

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 9
OFFERED BY MR. MARINO OF PENNSYLVANIA
& Rep. Deutch of Florida**

Page 52, after line 12, insert the following new sub-
section:

1 (h) IN GENERAL.—

2 (1) ESTABLISHMENT OF DATABASE.—Not later
3 than 60 days after the date of the enactment of this
4 Act, the United States Patent and Trademark Office
5 shall establish a publicly searchable database that
6 contains patent demand letters as part of a one year
7 pilot program.

8 (2) PARAMETERS.—Any entity that has sent 20
9 letters or more in a calendar year, starting on the
10 date on which the first letter is sent, pertaining to
11 a particular claim in connection with a particular
12 patent, shall submit the following to the Office:

13 (A) A copy of the letter sent, with the
14 identifiable-information for each recipient re-
15 dacted but not including the city and State of
16 the recipient.

17 (B) Identification of the patent and con-
18 firmation that the entity that sent the letter is

1 the owner of the patent (or the representative
2 of the owner).

3 (C) Identification of the patent owner's
4 contact information, including physical address,
5 phone number, and any other pertinent busi-
6 ness information such as a facsimile number or
7 email address.

8 (D) Identification of any entity that has
9 the right to license the patent or in the case of
10 a patent already exclusively licensed, the name
11 of the exclusive licensee.

12 (E) Identification of the ultimate parent
13 entity of such entity.

14 (F) Identification of any case that has
15 been filed by such entity that directly relates to
16 the claim and patent at issue in the letter sub-
17 mitted, including the docket number and the
18 court in which the case was filed.

19 (G) Identification of any ex parte review
20 under chapter 30 or inter partes review under
21 chapter 31 of such patent.

22 (3) FAILURE TO COMPLY.—An entity that does
23 not meet the requirements under paragraph (2) may
24 be put on notice by the Office, and if such entity has
25 not complied with the relevant information within 30

1 days after such notice, the entity will lose the ability
2 to enforce such patent against any other entity dur-
3 ing the time the entity was out of compliance after
4 such 30-day period.

5 (4) REQUIREMENT TO PUBLISH.—Not later
6 than 60 days after receiving a submission required
7 under paragraph (2), the Office shall make such
8 submission public.

9 (5) EXCEPTIONS.—This subsection shall not
10 apply to original inventors, institutions of higher
11 education (as defined in section 101(a) of the High-
12 er Education Act of 1965), or a technology transfer
13 organization.

14 (6) OPTIONAL DISCLOSURES.—

15 (A) PATENT DEMAND LETTERS.—Any en-
16 tity that receives a patent demand letter may
17 submit such letter to the Office for upkeep of
18 the database and relevant records. Such entity
19 may redact the information pertaining to such
20 entity if the information will unjustly harm
21 such entity if the information is made public.

22 (B) CONTACT INFORMATION.—Any entity
23 that receives a patent demand letter may sub-
24 mit contact information about such entity to
25 the Office for upkeep of the database to allow

1 other recipients to access such contact informa-
2 tion.

3 (7) DEFINITION.—The term “patent demand
4 letter” means a written communication sent to a re-
5 cipient that states or indicates, directly or indirectly,
6 that the recipient or anyone affiliated with the re-
7 cipient is or may be infringing a patent.

