

□ 0915

PROVIDING FOR CONSIDERATION
OF H.R. 1908, PATENT REFORM
ACT OF 2007

Mr. WELCH of Vermont. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 636 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 636

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1908) to amend title 35, United States Code, to provide for patent reform. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions.

SEC. 2. During consideration in the House of H.R. 1908 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

The SPEAKER pro tempore. The gentleman from Vermont is recognized for 1 hour.

Mr. WELCH of Vermont. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN

DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. WELCH of Vermont. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H. Res. 636.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. WELCH of Vermont. Mr. Speaker, I yield myself such time as I may consume.

H. Res. 636 provides for consideration of H.R. 1908, the Patent Reform Act of 2007, under a structured rule. The rule provides 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Judiciary Committee. The rule makes in order and provides appropriate waivers for five amendments: a bipartisan manager's amendment, three Republican amendments, and one Democratic amendment.

Mr. Speaker, H.R. 1908 is a necessary bill and landmark legislation. The last time that our patent laws had been substantially updated was 1952, over a half century ago. Much, obviously, has changed in the United States and the world in those 50 years, and that is quite an understatement. Unfortunately, the U.S. patent law has failed to keep up.

Before I discuss the merits of the underlying bill, I must commend Chairman CONYERS, Subcommittee Chairman BERMAN and Ranking Member Mr. SMITH for their tireless work on this bill. It has not been easy to make the reforms that are so intricate and complex in such a complicated system, but these gentlemen worked hard with their committee and did so admirably, bringing to us a patent reform bill that is going to move America forward.

I would also be remiss if I did not acknowledge the tremendous contribution of Senator LEAHY, who happens to be someone I am particularly proud as he is the senior leader of our delegation here in Congress. As chairman of the Senate Judiciary Committee, he spent years working on the patent system and has become a driving force behind getting this legislation to the floor.

All of us, I believe, in this House see this bill as major progress in reflecting a commitment to the protection and support of the Nation's intellectual property. This system was built to sustain and protect the nuts and bolts of the American economy, our ideas and innovations.

The legislation does enjoy very strong bipartisan support. Both Ranking Member SMITH and subcommittee Ranking Member COBLE, who have done great and hard work, are cosponsors. It is the product of 4 years of hearings, debates, negotiations, and compromises. Since 2001, there have been over 21 hearings on patent issues

at the subcommittee level, and the subcommittee chairman and ranking member sought input from, among others, the Federal Trade Commission, U.S. Solicitor General, National Academy of Sciences, and businesses ranging from high tech and biotech companies to traditional manufacturing and pharmaceutical companies, as well as from our university community and from labor.

H.R. 1908 reforms our outdated patent system, which currently encourages patent speculation, increases litigation, often harms small inventors and impedes innovation.

First, the legislation moves the United States into a pure first-to-file patent system. Right now the United States is literally the only major industrialized country to retain the first-to-invent system. This change from first-to-invent to first-to-file will inject clarity and certainty into the process and relieve the U.S. system of some extremely burdensome requirements such as protracted interference proceedings often costing up to a million dollars to determine which of many applicants deserves a patent and detailed record keeping. Both of these often disadvantage smaller inventors who might not have the resources to initiate such proceedings.

This change to a first-to-file system puts the U.S. in sync with every other industrialized country. Greater harmonization is obviously going to make it easier for U.S. inventors to secure patent rights in other countries as international patent protection becomes increasingly important to their ability and the ability of United States inventors to compete on a level playing field.

Next, this legislation makes important improvements to the patent system by which patents can be reexamined. By providing for reexamination of issued patents, H.R. 1908 eliminates the ability to intentionally "game the system" by speculating on the issuance of very poor-quality patents, nothing added to the intellectual capital of this country, but used as a device to increase private gain. This provides a streamlined alternative to costly patent litigation. This ability to have a quality check on patents that have already been issued is crucial to the integrity of the patent system as patents of questionable value can stifle innovation.

Companies around the country are much like some companies that operate in Vermont, including IBM, which has been a leader in the number of issued patents for the past 14 years in our State. They were awarded in 10 years 3,621 patents in the U.S. in 2006; 360 of those, fully 10 percent, came from the IBM office in Essex Junction, Vermont. That is 10 percent of their total patents from Vermont alone. They have been in business for decades, and improving the quality and security of the patent system is extraordinarily important to them, and obviously to

other individuals and companies large and small around our country.

This bill also allows third parties to submit documents relevant to the examination of a patent application. This provision addresses the growing concern that patents have been issued on inventions that were publicly known and in prior use to the filing of the application. This is particularly important in the newer areas of technology in fields that do not yet have a fully well-developed tradition of publishing findings such as computer systems and software and business methods.

Finally, this bill makes some crucial improvements to the calculation and apportionment of damages. H.R. 1908 allows for the reasonable royalty calculations that more accurately reflect the value of any invention that is being infringed. Our patent system is far too important to be behind the times. Quality patents must continue to be issued. They must continue to be protected for those who have legitimately created a new invention.

