

Improved Sight and Sound Separation Requirement: Last year, I joined with Senators BIDEN and KOHL and other Democrats to urge the adoption of the more protective federal standards for juveniles in State detention facilities but the Republican sponsors of S. 10 rejected these changes to the bill. I am delighted to see that this mean-spirited provision may be modified, and that juveniles held in state facilities will have the same protections from adult inmates as juveniles in federal custody.

Dedicated Prevention Funding: Despite being repeatedly rebuffed when I and my fellow Democrats insisted that prevention programs needed dedicated funding, I am pleased that the sponsors of S. 10 apparently have changed their tune and are promising to dedicate funding to prevention programs. A dedicated fund of \$50 million per year is a start.

Revisions to the Federal Firearms Code: I warned my colleagues over a year ago that certain provisions the "Federal Gang Violence Act," incorporated in Title II of S. 10, would lead to the largest increase in the federal regulation of firearms in the history of our nation. No one heeded my advice then, but the sponsors of this bill have apparently finally realized they need to modify these provisions. The revised S. 10 has more than halved the number of firearm offenses that can serve as predicates for gang-related offenses or under the RICO statute.

I remain eager to review the actual text of this revised bill. I also remain hopeful that the sponsors of S. 10 will commit to working openly with me and other Democrats to craft common sense, reasonable approaches to reduce juvenile crime while there is still time in this Congress.

OMNIBUS PATENT ACT OF 1997

Mr. LEAHY. Mr. President, now that we have passed legislation to implement the WIPO copyright treaties, it is time for the Senate to consider another bill of critical importance to America's businesses: The Omnibus Patent Act of 1997, S. 507.

The patent bill has been stalled by Republican holds for over a year. It is time that the Senate turn to it and reform our patent laws. The patent bill was based on a proposal submitted by the Clinton Administration several years ago. It was reported out of the Senate Judiciary Committee on May 22, 1997, with a favorable vote of 17-1 and has the support of every Democrat on the Committee. Its co-sponsors, in addition to myself, include Senators DASCHLE, BINGAMAN, CLELAND, BOXER, HARKIN and LIEBERMAN.

The patent bill would reform the U.S. patent system in important ways. It would slash red tape in the Patent and Trademark Office (PTO); ensure that American inventors are not disadvantaged as compared to foreign inventors by requiring patent applications to be

published in the U.S. at the same time they are published abroad; reduce legal fees that are paid by inventors and companies; and require the PTO to develop statewide computer networks with remote library sites to enhance access to electronic patent information for independent inventors and small businesses in rural states.

In Vermont, we have a number of independent inventors and small companies. It is, therefore, especially important to me that this bill be one that helps them just as much as it helps the larger companies. I talked to independent inventors and representatives of smaller companies to see what reforms they recommended. I invited the President of the Vermont Inventors Association to testify before the Senate Judiciary Committee on this bill, and I have tried to make sure that the sound recommendations of small businesses and independent inventors were incorporated in the Hatch-Leahy substitute that the Judiciary Committee reported to the Senate over one year ago.

The White House Conference on Small Businesses, which consists of over 2,000 delegates elected from hundreds of thousands of active small businesses nationwide; the National Association of Women Business Owners; the Small Business Technology Coalition; National Small Business United; the National Venture Capital Association; and the American Small Business Coalition for Patent Reform have concluded that, if enacted, this bill will be of great benefit to small businesses.

What is holding up floor consideration of the bill? I think it is time to debate this bill on the merits. The Senate Republican leadership should schedule prompt action on this important measure.

Our nation's economic prosperity in the coming years will depend on our abilities to invent and protect those inventions through our intellectual property laws. American innovators face global competition, and they need updated laws to continue to lead the world. This modernization of our patent laws is an important component of that essential effort. Along with the legislation the Senate recently approved to implement the WIPO copyright treaties, this bill goes a long way to protecting American ingenuity in the next century. Democrats have been ready to proceed to consider this measure for over a year. With less than 53 legislative days left in this session, I urge the Republican leadership to work with us to schedule action on this important bill.

I ask unanimous consent that a list of letters of support for the patent bill and a few examples from those letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF LETTERS OF SUPPORT OF THE OMNIBUS PATENT ACT OF 1997, S. 507

White House Conference on Small Businesses.

The National Association of Women Business Owners.

The Small Business Technology Coalition.
National Small Business United.
The National Venture Capital Association.
21 Century Patent Coalition—signed by CEOs of 48 American companies.

