

Hinojosa	McKinney	Sánchez, Linda	Blumenauer	Herseth	Owens	Chocola	Jindal	Pitts
Holden	McNulty	T.	Boehlert	Higgins	Pallone	Coble	Johnson, Sam	Price (GA)
Holt	Meek (FL)	Sanchez, Loretta	Bono	Hinchey	Pascarell	Cole (OK)	King (IA)	Putnam
Honda	Meeks (NY)	Sanders	Boren	Hinojosa	Pastor	Conaway	King (NY)	Radanovich
Hooley	Melancon	Schakowsky	Boswell	Holden	Payne	Crenshaw	Kline	Regula
Hoyer	Michaud	Schiff	Boucher	Holt	Pelosi	Cubin	Knollenberg	Rehberg
Insole	Millender-	Schwartz (PA)	Boyd	Honda	Peterson (MN)	Culberson	Kolbe	Reichert
Israel	McDonald	Scott (GA)	Bradley (NH)	Hooley	Platts	Deal (GA)	Latham	Rogers (AL)
Jackson (IL)	Miller (NC)	Scott (VA)	Brady (PA)	Hostettler	Poe	Doolittle	Lewis (CA)	Rogers (KY)
Jackson-Lee	Miller, George	Serrano	Hoyer	Brown (OH)	Pombo	Drake	Linder	Rogers (MI)
(TX)	Mollohan	Shays	Hulshof	Brown (SC)	Pomeroy	Dreier	Lucas	Rohrabacher
Jefferson	Moore (KS)	Sherman	Insole	Brown, Corrine	Porter	Duncan	Lungren, Daniel	Royce
Johnson, E. B.	Moore (WI)	Skelton	Butterfield	Israel	Price (NC)	Ehlers	E.	Ryan (WI)
Jones (NC)	Moran (VA)	Slaughter	Capito	Jackson (IL)	Pryce (OH)	Everett	Mack	Ryan (KS)
Jones (OH)	Murtha	Smith (WA)	Capps	Jackson-Lee	Rahall	Feeney	Manzullo	Schmidt
Kanjorski	Nadler	Snyder	Capuano	(TX)	Ramstad	Flake	McCaul (TX)	Schwarz (MI)
Kaptur	Napolitano	Solis	Cardin	Jefferson	Rangel	Forbes	McCrery	Sensenbrenner
Kennedy (RI)	Neal (MA)	Spratt	Cardoza	Johnson (CT)	Renzi	Fortenberry	McHenry	Sessions
Kildee	Oberstar	Stark	Carmanah	Johnson (IL)	Reyes	Foxx	McKeon	Shadegg
Kilpatrick (MI)	Obey	Tanner	Carson	Johnson, E. B.	Reynolds	Franks (AZ)	McMorris	Shaw
Kind	Olver	Tauscher	Case	Jones (NC)	Ros-Lehtinen	Frelinghuysen	Rodgers	Shuster
Kucinich	Ortiz	Taylor (MS)	Chandler	Jones (OH)	Ross	Gallely	Mica	Simmons
Langevin	Owens	Thompson (CA)	Clay	Kanjorski	Rothman	Gingrey	Miller (FL)	Simpson
Lantos	Pallone	Thompson (MS)	Cleaver	Kapton	Roybal-Allard	Goodlatte	Miller, Gary	Sodrel
Larsen (WA)	Pascarell	Tierney	Clyburn	Keller	Ruppersberger	Granger	Moran (KS)	Stearns
Larson (CT)	Pastor	Towns	Conyers	Kelly	Rush	Graves	Myrick	Sullivan
Leach	Paul	Cooper	Cooper	Kennedy (MN)	Ryan (OH)	Hall	Neugebauer	Taylor (NC)
Lee	Payne	Costa	Costa	Kennedy (RI)	Salazar	Hastert	Northup	Terry
Levin	Pelosi	Costello	Costello	Kildee	Sánchez, Linda	Hastings (WA)	Norwood	Thomas
Lipinski	Peterson (MN)	Cramer	Cramer	Kilpatrick (MI)	T.	Hayas	Nunes	Thornberry
