December 5, 2013

**U.S. House of Representatives Approves H.R. 3309, the “Innovation Act”**

Today the U.S. House of Representatives approved H.R. 3309, the “Innovation Act,” Judiciary Committee Chairman Bob Goodlatte’s bill to address problems created by abusive litigation practices associated with patent trolls or “patent assertion entities.”

The vote on final passage was 325-91.

During the three hours of debate and amendment of the bill, three amendments were adopted and five were defeated.

Of those adopted, the most significant is an amendment by Rep. Dana Rohrabacher (R-CA) to strike from the bill a provision that would repeal section 145 of title 35, U.S. Code. Section 145 allows an unsuccessful applicant for a patent to challenge PTO rejection in a suit in district court, as an alternative to appeal to the Court of Appeals for the Federal Circuit. Rohrabacher argued that repeal of section 145 denied an applicant a right to be heard in court, and that section 145 suits are not associated with PAE abusive practices. The amendment was adopted by a substantial majority vote of 260-150.

The two other successful amendments were adopted by voice vote. One would add requirements to those already in the bill regarding evidence of pre-suit notification of infringement that must be provided to serve as a predicate to a claim of willful infringement. The other would require a study of the impact of major changes called for in H.R. 3309 on the ability of businesses owned by women, veterans, and minorities to secure and assert patent rights.

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