

## Electronics industry seeks advantage at others' expense

Contributed by Rep. Dana Rohrabacher (R-Calif.)  
03/03/08 05:31 PM [ET]

There are powerful forces at play in Washington, at times using their disproportionate influence to take our government in a direction that benefits their interests rather than those of the American people. The immigration debate is certainly an example of this. The recent Senate amnesty bill would have resulted in tens of millions of dollars being spent to provide healthcare, education and numerous other public services to newly legalized illegal immigrants, essentially enticing millions more illegals into our country. Thankfully it failed, but it took an enormous effort to get the public to pay attention to something as dramatically important as this was to our country's long-term interests.

Unfortunately, there is another bill working its way through Congress that will have an equally negative long-term impact on the American people. The powerful special interests, however, know exactly what it is all about and hope to slide this one through relatively unnoticed. I'm referring to the Patent Reform Act of 2007, which I have dubbed the "Steal American Technologies Act" because the bill will basically destroy the patent system that has served our country so well for the last 200 years. How could a bill with such drastic, long-term consequences be shoehorned through the House committee process and then thrown onto the floor with a minimum time allotted for debate?

Similar to the amnesty bill, this legislation's proponents are refusing to acknowledge the fundamentally flawed nature of the legislation they are supporting. For example, the electronics industry has spent megabucks in a long-term power play to free itself from paying substantial royalties to inventors. They self-servingly argue this will facilitate technology utilization in their particular industry.

What about the pharmaceutical, energy, biotech industries and others? They can and will go to hell as far as the electronics industry is concerned.

The creativity and inventiveness of our people will be irresponsibly compromised in favor of this one special-interest group.

The Senate will soon consider its version of the patent bill, S. 1145, which is no different than the anti-inventor special interest bill that was shepherded through the House. This bill requires, among other harmful implications, that all patent applications be published on the Internet 18 months after the application is filed. That's a monstrous threat because the average processing time for a patent today is 31 months, and the tremendous bureaucratic logjam this legislation will create will only increase that wait.

As a result, the vast majority of American patent applications will be published before the patent is actually issued. In fact, the application will be open for more than a full year before any patent protections are issued. In the meantime, America's genius will be vulnerable to piracy, mainly from foreign competitors like India and China. Proponents of the legislation don't deny this; they ignore it.

This is congressional special-interest servicing at its worst. It is so bad it has already captured the attention of America's overseas economic adversaries.

A July 23, 2007 article in The Economic Times of India stated, "a crucial bill making its way through the U.S. Congress is set to give a new, inexpensive option for Indian drug makers to attack the patents that give monopoly rights to top-selling MNC [multinational corporations] brands in the largest pharmaceutical market."

Furthermore, China Intellectual Property News, incredulous at Congress's willingness to shoot America's inventors in the foot, conducted a thorough analysis of the bill, claiming, "the bill passed in the House will weaken the patent protection and it conflicts with the attitude of the U.S. government of pressuring the Chinese government to strengthen the protection of IP rights."

This well-respected and influential Chinese publication pointed out that in every case the inventor's rights were

compromised, giving potential patent infringers an unfair advantage. The report concluded by asking why the Americans are asking China to do more to strengthen intellectual property rights when they are going in exactly the opposite direction in their legislation at home.

It is estimated that the U.S. economy already loses \$250 billion a year from global IP theft. Under the new rules set down by this so-called patent reform, the financial hit to the U.S. will be exponentially worse.

As foreign infringers discovered, in order to make the electronic industry happy, we've made other industries vulnerable to their plunder.

This bill contains other nonsensical and damaging provisions. For example, the post-grant review process now used in Europe is the same system proposed by S. 1145. Under this system, Europe now has three times the number of patent lawsuits than under the old system. In fact, Japan dropped the European model in 2004 because of too many lawsuits. Did anyone think that duplicating that system would do anything but make matters worse?

This Congress will determine the fundamental law that will take precedence in this country for the next 50 years and perhaps longer. The current proposal is a fundamental break with the law and principles that have protected the little guy and served the overall interest of the American people so well for the last 200 years. America has succeeded because of the wisdom of our Founding Fathers, who understood that the protection of individual rights was in the interest of our country as a whole. So much so, patent rights were actually written into our Constitution.

This stealth attempt at altering the patent laws of our country may help the electronics industry steal what they need to maximize profits by not fairly compensating the inventors who produce new technologies, but that will not serve us in the long run. Other major industries, along with the average American inventor who depends on strong patent protection, will be left paying the price.

Rohrabacher is a member of the House Science and Technology Committee.