Lofgren, Zoe	Pomeroy	Velázquez	Crowley	Kind	Sanchez, Loretta	Hensarling	Nussle	Tiahrt
Lowe	Price (NC)	Visclosky	Cuellar	Kingston	Sanders	Herger	Osborne	Walden (OR)
Lynch	Rahall	Wasserman	Cummings	Kirk	Saxton	Hobson	Otter	Wamp
Maloney	Rangel	Schultz	Davis (AL)	Kucinich	Schakowsky	Hoekstra	Paul	Weldon (FL)
Markey	Reyes	Waters	Davis (CA)	Kuhl (NY)	Schiff	Hyde	Pearce	Westmoreland
Marshall	Ross	Watson	Davis (FL)	LaHood	Schwartz (PA)	Inglis (SC)	Pence	Wicker
Matheson	Rothman	Watt	Davis (IL)	Langevin	Scott (GA)	Issa	Peterson (PA)	Wilson (SC)
Matsui	Roybal-Allard	Waxman	Davis (KY)	Lantos	Scott (VA)	Istook	Petri	Young (AK)
McCarthy	Ruppersberger	Weiner	Davis (TN)	Larsen (WA)	Serrano	Jenkins	Pickering	
McCollum (MN)	Rush	Wexler	Davis, Jo Ann	Larson (CT)	Shays			
McDermott	Ryan (OH)	Woolsey	Davis, Tom	LaTourette	Sherman			
McGovern	Sabo	Wu	DeFazio	Leach	Sherwood	Castle	Hunter	Oxley
McIntyre	Salazar	Wynn	DeGette	Lee	Shimkus	Chabot	Lewis (GA)	Sabo
			Delahunt	Levin	Skelton	Evans	Meehan	Strickland
			DeLauro	Lewis (KY)	Slaughter	Green (WI)	Ney	Stupak
			Dent	Lipinski	Smith (NJ)			
			Diaz-Balart, L.	LoBiondo	Smith (TX)			
			Diaz-Balart, M.	Lofgren, Zoe	Smith (WA)			
			Dicks	Lowe	Snyder			
			Dingell	Lynch	Solis			
			Doggett	Maloney	Souder			
			Doyle	Marchant	Spratt			
			Edwards	Markey	Sweeney			
			Emanuel	Matheson	Tancredo			
			Emerson	Matsui	Tanner			
			Engel	McCarthy	Tauscher			
			English (PA)	McCollum (MN)	Taylor (MS)			
			Eshoo	McCotter	Thompson (CA)			
			Etheridge	McDermott	Thompson (MS)			
			Farr	McGovern	Tiberi			
			Fattah	McHugh	Tierney			
			Ferguson	McIntyre	Towns			
			Filner	McKinney	Turner			
			Fitzpatrick (PA)	McNulty	Udall (CO)			
			Foley	Meek (FL)	Udall (NM)			
			Ford	Meeks (NY)	Upton			
			Fossella	Melancon	Van Hollen			
			Frank (MA)	Michaud	Velázquez			
			Garrett (NJ)	Millender-	Visclosky			
			Gerlach	McDonald	Walsh			
			Gibbons	Miller (MI)	Wasserman			
			Gilchrest	Miller (NC)	Schultz			
			Gillmor	Miller, George	Waters			
			Gohmert	Mollohan	Watson			
			Gonzalez	Moore (KS)	Watt			
			Goode	Moore (WI)	Waxman			
			Gordon	Moran (VA)	Weiner			
			Green, Al	Murphy	Weldon (PA)			
			Green, Gene	Murtha	Weller			
			Grijalva	Musgrave	Wexler			
			Gutierrez	Gutknecht	Whitfield			
			Gutknecht	Harman	Wilson (NM)			
			Harman	Harris	Wolf			
			Hart	Hastings (FL)	Woolsey			
			Hastings (FL)	Obey	Wu			
			Hayworth	Olver	Wynn			
			Hefley	Ortiz	Young (FL)			

