

AMENDED IN ASSEMBLY MAY 18, 2015

AMENDED IN ASSEMBLY MAY 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

Assembly Joint Resolution

No. 9

Introduced by Assembly Member Chang

**(Coauthors: Assembly Members Baker, Gallagher, and Steinorth
Steinorth, Achadjian, Alejo, Travis Allen, Atkins, Bigelow, Bloom,
Bonilla, Bonta, Burke, Calderon, Campos, Chau, Chávez, Chiu,
Chu, Cooley, Cooper, Dababneh, Dahle, Daly, Dodd, Eggman,
Frazier, Beth Gaines, Cristina Garcia, Eduardo Garcia, Gatto,
Gipson, Gomez, Gonzalez, Gordon, Gray, Grove, Hadley, Harper,
Holden, Irwin, Jones-Sawyer, Lackey, Levine, Linder, Lopez, Low,
Maienschein, Mayes, McCarty, Medina, Mullin, Obernolte,
O'Donnell, Olsen, Patterson, Perea, Quirk, Rendon, Salas,
Santiago, Thurmond, Wagner, Waldron, Weber, Wilk, Williams,
and Wood)**

(Coauthor: Senator Huff)

February 25, 2015

Assembly Joint Resolution No. 9—Relative to patents.

LEGISLATIVE COUNSEL'S DIGEST

AJR 9, as amended, Chang. Patent reform.

This measure would urge the President and the Congress of the United States to craft a balanced and workable approach to reduce incentives for and minimize unnecessary patent litigation while ensuring that legitimate patent enforcement rights are protected and maintained.

Fiscal committee: no.

1 WHEREAS, The principle of intellectual property is enshrined
2 in the United States Constitution, specifically under clause 8 of
3 Section 8 of Article I of the United States Constitution, which
4 empowers Congress to “promote the Progress of Science and useful
5 Arts, by securing for limited Times to Authors and Inventors the
6 exclusive Right to their respective Writings and Discoveries”; and

7 WHEREAS, A robust patent system is critical to promote
8 economic growth and innovation and ensure just compensation
9 for the labor and proliferation of beneficial ideas and innovations;
10 and

11 WHEREAS, California accounts for 25 percent of the nation’s
12 patents; and

13 WHEREAS, The state recognizes and respects the importance
14 of patent protections and patent enforcement rights to driving
15 continued research, investment, technological innovation, and job
16 creation across multiple sectors of our economy; and

17 WHEREAS, Small businesses depend on patents to secure
18 investments, and firms with fewer than 25 employees hold nearly
19 one-quarter of United States-held patents in innovative emerging
20 technologies; and

21 WHEREAS, Enforcement of legitimate patent rights is essential
22 to promoting an innovation environment that fuels economic
23 growth; and

24 WHEREAS, There is increasing concern about litigation by
25 predatory Patent Assertion Entities (PAEs), which are built on a
26 rent-seeking business model that exploits the patent legal system
27 for financial gain without producing or manufacturing anything
28 of value for society; and

29 WHEREAS, Many PAEs attain ambiguous patents with the sole
30 intent of filing patent infringement lawsuits. PAEs assert these
31 patents against businesses of all sizes and in all industries, often
32 years after the product has become standard and widely used; and

33 WHEREAS, PAEs rarely earn successful judgments in court,
34 underscoring the questionable merits of these particular patent
35 cases. However, given the high cost and risks associated with
36 patent litigation, most defendants choose to settle in order to avoid
37 further financial loss. Indeed, many PAEs will offer royalty
38 settlements below market value in order to encourage settlement
39 and avoid trial; and

1 WHEREAS, Predatory PAEs have a detrimental impact on the
2 economy and innovation. PAE activities cost businesses \$29 billion
3 directly, mostly borne by small- and medium-sized businesses;
4 and

5 WHEREAS, The growth of patent litigation is directly tied to
6 aggressive PAEs in recent years. In 2010, PAEs were responsible
7 for 29 percent of patent litigation, and by 2012 PAEs represented
8 62 percent of all patent suits; and

9 WHEREAS, The California economy is especially vulnerable
10 to lawsuits directed at information technology patents; and

11 WHEREAS, Federal legislation is necessary to prevent and
12 deter abusive patent litigation; now, therefore, be it

13 *Resolved by the Assembly and the Senate of the State of*
14 *California, jointly,* That the Legislature urges the President and
15 the Congress of the United States to craft a balanced and workable
16 approach to reduce incentives for and minimize unnecessary patent
17 litigation while ensuring that legitimate patent enforcement rights
18 are protected and maintained; and be it further

19 *Resolved,* That the Chief Clerk of the Assembly transmit copies
20 of this resolution to the President and Vice President of the United
21 States, the Speaker and Minority Leader of the House of
22 Representatives, the Majority Leader and Minority Leader of the
23 Senate, and each member of the California delegation to the United
24 States Congress.