is pending on, or filed on or after, the date of the enactment of this Act.

(6) PATENT OWNER RESPONSE.—

(A) CONDUCT OF INTER PARTES REVIEW.—Section 316(a)(8) of title 35, United States Code, is amended by striking “the petition under section 313” and inserting “the petition under section 311”.

(B) CONDUCT OF POST-GRA NT REVIEW.—Section 326(a)(8) of title 35, United States Code, is amended by striking “the petition
under section 323” and inserting “the petition under section 321”.

(C) **Effective date.**—The amendments made by this paragraph shall take effect on the date of the enactment of this Act.

(7) **Time limit for commencing misconduct proceedings.**—

(A) **Amendment.**—The fourth sentence of section 32 of title 35, United States Code, is amended by striking “1 year” and inserting “2 years”.

(B) **Effective date.**—The amendment made by this paragraph shall apply to any action in which the Office files a complaint on or after the date of enactment of this Act.

**SEC. 11. REPORTS.**

(a) **Study on secondary market oversight for patent transactions to promote transparency and ethical business practices.**—

(1) **Study required.**—The Director, in consultation with the Secretary of Commerce, the Secretary of the Treasury, the Chairman of the Securities and Exchange Commission, the heads of other relevant agencies, and interested parties, shall, using existing resources of the Office, conduct a study—
(A) to develop legislative recommendations to ensure greater transparency and account-
ability in patent transactions occurring on the secondary market;

(B) to examine the economic impact that the patent secondary market has on the United States;

(C) to examine licensing and other over-
sight requirements that may be placed on the patent secondary market, including on the par-
ticipants in such markets, to ensure that the market is a level playing field and that brokers in the market have the requisite expertise and adhere to ethical business practices; and

(D) to examine the requirements placed on other markets.

(2) Submission of study.—Not later than 1 year after the date of the enactment of this Act, the Director shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the findings and recommendations of the Director from the study required under paragraph (1).

(b) Study on patents owned by the United States government.—
(1) **Study Required.**—The Director, in consultation with the heads of relevant agencies and interested parties, shall, using existing resources of the Office, conduct a study on patents owned by the United States Government that—

(A) examines how such patents are licensed and sold, with reference to any litigation relating to the licensing or sale of such patents;

(B) provides legislative and administrative recommendations on whether there should be restrictions placed on patents acquired from the United States Government;

(C) examines whether or not each relevant agency maintains adequate records on the patents owned by such agency, specifically whether such agency addresses licensing, assignment, and Government grants for technology related to such patents; and

(D) provides recommendations to ensure that each relevant agency has an adequate point of contact that is responsible for managing the patent portfolio of the agency.

(2) **Report on Study.**—Not later than 6 months after the date of the enactment of this Act, the Director shall submit to the Committee on the
Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings and recommendations of the Director from the study required under paragraph (1).

(c) Study on Patent Quality and Access to the Best Information During Examination.—

(1) GAO Study.—The Comptroller General of the United States shall conduct a study on patent examination at the Office and the technologies available to improve examination and improve patent quality.

(2) Contents of the Study.—The study required under paragraph (1) shall include the following:

(A) An examination of patent quality at the Office.

(B) An examination of ways to improve quality, specifically through technology, that shall include examining best practices at foreign patent offices and the use of existing off-the-shelf technologies to improve patent examination.

(C) A description of how patents are classified.
(D) An examination of procedures in place to prevent double patenting through filing by applicants in multiple art areas.

(E) An examination of the types of off-the-shelf prior art databases and search software used by foreign patent offices and governments, particularly in Europe and Asia, and whether those databases and search tools could be used by the Office to improve patent examination.

(F) An examination of any other areas the Comptroller General determines to be relevant.

(3) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings and recommendations from the study required by this subsection, including recommendations for any changes to laws and regulations that will improve the examination of patent applications and patent quality.

(d) STUDY ON PATENT SMALL CLAIMS COURT.—

(1) STUDY REQUIRED.—

(A) IN GENERAL.—The Director of the Administrative Office of the United States
Courts, in consultation with the Director of the Federal Judicial Center, shall, using existing resources, conduct a study to examine the idea of developing a pilot program for patent small claims courts in certain judicial districts within the existing patent pilot program mandated by Public Law 111–349 (28 U.S.C. 137 note).

(B) CONTENTS OF STUDY.—The study conducted under subparagraph (A) shall examine—

(i) the number and qualifications for judges that could serve on the courts described in subparagraph (A);

(ii) how the courts described in subparagraph (A) would be designated and the necessary criteria;

(iii) the costs that would be incurred for establishing, maintaining and operating the pilot program described in subparagraph (A); and

(iv) the steps that would be taken to ensure that the pilot small claims courts are not misused for abusive patent litigation.
(2) Report.—Not later than 1 year after the date of the enactment of this Act, the Director of the Administrative Office of the United States Courts shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on the findings and recommendations from the study required under paragraph (1).

SEC. 12. EFFECTIVE DATE.

Except as otherwise provided in this Act, the provisions of this Act shall take effect on the date of the enactment of this Act, and shall apply to any patent issued, or any action filed, on or after that date.