While brawls over Social Security and lobbying high jinks dominate the news on Capitol Hill, Congress is quietly moving on one of the technology industry's top priorities: revamping the patent system.

As unsexy as that sounds, at stake is who gets to benefit most from innovation.

These days the patent office looks like California during the Gold Rush, with companies, universities and individuals stampeding to sew up as much "intellectual property" as fast as they can. In the information age, ideas are among the most valuable coins of the realm.

Some corporations have internal teams whose sole mission is to file for and acquire as many patents as possible. Patent examiners are overwhelmed, and are waving on patent applications -- especially in technology areas -- that would be called head-scratching if one were being polite.

(Here's one: Google owns a newly minted patent for what the page of results looks like when you search for something. Specifically, if the search term that you entered comes back in bold face, like this, that method now belongs to Google.)

Meanwhile, everyone seems to be suing everyone else claiming patent violations, helping to clog the courts and costing everyone money.

Most often the litigation is company vs. company. But patents are now assets in a marketplace that often has nothing to do with the products or services they might help create. A new breed of entrepreneurs -- some call them trolls -- is buying, trading, selling and enforcing patents against companies to extract cash, not to compete in their businesses.

The result is that one almost never hears the word "patent" anymore without it being followed by the word "reform," and the gears of Congress are starting to turn.

Rep. Lamar S. Smith (R-Tex.), who heads the House subcommittee on intellectual property, is circulating a draft reform bill for what amounts to a public-comment period before he introduces formal legislation.

Problem is, reform is in the eye of the patent holder.

For example, large tech companies, several of which have lost high-profile infringement cases recently, want to stop the trolls from being able to hold them up for multimillion-dollar settlements. Even companies with deep pockets are vulnerable because their products can be pulled off the market if they are found to be infringing.

The tech firms want a higher standard for when such injunctions are granted, and want damages to be based only on the portion of the product covered by the patent in question, rather than the patent being considered
essential to the whole product or service.

But small inventors, and representatives from other industries such as biotechnology, argue that the hammer of injunction and high damage awards are the only things that hold back big companies from trampling on smaller competitors' patents, crushing them in the marketplace and then simply paying any fines as a cost of doing business.

Not on the table, however, are more controversial notions aimed at deeper change to the patent system. These were snuffed out long ago, in a process effectively hijacked by large companies and powerful patent-lawyer groups.

In an extensive report in 2003, for example, the Federal Trade Commission noted that many technologists and economists think there are too many patents, and especially wonder whether those for software and Internet business methods -- such as the Google bold-facing patent -- make sense.

Even Bruce R. Chizen, chief executive of Adobe Systems Inc. and chairman of the Business Software Alliance, which is leading the charge for the technology industry, acknowledges that allowing software patents in the 1980s was a bad idea. But Chizen argues that it's too late to turn back now.

A study released months later by the National Academies of Science argued that a key standard for granting patents needed to be "reinvigorated." Patents must pass muster as unique, useful and non-obvious, and many witnesses told both the NAS and the FTC that the standard for what was obvious has weakened significantly over time, leading to too many low-quality patents that often are the subject of litigation.

Many of these findings were quickly criticized by patent lawyers and companies.

When the FTC, NAS and the American Intellectual Property Law Association jointly sponsored a series of town meetings around the country to discuss next steps, none of these more controversial notions was on the agenda.

Instead, the meetings focused on areas of broad agreement between the groups.

A new procedure, for example, would allow patents to be contested and reviewed again by the patent office after they are granted but before challenges go to court.

In addition, outside parties would be allowed to bring information to the patent office that might help determine whether a patent should be awarded. "Prior art" that might show that an idea was not original is currently the responsibility of the patent applicant to provide.

And all agree that the U.S. Patent and Trademark Office needs more resources to do its job.

Patent issues tend to be nonpartisan, and some tweaking of the law seems likely from a Congress with a track record of strengthening intellectual property.

But perhaps more than any issue on Capitol Hill this year, this one is firmly in the hands of those with vested interests. Those with alternative ideas, and the general public, are on the outside, looking in.

Leslie Walker is away. Her .com column will resume when she returns. Jonathan Krim can be reached at krimj@washpost.com.

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