

Mr. Speaker, on this fortieth anniversary of Hayes winning an Olympic gold medal, I commend and thank him for his service and dedication to our community.

TRIBUTE TO WEST BRANCH
HOSPITAL

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 8, 2004

Mr. STUPAK. Mr. Speaker, I rise today in recognition of a hospital in my district that has recently passed a remarkable milestone. On October 25, the board of trustees and members of the staff at the West Branch Regional Medical Center, formerly known as the Tolfree Memorial Hospital in West Branch, MI, will celebrate their 75th anniversary. For the past 75 years, the West Branch Regional Medical Center has provided service and care to patients in West Branch area.

The original Tolfree Memorial Hospital was built in West Branch in 1929, through the generosity and vision of local farmer, lumberman and banker John Tolfree. Over the years, as the community grew and the hospital became more regional in scope, several additions were constructed.

In 1991, it was determined by the Tolfree Memorial Hospital's Board of Trustees that the region had outgrown the facility. After careful financial planning which included fundraising, ground was broken for what is now known as the West Branch Regional Medical Center in 1996. The center was dedicated in 1999 and has been successfully serving Ogemaw County and the surrounding counties ever since. Patients no longer have to travel to Saginaw, MI, which is over an hour away.

West Branch Regional Medical Center is the result of many dedicated people who from the beginning had the foresight and the dedication to see this hospital grow with the community and become a regional medical facility.

In the tradition of the past administration, the current board of trustees for the West Branch Regional Medical Center have also recognized they could offer more services to the community. Along with celebrating their 75 years of service, on October 25, the West Branch Regional Medical Center will also unveil its plan for the next 3 to 5 years which includes the construction of an Ambulatory Care Center.

Mr. Speaker, I ask the U.S. House of Representatives to join me in congratulating the West Branch Regional Medical Center and its staff on their first 75 years of service and wishing them well in their next 75 years.

RECOGNIZING CENTER FOR CIVIL
EDUCATION

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 8, 2004

Mr. WAXMAN. Mr. Speaker, today I'd like to recognize the important work of the Center for Civic Education and the upcoming Second Annual Congressional Conference on Civic Education, which will be held this December in Washington, DC.

The Center for Civic Education plans annual congressional conferences to focus attention on the importance of civic preparation and engagement in the United States. The first conference was sponsored by the Alliance for Representative Democracy and hosted by the Joint Leadership of the United States Congress here in Washington in September 2003.

The 2003 conference led to the formation of state delegations that are currently working on policies that will restore the civic mission of our schools, consistent with each state's unique education structure. I'd like to commend the California delegation and its facilitator, Roy Erickson, for their leadership in the current efforts to design an action plan for our state. California is creating coalitions of stakeholders in public education who will build support for, develop and implement high quality civic education programs. Through these programs, we will ensure that our youth have the necessary civic knowledge, skills and attitudes to be engaged citizens. I want to express my strong support for the Center for Civic Education's efforts to increase democratic participation, and for the work of the upcoming conference.

THE PATENT QUALITY
ASSISTANCE ACT OF 2004

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 8, 2004

Mr. BERMAN. Mr. Speaker, today I join Representative BOUCHER in introducing the Patent Quality Assistance Act of 2004, PQA Act. Introduction of this legislation comes almost exactly one year after release of a Federal Trade Commission report entitled "To Promote Innovation: The Proper Balance of Competition and Patent Law and Policy," and several months after release of "A Patent System for the 21st Century" by the National Research Council. These reports both made a number of recommendations for increasing patent quality and ensuring that patent protection promotes, rather than inhibits, economic growth and scientific progress. Consistent with the goals and recommendations of those reports, the PQA Act contains a number of provisions designed to improve patent quality, deter abusive practices by unscrupulous patent holders, and provide meaningful, low-cost alternatives to litigation for challenging the patent validity.

I am a strong believer that the prospect of patent protection promotes innovation. However, I also believe that the patent system is strongest, and incentives for innovation greatest, when patents protect only truly deserving inventions. When functioning properly, the patent system should encourage and enable inventors to push the boundaries of knowledge and possibility. If the patent system allows questionable patents to issue and does not provide adequate safeguards against patent abuses, the system may stifle innovation and interfere with competitive market forces.

This bill represents our latest thoughts in an ongoing discussion about legislative solutions to patent quality concerns. We have considered the multitude of comments received on patent bills in years past, and acknowledge the problems to be difficult and, as yet, without

consensus solutions. It is clear, however, that introduction of specific legislation focuses and advances the discussion. It is also clear that the problems with the patent system have become exacerbated, rather than dissipating. With or without consensus, Congress must act soon to address these problems.

Thus, we introduce this bill at the end of this Congress with the intent of framing the debate going into the 109th Congress, and with every intention of passing legislation in the next two years.

The bill contains a number of initiatives to improve patent quality and ensure patents are positive forces in the marketplace.

