

familiar with the dynamics at work on the ground.

In my home state of California, cities such as Los Angeles, where my 37th Congressional District is located, have struggled with air pollution for decades.

Thanks to the efforts of state regulatory agencies, such as the California Air Resources Board, the region has seen a marked improvement in air quality and other environmental indicators. The number of air quality alerts has fallen from over 200 per year in the 1970s to less than 10 per year today.

For 17 years, the Air Resources Board has regulated and monitored oil and gas operations near my district. The standards they employ were developed over nearly 5 decades of experience, and, most importantly, they remain directly accountable to the people and communities of California.

Mr. Chair, I believe that if a state invests time and money towards establishing high standards and creating innovative solutions to a problem, they ought to enjoy the full support of the law.

I urge my colleagues to support the Capps amendment.

HONORING U.S. MERCHANT MARINE

HON. TOM REED

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 2011

Mr. REED. Mr. Speaker, I rise today to acknowledge the tremendous work accomplished by the U.S. Merchant Marine during World War II.

Those who served on ships in the Merchant Marine risked their lives and welfare during World War II to protect our country. Like our other service members, the Merchant Marine members served in both theaters of war. They faced enemy fire, floating mines and other dangerous conditions. Unfortunately the risks faced by these brave men have often been forgotten.

Mr. Speaker, one of my constituents, Jacena Brahm, wrote me a letter to tell me about her husband, Vernon Lee Brahm, who served in the U.S. Merchant Marine. I'm proud to recognize Mr. Brahm and all the brave men who served in the Merchant Marine during World War II. These men committed their lives to America's cause by leaving their families and their homes and putting themselves in harm's way to help win the war. I commend these brave souls for all that they did to ensure our freedom. The Merchant Marine helped lead us to victory.

The sacrifices of our veterans have been appreciated throughout the history of our nation, and that demonstration of respect should not be denied to those in Merchant Marine who also defended our nations' interests in World War II.

HONORING JEANETTE SUTHERLIN

HON. JEFF DENHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 2011

Mr. DENHAM. Mr. Speaker, I rise today to acknowledge and honor Jeanette Sutherlin on

her retirement from the University of California Cooperative Extension; and to thank her for her dedicated, lifelong spirit of community service.

Since joining the University of California Cooperative Extension in 1973, Jeanette has been a leading advocate for nutrition and agricultural education, working tirelessly to implement nutrition education and youth development programs throughout Fresno County.

Jeanette began her career at the University of California Cooperative Extension in Fresno County as the 4-H Advisor. She later took over the role of Nutrition, Family and Consumer Sciences Advisor where she focused on providing nutrition education and access to healthy nutrition for low-income families in Fresno County. In addition, she successfully secured more than a half-million dollars in grants each year to fund multiple projects related to nutrition and agricultural education.

Jeanette's hard work in the Fresno County agriculture industry is deeply valued by those who have worked with her. One of Jeanette's main focuses was strengthening a nearly decade long relationship between the University of California Cooperative Extension and the Fresno County Farm Bureau. President Brian Pacheco commemorated Jeanette's contributions to the Fresno County Farm Bureau, stating, "Jeanette's expertise in nutrition education, youth development and administration has been an asset to the Fresno County Farm Bureau, and her services will not be soon forgotten."

Beyond her work at the University of California Cooperative Extension and Fresno County Farm Bureau, Jeanette has volunteered much of her time to philanthropic endeavors. She currently serves as Chairperson of the Board for the Trauma Intervention Program, providing emotional aid and practical support to victims of traumatic events and their families in the hours following a tragedy.

Mr. Speaker, please join me in honoring Jeanette Sutherlin on her retirement and wishing her the best of luck and health in her future endeavors.