## NOT VOTING—13

Ackerman	Green (WI)	Ney
Bilbray	Harman	Strickland
Castle	Hunter	Stupak
Chabot	Lewis (GA)	
Evans	Meehan	

□ 1915

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## APPOINTMENT OF CONFEREES ON H.R. 4954, SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT

MOTION TO INSTRUCT OFFERED BY MR. THOMPSON OF MISSISSIPPI

The SPEAKER pro tempore. The pending business is the vote on the motion to instruct on H.R. 4954 offered by the gentleman from Mississippi (Mr. THOMPSON) on which the yeas and nays are ordered.

The Clerk will redesignate the motion.

The Clerk redesignated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 281, nays 140, not voting 12, as follows:

[Roll No. 500]

## YEAS—281

Abercrombie	Barrow	Berman
Ackerman	Bartlett (MD)	Berry
Allen	Bass	Bigert
Andrews	Bean	Billray
Baca	Beauprez	Bilirakis
Baird	Becerra	Bishop (GA)
Baldwin	Berkley	Bishop (NY)

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barton (TX)
Bishop (UT)
Blackburn

## NAYS—140

Blunt	Burgess
Boehner	Burton (IN)
Bonilla	Buyer
Bonner	Calvert
Boozman	Camp (MI)
Boustany	Campbell (CA)
Brady (TX)	Cannon
Brown-Waite,	Cantor
Ginny	Carter

## NOT VOTING—12

Chabot	Hunter	Oxley
Evans	Lewis (GA)	Sabo
Green (WI)	Meehan	Strickland
	Ney	Stupak

□ 1924

Mr. MARKEY changed his vote from “nay” to “yea.”

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GUTKNECHT). Without objection, the Chair appoints the following conferees:

From the Committee on Homeland Security, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. KING of New York, YOUNG of Alaska, DANIEL E. LUNGRON of California, LINDER, SIMMONS, MCCAUL of Texas, REICHERT, THOMPSON of Mississippi, Ms. LORETTA SANCHEZ of California, Mr. MARKEY, Ms. HARMAN, and Mr. PASCARELL.

From the Committee on Energy and Commerce, for consideration of titles VI and X and section 1104 of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, UPTON, and DINGELL.

From the Committee on Science, for consideration of sections 201 and 401 of the House bill, and sections 111, 121, 302, 303, 305, 513, 607, 608, 706, 801, 802, and 1107 of the Senate amendment, and modifications committed to conference: Messrs. BOEHLERT, SODREL, and MELANCON.

From the Committee on Transportation and Infrastructure, for consideration of sections 101–104, 107–109, and 204 of the House bill, and sections 101–104, 106–108, 111, 202, 232, 234, 235, 503,

507–512, 514, 517–519, title VI, sections 703, 902, 905, 906, 1103, 1104, 1107–1110, 1114, and 1115 of the Senate amendment, and modifications committed to conference: Messrs. LOBIONDO, SHUSTER, and OBERSTAR.

From the Committee on Ways and Means, for consideration of sections 102, 121, 201, 203, and 301 of the House bill, and sections 201, 203, 304, 401–404, 407, and 1105 of the Senate amendment, and modifications committed to conference: Messrs. THOMAS, SHAW, and RANGEL.

There was no objection.

#### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 3930. An act to authorize trial by military commission for violations of the law of war, and for other purposes.

#### ESTABLISHING A PILOT PROGRAM IN CERTAIN DISTRICT COURTS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5418) to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges, as amended.

The Clerk read as follows:

H.R. 5418

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

#### SECTION 1. PILOT PROGRAM IN CERTAIN DISTRICT COURTS.

##### (a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a program, in each of the United States district courts designated under subsection (b), under which—

(A) those district judges of that district court who request to hear cases under which one or more issues arising under any Act of Congress relating to patents or plant variety protection must be decided, are designated by the chief judge of the court to hear those cases;

(B) cases described in subparagraph (A) are randomly assigned to the judges of the district court, regardless of whether the judges are designated under subparagraph (A);

(C) a judge not designated under subparagraph (A) to whom a case is assigned under subparagraph (B) may decline to accept the case; and

(D) a case declined under subparagraph (C) is randomly reassigned to one of those judges of the court designated under subparagraph (A).

(2) SENIOR JUDGES.—Senior judges of a district court may be designated under paragraph (1)(A) if at least 1 judge of the court in regular active service is also so designated.

(3) RIGHT TO TRANSFER CASES PRESERVED.—This section shall not be construed to limit the ability of a judge to request the reassignment of or otherwise transfer a case to which the judge is assigned under this section, in accordance with otherwise applicable rules of the court.

