

CLIENT ALERT

'Patent Troll' Legislation Stalls, at Least for Now

May.22.2014

Nearly six months after the [U.S. House of Representatives passed the Innovation Act \(H.R. 3309\)](#), and three months after President Obama called on the U.S. Senate to "finish the job," Senator Patrick Leahy (D-Vt.) is taking the Patent Transparency and Improvements Act off the agenda for the Senate Judiciary Committee.

In removing the Senate bill targeting so-called "patent troll litigation," Sen. Leahy cited lack of sufficient support behind a comprehensive deal, blaming "competing companies on both sides of this issue" that "refused to come to agreement." Before taking the Patent Transparency and Improvements Act completely off the agenda, Sen. Leahy had delayed consideration of the bill numerous times in order to drum up bipartisan support. Sen. Leahy also repeated his earlier concerns that "the House-passed bill went beyond the scope of addressing patent trolls, and would have severe unintended consequences on legitimate patent holders who employ thousands of Americans." Sen. Leahy offered a chance that the Patent Transparency and Improvements Act would pass later this year, but only if "the stakeholders are able to reach a more targeted agreement that focuses on the problem of patent trolls."

With the Patent Transparency and Improvements Act out of the picture, at least for now, Congress is likely to turn its attention to other bills previously introduced in the House and Senate directed toward demand letters. Demand letters are thought to be one of the ways that at least some non-practicing entities (derisively called "patent trolls") most often abuse the patent litigation system. One of those bills, introduced by Senate Commerce Subcommittee on Consumer Protection Chairwoman Claire McCaskill (D-Mo.), would [create a registry of demand letters](#) that law firms send to accused infringers on behalf of their non-practicing entity clients. In the House, Rep. Lee Terry (R-Neb.) introduced [draft legislation](#) just this week that seeks to require patent infringement demand letters to include certain information to help recipient companies investigate the allegations. Hearings on that draft legislation are to be held today.

The Senate has approximately two months in session remaining until the August break and legislation focused on patent trolls during that time now seems very unlikely.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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