SUPPORT OF A NATIONAL WORLD WAR I MEMORIAL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 2011

Ms. NORTON. Mr. Speaker, I submit the following:

Whereas, the year 2014 marks the centennial of World War I, often referred to as the "Great War;"

Whereas, the National Mall is home to memorials for America's major 20th century conflicts—the World War II Memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial, with the exception of a World War I Memorial;

Whereas, the District of Columbia War Memorial, managed by the National Park Service, was dedicated to the more than 26,000 District of Columbia residents who, without a vote in Congress, served bravely in World War I, including 499 who were killed;

Whereas, a memorial dedicated to all Americans who served in World War I should be located in our nation's capital, in a well-traveled

area commensurate with the importance of World War I in the nation's history;

Whereas, members of Congress and other Americans desire to establish a commission to ensure a suitable observance of the World War I centennial;

Whereas, the National Park Service, the National Capital Memorial Advisory Commission, and the American Battle Monuments Commission have specifically determined that either adding a new National World War I Memorial in the vicinity of the District of Columbia War Memorial or re-designating the District of Columbia Memorial as a National World War I Memorial would violate the Commemorative Works Act: Be it therefore

Resolved that, the District of Columbia War Memorial should remain a memorial dedicated solely to the D.C. residents who served in World War I; and, be it therefore

Resolved that, a proper location for a memorial dedicated to all Americans who served in World War I shall be determined; and, be it therefore

Resolved that, Congress should authorize a study or commission to determine a proper location for a memorial dedicated to all Americans who served in World War I.

AMERICA INVENTS ACT

SPEECH OF

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 22, 2011

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1249) to amend title 35, United States Code, to provide for patent reform:

Mr. SMITH of New Jersey. Madam Chair, for over two decades, USPTO has had an internal policy that human beings at any stage of development are not patentable subject matter under 35 U.S.C. Section 101. I commend Chairman LAMAR SMITH for including in the manager's amendment to H.R. 1249, the America Invents Act, a provision that will codify an existing pro-life policy rider included in the CJS Appropriations bill since FY2004. This amendment, commonly known as the Weldon amendment, ensures the U.S. Patent and Trade Office, USPTO, does not issue patents that are directed to or encompassing a human organism.

Codifying the Weldon amendment simply continues to put the weight of law behind the USPTO policy.

This amendment and USPTO policy reflect a commonsense understanding that no member of the human species is an "invention," or property to be licensed for financial gain. Patents on human organisms commodify life and allow profiteers to financially gain from the biology and life of another human person.

Codifying a ban on patenting of humans would not violate international obligations under the TRIPS agreement with the WTO, in which member countries can exclude from patentability subject matter to prevent commercial exploitation which is "necessary to protect ordre public or morality, [and] to protect human, animal or plant life." (The Agreement on Trade-Related Aspects of Intellectual Property Rights, Article 27, Section 5).

Even the European Union prevents patents on human embryos on the basis of morality and public order without conflicting with the TRIPs agreement. (See Guidelines for Substantive Examination. European Patent Office. Part C, Chapter IV, Section 4.5, iii (Rule 28c))

4.5 Biotechnological inventions

In the area of biotechnological inventions, the following list of exceptions to patentability under Art. 53(a) is laid down in Rule 28. The list is illustrative and non-exhaustive and is to be seen as giving concrete form to the concept of "ordre public" and "morality" in this technical field. Under Art. 53(a), in conjunction with Rule 28, European patents are not to be granted in respect of biotechnological inventions which concern:

(iii) uses of human embryos for industrial or commercial purposes; The exclusion of the uses of human embryos for industrial or commercial purposes does not affect inventions for therapeutic or diagnostic purposes which are applied to the human embryo and are useful to it (EU Dir.98/44/EC, rec. 42).

I also submit into the RECORD items from previous debate on the Weldon amendment that will add further clarification to the intent of this important provision.

SPEECH OF HON. DAVE WELDON OF FLORIDA IN THE HOUSE OF REPRESENTATIVES, JULY 22, 2003

H. Admt. 286

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004—(House of Representatives—July 22, 2003)

AMENDMENT OFFERED BY MR. WELDON OF FLORIDA

Mr. WELDON of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WELDON of Florida:

None of the funds appropriated or otherwise made available under by the act may be used to issue patents on claims directed to or encompassing a human organism.

