

AMENDMENT NO. _____ Calendar No. _____

Purpose: To include small entities in the bill's exemptions.

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 Mr. VITTER (for
himself, Mr. DURBIN, and Mr. COONS)

Viz:

1 On page 5, strike lines 14 through 16 and insert the
2 following:

3 “(f) EXEMPTIONS.—Subsection (a) shall not apply
4 to—

5 “(1) a civil action that includes a claim for re-
6 lief arising under section 271(e); or

7 “(2) a party alleging infringement if the party
8 is a small business concern, independent inventor, or
9 nonprofit organization described in section 41(h)(1).

1 On page 18, between lines 3 and 4, insert the fol-
2 lowing:

3 “(3) SMALL ENTITIES.—This section shall not
4 apply to a party alleging infringement if the party
5 is a small business concern, independent inventor, or
6 nonprofit organization described in section 41(h)(1).

7 On page 31, strike lines 1 through 9 and insert the
8 following:

9 “(d) EXEMPTED CLAIMS.—

10 “(1) APPLICABILITY.—Subsections (a), (b), and
11 (c) shall not apply to—

12 “(A) a civil action that includes a claim for
13 relief arising under section 271(e); or

14 “(B) a party alleging infringement if the
15 party is a small business concern, independent
16 inventor, or nonprofit organization described in
17 section 41(h)(1).

18 “(2) AWARD IN EXEMPTED CLAIMS.—In a civil
19 action that includes a claim for relief arising under
20 section 271(e) or in which the party alleging in-
21 fringement is described in paragraph (1)(B) of this
22 subsection, the court may in exceptional cases award
23 reasonable attorney fees to the prevailing party.”.