

Intellectual Property Alert

Comprehensive Patent Reform Legislation Signed Into Law

September 16, 2011

On September 16, 2011, President Obama signed the “Leahy-Smith America Invents Act (the Act)” into law, approximately one week after the U.S. Senate passed the legislation by a bi-partisan vote of 89-9. The bill represents the most comprehensive change to the U.S. patent system in nearly sixty years. Significantly, the Act transitions the U.S. from a first-to-invent to a *first-inventor-to-file* system and establishes expanded post-grant review procedures. Further, the U.S. Patent and Trademark Office (USPTO) will now have increased ability to set fees it collects from applicants, and a mechanism for accessing the excess fees collected from the increase. Provisions related to best mode, false marking, challenging business method patents, the prior use defense and staying civil litigation in limited circumstances are also included in the Act. Moreover, joinder of defendants in the same action is limited to instances where the defendants share the same facts and circumstances. Many of the newly enacted provisions will take effect in a year, and the details regarding implementation will be announced by the USPTO

A summary overview of the Act is detailed in a [previous Akin Gump alert](#). The USPTO is providing further information regarding implementation of the Act on its [Leahy-Smith America Invents Act Implementation website](#).

Disclosure: Akin Gump Strauss Hauer & Feld LLP represents the Coalition for 21st Century Patent Reform and the Innovation Alliance, both of which have been actively involved in the patent reform debate.

CONTACT INFORMATION

If you have any questions concerning this alert, please contact —

Cono A. Carrano
ccarrano@akingump.com
202.887.4136
Washington, D.C.

Ashraf A. Fawzy
afawzy@akingump.com
202.887.4377
Washington, D.C.



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