Mr. WELDON of Florida. Mr. Chairman, technology proceeds at a rapid rate, bringing great benefits to humankind from treatments of disease to greater wealth and greater knowledge of our world. However, sometimes technology can be used to undermine what is meant to be human, including the exploitation of human nature for the purpose of financial gain.

Several weeks ago, at a meeting of the European Society of Human Reproduction and Embryology in Madrid, Spain, it was reported that scientists had created the first male-female hybrid human embryos. The researchers transplanted cells from male embryos into female embryos and allowed them to grow for 6 days. This research was universally condemned as unnecessary and unethical.

Reuters reported that one member of the European Society condemned this research, saying there are very good reasons why this type of research is generally rejected by the international research community. Furthermore, the scientists who created these shmale embryos reportedly want to patent this research.

It is important that we, as a civilized society, draw the line where some rogue scientists fail to exercise restraint. Just because something can be done does not mean that it should be done. A patent on such human organisms would last for 20 years. We should not allow such researchers to gain financially by granting them an exclusive right to practice such ghoulish research.

Long-standing American patent and trademark policy states that human beings at any stage of development are not patentable, subject to matters under 35 U.S.C. section 101. Though current policy would not issue patents on human embryos, Congress has remained silent on this subject. Though this amendment would not actually ban this practice, it is about time that Congress should simply reaffirm current U.S. patent policy and ensure there is not financial gain or ownership of human beings by those who engage in these activities.

This amendment simply mirrors the current patent policy concerning patenting humans. The Patent Office has, since 1980, issued hundreds of patents on living subject matter, from microorganisms to nonhuman animals. It does not issue patents on human beings nor should it. Congress should reaffirm this policy, and this amendment simply accomplishes this by restricting funds for issuing patents on human embryos, human organisms.

Congress should speak out, and I encourage my colleagues to support this amendment.

I would like to add, Mr. Chairman, that this has no bearing on stem cell research or patenting genes, it only affects patenting human organisms, human embryos, human fetuses or human beings.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding to me.

I think I heard the gentleman say this, but I want it repeated again so it is clear. Is the gentleman saying that this amendment would not interfere in any way with any existing patents with respect to stem cells?

Mr. WELDON of Florida. Reclaiming my time, Mr. Chairman, I would respond that, no, it would not. And I recognize that there are many institutions, particularly in Wisconsin, that have extensive patents on human genes, human stem cells. This would not affect any of those current existing patents.

The Patent Office policy is not to issue these patents, and there never has been one. The Congress has been silent on this issue. I am trying to put us on record that we support the Patent Office in this position that human life in any form should not be patentable.

Mr. OBEY. I appreciate the gentleman's clarification.

Mr. WELDON of Florida. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. TERRY). The question is on the amendment offered by the gentleman from Florida (Mr. WELDON). The amendment was agreed to.

SPEECH OF HON. DAVE WELDON OF FLORIDA IN THE HOUSE OF REPRESENTATIVES WEDNESDAY, NOVEMBER 5, 2003

Mr. WELDON of Florida. Mr. Speaker, this summer I introduced an amendment that provides congressional support for the current federal policy against patenting humans. It was approved by the House of Representatives without objection on July 22, 2003 as Sec. 801 of the Commerce/Justice/State appropriations bill.

Since that time, the Biotechnology Industry Organization (BIO) has launched a lobbying campaign against the amendment, and has now enlisted the political aid of the broader "Coalition for the Advancement of Medical Research" (CAMR), an umbrella organization of groups supporting human cloning for research purposes.

BIO and CAMR claim to support the current policy of the U.S. Patent and Trade-

mark Office (USPTO) against patenting human beings. However, they oppose this amendment, saying it would have a far broader scope—potentially prohibiting patents on stem cell lines, procedures for creating human embryos, prosthetic devices, and in short almost any drug or product that might be used in or for human beings.

