To provide that certain uses of a patent or copyright in compliance with an order of the Federal Communications Commission for emergency communications services shall be construed as use or manufacture for the United States.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2013

Mr. CARDIN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide that certain uses of a patent or copyright in compliance with an order of the Federal Communications Commission for emergency communications services shall be construed as use or manufacture for the United States.

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 TITLE.
4 This Act may be cited as the “Protect Advanced
5 Communications for Emergency Services Act of 2013” or
6 the “PACES Act”.


SEC. 2. FINDINGS.

Congress finds that—

(1) there are an estimated 302,000,000 active wireless mobile device users in the United States with an estimated 51,000,000 people in the United States living in households that rely solely on wireless communication devices (almost 25 percent of households in the United States), of which 21,000,000 are children;

(2) people in the United States make more than 300,000 wireless E-9-1-1 (enhanced 9-1-1) calls daily;

(3) a majority of 9-1-1 calls now originate from mobile devices, making an advanced wireless 9-1-1 service system a critical national asset for law enforcement, homeland security, and emergency responders who rely on this wireless location-based information to effectively dispatch assistance;

(4) the Federal Communications Commission mandates all wireless phone carriers and IP-enabled voice service providers to provide services enabling users to dial 9-1-1 with a stated purpose of allowing government first responders, homeland security, police, fire and other government public safety officials the ability to accurately locate 9-1-1 callers using wireless devices;
(5) the growing reliance of the people of the United States and public safety, homeland security, and law enforcement officials on emerging wireless technologies is leading to the need for national text to 9–1–1, as well as picture and video 9–1–1 capabilities from mobile devices;

(6) emerging technologies can be a critical component of the end-to-end communications infrastructure connecting the public with emergency medical service providers and emergency dispatch providers, public safety, fire service, and law enforcement officials, and hospital emergency and trauma care facilities, to reduce emergency response times and provide appropriate care;

(7) improved public safety remains an important public health objective of Federal, State, and local governments and substantially facilitates interstate and foreign commerce;

(8) wireless carriers and their vendors, in complying with the Federal mandate to provide E–9–1–1 location-based technology, have become targets of or been impacted by patent infringement lawsuits;

(9) patent infringement lawsuits brought by what the Federal Trade Commission has termed “Patent Assertion Entities” are—
(A) compromising the ability of wireless carriers to provide current wireless 9–1–1 services; and

(B) deterring the implementation of innovative new technologies that could meet next generation 9–1–1 public safety needs such as text, picture, and video 9–1–1 capabilities;

(10) section 1498 of title 28, United States Code, was designed to protect those required by the Government to provide a service “by or for the United States” while also providing legitimate patent holders with an appropriate means to recover reasonable and entire compensation for their patents;

(11) this Act clarifies that patented technologies required to provide 9–1–1, enhanced 9–1–1, and other emergency communication services, as defined in section 7 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615b), are provided by and for the United States and with the authorization or consent of the United States for the purposes of section 1498 of title 28, United States Code; and
(12) this Act does not modify or invalidate any patent, preserves all patent claims, and does not prevent patent litigation.

SEC. 3. JURISDICTION FOR CLAIMS REGARDING OTHER EMERGENCY SERVICES.

Section 1498 of title 28, United States Code, is amended by adding at the end the following:

“(f) JURISDICTION FOR CLAIMS REGARDING 9–1–1, ENHANCED 9–1–1, OR OTHER EMERGENCY COMMUNICATION SERVICE.—Beginning after the date of enactment of this subsection, any action under section 271 of title 35 against a wireless carrier subject to section 20.18 of title 47, Code of Federal Regulations, or any successor thereto, or an IP-enable voice service provider subject to section 6(a) of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a–1(a)), regarding the provision of 9–1–1, enhanced 9–1–1, or other emergency communications service (as defined in section 7 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615b)), shall be filed in accordance with this section.”.