

S 1013

Patent Abuse Reduction Act of 2013

**Congress:** 113 (2013–2015, Ended)

**Chamber:** Senate

**Policy Area:** Commerce

**Introduced:** May 22, 2013

**Current Status:** Committee on the Judiciary. Hearings held.

**Latest Action:** Committee on the Judiciary. Hearings held. (Dec 17, 2013)

**Official Text:** <https://www.congress.gov/bill/113th-congress/senate-bill/1013>

Sponsor

**Name:** Sen. Cornyn, John [R-TX]

**Party:** Republican • **State:** TX • **Chamber:** Senate

Cosponsors (1 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Grassley, Chuck [R-IA]	R · IA		Jun 27, 2013

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	Senate	Hearings By (full committee)	Dec 17, 2013

Subjects & Policy Tags

**Policy Area:**

Commerce

Related Bills

Bill	Relationship	Last Action
<a href="#">113 S 1612</a>	Related bill	<b>Dec 17, 2013:</b> Committee on the Judiciary. Hearings held.
<a href="#">113 HR 3309</a>	Related bill	<b>Dec 9, 2013:</b> Received in the Senate and Read twice and referred to the Committee on the Judiciary.
<a href="#">113 HR 2639</a>	Related bill	<b>Sep 13, 2013:</b> Referred to the Subcommittee on Courts, Intellectual Property, and the Internet.

Patent Abuse Reduction Act of 2013 - Directs a party alleging infringement in a civil action arising under any Act of Congress relating to patents to include in the court pleadings:

- an identification of each patent and claim allegedly infringed as well as the accused apparatus, product, feature, device, method, system, process, function, act, service, or other instrumentality (referred to as an "accused instrumentality") alleged to infringe any such claim;
- an identification of the name or model number of accused instrumentalities that allegedly result in the practice of a claimed invention;
- for each accused instrumentality, an explanation of where each element of each asserted claim identified is found within the accused instrumentality, whether each such element is infringed literally or under the doctrine of equivalents, and how the terms in each asserted claim correspond to the functionality of the accused instrumentality;
- for each claim alleged to have been infringed indirectly, a description of: (1) the direct infringement; (2) any person alleged to be a direct infringer known to the party alleging infringement; and (3) the acts of the alleged indirect infringer that contribute to or are inducing the direct infringement;
- a description of the right of the party alleging infringement to assert each identified patent and claim;
- the principal business of the party alleging infringement;
- a list of each complaint filed, of which the party alleging infringement has knowledge, that asserts or asserted any of the identified patents;
- whether any identified patent is subject to any licensing term or pricing commitments through any agency, organization, or other standard-setting body;
- the identity of any person other than the party alleging infringement, known to the party alleging infringement, who: (1) owns or co-owns an identified patent or is the assignee of, or an exclusive licensee to, such patent; or (2) has a legal right to enforce an identified patent through a civil action under any Act of Congress relating to patents or is licensed under such patent; and
- the identity of any person with a direct financial interest in the outcome of the action and a description of any agreement or other legal basis for such financial interest.

Sets forth procedures with respect to the joinder of parties and discovery of evidence.

Directs each party to be responsible for the costs of producing core documentary evidence within the possession, custody, or control of that party.

Defines "core documentary evidence" as documents that:

- relate to the conception, reduction to practice, and application for the asserted patent;
- are sufficient to show the technical operation of the instrumentality identified in the complaint as infringing the asserted patent;
- relate to potentially invalidating prior art;
- relate to previous licensing or conveyances of the asserted patent;
- are sufficient to show revenue attributable to any claimed invention;
- are sufficient to show the organizational ownership and structure of each party, including identification of any person with a financial interest in the asserted patent;
- relate to awareness of the asserted patent or claim, or the infringement, before the action was filed; and

are sufficient to show any marking, lack of marking, or notice of the asserted patent provided to the accused infringer.

Excludes from the definition of core documentary evidence any computer code or electronic communication, such as e-mail, text messages, instant messaging, and other forms of electronic communication, unless the court finds good cause.

Permits additional discovery under specified conditions if the party seeking such additional discovery bears the costs, including reasonable attorney's fees.

Directs courts to award to the prevailing party reasonable costs and expenses, including attorney's fees, unless: (1) the position and conduct of the non-prevailing party were objectively reasonable and substantially justified, or (2) exceptional circumstances make such an award unjust. Allows the court, if the non-prevailing party is unable to pay such costs and expenses, to make the costs and expenses recoverable against interested parties.

### **Actions Timeline**

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- **Dec 17, 2013:** Committee on the Judiciary. Hearings held.
- **May 22, 2013:** Introduced in Senate
- **May 22, 2013:** Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S3763-3765)