This legislation is a huge step in modernizing this system for decades of American innovation to come. I urge my colleagues to support this rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I would like to thank the gentleman from Vermont (Mr. WELCH) for the time, and I yield myself such time as I may consume.

When the Founders of this great Republic drafted our Constitution, they had the revolutionary vision that brought us this great and vibrant representative democracy that has lasted over 200 years. Included in the landmark Constitution that has served our Nation so marvelously is a provision that gives us, the Congress, the power "to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." This provision receives little attention; but over the last two centuries it has played a critical part in the growth of the economy and the power, the wealth of the United States. Today, American intellectual property is worth over \$5 trillion, more than that of any other country in the world. It also comprises more than half of all U.S. exports, driving almost half of the Nation's economic growth.

As Mr. WELCH so eloquently stated, the last time Congress overhauled the patent system was over 50 years ago. Since then the fundamental underpinnings of our economy have undergone dramatic changes. But the patent system has remained generally static and now faces some difficulty in meeting the needs of our dynamic economy. So we must reform our patent system in order to meet the needs of our economy here and in the global marketplace, but we must do so in a way that protects, that continues to

protect the intellectual property rights of all inventors and industries.

Today we are debating changing the system that President Abraham Lincoln called one of the three most important developments in world history. Yet on such a truly significant piece of legislation, legislation that will affect our economy for decades, the Rules Committee majority has severely restricted the input of Members of this House, the input that they can have on this extraordinarily important piece of legislation.

The rule brought forth by the majority allows only five amendments, five of the 14 amendments submitted. I submitted to you, Mr. Speaker, that is no way for the House to debate this important legislation. The majority should bring this bill to the floor with the opportunity for all Members to present their ideas, their proposals, their amendments, for the consideration of all of our colleagues. The majority should bring this legislation to the floor under an open rule.

I remind our friends of one of the central tenets of their campaign last fall. They said they would run the Congress in a more open and bipartisan manner. In fact, on December 6, 2006, the distinguished Speaker, Congresswoman PELOSI, reiterated her campaign promise. She said: "We promised to the American people that we would have the most honest and open government, and we will."

□ 0930

Here we are again with a restrictive rule, even on such a significant piece of legislation as the reform of our patent system.

The majority, Mr. Speaker, unfortunately is not living up to its promises, and it is the duty of the minority to remind the majority of when the majority falls short of the majority's promises.

It was quite clear from the testimony at the Rules Committee yesterday, very interesting testimony, very enlightening. It's been years in the making this legislation. There are Members of our Congress that have put a tremendous amount of effort and study and time into this critically important issue.

It was evident at the Rules Committee that this bill was drafted in an open manner, in a bipartisan manner. Why not thus continue the bipartisanship that has forged this important piece of legislation, why not continue that bipartisanship here on the floor today with an open rule?

Notwithstanding how Members may feel about the underlying bill, Mr. Speaker, I would urge all of our colleagues to vote against this rule, vote against this rule so that we can have a full and open debate on this important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. WELCH of Vermont. Mr. Speaker, I yield such time as he may con-

sume to the gentleman from California (Mr. BERMAN), chairman of the Intellectual Property Subcommittee.

Mr. BERMAN. Mr. Speaker, I thank my friend from Vermont for yielding me the time and for his really very complete discussion and understanding of the legislation which is now at stake, and I rise in strong support of this bill and particularly the rule.

I might point out in context of the rule that, as the gentleman from Florida suggested, 14 amendments were offered. A number of those amendments, five of them, were made in order, and a number of the other amendments were worked out and are part of the manager's amendment. So many of the issues raised in the context of openness are continuing up to this point.

This has been both a bipartisan process, and I might suggest with respect to the people who are supporting the product of this bipartisan process, the rule is being supported on a bipartisan basis.

When functioning properly, the patent system encourages and enables inventors to push the boundaries of knowledge and possibility. I support strong, robust protection for quality patents. However, when the system functions improperly, such as allowing an overly broad or obvious patent, the patent systems can stifle innovation and harm America's competitiveness in the global economy.

Such patents cover arguably obvious inventions. An example is crustless peanut butter and jelly sandwiches for which a patent was obtained. However, the much more insidious and troubling kinds of poor quality patents are the ones that are granted which impede commerce or further invention because they create a patent thicket so wide and so dense that an entire industry or segment of our economy becomes subservient to a single patent from a single innovator.

Many groups, agencies and citizens have written volumes on the need for reform, the United States Patent and Trademark Office, the Federal Trade Commission, the National Academy of Science, the Intellectual Property Owners Association, the American Bar Association Intellectual Property Division and the American Intellectual Property Association. All of the studies concluded that the current system is in need of changes if it is to remain viable in the new technology global economy. The moment is ripe to move the patent system forward to meet the challenges of the 21st century. Serious flaws have to be fixed for our system to remain robust now and long into the future.

