

From: Garrett Miedema
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To: AC84.comments
Subject: Comments on Effective Date for Revisions to Patent Term Adjustment for HR 6621

HR 6621 section 1(n) states that the effective date for the changes in section 1(h) to 35 USC 154(b)(4)(A) is "the date of enactment of this Act, and shall apply to proceedings commenced on or after such date of enactment."

Federal Register Vol. 78, No. 62, p. 19418 states that "Patent term adjustment proceedings are not 'commenced' until the Office notifies the applicant of the Office's patent term adjustment under 35 U.S.C. 154(b)(3), which now occurs when the patent is granted. Therefore, the changes to 35 U.S.C. 154 in section 1(h) of section 1(n) of the AIA Technical Corrections Act apply to any patent granted on or after January 14, 2013."

It seems that the "proceedings" in HR 6621 refers to "PTA correction" proceedings when viewed with respect to 35 USC 154(b)(4)(A), rather than "PTA" proceedings generally. In which case, the proceedings will not have commenced until a petition to correct a PTA calculation is filed. Accordingly, the new rules for 35 USC 154(b)(4)(A) would apply to any petition filed on or after the effective date of HR 6621 rather than any patent granted on or after the effective date. This is bolstered by the very amendment that was made to 35 USC 154(b)(4)(A) in HR 6621. The time period for commencing a civil action against the Director for correction of PTA was specifically amended to be based on the date of the decision on the petition rather than the date that the patent was granted.