Section 2 creates a post-grant opposition procedure. In certain limited circumstances, opposition allows parties to challenge a granted patent through a expeditious and less costly alternative to litigation.

Sections 3 and 4 permit patent examiners, within a limited time frame, to consider certain materials submitted by third parties regarding a pending patent application. Allowing such third party submissions will increase the likelihood that examiners are cognizant of the most relevant prior art, and therefore constitute a front-end solution for strengthening patent quality.

Section 5 addresses the inequitable incentives that exist between patent holders who indiscriminately issue licensing letters, and the parties who receive these letters. Patent holders frequently assert that another party is using a patented invention, and for a fee, offer to grant a license for such use. Current law provides no disincentive to indiscriminate and unfounded issuance of such licensing letters.

Conversely, parties receiving such licensing letters have a strong incentive to pay up even if they believe they are not engaged in infringement. Once in receipt of such a letter, the recipient faces no good options. If he ignores the letter, the recipient may be liable for treble damages as a willful infringer. The recipient can avoid being found a willful infringer if he obtains an opinion from a patent attorney that the recipient is not committing infringement, but such letters frequently cost up to \$50,000. A recipient cannot, however, file for a declaratory judgement of non-infringement unless the licensing letter creates a "Case or Controversy," and of course these letters are typically drafted to avoid meeting this threshold.

Section 5 addresses this inequitable situation. It ensures that recipients of licensing letters will not be exposed to liability for willful infringement unless the letter gives rise to a "Case or Controversy", and thus, allows the recipient to seek a declaratory judgement.

Section 6 is designed to address the deleterious effect on innovation created by patent "trolls." We have learned of innumerable situations in which patent holders, who made no effort to commercialize their inventions, waited in the shadows until another party had invested substantial resources in a business or product that may infringe on the unutilized invention. The patent troll then steps out of the shadows and demands that the alleged infringer pay a significant licensing fee to avoid an infringement suit. The alleged infringer often feels compelled to pay almost any price named by the patent troll because, under current law, a permanent injunction issues automatically upon a finding of infringement. Issuance of a permanent injunction would, in

turn, force the alleged infringer to lose the substantial investment made in the infringing business or product.

While we may question their motives, we do not question the right of a patent troll to sue for patent infringement, obtain damages, and seek a permanent injunction. However, the issuance of a permanent injunction should not be automatic upon a finding of infringement. Rather, when deciding whether to issue a permanent injunction, courts should weigh all the equities, including the "unclean hands" of the patent trolls, the failure to commercialize the patented invention, the social utility of the infringing activity, and the loss of invested resources by the infringer. After weighing the equities, the court may still decide to issue a permanent injunction, but at least the court will have ensured that the injunction serves the public interest. Section 6 accomplishes this goal.

Section 7 provides a much needed fix for the inter partes re-examination procedure, which provides third parties a limited opportunity to request that the PTO Director re-examine an issued patent. The limitations on the inter partes re-examination process so restrict its utility that it has been employed only a handful of times. Section 7 increases the utility of this re-examination process by relaxing its estoppel provisions. Further, it expands the scope of the re-examination procedure to include redress for all patent applications regardless of when filed.

Finally, Section 8 is similar to a provision in a bill we introduced during the 106th Congress. Section 8 addresses our concern that patents have been issued for the mere computer implementation of previously known inventions. The idea of implementing a method for doing business online should not, in and of itself, be sufficient to secure patent protection for that method of doing business. Section 8 creates a presumption of obviousness if the only "novelty" is in the fact that the method utilizes computer technology.

My colleague from Virginia, Mr. BOUCHER, and his staff deserve the greatest measure of recognition for their hard work in developing this legislation. In addition, the chairman of the Subcommittee on Courts, the Internet and Intellectual Property, Mr. SMITH, deserves credit for bringing these issues to the forefront with the numerous hearings on patent quality. Also deserving of thanks are the many constitutional scholars, policy advocates, private parties, and government agencies that contributed their time, thoughts, and drafting talents to this effort. I am pleased that, finally, a consensus has emerged among the various collaborators in support of the basic "post grant opposition" approach embodied in the legislation. This bill is the latest iteration of a process we started over 3 years ago.

Though we developed this bill in a highly collaborative and deliberative manner, I do not maintain that it is a "perfect" solution. Thus, I will remain open to suggestions for amending the language to improve its efficacy or rectify any unintended consequences.

As I have previously said: "The bottom line in this: there should be no question that the U.S. patent system produces high quality patents. Since questions have been raised about whether this is the case, the responsibility of Congress is to take a close look at the functioning of the patent system." Patent quality is key to continued innovation. Thus, we must

act during the 109th Congress to assure the highest level of patent quality.

HONORING DR. GARY LOUIS ROSE
M.D. ON THE OCCASION OF HIS
15TH YEAR OF PRACTICE IN
LEWISVILLE, TX

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 8, 2004

Mr. BURGESS. Mr. Speaker, I rise today to honor the commitment of a very caring physician in my community, Dr. Gary L. Rose.

