

Mr. Speaker, I join the Sawyers' family and friends in wishing them many more happy years together.

LET'S NOT KILL OUR
TECHNOLOGICAL LEADERSHIP

HON. DANA ROHRBACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 21, 1994

Mr. ROHRBACHER. Mr. Speaker, as drafted, the GATT implementing legislation includes a provision that will fundamentally change our present patent system. Today U.S. patents are protected 17 years from the time they are granted. The GATT proposal is to make this 20 years from the time of filing. This seemingly benign change would supposedly harmonize our system with Japan and Europe.

This is not as simple or benign as it seems. Changing the beginning of the term from the grant date to the filing date will have a tremendously adverse and unintended effect on small inventors and U.S. competitiveness.

Achieving patent harmonization to meet the GATT does not necessitate the proposed changes. GATT only calls for a minimum of 20 years from filing patent term. Therefore, the GATT goals can be met by increasing the length of the patent term to 20 years from the date of grant. Alternatively, the law could also be changed so that it protects the inventor for 20 years from filing or 17 years from grant, whichever is longer.

Mr. Speaker, 50 distinguished inventors, 15 of whom are members of the National Inventors Hall of Fame, have written a letter to President Clinton expressing their fears concerning the proposed changes in U.S. patent law. I commend to my colleagues the following letter from these inventors. If, after reading this letter, you agree that the U.S. patent law should not be effectively shortened to "20 years from filing" you may contact my office or Congresswoman BENTLEY to sign a letter to President Clinton to make U.S. patent terms 20 years from the time of grant.

AN OPEN LETTER TO PRESIDENT CLINTON
FROM AMERICA'S INVENTORS

HON. WILLIAM JEFFERSON CLINTON,
The White House, Washington, DC.

DEAR PRESIDENT CLINTON: We represent a cross section of inventors who have developed inventions ranging from simple consumer products to breakthrough technologies all of which have contributed to our country's economic growth, standard of living, health, and technological leadership. Most of us are not only inventors but technology entrepreneurs. We share your concerns about the growth of the U.S. economy and your vision for America's continued greatness, but we are concerned about unnecessary changes being proposed to the patent laws in the GATT enabling legislation.

The U.S. patent system was established in the Constitution by our founding fathers. It is a unique and crucial part of our free enterprise system. It has made the U.S. the world leader, not just in pioneering new product concepts and technologies, but bringing them to market. It is not a coincidence that some of those who framed our form of government were inventors: Benjamin Franklin, a founder of the science of electricity, invented bifocals and the Franklin stove. Thomas Jefferson, the first Patent Commissioner, invented a cryptographic system that

was used by the United States during World War II. Lincoln, the only president to be issued a patent, a patent litigator, and a technology president who promoted several new technologies into use in the civil war, declared "patents added the fuel of interest to the fire of genius."

Nobel Laureate Robert Solow estimated that 90 percent of the U.S. economic growth is the result of technological advances. Whole industries have sprung up from the inventions of Edison, Bell, and the Wright brothers. A review of the signatories of this letter demonstrate that today inventors are still creating new companies and new industries. U.S. technological leadership is based on American inventors' willingness to challenge the conventional wisdom and our patent system which supports them in that effort. The loss of the vitality of our patent system will threaten our technological leadership.

It is the people of the U.S. who benefit from the high growth, high paying industries which are created by inventors and technology entrepreneurs.

We understand that the enabling legislation for the General Agreement on Tariff and Trade (GATT) includes administration language that would change the present patent term from 17 years from the date of issuance to 20 years from the date of filing. While most patents take 2 or 3 years to issue, important patents, especially those in new technologies, take longer—often a decade or more. One of Gordon Gould's laser patents took 29 years to issue. The proposed change would start the clock ticking before the patent issues, thus encouraging delaying tactics by those who don't want the patent to issue, penalizing inventors for patent office delay, and significantly reducing the worth of the patent and the incentive to invest in developing the invention.

The patent system, like the First Amendment, is a critical element of the Constitution, designed to protect and encourage those who advocate change. The proposed modifications to the patent law appear to have been inserted in response to requests from those threatened by technological change they can't control.

President Clinton, you yourself understand the difficulty innovators face. Indeed, you quoted Machiavelli on the subject:

There is nothing more difficult to carry out, nor more doubtful of success, nor more dangerous to handle, than to initiate a new order of things. For the reformer has enemies in all those who profit from the old order and only lukewarm defenders in those who would profit by the new order * * *

The proposed patent changes would rob the U.S. of its technological leadership by tilting the playing field even more against pioneers and in favor of the copiers.