As the gentleman from Florida acknowledged in his comments which preceded mine, this legislation is the result of a substantial amount of work, not just over this Congress but over the past three Congresses. We did not undertake this endeavor lightly. This isn't a rush to judgment. It isn't a rush to legislate.

We don't claim that this bill at this point is perfect, but this remains only one step in the process. Like all compromises, not everyone received everything they wanted, which is honestly just as it should be. This legislation favors no industry, no person, organization or interest group. It seeks to solve problems that we have identified and have been identified for us by outside experts and agencies. The legislation does what is best for America and our spirit of inventiveness and innovation, and it protects our position within the increasingly competitive global marketplace.

RICK BOUCHER and I started down this path a long time ago, since that time working very closely with the then-chairman of the subcommittee and now the ranking member of the Judiciary Committee, LAMAR SMITH; with our subcommittee ranking member and former chairman of the subcommittee, HOWARD COBLE. We have held 20 hearings over 6 years. We've invited or heard from independent inventors, universities, large corporate entities, pharmaceutical companies, high-tech companies, manufacturers, the financial services industries, biotech companies, the U.S. PTO, the ABA, the Intellectual Property Organization, judges of district court and at appellate levels, economists and consumer groups. All views were heard and considered to arrive at a bill that we have before us today, and this is a good bill.

There will be four more suggestions made for changes to the bill, amendments by Mr. ISSA, Ms. JACKSON-LEE and Mr. PENCE. These amendments add valuable changes to the bill. I won't go into detail now in discussing those amendments, but they address issues raised by small inventors and by people who want to make sure that the PTO rulemaking authority has adequate oversight by the Congress.

I urge my colleagues to grant us the rule, to take this important piece of legislation and move it forward. And my commitment to everyone in this Chamber is to recognize that there are still issues that need to be worked on and that we will be working to try and achieve the best possible balance without undercutting the need for fundamental reform that exists.

I urge my colleagues to adopt the rule.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, at this time, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the distinguished ranking member of the Rules Committee.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I thank my friend for yielding and I would like to begin by expressing my appreciation to my friend from Miami for his very thoughtful and eloquent statement going back to 1790 and the role that patents have played in the very founding of our country.

I want to say also, as I look around the floor and think about the Rules Committee meeting that we had, I see the distinguished gentleman from Maine (Mr. MICHAUD) who was joined by Mr. MANZULLO in the Rules Committee last night, my good friend from California (Mr. ROHRBACHER), who was here on the floor.

What I will say is that there is bipartisan support for this bill, Mr. Speaker, as my good friend from California (Mr. BERMAN) correctly said, but there's also bipartisan opposition to this bill, Mr. Speaker, and it is for that reason that I believe it is absolutely imperative that we do, as Mr. DIAZ-BALART has pointed out, have the most open and transparent process imaginable in dealing with what is seen as a very dull issue. It leads many people to doze off or their eyes to glaze over when talking about patent law, but it is a critically important issue when we think about the basis of the United States of America and property rights and all.

While I intend to support final passage of the underlying legislation, a great deal of concern has, in fact, been raised on a number of issues included in this bill, as I said, making it a perfect example as to why this fully open and transparent legislative process, which unfortunately this restrictive rule denies, is a mistake and shouldn't be done.

The underlying bill deals with a tremendously critical and fundamental aspect of our economy. It addresses a significant problem but in a way that has raised concerns, and it involves incredibly arcane and technical policy. For all of these reasons, we should be allowing a full and open debate, and I see my friend Mr. GOHMERT here who I know has also joined in raising very grave concerns about where it is we're going on this issue.

We should be encouraging a greater flow of information, not cutting it off, and unfortunately, this restrictive rule does just that.

Ensuring both the protection and the quality of patents is absolutely essential in our high-tech, knowledge-based 21st century economy. A cursory glance at the state of patent litigation is all it takes to see that we haven't gotten it quite right. Patent trolls acting maliciously and bewildered juries facing impossibly technical cases have wreaked a great deal of legal havoc on many of our Nation's great entrepreneurs.

The result has been to stifle innovation, the lifeblood of our economy. We've seen some of the worst cases eventually reversed on appeal, but many others have not been. There's no denying that there is great need for reform in our patent law system.

However, the underlying bill before us today is not perfect. Real concerns have been raised by a number of innovators and research institutions, many of whom are critical, in this effort, from my State of California, but critical to our economy and our place

as one of the world's greatest fonts of innovation and entrepreneurship.

We have to be very careful that as we address one problem we don't create another. We have to be very careful that we don't pick winners and losers in our patent system, but that we protect and uphold intellectual property of all kinds.

The creators of computer hardware, the developers of revolutionary medical treatments, for example, use patents in very different ways. A piece of hardware may include hundreds of patents, some of which will be obsolete practically before they hit the shelves.

On the other hand, a biomedical firm may spend \$1 billion over a decade developing a single product using a single patent. Now, Mr. Speaker, these two types of innovators use patents in very different ways, but what they have in common is that intellectual property and innovation are at the very heart of their work, and they both contribute significantly to our economy and to our rising standard of living.

