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## Support for Patent Office Rises as Reform Bill Wanes

By Rick Merritt

SAN JOSE, Calif. – Backing for a draft patent reform bill in the U.S. Senate appears to have waned while support is rising for a more recent proposal to give the patent office more funds to deal with its historic backlog of applications. Observers say neither initiative is likely to pass in the current Congress though change is urgently needed.

A patent reform bill that passed out of the Senate Judiciary Committee last year has lost key industry backing, say several sources. A separate bill introduced in May to bolster funding for the patent office faces "a civil war" between warring House committees, said one observer.

"The prospects are fairly limited," for all the proposed bills, said Paul Michel, former Chief Judge of the U. S. Court of Appeals for the Federal Circuit and co-author of a text book on patent law.

Since retiring from the bench May 31, Judge Michel has become [a vocal advocate](#) of giving the patent office a billion dollars of the economic stimulus funds to cope with an estimated backlog of 750,000 applications. Michel co-authored [a guest editorial](#) on the topic in last week's New York Times.

The "archaic IT systems" and high turnover among patent examiners has created "an alarming situation" at the patent office that "requires extraordinary measures," said Henry Nothhaft, chief executive of Tessera Technologies (San Jose), co-author of the editorial.



**Henry Nothhaft**

The patent office hires many new examiners straight out of college, but as many as 30 percent leave in their first year, said Nothhaft of Tessera which owns more than 2,000 patents and licenses technology for packaging semiconductors.

"I am not sure even a billion dollars is enough, but we could make a big dent in the problems and work the backlog down," he said. "With 750,000 patent applications waiting for a first action and another 400,000 filed every year, you have to wonder what industry is waiting to be created," he added.

In May, Rep. John Conyers (D., Mich.) proposed the [Patent and Trademark Office Funding Stabilization Act](#) which would give the patent office the right to set its own fees and stop the practice of diverting some of those fees to other uses. However, Michel said the draft bill from the House Judiciary Committee faces strong opposition from the House Appropriations Committee.

Separately, President Barack Obama on Wednesday (Aug. 11) signed into law a bill that gives the patent office the authority to spend an additional \$129 million of the fees it will collect in its current fiscal year. The agency projects it will collect nearly \$200 million more than its current annual appropriation of \$1.887 billion, thus about \$70 million of current fees will still be diverted to other government uses.

Nothhaft said he is working to get the [Innovation Alliance](#)--a lobbying group of about 20 companies including Dolby, LSI, Qualcomm and Tessera—to take up the issue of support for the patent office. If within a few months the group does not take up the charge, he said he is willing to back a new think tank on intellectual property under consideration by retired Judge Michel.

Michel said several companies and law firms have expressed willingness to back a new group that could conduct original research and provide education to policy makers on patent issues.

"I am considering and seeking advice from IP leaders about the utility of creating a research and analysis organization, and I am eager to do it if it's useful and would add value," said Michel.

Nothhaft said he believes the diverse set of often warring patent lobbying groups could unite behind the idea of bolstering support for the patent office. "Then maybe a patent reform bill could get passed," he said.

[The Coalition for Patent Fairness](#) was instrumental in getting the current patent reform bill drafted in the Senate. However, Michel, Nothhaft and others said the group stopped backing the bill after Sen. Leahy [announced an amendment](#) to the bill in March modifying several of its provisions.

The Patent Fairness group--whose members include Cisco Systems, Hewlett-Packard, Intel and Microsoft--issued a warning in September 2009 about amending the original reform bill. Since that time the group has kept a low profile. A representative of the group was not immediately available for an interview.

The Leahy bill sought to put limits on patent infringement suits and increase opportunities to challenge new patents after they were granted. The March amendments watered down provisions for some of those challenges and also made it more difficult to obtain a ruling of willful infringement of a patent.

<http://www.eetimes.com/electronics-news/4206090/Patent-office-patent-reform-bill>