

AMENDMENT NO. _____ Calendar No. _____

Purpose: To limit damage and other remedies with respect to patents for check imaging and archival methods.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 1145

To amend title 35, United States Code, to provide for patent reform

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. SESSIONS

Viz:

1 On page 48, between lines 10 and 11, insert the fol-
2 lowing:

3 **SEC. 14. LIMITATION ON DAMAGES AND OTHER REMEDIES**
4 **WITH RESPECT TO PATENTS FOR METHODS**
5 **IN COMPLIANCE WITH CHECK IMAGING**
6 **METHODS.**

7 (a) LIMITATION.—Section 287 of title 35, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

1 “(d)(1) With respect to the use by a financial institu-
2 tion of a check collection system that constitutes an in-
3 fringement under subsection (a) or (b) of section 271, the
4 provisions of sections 281, 283, 284, and 285 shall not
5 apply against the financial institution with respect to such
6 a check collection system.

7 “(2) For the purposes of this subsection—

8 “(A) the term ‘check’ has the meaning given
9 under section 3(6) of the Check Clearing for the
10 21st Century Act (12 U.S.C. 5002(6));

11 “(B) the term ‘check collection system’ means
12 the use, creation, transmission, receipt, storing, set-
13 tling or archiving of truncated checks, substitute
14 checks, check images or electronic check data associ-
15 ated with or related to any method, system, or proc-
16 ess that furthers or effectuates, in whole or in part,
17 any of the purposes of the Check Clearing for the
18 21st Century Act (12 U.S.C. 5001 et seq.);

19 “(C) the term ‘financial institution’ has the
20 meaning given under section 509 of the Gramm-
21 Leach-Bliley Act (15 U.S.C. 6809);

22 “(D) the term ‘substitute check’ has the mean-
23 ing given under section 3(16) of the Check Clearing
24 for the 21st Century Act (12 U.S.C. 5002(16)); and

1 “(E) the term”truncate” has the meaning given
2 under section 3(18) of the Check Clearing for the
3 21st Century Act (12 U.S.C. 5002(18)).”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to any civil action for patent
6 infringement pending or filed on or after the date of enact-
7 ment of this Act.