

109TH CONGRESS
2D SESSION

S. 3923

To establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2006

Mr. HATCH (for himself and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PILOT PROGRAM IN CERTAIN DISTRICT**
4 **COURTS.**

5 (a) ESTABLISHMENT.—

6 (1) IN GENERAL.—There is established a pro-
7 gram, in each of the United States district courts
8 designated under subsection (b), under which—

9 (A) those district judges of that district
10 court who request to hear cases under which

1 one or more issues arising under any Act of
2 Congress relating to patents or plant variety
3 protection must be decided, are designated by
4 the chief judge of the court to hear those cases;

5 (B) cases described in subparagraph (A)
6 are randomly assigned to the judges of the dis-
7 trict court, regardless of whether the judges are
8 designated under subparagraph (A);

9 (C) a judge not designated under subpara-
10 graph (A) to whom a case is assigned under
11 subparagraph (B) may decline to accept the
12 case; and

13 (D) a case declined under subparagraph
14 (C) is randomly reassigned to one of those
15 judges of the court designated under subpara-
16 graph (A).

17 (2) SENIOR JUDGES.—Senior judges of a dis-
18 trict court may be designated under paragraph
19 (1)(A) if at least one judge of the court in regular
20 active service is also so designated.

21 (3) RIGHT TO TRANSFER CASES PRESERVED.—
22 This section shall not be construed to limit the abil-
23 ity of a judge to request the reassignment of or oth-
24 erwise transfer a case to which the judge is assigned

1 under this section, in accordance with otherwise ap-
2 plicable rules of the court.

3 (b) DESIGNATION.—The Director of the Administra-
4 tive Office of the United States Courts shall, not later
5 than 6 months after the date of the enactment of this Act,
6 designate not less than 5 United States district courts,
7 in at least 3 different judicial circuits, in which the pro-
8 gram established under subsection (a) will be carried out.
9 The Director shall make such designation from among the
10 15 district courts in which the largest number of patent
11 and plant variety protection cases were filed in the most
12 recent calendar year that has ended.

13 (c) DURATION.—The program established under sub-
14 section (a) shall terminate 10 years after the end of the
15 6-month period described in subsection (b).

16 (d) APPLICABILITY.—The program established under
17 subsection (a) shall apply in a district court designated
18 under subsection (b) only to cases commenced on or after
19 the date of such designation.

20 (e) REPORTING TO CONGRESS.—

21 (1) IN GENERAL.—At the times specified in
22 paragraph (2), the Director of the Administrative
23 Office of the United States Courts, in consultation
24 with the chief judge of each of the district courts
25 designated under subsection (b), shall submit to the

1 Committee on the Judiciary of the House of Rep-
2 resentatives and the Committee on the Judiciary of
3 the Senate a report on the pilot program established
4 under subsection (a). The report shall include an
5 analysis of—

6 (A) the extent to which the program has
7 succeeded in developing expertise in patent and
8 plant variety protection cases among the dis-
9 trict judges of the district courts so designated;

10 (B) the extent to which the program has
11 improved the efficiency of the courts involved by
12 reason of such expertise; and

13 (C) whether the pilot program should be
14 extended to other district courts, or should be
15 made permanent and apply to all district
16 courts.

17 (2) TIMETABLE FOR REPORTS.—The times re-
18 ferred to in paragraph (1) are—

19 (A) not later than the date that is 5 years
20 and 3 months after the end of the 6-month pe-
21 riod described in subsection (b); and

22 (B) not later than 5 years after the date
23 described in subparagraph (A).

24 (3) PERIODIC REPORTING.—The Director of the
25 Administrative Office of the United States Courts,

1 in consultation with the chief judge of each of the
2 district courts designated under subsection (b), shall
3 keep the committees referred to in paragraph (1) in-
4 formed, on a periodic basis while the pilot program
5 is in effect, with respect to the matters referred to
6 in subparagraphs (A), (B), and (C) of paragraph
7 (1).

8 (f) AUTHORIZATION FOR TRAINING AND CLERK-
9 SHIPS.—In addition to any other funds made available to
10 carry out this section, there is authorized to be appro-
11 priated not less than \$5,000,000 in each fiscal year for—

12 (1) educational and professional development of
13 those district judges designated under subsection
14 (a)(1)(A) in matters relating to patents and plant
15 variety protection; and

16 (2) compensation of law clerks with expertise in
17 technical matters arising in patent and plant variety
18 protection cases, to be appointed by the courts des-
19 igned under subsection (b) to assist those courts
20 in such cases.

21 Amounts made available pursuant to this subsection shall
22 remain available until expended.

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