The Chamber of Commerce of the United States of America.

Pharmaceutical Research and Manufacturers of America, PhRMA.

American Automobile Manufacturers Association.

The Software Publishers Association.
Semiconductor Industry Association.

3M.

IBM.

Intel Corporation.

Caterpillar.

AMP Incorporated.

THE WHITE HOUSE CONFERENCE ON SMALL BUSINESS,

May 7, 1998.

Hon. PATRICK LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: The White House Conference on Small Business consists of over 2000 delegates elected from hundreds of thousands of active small businesses nationwide. We are the elected technology chairs of the WHCSB and we are charged with, among other things, representing the interests of small business on matters of intellectual property protection.

The issue of patent reform is one of great concern to small manufacturers and technology enterprises. Over the past two years, we have been working to make modifications to the patent reform bills in both Houses so that they are small-business friendly.

We are pleased to hear that an amendment has been offered addressing our concerns with S. 507. We believe that S. 507, as amended, will lower the litigation costs for small business, make it easier to know what areas of technology are open for innovation, and will go a long way towards giving us a more level playing field vis-a-vis our foreign competitors. We wholeheartedly support passage of the bill and appreciate the attention and support you have given to small business.

Sincerely,

The White House Conference on Small Business Technology Chairs: Pat McDonnell, Region I; Ed Wenger, Region II; Jim Woo, Region II; Bill Budinger, Region III; Wanda Gozdz, Region IV; Rob Risser, Region V; Wayne Barlow, Region VIII; Marianne Hamm, Region IX; Chuck Harlowe, Region X.

NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS, Silver Spring, June 23, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: Attached please find a copy of the April 28 letter sent to Senator Orrin Hatch by NAWBO leadership. This letter expresses the position of NAWBO, on behalf of our membership, regarding S.507 and its impact on small business. The letter contains a series of proposed amendments that NAWBO feels are in the best interest of small business owners and for which we would greatly appreciate your support in the upcoming debate on this legislation.

On behalf of NAWBO members and other small business owners, thank you for your time and efforts regarding this issue. If we may be of further assistance please feel free to contact Debra Hickerson in our national office at (301) 608-2590.

Sincerely,

DIAHANN W. LASSUS, CPA, CFP,
President.

NATIONAL ASSOCIATION OF
WOMEN BUSINESS OWNERS,
Silver Spring, MD, April 28, 1998.

Hon. ORRIN HATCH,
*U.S. Senate, Russell Senate Office Building,
Washington, DC.*

DEAR SENATOR HATCH: The National Association of Women Business Owners (NAWBO) and its alliance The Small Business Technology Coalition (SBTC) met with the White House Conference on Small Business (WHCSB) Technology Chairs to review S. 507 and its impact on small business. NAWBO supported intellectual property protection as one of the issues at the White House Conference.

The issue of patent reform is one of great concern to small manufacturers and technology enterprises and to all small businesses in general. When a new patent is filed it provides the potential for a new product to come to market. This in turn gives small and medium size businesses the opportunity to be awarded contracts that generate and provide jobs that stimulate our economy.

America's 8 million women business owners are primarily small and medium size companies that generate \$2.3 trillion dollars in sales and employ 18.5 million people in the United States. Therefore, in order to insure the growth of the American economy we need to protect our inventors.

It is, therefore, our belief that the proposed series of amendments to S. 507 which if enacted, would make this bill of great benefit to small businesses.

There are three amendments:

1. Title IV—Prior Domestic Commercial Use. We offer an amendment in the form of a substitution. The amendment reorganizes, clarifies and simplifies the wording. The substantive difference is that the amendment removes the opportunity which is presently in S. 507 to use a PDCU defense when the prior user has only made "effective and serious preparation" to commercialize the invention. With this section removed, the prior use defense only applies to technology that was actually reduced to practice at least one year prior to the patent priority date and in commercial use before the patent's priority date. With this amendment, PDCU performs its important function of preventing patents from being mis-used to take the property of others.

2. A new title adding language to 102(g)—Section 104 of the existing U.S. patent law arguably allows a foreign inventor to dodge the restrictions that 102(g) places on a U.S. inventor. The suggested change to 102(g) will make it clear that foreign inventors are also subject to the restriction of 102(g) so that they cannot claim priority dates to inventions that they have abandoned, suppressed or concealed.

3. Title I—The make-up of the Management Advisory Board. We add language to ensure that the proportion of representatives on the board from small and large entities reflects their respective proportion of patent applications filed.