We must ensure that our patent system protects both kinds of innovation. While I strongly support the need to move this process forward, these are real concerns that must be fully aired and openly debated. I find it troubling that unlike previous legislation dealing with the issue of patent reform, this bill does not enjoy broad-based support among all types of intellectual property creators. Because consensus was not reached in the committee process, it is all the more important that our floor debate be conducted in an open and transparent way.

Yesterday in the Rules Committee, as my friend from Miami said, I proposed that we report out an open rule so that we could, in fact, have a full debate on these issues. Unfortunately, on a party-line vote, that proposal was denied.

We also heard, as I mentioned, from our colleagues, Mr. MANZULLO and Mr. MICHAUD, who were requesting at least two hours of general debate, divided not just between Republicans and Democrats on the Judiciary Committee, but between supporters and opponents of this bill. Again, as I said, it is bipartisan, the opposition, as well as bipartisan, the support, for the bill. That request unfortunately was also denied.

Absent a meaningful debate today, these concerns will have to be raised in the Senate and in the Conference Committee. It's unfortunate that our Democratic majority has so little institutional pride that they continuously deny this body an open debate and cede the hard work to another time and another place.

That is why I'm encouraging my colleagues to oppose this restrictive rule. We shouldn't be running away from a fair and honest debate of these tough issues. The underlying bill and the issues it addresses are too important for us to be shirking our responsibilities.

So, Mr. Speaker, I urge my colleagues to reject this rule, and let's have a real debate on this very critical matter. And I, again, thank my friend for yielding.

□ 0945

Mr. WELCH of Vermont. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. MICHAUD).

Mr. MICHAUD. I thank the gentleman for yielding.

Mr. Speaker, I rise today in opposition to this rule, and I ask my colleagues to consider voting against this rule for one simple reason, and that's time. I respect the work of our Rules Committee; I do not oppose this rule lightly.

But the fact of the matter is, under this rule, we would begin debating a huge change to our patent system that would have major ramifications for our economy. We have just returned from a long work period in our districts. We found the committee report filed late in the day when we came back, and two manager's amendments filed late yesterday. Most Members haven't had time to understand what the manager's amendment fixes or doesn't fix.

I can tell you, having worked all night late last night with staff to find out what the manager's amendment does: it actually worsens the underlying bill, especially with respect to the damages section of this bill. But Members aren't going to be given the time to really consider what the manager's amendment does or what it does not do. They are going to be told to trust the changes that have been made to fix a badly flawed legislation.

Congressman MANZULLO and I went to the Rules Committee yesterday to request that we not vote on this bill because it's not ready for floor action. We asked for more time to debate the bill in order for the opposition to be heard. We were denied. With over 300 organizations who are opposed to this legislation, have very serious concerns about this legislation, it is important that their voices be heard in this debate.

We do need to address our patent system, and we must have the time to do it and do it right. By voting down this rule, we would give this House and the American people the time to make the right choices for our innovators, our jobs, our economy. So I would urge a "no" vote on the rule.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to the rule.

I am pleased that the Baldwin amendment was included in the manager's amendment. The Baldwin amendment deletes the prior user rights section from H.R. 1908, leaving current law on prior user rights intact.

H.R. 1908, as considered in committee, encouraged a resort to trade se-

cret practices which would have bred litigation and chilled publication and disclosure, which are the constitutional principles underlying the entire patent system.

The Patent Reform Act, as originally drafted, would not have made for a good situation for innovation. It would have been detrimental to individual inventors, small businesses, nonprofits, including research universities. Although I plan to vote in favor of the Patent Reform Act, I have serious concerns about the process that we have used to reach floor action today.

IPR law changes have always been negotiated in the subcommittee until this year. This bill should have been vetted in subcommittee. Instead, the subcommittee simply passed the buck to the full Judiciary Committee. Ramrodding this bill through subcommittee left a lot of unhappy people thinking that the train had left the station.

The subcommittee Chair should have kept the bill in his subcommittee. Keeping it in subcommittee works, even though the process may take more time.

As we realize, moving it forward with so many loose strings makes it quite easy for the whole thing to unravel. It's essential that subcommittee members work out problems in the subcommittee and not jam stakeholders.

I believe that by holding onto this bill a little longer, we could have applied pressure to the stakeholders and moved them to our common ground. The volume of e-mails and calls we have received from interest groups, which number in the hundreds, clearly indicates that we don't have everybody on board. Much of this opposition could have been avoided.

At subcommittee, the Chair told us that concerns would be addressed at full committee. The Chair then assured us that concerns would be worked out in the manager's amendment prior to floor action. While concessions have been made, this bill still needs work and isn't ready for prime time. Later today, during debate on the bill, I expect Members' concerns to be brushed off and told that everything will be worked out in conference.

I served as Chair of the Judiciary Committee for 6 years, and I know all too well how elusive compromise can be. But that doesn't mean that we should throw in the towel or simply lower a shoulder and plow forward.