(b) DESIGNATION.—The Director of the Administrative Office of the United States Courts shall, not later than 6 months after the date of the enactment of this Act, designate not less than 5 United States district courts, in at least

3 different judicial circuits, in which the program established under subsection (a) will be carried out. The Director shall make such designation from among the 15 district courts in which the largest number of patent and plant variety protection cases were filed in the most recent calendar year that has ended, except that the Director may only designate a court in which—

(1) at least 10 district judges are authorized to be appointed by the President, whether under section 133(a) of title 28, United States Code, or on a temporary basis under other provisions of law; and

(2) at least 3 judges of the court have made the request under subsection (a)(1)(A).

(c) DURATION.—The program established under subsection (a) shall terminate 10 years after the end of the 6-month period described in subsection (b).

(d) APPLICABILITY.—The program established under subsection (a) shall apply in a district court designated under subsection (b) only to cases commenced on or after the date of such designation.

##### (e) REPORTING TO CONGRESS.—

(1) IN GENERAL.—At the times specified in paragraph (2), the Director of the Administrative Office of the United States Courts, in consultation with the chief judge of each of the district courts designated under subsection (b) and the Director of the Federal Judicial Center, 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 pilot program established under subsection (a). The report shall include—

(A) an analysis of the extent to which the program has succeeded in developing expertise in patent and plant variety protection cases among the district judges of the district courts so designated;

(B) an analysis of the extent to which the program has improved the efficiency of the courts involved by reason of such expertise;

(C) with respect to patent cases handled by the judges designated pursuant to subsection (a)(1)(A) and judges not so designated, a comparison between the 2 groups of judges with respect to—

(i) the rate of reversal by the Court of Appeals for the Federal Circuit, of such cases on the issues of claim construction and substantive patent law; and

(ii) the period of time elapsed from the date on which a case is filed to the date on which trial begins or summary judgment is entered;

(D) a discussion of any evidence indicating that litigants select certain of the judicial districts designated under subsection (b) in an attempt to ensure a given outcome; and

(E) an analysis of whether the pilot program should be extended to other district courts, or should be made permanent and apply to all district courts.

(2) TIMETABLE FOR REPORTS.—The times referred to in paragraph (1) are—

(A) not later than the date that is 5 years and 3 months after the end of the 6-month period described in subsection (b); and

(B) not later than 5 years after the date described in subparagraph (A).

(3) PERIODIC REPORTING.—The Director of the Administrative Office of the United States Courts, in consultation with the chief judge of each of the district courts designated under subsection (b) and the Director of the Federal Judicial Center, shall keep the committees referred to in paragraph (1) informed, on a periodic basis while the pilot program is in effect, with respect to the matters referred to in subparagraphs (A) through (E) of paragraph (1).

(f) AUTHORIZATION FOR TRAINING AND CLERKSHIPS.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated not less than \$5,000,000 in each fiscal year for—

(1) educational and professional development of those district judges designated under sub-

section (a)(1)(A) in matters relating to patents and plant variety protection; and

(2) compensation of law clerks with expertise in technical matters arising in patent and plant variety protection cases, to be appointed by the courts designated under subsection (b) to assist those courts in such cases.

Amounts made available pursuant to this subsection shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

□ 1930

#### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5418, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5418 to establish a pilot program in certain U.S. district courts to encourage enhancements of expertise in patent cases among district judges. It is widely recognized that patent litigation has become too expensive, too time consuming, and too unpredictable. This addresses those concerns by authorizing a pilot program to improve the expertise of Federal district judges responsible for hearing patent cases.

The need for such a program is apparent. Patent cases account for nearly 10 percent of complex cases and consume significant judicial resources. Despite the investment of the additional resources by district judges to these cases, the rate of reversal on claim construction issues remains excessive.

One sitting Federal judge characterized the manner that the judiciary employs to resolve these cases as marked by “institutional ineptitude.” I would say, parenthetically, that that is a remarkable admission by a Federal judge.

The premise underlying H.R. 5418 can be stated in three words: practice makes perfect. Judges who are able to focus more attention on patent cases are more likely to avoid error and thus reduce the likelihood of reversal.

The bill requires the director of the Administrative Office of the Courts to select five district courts to participate in a 10-year pilot program to enhance judicial patent expertise. The bill specifies criteria that the director must employ in determining eligible districts and then preserves the continued random assignment of cases to prevent the pilot districts from becoming magnets for forum-shopping litigants.

Finally, the legislation will require the director to provide both the House