

HR 3540

Demand Letter Transparency Act of 2013

Congress: 113 (2013–2015, Ended)

Chamber: House

Policy Area: Commerce

Introduced: Nov 19, 2013

Current Status: Referred to the Subcommittee on Courts, Intellectual Property, and the Internet.

Latest Action: Referred to the Subcommittee on Courts, Intellectual Property, and the Internet. (Jan 9, 2014)

Official Text: <https://www.congress.gov/bill/113th-congress/house-bill/3540>

Sponsor

Name: Rep. Polis, Jared [D-CO-2]

Party: Democratic • **State:** CO • **Chamber:** House

Cosponsors (2 total)

| Cosponsor | Party / State | Role | Date Joined |
|------------------------------------|---------------|------|--------------|
| Rep. Deutch, Theodore E. [D-FL-21] | D · FL | | Nov 19, 2013 |
| Rep. Marino, Tom [R-PA-10] | R · PA | | Nov 19, 2013 |

Committee Activity

| Committee | Chamber | Activity | Date |
|-------------------------------|---------|-------------|--------------|
| Energy and Commerce Committee | House | Referred to | Nov 22, 2013 |
| Judiciary Committee | House | Referred to | Jan 9, 2014 |

Subjects & Policy Tags

Policy Area:

Commerce

Related Bills

No related bills are listed.

Demand Letter Transparency Act of 2013 - Requires any entity that sends a specified number of demand letters during any 365-day period to submit to the U.S. Patent and Trademark Office (USPTO), with respect to each patent that was the subject in each letter, a disclosure identifying:

- the patent, including a confirmation that the entity that sent the letter is the owner of the patent and is the last recorded entity in USPTO records for purposes of assignment, grant, or conveyance;
- the entity that has the right to license the patent or the name of the exclusive licensee;
- each entity asserting a claim with regard to the patent;
- each obligation to license the patent and the financial terms at which such patent has been licensed;
- the ultimate parent entity of such entity;
- the number of recipients of the letter;
- any case that has been filed by such entity relating to such patent; and
- any ex parte review or inter partes review of such patent.

Defines "demand letter" as any written communication directed to an unaffiliated third party stating or indicating that the intended recipient, or anyone affiliated with that recipient, is or may be infringing a patent, or may bear liability or owe compensation to another because of such patent.

Authorizes a court, in a patent infringement or validity action brought by an entity that does not meet such USPTO disclosure requirements, to sanction such entity for an amount to be awarded to the adverse party to cover any costs incurred as a result of such violation.

Exempts from such disclosure requirements: (1) original or joint inventors, (2) institutions of higher education, and (3) technology transfer organizations facilitating the commercialization of technology developed by institutions of higher education.

Directs the USPTO to establish a publicly accessible and searchable database of the information obtained pursuant to such disclosures.

Requires any demand letter sent to another entity to include specified information concerning:

- each claim of each patent allegedly infringed, including each accused instrumentality;
- each party alleging infringement;
- the direct infringement for each claim alleged to have been infringed indirectly;
- the principal business of the party alleging infringement;
- each complaint filed that asserts or asserted any of the same patents, each case filed by such entity, and any ex parte or inter partes review for each patent;
- whether the patent is subject to any licensing term or pricing commitments;
- owners, co-owners, assignees, or exclusive licensees of the patent;
- any person who has a legal right to enforce the patent;
- any person with a direct financial interest in the outcome of the action; and
- how the recipient can access the USPTO demand letter database.

Permits a recipient of a demand letter to file a petition with the USPTO if it believes that disclosure or patent letter information requirements have not been met. Directs the USPTO, if it determines that a requirement has not been met, to

notify the patent owner that the patent will be voided unless a fee is paid.

Requires the USPTO to consider good faith mistakes in the determination of whether to void a patent.

Directs the Federal Trade Commission (FTC) to enforce a violation of this Act as an unfair or deceptive act or practice.

Actions Timeline

- **Jan 9, 2014:** Referred to the Subcommittee on Courts, Intellectual Property, and the Internet.
- **Nov 22, 2013:** Referred to the Subcommittee on Commerce, Manufacturing, and Trade.
- **Nov 19, 2013:** Introduced in House
- **Nov 19, 2013:** Referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.