119TH CONGRESS
1ST SESSION

S. 2276

To address patent thickets.

IN THE SENATE OF THE UNITED STATES

JULY 15, 2025

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

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A BILL

To address patent thickets.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Eliminating Thickets to Increase Competition Act'' or the ''ETHIC Act''.

SEC. 2. ADDRESSING PATENT THICKETS.

(a) LIMIT ON NUMBER OF PATENTS PER PATENT GROUP THAT MAY BE ASSERTED IN ACTION FOR INFRINGEMENT.—Section 271(e) of title 35, United States Code, is amended by adding at the end the following:

''(7)(A) A person who brings an action for infringement of a patent under this section against a party described in subparagraph (B) may assert in the action not more than one patent per Patent Group.

''(B) A party described in this subparagraph is—

''(i) a person who—

''(I) submits an application for approval of a drug under subsection (b)(2) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), or is a holder of such an approved application; or

''(II) submits an application for licensure of a biological product under section 351(k) of the Public Health Service Act (42 U.S.C. 262(k)), or is a holder of such a licensure; or

''(ii) a person making, using, selling, offering for sale, introducing or delivering into interstate commerce, or importing—

''(I) a drug approved pursuant to an application under subsection (b)(2) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); or

''(II) a biological product licensed under section 351(k) of the Public Health Service Act (42 U.S.C. 262(k)).

''(C) A person who brings an action described in subparagraph (A) asserting a patent against a party may not bring any additional actions described in that subparagraph asserting a patent in the same Patent Group against that party.

''(D)(i) For purposes of this paragraph, the term 'Patent Group' means 2 or more commonly owned patents or applications that—

''(I) are identified on 1 or more disclaimers under section 253 to obviate obviousness-type double patenting of another commonly owned patent; or

''(II) are subject to 1 or more disclaimers under section 253 to obviate obviousness-type double patenting of another commonly owned patent.

''(ii) For purposes of clause (i)(I)—

''(I) each patent or application that identifies the same patent or application on a disclaimer under section 253 is part of the same Patent Group; and

''(II) each patent or application that is identified on a disclaimer under section 253 is part of the same Patent Group as the patent or application subject to the disclaimer.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to an application submitted under subsection (b)(2) or (j) of section 505 of the

Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or section 351(k) of the Public Health Service Act (42 U.S.C. 262(k)) on or after the date of enactment of this Act.

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