

Controversial Patent Reform (“Patent Troll”) Legislation Reintroduced In Congress Last Week

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Both 2013 and 2014 had been roller coaster years for proposed patent reform legislation to curb abusive activities by non-practicing entities – so-called “patent trolls”. The roller coaster is again gaining momentum as House Judiciary Committee Chairman Bob Goodlatte (R-VA) reintroduced the “Innovation Act” (H.R. 9) on February 5th.

As a brief history, the House at the close of 2013 had passed by nearly a 4 to 1 margin an earlier version of this Innovation Act (H.R. 3309). In response, the Senate introduced its “compromise” Transparency and Improvements Act (S. 1720) to trim the broader, more controversial House Bill. Despite the early momentum gained by the original House bill, the Senate bill eventually stalled and was yanked back in May by its sponsor, Senator Patrick Leahy (D-VT). Since then and in view of the intervening 2014 elections, there has been quite a bit of speculation as to whether these bills would be reintroduced.

Adding even more complexity to the Federal legislation are attempts by state legislatures (including Connecticut) and state attorneys general to pass and enforce their own laws to curb abusive practices. Most of the state activity has been driven by consumer protection laws to stop certain demand letter practices. To date, a significant number of states have enacted such consumer protection laws.

Although, the issue of abusive practices by non-practicing entities should be addressed, the re-introduced House bill and the previous Senate versions could go too far and have unintended consequences. The legislation could undermine entrepreneurship, the formation and sustainability of new companies, and slow progress in developing new healthcare technologies, medicines, and cures. Also, too broad a definition of non-practicing entities could unwittingly capture universities, research institutes, and early stage companies that do not yet have a product on the market. Rather, a more thoughtful and integrated approach is needed to avoid harming any one sector of our economy.

For further information, see [BIO's press release](https://www.bio.org/media/press-release/bio-statement-regarding-reintroduction-innovation-act) on the topic:
<https://www.bio.org/media/press-release/bio-statement-regarding-reintroduction-innovation-act>