I prevented my Courts and Intellectual Property Subcommittee Chair from moving forward on patent form until we could reach agreement with all the interested parties, and that is what we should have done here. Patent reform is vital to our Nation's economy. The House should not take up this legislation at odds with so many sectors of the economy for the benefit of others.

The other body is continuing to entertain stakeholder meetings to try to develop consensus, and I commend

them for that. This would be a wise course of action for the House as well. I believe that with more time and energy, we could draft a bill that is supported by a large cross-section of America, which this bill is not.

The process that we took to get here today was flawed, but it's not too late to correct it.

I encouraged the Chair and the ranking member to continue to meet with stakeholders. That's the way to get a good patent bill that is really a 21st-century innovation-inspiring bill enacted into law.

Mr. WELCH of Vermont. Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my pleasure to yield 4 minutes to the distinguished gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. I thank my friend from Florida.

Mr. Speaker, we have heard the term "bipartisan" with regard to this legislation, and as has been pointed out, there has been bipartisan support; but there has certainly been bipartisan opposition.

Bipartisan, to many out there in the United States, means, oh, it must be fair. But the truth is, bipartisan doesn't mean fair, and it doesn't mean good; and this is one of those pieces of legislation that has severe problems that are neither fair nor good.

Now in committee, the process involved a manager's amendment being made in the Committee of the Whole of the Judiciary Committee, followed immediately by an amendment to venue before anybody else was recognized so that an effort by me to have an amendment to fix venue problems that were really pronounced was shut out because that automatically made those third-degree amendments.

That seemed to me a strange effort to avoid fairness on this important bill. We come in here today with this restrictive rule which will not allow full debate and wonder why is there such haste to avoid fairness in this rule. The rule here even abrogates the House rule that requires half the time be provided to the opposition, by saying it will be controlled by two people who both support the bill.

Again, why is there such a push to avoid fairness in consideration and debate on this bill? "We need a comprehensive bill" is language we have heard over and over. What struck me was, gee, that's what we heard about the immigration debate: we need a comprehensive bill. Why was that said about immigration? I submit it was said because there were things that people wanted to hide in a comprehensive bill that could never pass on its own.

So I begin to look at this bill, and it appears to have the same problem. There are things in here that don't go to fix patent controls. There is such an overreaching effort here to change rules and help the big dogs just devour and destroy the little guys.

Now the patent control issue, that's a problem. Boy, how easy to fix that. All you would have to do is say if you are not the original patent holder and inventor, then your rights are restricted. But that keeps being thrown out as a basis to destroy and change and use a wrecking ball to the entire patent law.

The damages issues need a further look. My goodness, for so many years now the patent issues have been guided by factors that allow the courts to consider various types of damages. Now we have had one industry zero in on one time of damage that will help them and hurt all others. That's not fair.

We were told that in the Judiciary Committee that many of us, by name, were called who would help the language. Since then, I have not heard of any meetings to work on language. My staff has not heard of any.

Yet, we are told in here today, trust us, we are going to work together. This isn't the last time. I have heard over and over on that bill, and to come to this point, where there is so much substantial unfairness and abrogation of the fairness doctrine on taking up legislation concerns me all the more.

This isn't fair. It's not good. It's not right. It's not timely to take this up without proper discourse.

With that, I would ask that trust has not been earned. Therefore, people should vote against this rule on a bipartisan basis.

Mr. WELCH of Vermont. Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my pleasure to yield 4½ minutes to the distinguished gentleman from California (Mr. ROHRBACHER).

Mr. ROHRBACHER. Mr. Speaker, I rise in strong opposition to the rule, as well as opposition to the underlying legislation.

Let us note that this debate has been limited today, which is consistent with the substance of this legislation. The process, as well as the substance of H.R. 1908 is totally unacceptable. This bill should be called the Steal American Technologies Act Part 2.

Yes, Mr. BERMAN and I have worked on this legislation over the years, and I thought that we had a compromise bill in 1999, with HOWARD COBLE and others; and this bill just negates all of the compromises that were made and the honest attempts to reach a good patent bill.

Yes, there was a patent bill that was passed and went into law in 1999, let us note. This isn't the first patent reform legislation in the last 50 years; it's only the worst patent reform legislation over the last 50 years. This legislation, under the guise of reform, will dramatically diminish the constitutionally protected rights that were mandated by our Founders and that have been the impulse behind our Nation's prosperity and security.

H.R. 1908 will dramatically weaken the patent rights of ordinary Americans and make us even more vulnerable

to the outright theft of American-created technology and innovation. This legislation represents a slow-motion destruction of our patent system.

So what's in the bill? First and foremost we know what's in the bill is a mandate to publish every patent application within 18 months, or after 18 months of that application being applied, whether or not that patent has been granted.

So we are giving every thief in the world in India and in China and Japan and Korea the details of our most up-to-date innovative ideas, even before they are protected by the patents. We are being told, of course, Mr. ISSA has an amendment that will handle this.

