

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,

under the Americans it has been transformed to 'imminent and active threat,' a foreign policy failure bound to haunt the United States for decades to come.

Iraqis like to call this mess "the situation." When asked "how are things?" they reply: "the situation is very bad."

What they mean by situation is this: the Iraqi government doesn't control most Iraqi cities, there are several car bombs going off each day around the country killing and injuring scores of innocent people, the country's roads are becoming impassable and littered by hundreds of landmines and explosive devices aimed to kill American soldiers, there are assassinations, kidnappings and beheadings. The situation, basically, means a raging barbaric guerilla war. In four days, 110 people died and over 300 got injured in Baghdad alone. The numbers are so shocking that the ministry of health—which was attempting an exercise of public transparency by releasing the numbers—has now stopped disclosing them.

Insurgents now attack Americans 87 times a day.

A friend drove thru the Shiite slum of Sadr City yesterday. He said young men were openly placing improvised explosive devices into the ground. They melt a shallow hole into the asphalt, dig the explosive, cover it with dirt and put an old tire or plastic can over it to signal to the locals this is booby-trapped. He said on the main roads of Sadr City, there were a dozen landmines per every ten yards. His car snaked and swirled to avoid driving over them. Behind the walls sits an angry Iraqi ready to detonate them as soon as an American convoy gets near. This is in Shiite land, the population that was supposed to love America for liberating Iraq.

For journalists the significant turning point came with the wave of abductions and kidnappings. Only two weeks ago we felt safe around Baghdad because foreigners were being abducted on the roads and highways between towns. Then came a frantic phone call from a journalist female friend at 11 p.m. telling me two Italian women had been abducted from their homes in broad daylight. Then the two Americans, who got beheaded this week and the Brit, were abducted from their homes in a residential neighborhood. They were supplying the entire block with round the clock electricity from their generator to win friends. The abductors grabbed one of them at 6 a.m. when he came out to switch on the generator; his beheaded body was thrown back near the neighborhoods.

The insurgency, we are told, is rampant with no signs of calming down. If any thing, it is growing stronger, organized and more sophisticated every day. The various elements within it—Baathists, criminals, nationalists and Al Qaeda—are cooperating and coordinating.

I went to an emergency meeting for foreign correspondents with the military and embassy to discuss the kidnappings. We were somberly told our fate would largely depend on where we were in the kidnapping chain once it was determined we were missing. Here is how it goes: criminal gangs grab you and sell you up to Baathists in Fallujah, who will in turn sell you to Al Qaeda. In turn, cash and weapons flow the other way from Al Qaeda to the Baathists to the criminals. My friend Georges, the French journalist snatched on the road to Najaf, has been missing for a month with no word on release or whether he is still alive.

America's last hope for a quick exit? The Iraqi police and National Guard units we are spending billions of dollars to train. The cops are being murdered by the dozens every day—over 700 to date—and the insurgents are

infiltrating their ranks. The problem is so serious that the U.S. military has allocated \$6 million to buy out 30,000 cops they just trained to get rid of them quietly.

As for reconstruction: firstly it's so unsafe for foreigners to operate that almost all projects have come to a halt. After two years, of the \$18 billion Congress appropriated for Iraq reconstruction only about \$1 billion or so has been spent and a chunk has now been reallocated for improving security, a sign of just how bad things are going here.

Oil dreams? Insurgents disrupt oil flow routinely as a result of sabotage and oil prices have hit record high of \$49 a barrel. Who did this war exactly benefit? Was it worth it? Are we safer because Saddam is holed up and Al Qaeda is running around in Iraq?

Iraqis say that thanks to America they got freedom in exchange for insecurity. Guess what? They say they'd take security over freedom any day, even if it means having a dictator ruler.

I heard an educated Iraqi say today that if Saddam Hussein were allowed to run for elections he would get the majority of the vote. This is truly sad.

Then I went to see an Iraqi scholar this week to talk to him about elections here. He has been trying to educate the public on the importance of voting. He said, "President Bush wanted to turn Iraq into a democracy that would be an example for the Middle East. Forget about democracy, forget about being a model for the region, we have to salvage Iraq before all is lost."