It is crucial that any proposed patent law changes be in a separate bill, apart from GATT. Such proposals should be voted on ONLY after OPEN Congressional hearings. Congress should have the benefit of testimony from not just patent lawyers but inventors—especially those who have founded companies based on their inventions. If Congress is to change the patent laws, it must understand how the patent system works from the perspective of not just big companies and patent lawyers, but from inventors such as us.

Passing GATT requires a minimal change to the current patent system. GATT makes no reference to filing or issuance dates. The U.S. patent system would comply with GATT by making the patent term expire 20 years from issue. We adamantly oppose any part of the proposed "TRIPS" legislation that is not absolutely required by GATT. We

urge you to ask Congress to hold hearings on any on how to strengthen the patent system. Sincerely yours,

PAUL HECKEL
(for Intellectual Property Creators
and the Inventors listed below).

Members of the National Inventors Hall of Fame and some of their inventions: Dr. Frank Colton, Enovid, The first oral contraceptive; Raymond Damadian, M.D., The Magnetic resonance imaging scanner; Gertrude B. Elion, D.Sc., leukemia-fighting & transplant rejection drugs. Nobel Laureate; Dr. Jay Forester, Random access computer core memory; Gordon Gould, Optically pumped laser amplifiers; Dr. Wilson Greatbatch, The cardiac pacemaker; Leonard Greene, Aircraft stall warning device; Dr. Robert Hall, High-voltage, high-power semiconductor rectifiers; Dr. William Hanford, Polyurethane; Dr. James Hillier, Electron Lens Correction Device; Jack Kilby, Monolithic integrated circuit; Robert Ledey, M.D., The full body cat scanner; Dr. Irving Millman, Hepatitis B vaccine & test to detect hepatitis B; John Parsons, Numerically controlled machine tools, and Dr. Robert Rines, High resolution image scanning radar, internal organ imaging.

Members of the American Collage of Physician Inventors: Dr. Arnold Heyman, Bard/Heyman urethral instrument system; Dr. Charles Klieman, Surgical Staplers; Dr. Robert Markison, Sailboard hand rip for windsurfing and surgical instruments; Dr. Lloyd Marks, Cardiac patient monitoring detector, and Dr. Leo Rubin, Implantable defibrillator combined with a pacemaker.

Other Inventors: Ron Ace, Lightweight photochromic eyeglass lenses; Dr. Saul Aisenberg, Ion assisted deposition of diamond-like thin films; Dr. Paul Burstein, Rocket motor inspection, system; Tom Cannon, Computer Kiosk for selecting and printing greeting cards; Charles Fletcher, The Hovercraft; Dr. Richard Fuisz, Rapidly dissolvable medicinal dosage unit; Elion Gasper, Speech synthesis with synchronous animation; Charles Hall, Waterbed; Paul Heckel, Card and rack computer metaphor; Dr. A Zeer Hed, Freeze ablation catheter; Anthony Hodges, RSI preventing computer keyboard; Walter Judah, Ion exchange membrane; Ron Lesca, Telecommunications equipment and electronic ballasts; Michael Levine, Magistrate thermostat, One screen programming used in VCR Pius; Lawrence B. Lockwood, Interactive multimedia information system; Wallace London, Clothes hanger lock for suitcases. (*London v. Carson Pirie Scott*); Edward Lowe, Kitty Litter; Cordell Lundahl, Stakhand Hay Handler and other Farm Machinery; Paul MacCready, The Gossamer Condor and Gossamer Albatross airplanes; Jacob Malta, Musical bells (*Multa v. Schulmerich*); George Margolin, Microfiche readers, folding pocket calculators; Stan Mason, Shaped disposable diaper, microwave cookware, granola bar; Kary Mullis, Polymerase Chain Reaction, Nobel Laureate; Tod Nesler, Non-fogging goggles for sport and the military; John Paul, Electronic ballasts; Bob Polata, Composite masking for high frequency semiconductor devices; Dr. Richard Pavelle, Method for increasing catalytic efficiency; Peter Theis, Automated voice processing; Coye Vincent, Ultrasonic Bond Meter, and Paul Wolstenholme, Self erecting grain storage system.

The Intellectual Property Creators Coalition: ALPHA Software Patentholders, Paul Heckel President; American Collage of Physician Inventors, Dr. Klieman, President, Donald Banner, Patent Commissioner under President Carter; The Inventors Voice, Steve Gness, President; National Congress of Inventors Organization, Cordell Lundahl President and United Investors Association of the USA, Dr. Jenny Servo President.