The absurdity of these claims is apparent when one compares the language of the amendment with the language of the current USPTO policy that these groups claim to support.

The House-approved amendment reads:

"None of the funds appropriated or otherwise made available under this Act may be used to issue patents on claims directed to or encompassing a human organism."

The current USPTO policy is set forth in two internal documents:

U.S. Patent and Trademark Office, "Notice: Animals—Patentability," 1077 Official Gazette U.S. Pat. and Trademark Off. 8 (April 21, 1987):

"The Patent and Trademark Office now considers non-naturally occurring non-human multicellular living organisms, including animals, to be patentable subject matter within the scope of 35 U.S.C. 101. . . . A claim directed to or including within its scope a human being will not be considered patentable subject matter under 35 U.S.C. 101. The grant of a limited, but exclusive property right in a human being is prohibited by the Constitution. Accordingly, it is suggested that any claim directed to a non-plant multicellular organism which would include a human being within its scope include the limitation 'non-human' to avoid this ground of rejection."

(This notice responded to the Supreme Court's 1980 decision in *Chakrabarty* concluding that a modified "microorganism," a bacterium, could be patented, and a subsequent decision by the USPTO's own Board of Appeals in *Ex parte Allen* that a multicellular organism such as a modified oyster is therefore patentable as well. The USPTO sought to ensure that these policy conclusions would not be misconstrued as allowing a patent on a human organism.)

U.S. Patent and Trademark Office, Manual of Patent Examining Procedure (Revised February 2003), Sec. 2105: "Patentable Subject Matter—Living Subject Matter":

"If the broadest reasonable interpretation of the claimed invention as a whole encompasses a human being, then a rejection under 35 U.S.C. 101 must be made indicating that the claimed invention is directed to non-statutory subject matter."

In other words, the USPTO clearly distinguishes between organisms that are nonhuman and therefore are patentable and those organisms that are human and therefore not patentable subject matter.

As a USPTO official testified recently to the President's Council on Bioethics:

"When a patent claim includes or covers a human being, the USPTO rejects the claim on the grounds that it is directed to non-statutory subject matter. When examining a patent application, a patent examiner must construe the claim presented as broadly as is reasonable in light of the application's specification. If the examiner determines that a claim is directed to a human being at any stage of development as a product, the examiner rejects the claims on the grounds that it includes non-statutory subject matter and provides the applicant with an explanation. The examiner will typically advise the applicant that a claim amendment adding the qualifier, nonhuman, is needed, pursuant to the instructions of MPEP 2105. The MPEP does not expressly address claims directed to a human embryo. In practice, examiners treat such claims as directed to a human

being and reject the claims as directed to non-statutory subject matter.” (Testimony of Karen Hauda on behalf of USPTO to the President’s Council on Bioethics, June 20, 2002, <http://bioethicsprint.bioethics.gov/transcripts/jun02/june21session5.html>)

Current USPTO policy, then, is that any claim that can reasonably be interpreted as “directed to” or “encompassing” a human being, and any claim reaching beyond “nonhuman” organisms to cover human organisms (including human embryos), must be rejected. My amendment simply restates this policy, providing congressional support so that federal courts will not invalidate the USPTO policy as going beyond the policy of Congress (as they invalidated the earlier USPTO policy against patenting living organisms in general). Literally the only difference between my amendment and some of these USPTO documents is that the amendment uses the term “human organism,” while the USPTO usually speaks of the non-patentability of (anything that can be broadly construed as) a “human being.” But “human organism” is more politically neutral and more precise, having a long history of clear interpretation in federal law.