With these changes, we believe that S. 507 will lower the litigation costs for small business, make it easier to know what areas of technology are open for innovation, and will go a long way toward giving us a more level playing field vis-a-vis our foreign competitors.

With these changes, we will enthusiastically support S. 507.

Sincerely,

Barbara Kasoff, VP, Public Policy Council; Carol Barrows, Secretary, Public Policy Council; Janie Emerson, Director, Public Policy Council; Joan W. Frentz, Director, Public Policy Council; Terry Neese, NAWBO Corporate and Public Policy Consultant; Judith

F. Framan, Director, Public Policy Council; Wanda E. Gozdz, Director, Public Policy Council; E. Jill Pollack, Director, Public Policy Council.

SMALL BUSINESS
TECHNOLOGY COALITION,
Washington, DC, May 7, 1998.

Hon. PATRICK J. LEAHY,
*U.S. Senate, Russell Senate Office Building,
Washington, DC.*

DEAR SENATOR LEAHY: The Small Business Technology Coalition is made up of research-intensive, technology-based small business leaders. We serve as a voice for the interests of small high-technology firms both in Washington, DC and throughout the United States.

The issue of patent reform is one of great concern to our members. Since our formation 2 years ago, we have spent a great deal of time examining the various patent bills in both Houses. We have met with several groups including the IPO, 21st Century Patent Coalition, NAM and AIPLA and have come to consensus on issues surrounding the bill.

We understand that an amendment has been offered and believe that S. 507, as amended, will lower the litigation costs for small business, make it easier to know what areas of technology are open for innovation, and will go a long way towards giving us a more level playing field vis-a-vis our foreign competitors. We wholeheartedly support passage of the bill and appreciate the attention and support you have given to small business.

Sincerely,

JAMES T. WOO,
Chairman.

NATIONAL SMALL BUSINESS UNITED,
Washington, DC, May 21, 1998.

Hon. PATRICK J. LEAHY,
*U.S. Senate, Dirksen Senate Office Building,
Washington, DC.*

DEAR SENATOR LEAHY: National Small Business United is America's oldest, bipartisan, advocacy association and represents the interests of 65,000 small businesses. Many of our member companies are in the high-technology sector. The issue of patent reform is one of great concern to small manufacturers and technology enterprises. We have worked closely with both the White House Conference on Small Business (WHCSB) Technology Chairs and the Small Business Technology Coalition, and share their views on pending patent reform legislation.

We are pleased to hear that an amendment, incorporating the changes requested by the WHCSB Technology Chairs, has been offered addressing small business concerns with S. 507. We believe that S. 507, as amended, will lower the litigation costs for small business, make it easier to know what areas of technology are open for innovation, and will go a long way towards giving American small business a more level playing field vis-a-vis our foreign competitors.

Again, as a representative of small business who rely on the patent system, NSBU wholeheartedly supports and urges the passage of the bill and appreciates the attention and support you have given to small business.

Sincerely,

TODD MCCrackEN,
President.

NATIONAL VENTURE
CAPITAL ASSOCIATION,
May 29, 1998.

Hon. RICHARD C. SHELBY,
*U.S. Senate, Hart Senate Office Building,
Washington, DC.*

DEAR SENATOR SHELBY: Over the past several years the National Venture Capital As-

sociation has actively worked to enhance the existing patent term in a manner that would permit biomedical companies to enjoy full 20 year patent protection. In this regard, NVCA has long supported S. 507, the patent reform bill which, in part, would give biomedical companies a greater opportunity to fall within the full 20 year patent protection granted under the GATT/TRIPS law enacted in 1994.

A significant portion of venture capital investments in the United States are made in the biopharmaceutical and medical device fields. In fact, almost one-quarter of the \$12 billion invested by venture capitalists last year in emerging companies went into these fields. These companies are the cutting edge of biotechnology and medical innovation. They are giving new and renewed hope for people across virtually the entire spectrum of diseases and afflictions.

To venture capitalists, patents play a fundamental and critical role in the availability of capital and our willingness to invest in biotechnology and medical devices. The reason for such dependency upon patents is that they provide the favorable economics required to justify substantial capital investment for successful product development. The lack of, or the shorter the term of, a patent decreases the attractiveness of a company from the investors' perspective.

