

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 1908
OFFERED BY MS. ZOE LOFGREN OF CALIFORNIA,
MR. SMITH OF TEXAS, MR. CANNON OF
UTAH, AND MR. DAVIS OF ALABAMA**

Page 52, strike line 17 and all that follows through
page 53, line 8 and insert the following:

1 (a) VENUE FOR PATENT CASES.—Section 1400 of
2 title 28, United States Code, is amended by striking sub-
3 section (b) and inserting the following:

4 “(b) Notwithstanding section 1391 of this title, in
5 any civil action arising under any Act of Congress relating
6 to patents, a party shall not manufacture venue by assign-
7 ment, incorporation, or otherwise to invoke the venue of
8 a specific district court.

9 “(c) Notwithstanding section 1391 of this title, any
10 civil action for patent infringement or any action for de-
11 claratory judgment may be brought only in a judicial dis-
12 trict—

13 “(1) where the defendant has its principal place
14 of business or in the location or place in which the
15 defendant is incorporated, or, for foreign corpora-
16 tions with a United States subsidiary, where the de-

1 defendant's primary United States subsidiary has its
2 principal place of business or in the location or place
3 in which the defendant's primary United States sub-
4 sidiary is incorporated;

5 "(2) where the defendant has committed a sub-
6 stantial portion of the acts of infringement and has
7 a regular and established physical facility that the
8 defendant controls and that constitutes a substantial
9 portion of the operations of the defendant;

10 "(3) where the primary plaintiff resides, if the
11 primary plaintiff in the action is an institution of
12 higher education as defined under section 101(a) of
13 the Higher Education Act of 1965 (20 U.S.C.
14 1001(a)); or

15 "(4) where the plaintiff resides, if the plaintiff
16 or a subsidiary of the plaintiff has an established
17 physical facility in such district dedicated to re-
18 search, development, or manufacturing that is oper-
19 ated by full-time employees of the plaintiff or such
20 subsidiary, or if the sole plaintiff in the action is an
21 individual inventor who is a natural person and who
22 qualifies at the time such action is filed as a micro
23 entity under section 124 of title 35, United States
24 Code.

1 “(d) If the plaintiff brings a civil action for patent
2 infringement in a judicial district under subsection (c), the
3 district court may transfer that action to any other district
4 or division where —

5 “(1) the defendant has substantial evidence or
6 witnesses; and

7 “(2) venue would be appropriate under section
8 1391 of this title, if such transfer would be appro-
9 priate under section 1404 of this title.”.