Don't be fooled. Whether or not the Issa amendment passes, this legislation will still mandate the publication of most patent applications before the patent is issued.

America's secrets will be exposed to a world filled with infringers and thieves. So don't be fooled by the Issa amendment, just the way we shouldn't be fooled by the very nature of this bill being called a reform bill when it should be called the Patent Destruction Act.

Secondly, this bill opens up new avenues of attack before and after the patent has been issued, again weakening the inventor, strengthening the infringers, both foreign and domestic.

Third, the bill changes the criteria of deciding the validity for a patent, again at the cost of the inventor. Fourth, the bill changes the way damages are calculated, again, at the expense of the inventor, and in the process creating havoc in our courts and forcing judges to be economists.

The most fundamental of all, of course, we change the legal basis of our system from first-to-invent, which has been, historically, for 200 years, the basis of the patent system, and now we are changing it to first-to-file, the way they do in Europe and in Japan. Do we really want to have a country like Japan? Look at their creative history. They rely on all of our ideas to perfect.

In short, every promise of H.R. 1908 is anti-inventor, and every provision weakens the right of inventors and undermines one's ability to protect his or her invention. The electronic and financial industry billionaires who are pushing this are pushing it to facilitate their theft of new innovation. Yes, these guys are important to our economy, but the opposition to H.R. 1908 from the other economic sectors in our economy is deep and wide.

Many of those quoted by Mr. BERMAN as having testified in these hearings are opposed to this bill. Biotech, pharmaceuticals, labor unions, universities, small businesses, all are against, adamantly against, this bill. Let us protect the little guy from foreign and domestic scavengers who would steal our country's newest ideas from the best and most creative minds of our country.

I urge my colleagues to oppose this legislation and this rule.

□ 1000

Mr. WELCH of Vermont. Mr. Speaker, I continue to reserve.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my pleasure to yield 4 minutes to the distinguished gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Speaker, we are hearing this argument, let's just fix it in conference. Well, the last patent reform bill that passed, H.R. 1561, passed the House on March 3 of 2004. The Senate Judiciary Committee passed their bill, but it never saw action before the full Senate. The bill that the House passed never made it to conference, but it became law because someone stuffed it into the giant multi-thousand page omnibus consolidated appropriations bill which became law.

And besides that, we are Members of Congress. For us to stand up here and say, well, this is too confusing for us to understand, excuse me; that's what we're paid for. And if we have to take a considerable period of our time to study and learn patent law, that's our job. If we don't do that, we are failing in our obligation to the people that we represent.

So, what happened last time was good for making sausage. You stuffed the House-passed bill which never passed the Senate, never made it into conference, into a giant omnibus bill, but that's not how you make legislation.

Now, look what's going on here. We were told that we had to file by 5 p.m. on Wednesday afternoon any amendments to this bill. I went to the Rules Committee at 3 p.m. yesterday, where we met on the bill. At 2:43 p.m., the first manager's amendment was filed, 18 pages long. While we were still discussing the first manager's amendment, the second manager's amendment got filed at 3:50 p.m.

At 5:30 in the afternoon, the general public found out what was in it. I just found out in an analysis done on the second manager's amendment that this would be crippling to the small inventor. It would be horrifying to the patent holders in this country, that it would favor overseas patent holders as opposed to the American inventor.

All I asked for in that Rules Committee was for an extra hour of debate, just 2 hours of debate on one of the most important topics this place has ever had, and we were denied that. And people turn on C-SPAN. They see us. We'll take a half an hour to debate a post office, an hour to debate two post offices, the naming of the post offices, but 1 hour, just 1 hour to debate one of the most important issues that has ever come before this Congress in 50 years, 50 years. That's just fairness. Just fairness is all we're asking for.

I feel like asking for a motion to adjourn, but I'm not going to. That would not be fair to the Members that have other things to do.

But to tell the American people the Members of Congress really don't need

to know the details, that we'll take care of the details for you, that's an abandonment of our obligation here.

We come here with the obligation to learn every issue on which we vote. We may not know all the nuances, we may not know all the details, but nobody's going to tell us that this is too confusing for you to understand, because that's not what the American people send us here for.

And so I would just urge you, urge the folks, that there is no way possible in the limited amount of time that we can discuss this bill.

Let me show you what this does. This is Caterpillar, this is RIM. It puts two companies against each other. RIM has a lot of American parts. The bill should be written to accommodate both, to accommodate the American inventions in both of these manufactured products.

Vote "no" on the rule.

Mr. WELCH of Vermont. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS), Chair of the Judiciary Committee.

Mr. CONYERS. Mr. Speaker, I thank the manager, and I rise to congratulate all the Members for all the hard work that has been done in the course of the many months, some would say years, in bringing this to the floor.

I'd just like to make a comment about the manager's amendment that I've heard raised in the discussion because, actually, I thank the floor manager of the Rules Committee on the Republican side because we had, I thought, a very good meeting yesterday.

