

applicants are laughing all the way to the bank.

Get this: a foreign applicant can file a patent application in his own country, or anywhere other than the United States, while delaying his application in the United States—a practice which H.R. 400 prevents. Consequently, the foreign applicant's patent issues quickly overseas, and not in the United States until much later. Under the Rohrabacher system, as the foreign-issued patent is about to expire, the foreign company may then abandon its delay tactics in the United States and allow its U.S. patent to issue, ensuring years of monopoly protection in our country. So the foreign applicant initially prevents American companies from selling competing products abroad, and to make matters worse, when the foreign patent expires, the foreign applicant receives a U.S. patent which then prevents American companies from selling competing products here. This encourages American companies to move overseas, taking American jobs with them.

Here's another example: right now a foreign applicant can come into the United States, take a product which is being held as a trade secret by an American company, patent it, and make the American inventor pay royalty fees for its own invention. This really happens. Small businesses who testified in front of our subcommittee have shared their personal stories about this. Mr. ROHRBACHER's bill allows this to continue. H.R. 400 allows the original American inventor to continue using his invention in the same way he was using it before he was sued by the foreign patent holder.

Here's another abuse, committed by foreign and American applicants, which Mr. ROHRBACHER allows and H.R. 400 stops. It's called submarine patenting. This procedure is a tool of self-serving predators who purposely delay their applications and keep them "hidden under the water" until someone else, with no way to know of the hidden application, invests in the research and development to produce a new consumer product, only to have the submarine rise above the surface and sue them for their innovation. One recent suit earned a submariner \$450 million at the expense of consumers. Submariners do not hire workers, invest in the economy, or advance technology. They only live to sue others who do invest and contribute. Mr. ROHRBACHER will tell you that there are hardly any submariners out there and that they constitute a minuscule amount. Of course, we all know that if you make your living suing American innovators, you sue as many as possible and hope to settle for nuisance value. That's why many cases brought by submariners are not recorded. I urge everyone to take a look at the front page story of the Wall Street Journal about this problem which appeared on April 9. It is a great problem which my bill prevents.

So you see, Mr. Speaker, some folks are confused about what this bill does and what it doesn't do. There have been some concerns that have come up on which there has been great discussion and significant negotiation. Those will form the basis of a floor manager's amendment which I will offer on Thursday.

Inventors have complained that the Office has not been able to spend its valuable resources on the most important function of the Office—granting patents and issuing trademarks with quality review in the shortest time

possible. The manager's amendment separates completely policy functions from operational functions. Policy functions are left to the Department of Commerce, while management and operational functions are vested completely in the PTO. This will allow the PTO to be led by a Director who will have only one mission: to process and adjudicate efficiently and fairly the important Government functions of granting patents and issuing trademarks.

Independent inventors and small businesses have expressed concern over the publication requirement contained in the bill. While publication has many benefits for both of these groups, the manager's amendment will give them a choice over whether or not they wish to be published. It will effectively exempt independent inventors and small businesses from publication by deferring it until 3 months after they have received at least two determinations on the merits of each invention claimed on whether or not their patent will issue. At this stage, the applicant knows whether or not his patent will issue, in which case it would be published anyway under today's law. If it will not be granted, the applicant can withdraw its application and avoid publication and protect the invention by another means.

Critics have been concerned about the language in the bill, taken from current applicable law, that allows the PTO to continue its current practice of accepting gifts in order to allow examiners to visit research sites to help them to a better job. In order to alleviate any concerns, founded or unfounded, the manager's amendment will explicitly subject the acceptance of any gifts to the provisions of the criminal code and require that written rules be promulgated to specifically ensure that the acceptance of any gifts are not only legal, but avoid any appearance of impropriety.

The manager's amendment will also adopt two measures included in a bill introduced by my colleague, Mr. HUNTER of California, which provide for an incentive program to better train examiners, and require publication for public inspection all solicitations made by the PTO for contracts. These are good ideas that make H.R. 400 an even better bill, and I thank the gentlemen for his contribution to this important debate.

While the current bill ensures that the Advisory Board for the new PTO should be comprised of diverse users of the Office in order to help Congress conduct more effective oversight, the manager's amendment will explicitly require that inventors be included as members. While this was always the intent of the provision, it will be clarified.

