

118TH CONGRESS
2D SESSION

S. 4095

To amend title 28, United States Code, to limit the authority of district courts to provide injunctive relief, to modify venue requirements relating to bankruptcy proceedings, and to ensure that venue in patents cases is fair and proper, and for other purposes..

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2024

Mr. McCONNELL (for himself, Mr. COTTON, and Mr. TILLIS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to limit the authority of district courts to provide injunctive relief, to modify venue requirements relating to bankruptcy proceedings, and to ensure that venue in patents cases is fair and proper, and for other purposes..

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLES.**

4 This Act may be cited as the “Stop Helping Outcome
5 Preferences Act” or the “SHOP Act”.

1 **SEC. 2. NATIONWIDE INJUNCTION ABUSE PREVENTION.**

2 (a) IN GENERAL.—Chapter 85 of title 28, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 1370. Limitation on authority to provide injunctive**
6 **relief**

7 “Notwithstanding any other provision of law, a dis-
8 trict court may not issue any order providing injunctive
9 relief unless such order is applicable only to—

10 “(1) the parties to the case before the court; or

11 “(2) similarly situated individuals in the judi-
12 cial district in which the district court has jurisdic-
13 tion.”.

14 (b) CLERICAL AMENDMENT.—The chapter analysis
15 for chapter 84 of title 28, United States Code, is amended
16 by adding at the end the following:

“1370. Limitation on authority to provide injunctive relief.”.

17 **SEC. 3. PREVENTING JUDGE SHOPPING.**

18 (a) IN GENERAL.—Chapter 131 of title 28, United
19 States Code, is amended by inserting after section 2075
20 the following:

21 **“§ 2076. Preventing judge shopping**

22 “(a) IN GENERAL.—Rules promulgated under this
23 chapter may not permit an attorney to be admitted to
24 practice in any Federal court if a disciplinary body of
25 judges properly constituted under the rules and proce-

1 dures of a Federal court determines that such attorney
2 has engaged in judge shopping.

3 “(b) DEFINED TERM.—In this section, the term
4 ‘judge shopping’ means attempting to interfere with a
5 court’s case assignment process for the purpose of influ-
6 encing the assignment of a particular judge to preside over
7 a particular case by—

8 “(1) engaging in ex parte communications with
9 a judge or a judge’s chambers;

10 “(2) successive filing of materially identical
11 suits within a State, district, or circuit without good
12 cause;

13 “(3) successive filing of materially identical
14 suits with different plaintiffs;

15 “(4) improperly marking a suit as a related
16 case under existing court docketing practices; or

17 “(5) otherwise attempting to change the assign-
18 ment of a case after its filing, excepting a motion to
19 recuse.”.

20 (b) CLERICAL AMENDMENT.—The chapter analysis
21 for chapter 131 of title 28, United States Code, is amend-
22 ed by inserting after the item relating to section 2075 the
23 following:

“2076. Preventing judge shopping.”.

1 **SEC. 4. BANKRUPTCY VENUE REFORM.**

2 (a) **SHORT TITLE.**—This section may be cited as the
3 “Bankruptcy Venue Reform Act of 2024”.

4 (b) **FINDINGS.**—Congress finds the following:

5 (1) Bankruptcy laws provide a number of venue
6 options for filing bankruptcy under chapter 11 of
7 title 11, United States Code, including, with respect
8 to the entity filing bankruptcy—

9 (A) any district in which the place of in-
10 corporation of the entity is located;

11 (B) any district in which the principal
12 place of business or principal assets of the enti-
13 ty are located; and

14 (C) any district in which an affiliate of the
15 entity has filed a pending case under title 11,
16 United States Code.

17 (2) The wide range of permissible bankruptcy
18 venue options has led to an increase in companies
19 filing for bankruptcy outside of the district in which
20 the principal place of business or principal assets of
21 the company is located, a practice that is commonly
22 known as “forum shopping”.

23 (3) Forum shopping—

24 (A) has resulted in a concentration of
25 bankruptcy cases in a limited number of judi-
26 cial districts;

1 (B) prevents small businesses, employees,
2 retirees, creditors, and other important stake-
3 holders from fully participating in bankruptcy
4 cases that have tremendous impacts on their
5 lives, communities, and local economies; and

6 (C) deprives district courts of the United
7 States and courts of appeals of the United
8 States of the opportunity to contribute to the
9 development of bankruptcy law in the jurisdic-
10 tions of those district courts.

