AMENDMENT NO. _____ Calendar No. _____

Purpose: To address patent issues.


S. 1260

To establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy for advancing innovation, and for other purposes.

AMENDMENT N° 2093

By: Leahy

To: Amdt N° 1502

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 States Code, is amended—

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

7. “(a) IN GENERAL.—
“(1) Attributes of personal property.—
Subject to the provisions of this title, patents shall have the attributes of personal property.

“(2) Register of assignments and ownership.—The Patent and Trademark Office shall maintain a publicly accessible register of interests in patents and applications for patents and shall record any document related thereto upon request, and may require a fee therefor.

“(3) Requirement to record certain assignments.—

“(A) In general.—Whenever all substantial rights in a patent are assigned to a person, including a legal or governmental entity or a parent corporation—

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

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

“(B) Effect of failure to comply.—
No party may recover, for infringement of the
patent in any litigation, increased monetary
damages under section 284 for the period that
such assignment was not properly requested to
be recorded under subparagraph (A)(i).

"(C) RULES.—The Director may prescribe
rules to implement this paragraph, including
rules for the proper recording of the assign-
ments of patents."

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

“(b) APPLICATIONS.—Applications”;

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

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

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

“(d) EFFECT OF ASSIGNMENT.—An interest”.
(b) EFFECTIVE DATE; APPLICABILITY.—The amendments made by subsection (a) shall—

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

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