WASHINGTON — For years and much to their frustration, big banks have paid hundreds of millions of dollars to a tiny Texas company to use a patented system for processing digital copies of checks, making Claudio Ballard, the inventor of the system, a wealthy man and the bank industry’s biggest patent foe.

After years of fighting Mr. Ballard at the federal Patent Office, in court and across a negotiating table, the banks went to see one of their best friends in Congress, Senator Charles E. Schumer of New York, who inserted into a patent overhaul bill a provision that appears largely aimed at helping banks rid themselves of the Ballard problem. The Senate passed the bill easily in March.

The proposal would allow banks to get a federal re-examination of certain patents that they have been accused of infringing, specifically limited to “a financial product or service.” The language is now included in a bill that may come to a vote in the House of Representatives as early as Wednesday. While at least two House members have moved to strip the provision from the bill, bank lobbyists have worked hard to defeat previous attempts to remove it.

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Mr. Schumer said that most of the largest New York banks had settled disputes with Mr. Ballard and his DataTreasury Corporation of Plano, Tex., and Mr. Schumer says those agreements will not be affected.

But DataTreasury and Mr. Ballard have fought back. They have hired their own Washington lobbyist, financed in part by the $400 million in settlements, jury verdicts and royalties earned in recent years.

In an interview, Mr. Ballard said the banks’ argument that they had embarked on
electronic check processing — the process covered by his patents — long before his patents were issued is simply wordplay.

“You can say that about the guy who invented the light bulb,” Mr. Ballard said. “Steel had been around forever, tungsten had been around forever, glass had been around forever. But someone put all those elements together and created the light bulb.”

The patents at issue are called “business method” patents, which cover a process for performing a task but not necessarily the technology required to make it happen. Method patents are the bane of the corporate world, and business groups say they encourage frivolous lawsuits based on faulty application of patent law.

Mr. Schumer said he believed he did the right thing. “This is a case where one company has made a cottage industry out of extracting legal settlements by exploiting a fuzzy part of the law on patents,” he said. “When New York institutions are in the right and under assault, I will support them all the way. If these lawsuits are legit, the company should have no problem letting the patent office do an independent review.”

DataTreasury patents have already been reviewed and validated by the patent office, but the bill would allow for an expanded consideration of other elements in a new review format.

While other provisions address reviews for patents after they are issued, the language of Mr. Schumer’s provision seems aimed at banks or, specifically, “a method or corresponding apparatus for performing data processing operations used in the practice, administration or management of a financial product or service.”

The DataTreasury camp says it has little doubt that the Schumer provision is aimed at the company. “There’s no question about that,” said John Feehery, a prominent Washington public relations executive and a spokesman for DataTreasury. “It’s a specific provision aimed at a small company.”

Supporters insist that the provision can be used against patents for electronic commerce in any industry, but banks have been especially energetic in their support of the measure.

Three of the largest financial lobbying groups — the Financial Services Roundtable, the Independent Community Bankers of America and the Securities Industry and Financial Markets Association — which spread campaign contributions lavishly through both chambers of Congress, have warned the bill’s main sponsor that they will fight any patent legislation that does not include the special financial exemption.

The Schumer provision is not the only disputed part of the patent overhaul bill. To help the patent office update its technology and deal with a mountain of patent applications, the bill would allow the patent office to keep all of the fees it collects to finance its operations, removing it from politics of the Congressional appropriations process. Leaders of the House Appropriations committee strongly dismiss the idea.

The bill would also change the rules for which inventor would obtain a patent by shifting to a first-to-file system instead of a first-to-invent system, which is the current practice. Small businesses do not like that change because they fear they will be outrun in a race to the patent office.

The patent office director, David J. Kappos, has championed patent reform, and the trade groups and Mr. Schumer have said that he helped to write the Schumer provision.
More than three dozen banks have signed license agreements with DataTreasury to use its patents, but Mr. Ballard, the company’s chairman, said he feared that the bill could undo all of that. That is part of the reason he has employed Thorsen French Advocacy, a Washington lobbying firm, and a team of other consultants and advisers.

He refers to himself as an inventor, but Mr. Ballard, 52, is really a computer engineer who has spent most of his career in and around the technology industry. He has worked on software systems for large companies like General Electric, and he has started his own businesses.

So he bristles at the characterization of DataTreasury as a company that merely exploits dubious patents.

It is true that the company now is just a holding company for the patents with only a few employees. At one time it had more than 100 — before the banks stole his patented technology, he said.

“I didn’t invent the scanner; I didn’t invent networking, or computers or software,” he said. “But I am an expert at systems integration, and I created this complete end-to-end solution” for digital check processing.
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