11 (4) Reducing the incidence of forum shopping
12 in the bankruptcy system will strengthen the integ-
13 rity of, and build public confidence and ensure fair-
14 ness in, the bankruptcy system.

15 (c) PURPOSE.—The purpose of this section is to pre-
16 vent the practice of forum shopping in bankruptcy cases
17 filed under chapter 11 of title 11, United States Code.

18 (d) VENUE OF CASES UNDER TITLE 11.—Title 28,
19 United States Code, is amended—

20 (1) by amending 1408 to read as follows:

21 **“§ 1408. Venue of cases under title 11**

22 “(a) PRINCIPAL PLACE OF BUSINESS WITH RE-
23 SPECT TO CERTAIN ENTITIES.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graph (2), for the purposes of this section, if any en-

1 tity is subject to the reporting requirements under
2 section 13 or 15(d) of the Securities Exchange Act
3 of 1934 (15 U.S.C. 78m and 78o(d)), the term
4 ‘principal place of business’, with respect to such en-
5 tity, means the address of the principal executive of-
6 fice of the entity, as stated in the last annual report
7 filed under such Act before the commencement of a
8 case under title 11 of which the entity is the subject.

9 “(2) EXCEPTION.—With respect to an entity
10 described in paragraph (1), the definition of ‘prin-
11 cipal place of business’ shall apply, for purposes of
12 this section, unless another address is shown, by
13 clear and convincing evidence, to be the principal
14 place of business of such entity.

15 “(b) VENUE.—Except as provided in section 1410,
16 a case under title 11 may be commenced only in the dis-
17 trict court for the district—

18 “(1) in which the domicile, residence, or prin-
19 cipal assets in the United States of an individual
20 who is the subject of the case have been located—

21 “(A) during the 180-day period imme-
22 diately preceding such commencement; or

23 “(B) for a longer portion of such 180-day
24 period than the domicile, residence, or principal

1 assets in the United States of the individual
2 were located in any other district;

3 “(2) in which the principal place of business or
4 principal assets in the United States of an entity,
5 other than an individual, that is the subject of the
6 case have been located—

7 “(A) during the 180-day period imme-
8 diately preceding such commencement; or

9 “(B) for a longer portion of such 180-day
10 period than the principal place of business or
11 principal assets in the United States of the en-
12 tity were located in any other district; or

13 “(3) in which there is pending a case under
14 title 11 concerning an affiliate that directly or indi-
15 rectly owns, controls, or holds 50 percent or more of
16 the outstanding voting securities of, or is the general
17 partner of, the entity that is the subject of the later
18 filed case, but only if the pending case was properly
19 filed in such district in accordance with this section.

20 “(c) LIMITATIONS.—

21 “(1) IN GENERAL.—For purposes of para-
22 graphs (2) and (3) of subsection (b), no effect shall
23 be given to a change in the ownership or control of
24 an entity that is the subject of the case, or of an af-
25 filiate of such entity, or to a transfer of the principal

1 place of business or principal assets in the United
2 States, or to the merger, dissolution, spinoff, or divi-
3 sive merger of an entity that is the subject of the
4 case, or of an affiliate of such entity, to another dis-
5 trict, if such event takes place—

6 “(A) during the 1-year period immediately
7 preceding the date on which the case is com-
8 menced; or

9 “(B) for the purpose, in whole or in part,
10 of establishing venue.

11 “(2) PRINCIPAL ASSETS.—

12 “(A) PRINCIPAL ASSETS OF AN ENTITY
13 OTHER THAN AN INDIVIDUAL.—For purposes of
14 subsection (b)(2) and paragraph (1) of this sub-
15 section—

16 “(i) the term ‘principal assets’ does
17 not include cash or cash equivalents; and

18 “(ii) any equity interest in an affiliate
19 is located in the district in which the hold-
20 er of the equity interest has its principal
21 place of business in the United States, as
22 determined in accordance with subsection
23 (b)(2).

24 “(B) EQUITY INTERESTS OF INDIVID-
25 UALS.—For purposes of subsection (b)(1), if

1 the holder of any equity interest in an affiliate
2 is an individual, the equity interest is located in
3 the district in which the domicile or residence
4 in the United States of the holder of the equity
5 interest is located, as determined in accordance
6 with subsection (b)(1).

