

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

Purpose: To enhance efficiency by allowing discovery during the consideration of partial motions to dismiss.

**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

AMENDMENT intended to be proposed by Mr. DURBIN

Viz:

1       On page 17, between lines 20 and 21, insert the fol-  
2       lowing:  
3               “(3) PARTIAL MOTIONS TO DISMISS.—If no mo-  
4       tion described in subsection (a)(2) is pending in an  
5       action described in subsection (a) other than a mo-  
6       tion to dismiss that seeks to dismiss some but not  
7       all counts of a complaint, the court may, on motion,  
8       allow discovery with regard to any count in the com-  
9       plaint for which the motion to dismiss does not seek  
10      dismissal.