

By Alain Strowel, 25 September 2010

Can the US patent reform be voted by the “lame ducks”?



For a few years, the US legislator has worked on a deep reform of the US patent system. Major substantial issues (such as the move from a ‘first to invent’ to a ‘first to file’ system, the possibility of extended re-examination by the Patent Office...) are under discussion. Other important issues relating to the judicial process (the standard for assessing damages and willful infringement, the condition for a transfer of venue...) are also on the table. Clearly the most far-reaching overhaul of the US patent system for decades. A September 15 letter signed by a quarter of the members of the Senate (letter [here](#)) asks the 2009 text of the Judiciary Committee ([here](#)) to be submitted to the floor. Nothing is supposed to happen before the November mid-term election. Soon after, a so-called ‘lame duck’ (‘canard boiteux’) session will start: will the lame ducks (the politicians approaching the end of their tenure as their successor is elected) vote on the Patent Reform Bill? Everybody can bet on them. How much chance that the bill will pass?

For a previous example of lame duck, see the cartoon of Alexis [here](#)