7 “(d) BURDEN OF PROOF.—On any objection to, or
8 request to change, venue under paragraph (2) or (3) of
9 subsection (b) of a case under title 11, the entity that com-
10 mences the case shall bear the burden of establishing, by
11 clear and convincing evidence, that venue is proper under
12 this section.

13 “(e) OUT-OF-STATE ADMISSION FOR GOVERNMENT
14 ATTORNEYS.—The Supreme Court shall prescribe rules,
15 in accordance with section 2075, for cases or proceedings
16 arising under title 11, or arising in or related to cases
17 under title 11, to allow any attorney representing a gov-
18 ernmental unit to be permitted to appear on behalf of the
19 governmental unit and intervene without charge, and with-
20 out meeting any requirement under any local court rule
21 relating to attorney appearances or the use of local coun-
22 sel, before any bankruptcy court, district court, or bank-
23 ruptcy appellate panel.”; and

24 (2) to amend section 1412 to read as follows:

1 **“§ 1412. Change of venue**

2 “(a) IN GENERAL.—Notwithstanding that a case or
3 proceeding under title 11, or arising in or related to a case
4 under title 11, is filed in the correct division or district,
5 a district court may transfer the case or proceeding to a
6 district court in another district or division—

7 “(1) in the interest of justice; or

8 “(2) for the convenience of the parties.

9 “(b) INCORRECTLY FILED CASES OR PRO-
10 CEEDINGS.—If a case or proceeding under title 11, or arising
11 in or related to a case under title 11, is filed in a
12 division or district that is improper under section 1408(b),
13 the district court shall—

14 “(1) immediately dismiss the case or pro-
15 ceeding; or

16 “(2) if it is in the interest of justice, imme-
17 diately transfer the case or proceeding to any dis-
18 trict court for any district or division in which the
19 case or proceeding could have been brought under
20 such section.

21 “(c) OBJECTIONS AND REQUESTS RELATING TO
22 CHANGES IN VENUE.—Not later than 14 days after the
23 filing of an objection to, or a request to change, venue
24 of a case or proceeding under title 11, or arising in or
25 related to a case under title 11, the court shall enter an
26 order granting or denying such objection or request.”.

1 **SEC. 5. VENUE EQUITY IN PATENT CASES.**

2 (a) **SHORT TITLE.**—This section may be cited as the
3 “Venue Equity and Non-Uniformity Elimination Act of
4 2024”.

5 (b) **AMENDMENT.**—Section 1400(b) of title 28,
6 United States Code, is amended to read as follows:

7 “(b) Notwithstanding subsections (b) and (c) of sec-
8 tion 1391, any civil action for patent infringement or any
9 action for a declaratory judgment that a patent is invalid
10 or not infringed may be brought only in a judicial dis-
11 trict—

12 “(1) in which the defendant has its principal
13 place of business or is incorporated;

14 “(2) in which the defendant has committed an
15 act of infringement of a patent in suit and has a
16 regular and established physical facility that gives
17 rise to such act of infringement;

18 “(3) in which the defendant has agreed or con-
19 sented to be sued in such action;

20 “(4) in which an inventor named on the patent
21 in suit conducted research or development that led
22 to the application for the patent in suit;

23 “(5) in which a party has a regular and estab-
24 lished physical facility that such party controls and
25 operates, not primarily for the purpose of creating
26 venue, and has—

1 “(A) engaged in management of significant
2 research and development of an invention
3 claimed in a patent in suit before the effective
4 filing date of the patent;

5 “(B) manufactured a tangible product that
6 is alleged to embody an invention claimed in a
7 patent in suit; or

8 “(C) implemented a manufacturing process
9 for a tangible good in which the process is al-
10 leged to embody an invention claimed in a pat-
11 ent in suit; or

12 “(6) in the case of a foreign defendant that
13 does not meet the requirements of paragraph (1) or
14 (2), in accordance with section 1391(c)(3).”.

15 (c) MANDAMUS RELIEF.—For the purpose of deter-
16 mining whether relief may issue under section 1651 of title
17 28, United States Code, a clearly and indisputably erro-
18 neous denial of a motion under section 1406(a) of such
19 title to dismiss or transfer a case on the basis of section
20 1400(b) of such title shall be deemed to cause irreparable
21 interim harm.

22 (d) TELEWORKERS.—The dwelling or residence of an
23 employee or contractor of a defendant who works at such
24 dwelling or residence shall not constitute a regular and
25 established physical facility of the defendant for purposes

1 of section 1400(b)(2) of title 28, United States Code, as
2 added by subsection (a).

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