

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

Purpose: To provide fairness in fee shifting by permitting courts to adjust attorney fee award amounts as appropriate in light of the position and conduct of both parties.

**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 24, line 21, add at the end the following:
- 2 “In determining the amount of attorney fees that is rea-
- 3 sonable to award to the prevailing party, the court shall
- 4 take into consideration the position and conduct of both
- 5 the non-prevailing party and the prevailing party.”.