

**Congress of the United States**  
**Washington, DC 20515**

March 5, 2008

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
Washington, DC 20510

The Honorable Steny Hoyer  
Majority Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable John Boehner  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20510

The Honorable Roy Blunt  
House Republican Whip  
U.S. House of Representatives  
Washington, DC 20510

Dear Speaker Pelosi, Majority Leader Hoyer, Minority Leader Boehner, and Republican Whip Blunt:

Last September, the House passed H.R. 1908, the Patent Reform Act of 2007. At the time of its passage, concerns had arisen regarding the international implications of the legislation. Last June, one Member of the House Judiciary Committee requested a hearing on, *inter alia*, the impact of the legislation on negotiations with developing nations, but that request was not granted. Last July, a leading newspaper of India reported that the legislation would provide Indian companies a "new inexpensive option" for attacking U.S. patents. Although this article was widely circulated to House Members, no formal assessment of the bill's international implications occurred prior to floor consideration.

On November 11, 2007, a Chinese intellectual property scholar reinforced this point in an article in China Intellectual Property News, a leading Chinese publication in its field. The author, Yongshun Cheng, is a former senior judge and Deputy Director of the IP Division of the Beijing High People's Court (the most senior court in Beijing). Mr. Cheng has been nominated as one of the 50 most influential IP figures world-wide, according to the UK publication "Managing IP."

In his article, Mr. Cheng makes the following points concerning H.R. 1908.

**\*The bill "*will weaken the right of patentees greatly, increase their burden, and reduce the remedies for infringement.*"**

**\*The bill "*favors infringers and burdens patentees.*"**

**\*"It is not bad news for developing countries which have lower technological development and relatively fewer patents. Due to the weak foundation of patents, the Chinese products often encounter trouble in the U.S. market. This bill will provide more**

mechanisms and flexibilities in making patent challenge strategies, and also lower the cost of infringement, therefore the infringement will become easier.”

*\*The bill “apparently contradicts to the long term stance the U.S. has been holding to press China for strengthening the IP protection.”*

And, ominously, Mr. Cheng suggests to his Chinese readers that “When China makes the third amendment of the Chinese patent law, we should consider combining the Chinese practical experience and the patent infringement damage calculation method proposed in the Bill could be used as reference.” Attached are the article in Chinese and an English translation.

Most recently, on January 29, 2008, German patent expert, Professor Gernot Pehnelt, Research Associate at the European Center for International Political Economy, declared that “a recent effort by the United States to reform its patent system threatens to undermine German innovation and deprive Americans and the world of its benefits.”

Professor Pehnelt went on to say that “the American system is regarded as the strongest protector of patents rights in the world [and] the patent-reform bill would reduce incentives to perform research and developments.” Professor Pehnelt concluded that “Congress should think twice before ‘fixing’ a patent system that is in the envy of the world.”

The companion legislation to H.R. 1908 is now pending in the Senate and could be voted on in early April.

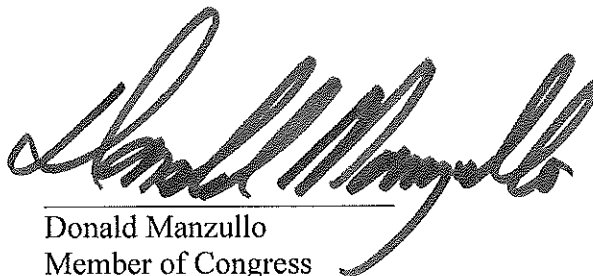
Because of the growing focus on H.R. 1908 among developing nations and close trading partners and the resulting concern among Members of Congress, we are writing to request that, should the Senate pass the companion of H.R. 1908, the House hold at least one hearing in an appropriate committee to consider the international implications of this far-reaching legislation prior to appointing conferees or further considering the legislation.

Thank you for your consideration of this request.


Sincerely,





Michael H. Michaud  
Member of Congress





Donald Manzullo  
Member of Congress

  
Daniel Lipinski  
Member of Congress

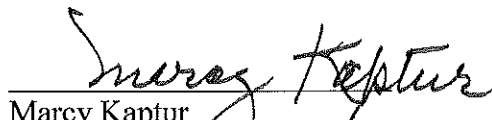
  
Duncan Hunter  
Member of Congress

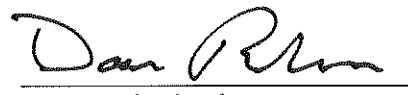
  
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