

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To amend section 123(d) of title 35, United States Code.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.**

**S. 1137**

To amend title 35, United States Code, and the Leahy-Smith America Invents Act to make improvements and technical corrections, and for other purposes.

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 \_\_\_\_\_

Viz:

1 At the appropriate place, insert the following:

2 **SEC. \_\_\_\_ . INSTITUTIONS OF HIGHER EDUCATION AND NON-**  
3 **PROFIT RESEARCH.**

4 Section 123(d) of title 35, United States Code, is  
5 amended to read as follows:

6 “(d) INSTITUTIONS OF HIGHER EDUCATION AND  
7 NONPROFIT RESEARCH ORGANIZATIONS.—For purposes  
8 of this section, a micro entity shall include an applicant  
9 who certifies that—

10 “(1) the applicant’s employer, from which the  
11 applicant obtains the majority of the applicant’s in-

1       come, is an institution of higher education as de-  
2       fined in section 101(a) of the Higher Education Act  
3       of 1965 (20 U.S.C. 1001(a)), or a comparable orga-  
4       nization outside the United States;

5               “(2) the applicant has assigned, granted, con-  
6       veyed, or is under an obligation by contract or law,  
7       to assign, grant, or convey, a license or other owner-  
8       ship interest in the particular applications to such  
9       an institution of higher education;

10              “(3) the applicant is an institution of higher  
11       education as defined in section 101(a) of the Higher  
12       Education Act of 1965 (20 U.S.C. 1001(a)), or a  
13       comparable organization outside the United States;

14              “(4) the applicant is an organization described  
15       in section 501(c)(3) of the Internal Revenue Code of  
16       1986 and exempt from taxation under section  
17       501(a) of such Code, or a comparable organization  
18       outside the United States, that holds title to patents  
19       and patent applications on behalf of such an institu-  
20       tion of higher education for the purpose of facili-  
21       tating commercialization of the technologies of the  
22       patents and patent applications; or

23              “(5) the applicant is an organization described  
24       in section 501(c)(3) of the Internal Revenue Code of

1 1986 and exempt from taxation under section  
2 501(a) of such Code and certifies that—

3 “(A) the applicant performs, at least in  
4 part, research or development activities for the  
5 Federal Government; or

6 “(B) the applicant has assigned, granted,  
7 or conveyed, or is under an obligation by con-  
8 tract or law to assign, grant, or convey, a li-  
9 cense or other ownership interest in the par-  
10 ticular applications to an organization described  
11 in section 501(c)(3) of the Internal Revenue  
12 Code of 1986 and exempt from taxation under  
13 section 501(a) of such Code that performs, at  
14 least in part, research or development activities  
15 for the Federal Government.”.

16 On page 72, strike lines 19 through 23.