The Appropriations Committee has expressed concern over the borrowing authority in the bill, and critics, although many misunderstand how the authority works under the control of Congress, have made much ado about a procedure which would offer a small possibility for the new PTO to borrow money instead of having to raise fees on inventors to pay for any high technology future projects. Accordingly, the manager's amendment will strike the borrowing authority provisions from the bill.

In further guaranteeing an inventor at least 17 years of patent term from the time of issuance, the manager's amendment will allow inventors adequate time to respond to inquiries from the PTO regarding their applications. The manager's amendment will also allow inventors who were adversely affected by the

change in patent term in 1995 to receive a further limited examination to avoid losing term.

Small businesses and independent inventors have been concerned that the new PTO may not recognize the longstanding reduction in fees applicable to these constituencies. The manager's amendment requires that the agency continue to provide that small businesses and independent inventors pay half-price for their patent applications.

Independent inventors have claimed that the reexamination provisions contained in H.R. 400 are too broad, even though they simply offer an alternative to expensive Federal court litigation that occurs today at the expense of and sometimes leading to the bankruptcy of small businesses and independent inventors. To make reexamination an even more attractive and cheaper alternative, the manager's amendment will require all multiple requests for reexamination to be consolidated into a single proceeding.

Importantly, reexamination is also limited to prior patents and publications and will not be expanded at all from the process as it is done today.

As you can see, Mr. Speaker, the committee has been constructively engaged with the small business and independent inventor community for over 2 years. These final safeguards for those constituencies will be added to the numerous safeguards already contained in the bill, including special provisions for the university and research communities.

SUBMARINE PATENTING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROHRBACHER] is recognized for 5 minutes.

Mr. Speaker, the gentleman from North Carolina, [Mr. COBLE] and I, who have disagreement, have great great respect for one another; and I am very happy to have the gentleman from North Carolina as an admired adversary on this particular bill. Although we agree on 90 percent of everything else, we strongly disagree on this particular bill. And I am very pleased that we can do this in the spirit of friendship. I thank the gentleman.

Just a couple thoughts about the battle that will take place here on the floor of the House of Representatives on Thursday. It is a battle between two different distinct points of view as to what direction our country should go in terms of patents.

There are several issues at stake. One of the issues is not submarine patenting. The submarine patenting which is being used as an excuse to pass all kinds of other things within a bill is not a factor in this debate.

The Congressional Research Service has found that my substitute, the Rohrabacher substitute, as well as the bill of the gentleman from North Carolina, [Mr. COBLE] bill, H.R. 400, will end the practice of submarine patenting.

This was found by an independent body that examined both of our pieces of legislation and came to the conclusion that the practice of submarine patenting, which was of limited importance to begin with, will be put to an end forever in both of our bills.

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So both of our bills handled the problem, as described by an independent analysis. Obviously there are other issues at stake. Many of the things that the gentleman from North Carolina [Mr. COBLE] has described tonight I agree with. And I, in fact, agreed to put almost every one of those things into my substitute bill or agreed to support his legislation, if those things were continued to be in the bill except for the three major differences between us. There are three differences between the Rohrabacher substitute and H.R. 400, what I call the Steal American Technologies Act.

Those differences being, H.R. 400, which will be coming to a vote here, which was originally called the Patent Publication Act, its No. 1 goal is mandating that American patents, whether or not they have been issued, a patent application, will be published after 18 months so that every thief in the world, every person who wants to bring down our standard of living, every one of our economic adversaries will know all of our new technological ideas and secrets even before the patent is issued.

This problem is handled by H.R. 400 by saying, OK, if the Chinese or the Japanese or other thieves around the world steal the patent from the American inventor after 18 months, once that patent is issued, let us say 5 years later, that inventor now will have the right to sue the Japanese corporation or the Chinese corporation. The People's Liberation Army is stealing a lot of intellectual property rights. Imagine an American inventor trying to sue the People's Liberation Army.

This is a joke. This is not protection for the American people. This is a giveaway of American technology, and even the most unsophisticated person can see we do not give away our secrets until that patent is issued. That has been our right, and this bill H.R. 400 will take it away.

The second thing that will be in the bill that we have disagreed on, the other things we do agree on, we can correct those, is reexamination. This bill opens the door to actually making all kinds of new challenges against existing patents so Americans who own patents who now had very little, there is very little opportunity to challenge their ownership of current patents, will find that they are vulnerable to challenges from large corporations, foreign and domestic.

Our little guys, those small companies, are going to be tied up for years with litigation by people who are challenging their patent rights of a patent they already supposedly own.

