

# Patent Pilot Program in District Courts

## **Reason for Legislation:**

The high cost of patent litigation is widely publicized, and it is not unusual for a patent suit to cost each party over \$10,000,000. Appeals from district courts to the Federal Circuit are frequent. This is caused, in part, by the general perception within the patent community that most district court judges are not sufficiently prepared to hear patent cases. The reversal rate at the Federal Circuit is high. The Issa/Schiff legislation attempts to decrease the cost of litigation by increasing the success of district court judges.

## **Goal of Legislation:**

To encourage enhancement of expertise in patent cases among district court judges.

## **Summary of Legislation:**

### Designation and Duration

The Administrative Office of the United States Courts designates not less than 5 district courts in at least 3 different circuits out of the top 15 patent case loaded district courts nationwide to participate in the pilot. The pilot runs for 10 years with periodic and formal reporting to Congress. The pilot only applies to cases commenced on or after the date of designation.

### Assignment of Patent Cases

In participating courts, judges choose whether to opt into hearing patent cases or not. When a new suit is filed, however, that case is randomly assigned to the entire pool of judges within that district court. If the case is assigned to a judge who has opted into hearing patent cases, that judge keeps the case. But if the case, when randomly assigned, is assigned to a judge who has not opted in, that judge has the opportunity to send the case to the pool of judges who have opted in.

### Funding

The legislation authorizes \$5,000,000 per year for educational and professional development relating to patent law made available to judges who have opted into hearing patent cases. These funds will also be used to compensate law clerks with an expertise in

technical matters arising in patent cases. These clerks will be assigned to district courts participating in the pilot.