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5-27-21

Patrick Leahy BW
AG

AMENDMENT NO. _____ Calendar No. _____

Purpose: To address patent issues.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.

S. 1260

To establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish regional technology hub programs, to receive a strategy search, innovation, and research, to establish a and for other

AMENDMENT N^o 2093

By Leahy

To: Amnt No 1502

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_____ ted

Page(s)

GPO: 2020 42-568 (mac)

LEAHY (for himself and Mr. TILLIS) to the amendment (No. 1502) proposed by Mr. SCHUMER

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . OWNERSHIP AND ASSIGNMENT OF PATENTS.**

3 (a) IN GENERAL.—Section 261 of title 35, United
4 States Code, is amended—

5 (1) by striking the first undesignated paragraph
6 and inserting the following:

7 “(a) IN GENERAL.—

1 “(1) ATTRIBUTES OF PERSONAL PROPERTY.—
2 Subject to the provisions of this title, patents shall
3 have the attributes of personal property.

4 “(2) REGISTER OF ASSIGNMENTS AND OWNER-
5 SHIP.—The Patent and Trademark Office shall
6 maintain a publicly accessible register of interests in
7 patents and applications for patents and shall record
8 any document related thereto upon request, and may
9 require a fee therefor.

10 “(3) REQUIREMENT TO RECORD CERTAIN AS-
11 SIGNMENTS.—

12 “(A) IN GENERAL.—Whenever all substan-
13 tial rights in a patent are assigned to a person,
14 including a legal or governmental entity or a
15 parent corporation—

16 “(i) the patentee shall, not later than
17 90 days after the date of the assignment,
18 submit a request described in paragraph
19 (2) with respect to the assignment; and

20 “(ii) the Patent and Trademark Office
21 shall, upon receiving the request submitted
22 under clause (i), record the assignment in
23 the register described in paragraph (2).

24 “(B) EFFECT OF FAILURE TO COMPLY.—
25 No party may recover, for infringement of the

1 patent in any litigation, increased monetary
2 damages under section 284 for the period that
3 such assignment was not properly requested to
4 be recorded under subparagraph (A)(i).

5 “(C) RULES.—The Director may prescribe
6 rules to implement this paragraph, including
7 rules for the proper recording of the assign-
8 ments of patents.”;

9 (2) in the first undesignated paragraph fol-
10 lowing subsection (a), as so designated by paragraph
11 (1) of this subsection, by striking “Applications”
12 and inserting the following:

13 “(b) APPLICATIONS.—Applications”;

14 (3) in the first undesignated paragraph fol-
15 lowing subsection (b), as so designated by paragraph
16 (2) of this subsection, by striking “A certificate”
17 and inserting the following:

18 “(c) CERTIFICATE OF ACKNOWLEDGMENT.—A cer-
19 tificate”; and

20 (4) in the undesignated paragraph following
21 subsection (c), as so designated by paragraph (3) of
22 this subsection, by striking “An interest” and insert-
23 ing the following:

24 “(d) EFFECT OF ASSIGNMENT.—An interest”.

1 (b) **EFFECTIVE DATE; APPLICABILITY.**—The amend-
2 ments made by subsection (a) shall—

3 (1) take effect on the date that is 1 year after
4 the date of enactment of this Act; and

5 (2) apply with respect to any assignment that
6 occurs on or after the effective date described in
7 paragraph (1).