Finally, the patent office has been part of the U.S. Government since the founding of our country. It is written into our Constitution. There has never been a scandal dealing with the patent examiners because they have been insulated from all outside influences.

This bill would corporatize the American patent office. It would take it out

of the government as a government agency and make it a semiprivate, semigovernment corporation. Does that make any difference? We do not know what difference it will make.

This corporate entity will have the right to take gifts from foreign corporations and domestic corporations. It will have the right to accept money and gifts and in-kind services. And unlike other government agencies, there will be no rules. The rules are waived against this new corporate entity, the Patent Office, in controlling where those gifts are spent.

This is dangerous. I ask my colleagues to join me in opposing H.R. 400, the Steal American Technologies Act, and supporting the Rohrabacher substitute.

HEALTH CARE COVERAGE FOR CHILDREN

The SPEAKER pro tempore (Mr. LUCAS of Oklahoma). Under the Speaker's announced policy of January 7, 1997, the gentleman from New Jersey [Mr. PALLONE] is recognized for 30 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I am pleased to say I will be joined tonight by the gentleman from New York [Mr. SERRANO]. We are here, once again, to talk about the lack of health insurance for children throughout this Nation. The figure of 10 million children who are uninsured has been put forward on this House floor many times, and it really is a scandal and, in my opinion, completely unacceptable.

The number of children without health insurance is growing and it is increasingly children in working families who are without the coverage.

Just in my own State alone we estimate that over 200,000 children are without health care coverage. In one of the dailies in my district, the Home News, just a few weeks ago in April, they did an editorial saying how inadequate coverage for children was in my home State. And they specifically mentioned that the Families USA organization here in Washington estimates there are 553,000 children in New Jersey receiving inadequate or no health coverage. So whether it is 200- or 500,000 in New Jersey alone, it clearly is simply unacceptable.

What this really means is that many children simply do not get any care unless they get very sick and end up in an emergency room, and that procedure makes no sense. It makes no sense to not have a child be able to go to a doctor, get very sick, and end up in an emergency room. It costs a lot more to treat an ailment once it has gotten to a very critical stage as opposed to preventing it when it first starts to occur, and it is also very harmful to a child's future health.

Obviously we do not want children to be sick and be impacted in terms of their adult life. And I think a problem clearly exists here where working fam-

ilies should not have to be in a position of constantly worrying about whether their child will get hurt at the playground or catch the cold or a flu that is going around at the school.

In other words, what we have is working parents who basically have to make choices about whether they are going to take their child to a doctor or not as opposed to paying the rent or doing something else.

I just wanted to say that, and I think we have said it over and over again on the House floor, Democrats have for a long time been committed to helping families provide health care for the children. It was last June, it will be almost a year now, that the Democrats rolled out their families first agenda. And one of the priorities was to ensure adequate coverage for the Nation's children.

We also started at the beginning of this session a Democratic health care task force, once again, with its major priority being to try to address the problem of children without health insurance. So Democrats have been there concerned about this issue. What we need to have is the Republicans who are in the majority join us.

There was some progress in this regard in the last few weeks, I have to say. The gentleman from California [Mr. THOMAS] of the Subcommittee on Health of the Committee on Ways and Means did have a hearing on the issue of kids health care. I want to applaud him for taking the initiative and at least recognizing the problem. But action has to follow.

My concern is that, even though there was one hearing in the Committee on Ways and Means, that there was not any indication as a result of that hearing that any bill is going to come to the floor or any effort is going to be made to mark up a bill and take some action on this issue.

Several Democrats, including myself, sent a letter to the Republican leadership in the last couple weeks urging them to move forward by marking up legislation and bringing a bill to the House floor by Mother's Day and Father's Day respectively, and that, we are saying, is mark up a bill that addresses the issue of lack of health insurance for children, mark it up in committee by Mother's Day, bring it to the floor for a vote on the House floor, on this floor by Father's Day.

And it is our hope that we can create such a ground swell of support behind making children's health care a reality that House Republicans will be forced eventually into action.

I wanted to say, before I introduce my colleague from New York, that the Democratic health care task force at this point is not necessarily saying that we have to have any particular solution in terms of legislation. Some of us are in favor of expanding Medicaid. Others have talked about block grants to the States along the lines of the Kennedy-Hatch bill, which is gaining momentum now in the Senate. Some of