

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3309
OFFERED BY MR. SCOTT OF VIRGINIA**

Page 23, strike line 23 and all that follows through page 34, line 3 and insert the following:

1 (a) STUDY OF DISCOVERY BURDENS.—The Judicial
2 Conference of the United States, using existing resources,
3 ~~may~~^{is urged to} study whether the development of rules and proce-
4 dures to implement the issues and proposals listed in para-
5 graphs (1) through (3) would address the asymmetries in
6 discovery burdens and costs in any civil action arising
7 under any Act of Congress relating to patents. Such study
8 should include whether such rules and procedures should
9 include the following:

10 (1) How and when payment for document dis-
11 covery in addition to the discovery of core documen-
12 tary evidence is to occur, and what information must
13 be presented to demonstrate financial capacity be-
14 fore permitting document discovery in addition to
15 the discovery of core documentary evidence.

16 (2) Whether case management procedures
17 should be implemented by the United States district
18 court and the United States Court of Federal

1 Claims for an civil action arising under any act of
2 Congress relating to patents, including initial disclo-
3 sure and early case management conference prac-
4 tices that—

5 (A) will identify any potential dispositive
6 issues of the case; and

7 (B) focus on early summary judgment mo-
8 tions when resolution of issues may lead to ex-
9 pedited disposition of the case.

10 (3) Whether the Supreme Court should elimi-
11 nate Form 18 in the Appendix to the Federal Rules
12 of Civil Procedure (relating to Complaint for Patent
13 Infringement).

14 (b) NEW RULES.—If the Judicial Conference finds
15 that changes to the current rules and procedures to be
16 beneficial, the Judicial Conference is urged to promulgate
17 new rules based on the study described under subsection
18 (a).

Page 34, line 4 strike “(d)” and insert “(e)”.