Dr. Rose came to our community 15 years ago and quickly established himself as one of the preeminent physicians in the area. Dr. Rose is an obstetrician. He has delivered thousands of babies in our area and provided consistently excellent professional medical care to his patients.

Mr. Speaker, almost anywhere I go in my district, I encounter families whose lives have been touched by Dr. Rose. They speak of him almost reverently about the high quality of care he has rendered throughout the time that he has practiced in our community. With patience and understanding he solves complex medical diagnostic dilemmas while serving the Lewisville community. He is also a technically gifted surgeon, and he has brought many a patient through a serious crisis in the operating room and back on the road to good health.

Mr. Speaker we are truly fortunate in my community to have the type of dedicated medical professional that Dr. Rose personifies, and I wish him every success during the continuance of his career in medicine.

SITUATION IN IRAQ

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 8, 2004

Ms. LOFGREN. Mr. Speaker, the President and Vice President insist that things are improving in Iraq and that all America must do is "stay the course."

Their evaluation of our situation in that troubled land has been challenged by many. And, of course, we all know that one cannot find a diagnosis until one admits that there is a serious problem.

One of the most gripping accounts of the situation in Iraq I have read recently was prepared by Wall Street Journal reporter Farnaz Fassihi. Regrettably, it appears that this reporter may be facing ramifications for speaking the truth. The New York Post has defended her editorially.

It is important for Americans to deal with the truth. I recommend reading this reporter's account as well as her defense by the New York Post.

[From the New York Post, Sept. 30, 2004]

WSJ EDITOR BACKS IRAQ SCREED

(By Keith J. Kelly)

Wall Street Journal Editor Paul Steiger has come to the defense of his beleaguered Baghdad correspondent, who blasted the war

in Iraq as a "disaster" that has deteriorated "into a raging barbaric guerilla war" that will haunt the United States for decades.

"Despite President Bush's rosy assessments, Iraq remains a disaster," Wall Street Journal reporter Farnaz Fassihi wrote in a group e-mail to friends that inadvertently became widely posted on the Web.

Yesterday, the e-mail was mentioned prominently on the journalism blog by Jim Romenesko on the Poynter.org site.

Steiger said Fassihi's missive included "a few expressions of purely personal opinion about the situation there."

But the Wall Street Journal editor said the musings in no way distorted his reporter's ability to deliver fair coverage from Baghdad.

In her e-mail, Fassihi laments, "Being a foreign correspondent in Baghdad these days is like being under virtual house arrest."

Fears of abductions have sharply curtailed reporters' ability to cover events or move about.

"My most pressing concern every day is not to write a kick-ass story but to stay alive and make sure our Iraqi employees stay alive. In Baghdad I am a security personnel first, a reporter second."

She also said the "Iraqi government doesn't control most Iraqi cities." She said there are car bombs, assassinations, kidnappings and beheadings. "The situation, basically, means a raging barbaric guerilla war."

Steiger said: "Ms. Fassihi's private opinions have in no way distorted her coverage, which has been a model of intelligent and courageous reporting, and scrupulous accuracy and fairness."

FROM BAGHDAD—A WALL STREET JOURNAL
REPORTER'S E-MAIL TO FRIENDS

(By Farnaz Fassihi)

Being a foreign correspondent in Baghdad these days is like being under virtual house arrest. Forget about the reasons that lured me to this job: a chance to see the world, explore the exotic, meet new people in far away lands, discover their ways and tell stories that could make a difference.

Little by little, day-by-day, being based in Iraq has defied all those reasons. I am house bound. I leave when I have a very good reason to and a scheduled interview. I avoid going to people's homes and never walk in the streets. I can't go grocery shopping any more, can't eat in restaurants, can't strike a conversation with strangers, can't look for stories, can't drive in any thing but a full armored car, can't go to scenes of breaking news stories, can't be stuck in traffic, can't speak English outside, can't take a road trip, can't say I'm an American, can't linger at checkpoints, can't be curious about what people are saying, doing, feeling. And can't and can't. There has been one too many close calls, including a car bomb so near our house that it blew out all the windows. So now my most pressing concern every day is not to write a kick-ass story but to stay alive and make sure our Iraqi employees stay alive. In Baghdad I am a security personnel first, a reporter second.

It's hard to pinpoint when the 'turning point' exactly began. Was it April when the Fallujah fell out of the grasp of the Americans? Was it when Moqtada and Jish Mahdi declared war on the U.S. military? Was it when Sadr City, home to ten percent of Iraq's population, became a nightly battlefield for the Americans? Or was it when the insurgency began spreading from isolated pockets in the Sunni triangle to include most of Iraq? Despite President Bush's rosy assessments, Iraq remains a disaster. If under Saddam it was a 'potential' threat,