Since 1996, Congress has annually approved a rider to the Labor/HHS appropriations bill that prohibits federal funding of research in which human embryos are created or destroyed—and this rider defines a human embryo as a “human organism” not already protected by older federal regulations on fetal research. In December 1998 testimony before the Senate Appropriations Subcommittee on Labor/HHS/Education, a wide array of expert witnesses—including NIH Director Harold Varmus and the head of a leading company in BIO—testified that this rider does not forbid funding research on embryonic stem cells, because a human embryo is an “organism” but a stem cell clearly is not (see S. Hrg. 105-939, December 2, 1998). That same conclusion was later reached by HHS general counsel Harriet Rabb, in arguing that the Clinton administration’s guidelines on stem cell research were in accord with statutory law; this same legal opinion was accepted by the Bush administration when it issued its more limited guidelines for funding stem cell research (Legal memorandum of HHS general counsel Harriet S. Rabb, “Federal Funding for Research Involving Human Pluripotent Stem Cells,” January 15, 1999). To argue now that a ban on patenting “human organisms” somehow bans patenting of stem cells or stem cell lines would run counter to five years of legal history, and would undermine the legal validity of any federal funding for embryonic stem cell research.

BIO also claims that the amendment raises new and difficult questions about “mixing” animal and human species. What about an animal that is modified to include a few human genes so it can produce a human protein or antibody? What about a human/animal “chimera” (an embryo that is half human, half animal)? The fact is, these questions are not new. The USPTO has already granted patents on the former (see U.S. patent nos. 5,625,126 and 5,602,306). It has also thus far rejected patents on the latter, the half-human embryo (see Biotechnology Law Report, July–August 1998, p. 256), because the latter can broadly but reasonably be construed as a human organism. The Weldon amendment does nothing to change this, but leaves the USPTO free to address new or borderline issues on the same case-by-case basis as it already does.

In short, my amendment has exactly the same scope as the current USPTO policy, and cannot be charged with the radical expansions of policy that BIO and its allies claim. In reality, BIO opposes this amend-

ment because it opposes the current USPTO policy as well, and has a better chance of nullifying this policy in court (or having courts reinterpret it into uselessness) if it lacks explicit support in statutory law.

This goal is apparent from BIO’s own “fact sheet” opposing the amendment (see www.bio.org/ip/cloningfactsheet.asp). There BIO argues that human beings should be patentable, if they arise from anything other than “conventional reproduction” or have any “physical characteristics resulting from human intervention.” In other words, humans should be seen as “inventions” and thus be patentable on exactly the same grounds as animals are now.

The logic of this argument reaches beyond the human embryo, because an embryo who resulted from reproductive technology or received any physical or genetic modification presumably remains just as invented throughout his or her existence, no matter what stage of development he or she reaches.

BIO’s stated support for reducing members of the human species to patentable commodities makes the passage of my amendment more urgently necessary than ever.

SPEECH OF HON. DAVE WELDON OF FLORIDA IN THE HOUSE OF REPRESENTATIVES FRIDAY, NOVEMBER 21, 2003

AMENDMENT TO SUPPORT CURRENT U.S. PATENT AND TRADEMARK OFFICE POLICY AGAINST PATENTING HUMAN ORGANISMS—(EXTENSIONS OF REMARKS—NOVEMBER 22, 2003).

Mr. WELDON of Florida. Mr. Speaker, this summer I introduced an amendment that provides congressional support for the current U.S. Patent and Trademark Office policy against patenting human organisms, including human embryos and fetuses. This amendment was approved by the House of Representatives with bipartisan support on July 22, 2003, as Sec. 801 of the Commerce/Justice/State appropriations bill.

On November 5th of this year, I submitted to the Congressional Record an analysis of my amendment that offers a more complete elaboration of what I stated on July 22nd, namely, that this amendment “has no bearing on stem cell research or patenting genes, it only affects patenting human organisms, human embryos, human fetuses or human beings.”

However, some have continued to misrepresent my amendment by claiming it would also prohibit patent claims directed to methods to produce human organisms. Moreover, some incorrectly claim that my amendment would prohibit patents on claims directed to subject matter other than human organisms. This is simply untrue.