It should be known to everyone here that the reason we had the late filing of the manager's amendment is that we were keeping it open for everybody to make their last changes. And most of the requests came from the minority side, which we were happy to accommodate. So it's in that spirit that I refer and make available to everybody here everything that are in manager's amendments, and hope that the fact that this is maybe 80 percent accomplished for almost all the many sides to this debate will carry us through the rule and through the spirit that has moved the committee and the subcommittee and the Judiciary Committee this far.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. WELCH of Vermont. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentleman from California (Mr. ISSA), a member of the Judiciary Committee.

Mr. ISSA. Mr. Speaker, I appreciate the gentleman yielding. The fact that this is what one might consider Democrat time being yielded to a Republican probably says just how bipartisan this bill is. This has been worked on in a Republican majority and in a Democrat majority. It's been cosponsored by the chairman and the ranking members of the committees. It is, in fact, an unusual piece of work.

Additionally, this rule, and I've been voting against rules lately because they weren't open and fair. This rule accommodated virtually every amendment offered. In fact, many of the people speaking here today against the bill and against the rule didn't offer any amendments.

Whether you're on the committee or not, this is your opportunity, after nearly 4 years of this being an open process under leadership on both sides of the aisle, this is your opportunity, if you have solutions.

I urge the passage of this rule and the passage of the underlying bill because, in fact, it is the best work the best minds on both sides of the aisle could produce over 3 years.

Now, people who, in fact, are saying they don't want to vote for it are saying we just need more time. In fact, the engine that drives the economic wealth of our country cannot afford for us to simply let the men and women in black robes continue to try to patch a broken system, as the Supreme Court has done. Not moving in this Congress, and rapid pace could be another year, including the other body. Not moving in this Congress would force the Supreme Court to deal with an out-of-date set of laws. We need to vote this bipartisan bill through a very positive rule, and then to final passage.

I strongly recommend that people look at the fact that amendments were accepted by both sides of the aisle, and, as the chairman said, more were accepted by the Republicans, in addition to literally hundreds of suggestions being incorporated into the manager's amendment.

I move that we pass the rule, pass the underlying bill, continue a bipartisan process that, of course, will always have somebody who feels they're not benefited. But, in fact, you can't get this kind of support by people who do not normally work well together unless, in fact, this process has been full and fair, as it has been. I thank the ranking member and the chairman for their bipartisan work.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I want to thank all of our colleagues who have participated in this debate; thank Chairman CONYERS for his kind words.

This obviously is very important legislation. And even though my very good friend, Mr. ISSA, just stated that most of the amendments had been made in order by the Rules Committee, that's not the case. Five amendments were made in order, and nine, nine were denied.

Mr. BERMAN. Will the gentleman yield on that issue?

Mr. LINCOLN DIAZ-BALART of Florida. I have very little time. I will yield.

Mr. BERMAN. A number of the nine that were not made in order were incorporated, at the request of the authors of the amendments, into the manager's amendment.

Mr. LINCOLN DIAZ-BALART of Florida. Reclaiming my time. A num-

ber of important amendments have not been made in order. And on legislation this important, we think that it should have been brought forth with an open rule. And so that's why we oppose the rule, and would urge that the majority of the Rules Committee bring forth this legislation again with the opportunity of all Members of the House to offer all amendments based on their work product for consideration by all of our colleagues.

And so with that, I urge the defeat of this unfair rule.

Mr. Speaker, I yield back the balance of my time.

Mr. WELCH of Vermont. Mr. Speaker, I close by making two comments. Number one, this bill was the product not just of exhaustive hearings by the subcommittee on a bipartisan basis. It's really been the work of a couple of Congresses.

The patent reform system hasn't been changed in any significant way for literally over a half a century, and the changes that have occurred in our economy in electronic communications, in telecommunications, on software, on biotechnology, on every field that has produced wealth in this country have been extraordinary, yet the patent system has been stuck in 1952 mode.

The process that the chairman, Mr. BERMAN, the ranking member, Mr. SMITH, and others have had to go through to try to accommodate the legitimate concerns of the inventor community, of the corporate community, and the complexities of that have been extreme.

This amendment that is being presented to you reflects an open process, not an open amendment with anything and everything on the table, but the product of an open process where everybody who had a concern was actually heard, and the best effort was made to accommodate them directly with specific legislation in the bill, in the manager's or in the amendments that were offered.

So the committee members, on a bipartisan basis, with Mr. BERMAN and Mr. SMITH, have done everything possible to accommodate the concerns of the inventor community, the corporate community, our modern economy and the representatives in this body who are standing up for their constituents.

Secondly, there was some assertion that this is an anti-inventor bill. That is absolutely wrong. This is a bill that is being endorsed by the National Academy of Sciences, by many in the university community, and by others who have, as their whole motivation, the expansion of knowledge and then the implementation of the benefit of that knowledge through a patent system.

