

AMENDMENT TO H.R. 1908, AS REPORTED
OFFERED BY MS. ZOE LOFGREN OF CALIFORNIA

Page 57, strike line 12 and all that follows through page 59, line 7, and insert the following:

1 “(b) In any civil action arising under any Act of Con-
2 gress relating to patents, a party shall not manufacture
3 venue by assignment, incorporation, joinder, or otherwise
4 primarily to invoke the venue of a specific district court.

5 “(c) Notwithstanding section 1391 of this title, ex-
6 cept as provided in paragraph (3) of this subsection, any
7 civil action for patent infringement or any action for de-
8 claratory judgment relating to a patent may be brought
9 only in a judicial district—

10 “(1) where the defendant has its principal place
11 of business or is incorporated, or, for foreign cor-
12 porations with a United States subsidiary, where the
13 defendant’s primary United States subsidiary has its
14 principal place of business or is incorporated;

15 “(2) where the defendant has committed a sub-
16 stantial portion of the acts of infringement and has
17 a regular and established physical facility that the
18 defendant controls and that constitutes a substantial
19 portion of the defendant’s operations;

1 “(3) for cases involving only foreign defendants
2 with no United States subsidiary, according to sec-
3 tion 1391(d) of this title;

4 “(4) where the plaintiff resides, if the plaintiff
5 is—

6 “(A) an institution of higher education as
7 defined under section 101(a) of the Higher
8 Education Act of 1965 (20 U.S.C. section
9 1001(a)); or

10 “(B) a nonprofit organization that—

11 “(i) is described in section 501(c)(3)
12 of the Internal Revenue Code of 1986;

13 “(ii) is exempt from taxation under
14 section 501(a) of such Code; and

15 “(iii) serves primarily as the patent
16 and licensing organization for an institu-
17 tion of higher education as defined under
18 section 101(a) of the Higher Education
19 Act of 1965 (20 U.S.C. 1001(a));

20 “(5) where the plaintiff or a subsidiary has a
21 place of business that is engaged in substantial re-
22 search and development, manufacturing activities re-
23 lated to the patent or patents in dispute, or manage-
24 ment of research and development or manufacturing
25 activities related to the patent or patents in dispute;

1 “(6) where the plaintiff resides if the plaintiff
2 is named as inventor or co-inventor on the patent
3 and has not assigned, granted, conveyed, or licensed,
4 and is under no obligation to assign, grant, convey,
5 or license, any rights in the patent or in enforcement
6 of the patent, including the results of any such en-
7 forcement; or

8 “(7) where any of the defendants has substan-
9 tial evidence and witnesses if there is no other dis-
10 trict in which the action may be brought under this
11 section.”.

Page 60, strike lines 1 through 3 and insert the fol-
lowing:

12 (c) EFFECTIVE DATE.—

13 (1) IN GENERAL.—The amendments made by
14 this section—

15 (A) shall take effect on the date of the en-
16 actment of this Act; and

17 (B) shall apply to any civil action com-
18 menced on or after such date of enactment.

19 (2) PENDING CASES.—Any case commenced in
20 a United States district court on or after September
21 7, 2007, in which venue is improper under section
22 1400 of title 28, United States Code, as amended by

1 this section, shall be transferred pursuant to section
2 1404 of such title, unless—

3 (A) one or more substantive rulings on the
4 merits, or other substantial litigation, has oc-
5 curred; and

6 (B) the court finds that transfer would not
7 serve the interests of justice.