What I want to point out is that the U.S. Patent Office has already issued patents on genes, stem cells, animals with human genes, and a host of non-biologic products used by humans, but it has not issued patents on claims directed to human organisms, including human embryos and fetuses. My amendment would not affect the former, but would simply affirm the latter. This position is reaffirmed in the following U.S. Patent Office letter of November 20, 2003.

I submit to the RECORD a letter from James Rogan, Undersecretary and Director of the U.S. Patent office, that supports the enactment of my amendment because it “is fully consistent with our policy.”

U.S. PATENT AND TRADEMARK OFFICE,
November 20, 2003.

Hon. TED STEVENS,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to present the Administration’s position on the Weldon amendment adopted by the House during consideration of H.R.

2799, the Commerce-Justice-State Appropriations bill FY 2004, and the effect it would have on the United States Patent and Trademark Office (USPTO) policy on patenting living subject matter. For the reasons outlined below, we view the Weldon amendment as fully consistent with USPTO’s policy on the non-patentability of human life-forms.

The Weldon Amendment would prohibit the U.S. Patent and Trademark Office from issuing any patent “on claims directed to or encompassing a human organism.” The USPTO understands the Weldon Amendment to provide unequivocal congressional backing for the long-standing USPTO policy of refusing to grant any patent containing a claim that encompasses any member of the species *Homo sapiens* at any stage of development. It has long been USPTO practice to reject any claim in a patent application that encompasses a human life-form at any stage of development, including a human embryo or human fetus; hence claims directed to living “organisms” are to be rejected unless they include the adjective “nonhuman.”

The USPTO’s policy of rejecting patent application claims that encompass human lifeforms, which the Weldon Amendment elevates to an unequivocal congressional prohibition, applies regardless of the manner and mechanism used to bring a human organism into existence (e.g., somatic cell nuclear transfer, in vitro fertilization, parthenogenesis). If a patent examiner determines that a claim is directed to a human life-form at any stage of development, the claim is rejected as non-statutory subject matter and will not be issued in a patent as such.

As indicated in Representative WELDON’s remarks in the Congressional Record of November 5, 2003 the referenced language precludes the patenting of human organisms, including human embryos. He further indicated that the amendment has “exactly the same scope as the current USPTO policy,” which assures that any claim that can be broadly construed as a human being, including a human embryo or fetus, is not patentable subject matter. Therefore, our understanding of the plain language of the Weldon Amendment is fully consistent with the detailed statements that the author of the amendment, Representative Weldon, has made in the Congressional Record regarding the meaning and intent of his amendment.

Given that the scope of Representative WELDON’s amendment does not alter the USPTO policy on the non-patentability of human life-forms at any stage of development and is fully consistent with our policy, we support its enactment.

With best personal regards, I remain
Sincerely,

JAMES E. ROGAN,
Under Secretary and Director.

SPEECH OF HON. DAVE WELDON OF FLORIDA IN THE HOUSE OF REPRESENTATIVES MONDAY, DECEMBER 8, 2003

CONFERENCE REPORT ON H.R. 2673, CONSOLIDATED APPROPRIATIONS ACT, 2004—(HOUSE OF REPRESENTATIVES—DECEMBER 8, 2003)

Mr. WELDON of Florida. Mr. Speaker, on July 22, 2003, I introduced an amendment to provide congressional support for the current U.S. Patent and Trademark Office (USPTO) policy and practice against approving patent claims directed to human organisms, including human embryos and human fetuses. The House of Representatives approved the amendment without objection on July 22, 2003, as section 801 of the Fiscal Year 2004 Commerce/Justice/State Appropriations Bill. The amendment, now included in the Omnibus appropriations bill as section 634 of H.R. 2673, reads as follows: “None of the funds appropriated or otherwise made available

under this Act may be used to issue patents on claims directed to or encompassing a human organism."

