

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require the Secretary of Commerce to appoint administrative patent judges and for other purposes.

IN THE SENATE OF THE UNITED STATES—110th Cong., 2d Sess.

S. 1145

To amend title 35, United States Code, to provide for patent reform.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. LEAHY

Viz:

1 On page 96, line 17, strike “the Director” and insert
2 “the Secretary of Commerce, in consultation with the Di-
3 rector”.

4 On page 97, line 20, after the first period and before
5 the end quotation mark insert the following:

6 “(c) AUTHORITY OF THE SECRETARY.—The Sec-
7 retary of Commerce may, in his or her discretion, deem
8 the appointment of an administrative patent judge who
9 prior to the date of enactment of this subsection held of-

1 fice pursuant to an appointment by the Director to take
2 effect on the date that the Director initially appointed the
3 administrative patent judge.

4 “(d) DEFENSES TO CHALLENGE OF APPOINT-
5 MENT.—It shall be a defense to a challenge to the appoint-
6 ment of an administrative patent judge originally ap-
7 pointed by the Director that the administrative patent
8 judge was acting as a de facto officer.

9 On page 97, between lines 20 and 21, insert the fol-
10 lowing:

11 (c) TRADEMARK TRIAL AND APPEAL BOARD.—Sec-
12 tion 17 of the Act of July 5, 1946 (commonly referred
13 to as the “Trademark Act of 1946”) is amended—

14 (1) in subsection (b), by striking “the Director”
15 and inserting “the Secretary of Commerce, in con-
16 sultation with the Director”; and

17 (2) by adding at the end the following:

18 “(c) AUTHORITY OF THE SECRETARY.—The Sec-
19 retary of Commerce may, in his or her discretion, deem
20 the appointment of an administrative trademark judge
21 who prior to the date of enactment of this subsection held
22 office pursuant to an appointment by the Director to take
23 effect on the date that the Director initially appointed the
24 administrative trademark judge.

1 “(d) DEFENSES TO CHALLENGE OF APPOINT-
2 MENT.—It shall be a defense to a challenge to the appoint-
3 ment of an administrative trademark judge originally ap-
4 pointed by the Director that the administrative trademark
5 judge was acting as a de facto officer.”.