STATEMENT OF REP. JOHN CONYERS, JR.
Courts, the Internet, and Intellectual Property Subcommittee
Hearing on "Holmes Group, the Federal Circuit, and
the State of Patent Appeals"
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I understand the need and desire for uniformity in patent cases, but I am concerned about proposals that would render the regional circuit courts of appeals virtually meaningless.

We all know that one of the Federal Circuit's primary responsibilities is hearing patent appeals. When we created the court, we did it to ensure uniformity in that area of law. In 2002, however, the Supreme Court held the Federal Circuit did not have jurisdiction where patents were merely a counter-claim, as opposed to one of the plaintiff's original claims.

So now there are proposals to say that any case with patent issues arising at any stage would be appealed directly to the Federal Circuit. I have two major concerns with this idea. First, any party wishing to go to the Federal Circuit instead of a regional appellate court could merely include a frivolous patent argument. The regional circuits would be stripped of any responsibility.

Second, the proposal could fundamentally alter other areas of law. Cases mainly about antitrust law or contracts could end up in the Federal Circuit by virtue of one patent-related counter-claim. The Federal Circuit would thus become the de facto court of jurisdiction for any business-related lawsuit, and that is not the system we envisioned.

Having said that, I am open to hearing what problems exist within the Federal Circuit and what we can do to allow it to function better.