The current Patent Office policy is that "non-human organisms, including animals" are patentable subject matter under 35 U.S.C. 101, but that human organisms, including human embryos and human fetuses, are not patentable. Therefore, any claim directed to a living organism must include the qualification "non-human" to avoid rejection. This amendment provides unequivocal congressional support for this current practice of the U.S. patent office.

House and Senate appropriators agreed on report language in the manager's statement on section 634. The statement reads: "The conferees have included a provision prohibiting funds to process patents of human organisms. The conferees concur with the intent of this provision as expressed in the colloquy between the provision's sponsor in the House and the ranking minority member of the House Committee on Appropriations as occurred on July 22, 2003, with respect to any existing patents on stem cells."

The manager's statement refers to my discussion with Chairman DAVID OBEY, when I explained that the amendment "only affects patenting human organisms, human embryos, human fetuses or human beings." In response to Chairman OBEY's inquiry, I pointed out that there are existing patents on stem cells, and that this amendment would not affect such patents.

Here I wish to elaborate further on the exact scope of this amendment. The amendment applies to patents on claims directed to or encompassing a human organism at any stage of development, including a human embryo, fetus, infant, child, adolescent, or adult, regardless of whether the organism was produced by technological methods (including, but not limited to, in vitro fertilization, somatic cell nuclear transfer, or parthenogenesis). This amendment applies to patents on human organisms regardless of where the organism is located, including, but not limited to, a laboratory or a human, animal, or artificial uterus.

Some have questioned whether the term "organism" could include "stem cells". The answer is no. While stem cells can be found in human organisms (at every stage of development), they are not themselves human organisms. This was considered the "key question" by Senator HARKIN at a December 2, 1998 hearing before the Senate Appropriations Subcommittee on Labor, Health and Human Services and Education regarding embryonic stem cell research. Dr. Harold Varmus, then director of the NIH testified "that pluripotent stem cells are not organisms and are not embryos. . . ." Senator HARKIN noted: "I asked all of the scientists who were here before the question of whether or not these stem cells are organisms. And I believe the record will show they all said no, it is not an organism." Dr. Thomas Okarma of the Geron Corporation stated: "My view is that these cells are clearly not organisms . . . in fact as we have said, are not the cellular equivalent of an embryo." Dr. Arthur Caplan agreed with this distinction, saying that a stem cell is "absolutely not an organism." There was a unanimous consensus on this point at the 1998 hearing, among witnesses who disagreed on many other moral and policy issues related to stem cell research.

The term "human organism" includes an organism of the human species that incorporates one or more genes taken from a nonhuman organism. It includes a human-animal hybrid organism (such as a human-animal hybrid organism formed by fertilizing a nonhuman egg with human sperm or a human egg with non-human sperm, or

by combining a comparable number of cells taken respectively from human and non-human embryos). However, it does not include a non-human organism incorporating one or more genes taken from a human organism (such as a transgenic plant or animal). In this respect, as well, my amendment simply provides congressional support for the Patent Office's current policy and practice.

This amendment should not be construed to affect claims directed to or encompassing subject matter other than human organisms, including but not limited to claims directed to or encompassing the following: cells, tissues, organs, or other bodily components that are not themselves human organisms (including, but not limited to, stem cells, stem cell lines, genes, and living or synthetic organs); hormones, proteins or other substances produced by human organisms; methods for creating, modifying, or treating human organisms, including but not limited to methods for creating human embryos through in vitro fertilization, somatic cell nuclear transfer, or parthenogenesis; drugs or devices (including prosthetic devices) which may be used in or on human organisms.

Jamed Rogan, undersecretary of the U.S. Patent and Trademark Office, has stated in a November 20, 2003, letter to Senate appropriators: "The USPTO understands the Weldon Amendment to provide unequivocal congressional backing for the long-standing USPTO policy of refusing to grant any patent containing a claim that encompasses any member of the species *Homo sapiens* at any stage of development . . . including a human embryo or human fetus. . . . The USPTO's policy of rejecting patent application claims that encompass human lifeforms, which the Weldon Amendment elevates to an unequivocal congressional prohibition, applies regardless of the manner and mechanism used to bring a human organism into existence (e.g., somatic cell nuclear transfer, in vitro fertilization, parthenogenesis)." Undersecretary Rogan concludes: "Given that the scope of Representative WELDON's amendment . . . is full consistent with our policy, we support its enactment."