So the committee has done an open process which has brought us to this point, and it has proposed changes that are 50 years in the making, that is going to strengthen and expand the rights of our patent community.

Mr. Speaker, I urge a "yes" vote on the rule, House Resolution 636.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

□ 1015

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 2669, COLLEGE COST REDUCTION AND ACCESS ACT

Ms. SUTTON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 637 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 637

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2669) to provide for reconciliation pursuant to section 601 of the concurrent resolution on the budget for fiscal year 2008. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Ohio is recognized for 1 hour.

Ms. SUTTON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Ms. SUTTON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and insert extraneous materials into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Ms. SUTTON. Mr. Speaker, I yield myself such time as I may consume.

(Ms. SUTTON asked and was given permission to revise and extend her remarks.)

Ms. SUTTON. Mr. Speaker, H. Res. 637 provides for consideration of the conference report to accompany H.R. 2669, the College Cost Reduction and Access Act. The rule waives all points of order against the conference report and its consideration and considers the conference report as read.

Mr. Speaker, I am honored to rise today in support of this rule and this

much-needed underlying conference report, the College Cost Reduction Act, which will help give our students a real opportunity to go to college and give them the vital tools necessary to enter our workforce and build a positive future for themselves and our communities. And, Mr. Speaker, at the outset I want to thank Representative GEORGE MILLER, the distinguished chairman of the Education and Labor Committee, along with Speaker NANCY PELOSI, whose commitment to our students, our families and our future in this country has brought us to this day when we are able to take this great step to put college education back within reach of so many hardworking families and students. The College Cost Reduction Act addresses one of the most pressing issues facing millions of families across this Nation: the question of how they will afford to send their children to college.

Educational opportunity is the backbone of our Nation and everything that makes it great. And while access to higher education is more critical than ever for younger generations, the cost is rapidly moving out of reach for many low- and middle-income families. Tuition at 4-year public colleges and universities has risen 41 percent after inflation since 2001. And the typical American student now graduates from college with a \$17,500 debt. This problem has developed into nothing less than a crisis.

Sadly, due to the failure of past Congresses, many students have had their dreams shattered because they could not afford college tuition. Many hardworking parents have had their hearts broken because, despite their valiant efforts, they simply could not afford to pay tuition and meet other vital family needs. This problem has festered for too long, and I have long believed, Mr. Speaker, that those in government must work with the people they are called to serve and not against them.

And that is what this bill does. It is the single largest investment in higher education since the GI Bill. It's good for our families. It's good for our students. It's good for our country.

Financial barriers to higher education not only hurt students themselves by robbing them of the education and training necessary to make a productive and positive impact in our communities; it hurts us all. Investing in our students will not only improve their future; it will help our economy and our retired workers whom they will support. It ensures our national security, continued improvements in health outcomes, and will help the United States maintain its role as a leader in developing new cutting-edge technologies. By providing students with access to higher education, we are bolstering every sector of our economy from medical research to manufacturing because we are creating the next generation of innovators and leaders. Investing in our younger generations will not only help our students and

families who are need; it strengthens America.

The promise of the American Dream is the glue that holds our communities together. It was educational opportunity that provided me, the proud daughter of a working family, to obtain a first-rate education and ultimately find my way to the floor of the House of Representatives to fight for what is right. By denying the opportunities afforded by access to higher education, we deny our families their share of the American Dream.

The College Cost Reduction Act addresses this crisis in a fiscally sound and responsible manner. It is funded by cutting unnecessary subsidies to private lenders and putting our taxpayer dollars to work for the American people. So, Mr. Speaker, this act will not only put college back in reach for our families; it does so by cutting almost \$21 billion in taxpayer subsidies to private lenders and reinvesting over \$20 billion of the savings in our Nation's students and putting an additional \$750 million towards reducing our Nation's deficit.

Specifically, the College Cost Reduction Act will cut the interest rates on subsidized student loans in half. The bill invests heavily in the much-needed, need-based Pell Grant scholarship program, increasing the maximum award by at least \$1,090 over the next 5 years and expanding eligibility for the grants. By passing this bill, we will make a college education possible for hundreds of thousands of additional students over the next 5 years.

Additionally, Mr. Speaker, this legislation also recognizes the value of our public servants by providing them with loan forgiveness for those who choose to serve in the jobs that make our world turn: teachers, firefighters, nurses, law enforcement officers, and librarians.

Further, the College Cost Reduction Act provides upfront tuition assistance to qualified undergraduates who commit to teaching in public schools in high-poverty communities. This bill invests in the strength of our communities and of our country. And the return on our investment as a Nation in our students and people will, without question, provide an enormous return.

Mr. Speaker, the crisis of college cost is pervasive, and it is getting worse. It is long past the time that Congress take action to ensure that a college education is not a privilege reserved only for the wealthy.

I urge all of my colleagues to support our children and our families by voting for the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I thank my friend, the gentleman from Ohio, for the time; and I yield myself such time as I may consume.

This rule that the majority brings forth today, Mr. Speaker, is a standard