S. 507, voted out of the Senate Judiciary Committee on a 17-1 vote, gives the NVCA members the confidence to invest in medical-based companies. The bill is vital to biotechnology patents. NVCA, as well as many in the high technology and inventor communities believe that the few remaining issues can be quickly resolved. Questions regarding contentious matters such as prior user rights can be addressed and debated on the Senate floor through a carefully planned time agreement. Moreover, the prior user rights provision could be modified on the Senate floor to address the concerns of those who still have questions about the provision. However, none of this can be accomplished without an agreement to bring S. 507 to the Senate floor for debate and a vote.

It was unfortunate that S. 507 could not have been part of the highly successful Senate "Technology Week" that Majority Leader Lott orchestrated several weeks ago, as S. 507 truly is of concern to the high technology community. Moreover, the overwhelming support witnessed in the House combined with the clear mandate the Senate Judiciary Committee voiced in approving this patent legislation demonstrates the wide and bipartisan support for patent reform.

On behalf of emerging growth companies, we urge you to support S. 507 and work to see that it can be brought to the Senate floor for debate and a vote as soon as possible.

Sincerely,

M. KATHLEEN BEHRENS,
President.

21ST CENTURY
PATENT COALITION,
Washington, DC, October 22, 1997.

Hon. TRENT LOTT,
*Senate Majority Leader, Capitol Building,
Washington, DC.*

DEAR SENATOR LOTT: We, the chief executives of 48 American companies, are writing to express our strong support for S. 507 (Hatch/Leahy), the "Omnibus Patent Act of 1997", and to urge you to schedule a vote before the Senate adjourns this fall.

S. 507 makes several major improvements in U.S. patent law that will greatly benefit American companies and inventors. The bill (1) insures at least 17 years of exclusive rights to diligent patent owners, (2) eliminates wasteful duplication of R&D by requiring early publication of patent applications

that are also published in foreign countries, (3) protects investments in processes and factory equipment of American manufacturers by creating a prior user defense, (4) provides a low-cost, speedy alternative to district court litigation by strengthening the Patent and Trademark Office's reexamination procedure, and (5) improves efficiency of the Patent and Trademark Office.

The substance of this bill has been debated in many Congressional hearings since the beginning of the 104th Congress. The House passed a companion bill earlier this year and S. 507 was favorably reported by the Senate Judiciary Committee by a vote of 17 to 1.

S. 507 enjoys strong bipartisan support, despite the substantial misinformation that has surrounded it. It is time for the Senate to vote on this bill, which will strengthen the U.S. economy and keep jobs in America.

Sincerely,

Grant Saviers, Chairman, CEO and President, Adaptec, Inc.; H.A. Wagner, Chairman of the Board, President, and Chief Executive Officer, Air Products and Chemicals, Inc.; John R. Stafford, Chairman, President and Chief Executive Officer, American Home Products Corp.; John I. Shipp, President, Apollo Camera, L.L.C.; Carol Bartz, Chairman, President and CEO, Autodesk, Inc.; Clateo Castellini, Chairman of the Board, President and CEO, Becton, Dickinson and Co.; Donald V. Fites, Chairman and CEO, Caterpillar Inc.; William J. Hudson, President and Chief Executive Officer, AMP Inc.; James C. Morgan, Chairman and Chief Executive Officer, Applied Materials, Inc.; William H. Williams, President and Chief Executive Officer, Bear Creek Corp.; Gregory Bentley, President, Bentley Systems, Inc.; Frank Baldino, Jr., Ph.D., President and CEO, Cephalon, Inc.; Dominique Goupil, President, Claris Corp.; Hans W. Becherer, Chairman and Chief Executive Officer, Deere & Co.; John A. Krol, Chairman and Chief Executive Officer, E. I. du Pont de Nemours and Co.; George M. C. Fisher, Chairman, President, and Chief Executive Officer, Eastman Kodak Co.; Alex Trotman, Chairman of the Board, Ford Motor Co.; Eckhard Pfeiffer, President and CEO, Compaq Computer Corp.; William S. Stavropoulos, President and Chief Executive Officer, The Dow Chemical Co.; Earnest W. Deavenport, Jr., Chairman and Chief Executive Officer, Eastman Chemical Co.; Robert N. Burt, Chairman of the Board and Chief Executive Officer, FMC Corp.; John D. Opie, Vice Chairman, General Electric Co.; Phillip W. Farmer, Chairman and Chief Executive Officer, Harris Corp.; Thomas F. Kennedy, President and Chief Executive Officer, Hoechst Celanese Corp.; Gordon E. Moore, Chairman, Intel Corp.; Richard A. McGinn, President and Chief Executive Officer, Lucent Technologies; William H. Gates, Chairman and Chief Executive Officer, Microsoft Corp.; Lewis E. Platt, Chairman, President, and Chief Executive Officer, Hewlett-Packard Co.; Louis V. Gerstener, Jr., Chairman and Chief Executive Officer, IBM Corp.; Jeff Papows, President, Lotus Development Corp.; William W. George, Chairman and Chief Executive Officer, Medtronic, Inc.; L. D. DeSimone, Chairman of the Board and Chief Executive Officer, Minnesota Mining and Manufacturing Co.; Edward J. Mooney, Chairman and CEO, Nalco Chemical Co.; William C. Steere, Jr., Chairman of the Board and CEO, Pfizer, Inc.; Charles S. Johnson, Chair-