The advance of biotechnology provides enormous potential for developing innovative science and therapies for a host of medical needs. However, it is inappropriate to turn nascent individuals of the human species into profitable commodities to be owned, licensed, marketed and sold.

Congressional action is needed not to change the Patent Office's current policy and practice, but precisely to uphold it against any threat of legal challenge. A previous Patent Office policy against patenting living organisms in general was invalidated by the U.S. Supreme Court in 1980, on the grounds that the policy has no explicit support from Congress. In an age when the irresponsible use of biotechnology threatens to make humans themselves into items of property, of manufacture and commerce, Congress cannot let this happen again in the case of human organisms.

I urge my colleagues to support this Omnibus in defense of this important provision against human patenting.

HONORING COLONEL VINCENT QUARLES ON HIS COMMAND OF THE CHICAGO DISTRICT OF THE UNITED STATES ARMY CORPS OF ENGINEERS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 23, 2011

Mr. VISCLOSKY. Mr. Speaker, it is with the deepest admiration that I take this opportunity to honor Colonel Vincent Quarles. Colonel Quarles has spent the last three years as the District Commander for the United States Army Corps of Engineers, Chicago District. At this post, Colonel Quarles has undertaken immense responsibility, overseeing water resources development in the Chicago metropolitan area, an area of about 5,000 square miles with a population nearing 8 million. Since his arrival at the Chicago District on July 1, 2008, Colonel Quarles has served all who live in his District of responsibility with unwavering devotion. He has deeply touched many lives and is deserving of our sincerest gratitude. On behalf of both myself and my constituents, I take this opportunity to thank Colonel Quarles who will be relinquishing his command to Colonel Fred Drummond on June 30, 2011, at the Harold Washington Library Center in Chicago, Illinois.

Colonel Vincent Quarles began his impressive military career as a Cannon Fire Direction Specialist, Charlie Battery, 113th Field Artillery Battalion. Upon graduating from college, Colonel Quarles was granted a federal commission in the Corps of Engineers and entered active service in 1987. He was assigned to 8th Engineer Battalion, 1st Cavalry Division, Fort Hood, Texas, where he served as a Sapper Platoon Leader, an Assault and Obstacle Platoon Leader, and a Company Executive Officer. From this post, Colonel Quarles deployed to Operation Desert Shield and Operation Desert Storm as the Battalion Maintenance Officer. In 2000, Colonel Quarles reported to Engineer Brigade, 3rd Infantry Division, Fort Stewart, Georgia. From there, he deployed to Bosnia Herzegovina as the Brigade Operations Officer in support of stabilization operations. Upon his return from Bosnia in 2001, Colonel Quarles was reassigned as Executive Officer, 10th Engineer Battalion until 2002. Colonel Quarles deployed to Iraq in support of Operation Iraqi Freedom in 2003. While overseas, his battalion managed more than 300 construction contracts at a cost exceeding \$326 million as well as emplacing and maintaining the brigade's communication network, operating the brigade's internment facility, and providing brigade organic military intelligence capabilities. Post battalion command, Colonel Quarles served as the Mobility Team Chief, Dominant Maneuver Division of Force Development, Army G-8 from 2006-2008.

Colonel Quarles' educational background is very impressive in its own right. As a member of the United States Army, Colonel Quarles completed both the United States Army Engineer Basic and Advanced Courses. From 1997-1999, Colonel Quarles taught Civil and Mechanical Engineering at the United States Military Academy where he also acted as the Department's Executive Officer. Next, he went on to graduate from the Command and General Staff College in 2000. His civilian educational accomplishments are noteworthy as