One could argue that Iraq is already lost beyond salvation. For those of us on the ground it's hard to imagine what if any thing could salvage it from its violent downward spiral. The genie of terrorism, chaos and mayhem has been unleashed onto this country as a result of American mistakes and it can't be put back into a bottle.

The Iraqi government is talking about having elections in three months while half of the country remains a 'no go zone'—out of the hands of the government and the Americans and out of reach of journalists. In the other half, the disenchanted population is too terrified to show up at polling stations. The Sunnis have already said they'd boycott elections, leaving the stage open for polarized government of Kurds and Shiites that will not be deemed as legitimate and will most certainly lead to civil war.

I asked a 28-year-old engineer if he and his family would participate in the Iraqi elections since it was the first time Iraqis could to some degree elect a leadership. His response summed it all: "Go and vote and risk being blown into pieces or followed by the insurgents and murdered for cooperating with the Americans? For what? To practice democracy? Are you joking?"

INTRODUCING THE EMERGENCY RELIEF FOR CARIBBEAN NATIONALS ACT

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 8, 2004

Mr. HASTINGS of Florida. Mr. Speaker, epic floods, death, and starvation. Unfortunately for the people of Haiti, Grenada and the Cayman Islands these are not Biblical times of which I speak, but the here and now.

Mr. Speaker, Tropical Storm Jeanne and Hurricane Ivan have particularly devastated Haiti, Grenada and the Cayman Islands. There

are no structures in place to respond to the needs of the populations, especially in areas like Gonaives, St. George and Grand Cayman, where Jeanne and Ivan hit hardest.

The unusual and extraordinary hurricane activity in the Caribbean during the 2004 season has prevented many Caribbean nationals in the United States from returning to their home countries, and for these countries to receive their repatriation.

Responding to these dire needs, I have introduced the "Emergency Relief for Caribbean Nationals Act," which designates Haiti, Grenada and the Cayman Islands under section 24 of the Immigration and Nationality Act in order to make nationals of those countries eligible for Temporary Protected Status (TPS).

Mr. Speaker, if there was ever a time for the federal government to grant Temporary Protected Status it is now.

TPS has been granted in the past to nationals of Sudan, Liberia, Guinea-Bissau, Somalia, Burundi, Bosnia-Herzegovina, El Salvador and Guatemala due to political unrest in those countries.

Also, TPS was granted to Hondurans and Nicaraguans after Hurricane Mitch in 1998 and to Salvadorans after an earthquake in 2001, and to Montserratians in 1995 after a volcano eruption. Sadly, Tropical Storm Jeanne and Hurricane Ivan caused similar devastation and suffering in Haiti, Grenada and the Cayman Islands, and in the same way merit TPS.

The startling facts of the natural disaster in the Caribbean are the following:

Tropical Storm Jeanne came ashore on the Island of Hispaniola, lashing first the Dominican Republic and then Haiti on September 16. When Jeanne hit, Haiti was already struggling to deal with political instability and the aftermath of serious floods in May. Nevertheless, Tropical Storm Jeanne hit Haiti with devastating force. More than 1,500 people are now known to have died and more than 1,000 are missing. Also, more than 300,000 people have been left homeless.

The situation is so calamitous that Haiti's Prime Minister Grerard Latortue said after visiting the stricken northern city of Gonoies, "We have a problem with bodies: there is a risk of epidemic. If you can picture this: there is no electricity, the morgues are not working, there is water everywhere."

Only weeks earlier, Hurricane Ivan, the strongest storm to hit the Caribbean in a decade, pounded Grenada. Hurricane Ivan killed 39 people in Grenada and left 40,000 of its 90,000 people living in 183 houses, schools and churches that have been converted into shelters. Grenada's capital, St. George, was hit by 125 mph winds—flattening homes and disrupting power. The storm destroyed the city's emergency operations center, the main prison, many schools, and damaged the main hospital.

Now an environmental health hazard has arisen in Grenada. The runoff, which contains pathogens from several sources, including human waste, is contaminating rivers where people are washing and bathing.

Thereafter, Hurricane Ivan blasted the Cayman Islands with 150 mph winds that ripped roofs off houses, uprooted trees and caused flooding across the British territory. 15 to 20 percent of homes on the eastern part of the Cayman Islands were completely destroyed, and another 50 percent suffered significant damage.