man, President and CEO, Pioneer Hi-Bred International, Inc.; H.W. Lichtenberger, Chief Executive Officer, Praxair, Inc.; Jeremiah J. Sheehan, Chairman and Chief Executive Officer, Reynolds Metals Co.; Eric Schmidt, Chairman and CEO, Novell, Inc.; W.W. Allen, Chairman of the Board and Chief Executive Officer, Phillips Petroleum Co.; Gary DiGamillo, Chief Executive Officer, Polaroid Corp.; John E. Pepper, Chairman and CEO, Procter & Gamble; Bill Budinger, Chairman and Chief Executive Officer, Rodel, Inc.; Larry Wilson, Chairman and Chief Executive Officer, Rohm and Haas Co.; Scott McNealy, Chairman of the Board of Directors, President and Chief Executive Officer, Sun Microsystems, Inc.; Melvin R. Goodes, Chief Executive Director, Warner-Lambert Co.; Alan F. Shugart, Chairman, Chief Executive Officer, and President, Seagate Technology; William H. Joyce, Chairman and Chief Executive Officer, Union Carbide Corp.; Ernest H. Drew, Chief Executive Officer, Industries and Technology Group, Westinghouse Electric Corp.

MESSAGES FROM THE HOUSE

At 3:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2411. An act to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission.

H.R. 3303. An act to authorize appropriations for the Department of Justice for the fiscal years 1999, 2000, and 2001; to authorize appropriations for fiscal years 1999 and 2000 to carry out certain programs administered by the Department of Justice; to amend title 28, United States Code with respect to the use of funds available to the Department of Justice; and for other purposes.

H.R. 4059. An act making appropriations for the military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

H.R. 4060. An act making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

H.J. Res. 113. Joint resolution approving the location of a Martin Luther King, Jr. Memorial in the Nation's Capital.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 288. Concurrent resolution expressing the sense of Congress that the United States should support the efforts of Federal law enforcement agents engaged in investigation and prosecution of money laundering associated with Mexican financial institutions.

The message further announced that pursuant to the provisions of 22 U.S.C. 276h, the Speaker appoints the following Members of the House to the Mexico-United States Interparliamentary Group, in addition to Mr. KOLBE of Arizona, Chairman, and Mr. GILMAN of New York, Vice Chairman, appointed

on April 27, 1998: Mr. DREIER, Mr. BARTON, Mr. BALLENGER, Mr. MANZULLO, Mr. BILBRAY, Mr. SANFORD, Mr. HAMILTON, Mr. FILNER, Mr. DELAHUNT, and Mr. REYES.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 2411. An act to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission; to the Committee on Environment and Public Works.

H.R. 3303. An act to authorize appropriations for the Department of Justice for the fiscal years 1999, 2000, and 2001; to authorize appropriations for fiscal years 1999 and 2000 to carry out certain programs administered by the Department of Justice; to amend title 28, United States Code with respect to the use of funds available to the Department of Justice; and for other purposes; to the Committee on the Judiciary.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 288. Concurrent resolution expressing the sense of Congress that the United States should support the efforts of Federal law enforcement agents engaged in investigation and prosecution of money laundering associated with Mexican financial institutions; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times, and placed on the calendar:

H.J. Res. 113. Joint resolution approving the location of a Martin Luther King, Jr. Memorial in the Nation's Capital.

The following bill was read the second time and ordered placed on the calendar:

H.R. 4059. An act making appropriations for the military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5653. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the report of a financial guarantee for the sale of aircraft to Hainan Airlines in the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC-5654. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the report of a financial guarantee for the sale of aircraft to Air Pacific Ltd. of Fiji; to the Committee on Banking, Housing, and Urban Affairs.

EC-5655. A communication from the Director of the Office of Regulatory Management