

Mr. President, I yield back the remainder of my time.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I ask unanimous consent that all remaining time be yielded back on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I ask for the yeas and nays on the Smith nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Bradley A. Smith, of Ohio, to be a Member of the Federal Election Commission? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 107 Ex.]

YEAS—64

Abraham	Fitzgerald	Moynihan
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Baucus	Graham	Reid
Bennett	Gramm	Roberts
Bond	Grams	Roth
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bryan	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Chafee, L.	Hutchinson	Specter
Cochran	Inhofe	Stevens
Collins	Inouye	Thomas
Coverdell	Jeffords	Thompson
Craig	Kyl	Thurmond
Crapo	Leahy	Torricelli
DeWine	Lott	Voinovich
Dodd	Lugar	Warner
Domenici	Mack	
Enzi	McConnell	

NAYS—35

Akaka	Feinstein	Lincoln
Bayh	Harkin	McCain
Bingaman	Hollings	Mikulski
Boxer	Johnson	Murray
Byrd	Kennedy	Reed
Cleland	Kerrey	Robb
Conrad	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
Dorgan	Landrieu	Schumer
Durbin	Lautenberg	Wellstone
Edwards	Levin	Wyden
Feingold	Lieberman	

NOT VOTING—1

Biden

The nomination was confirmed.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the next votes in this series be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

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NOMINATION OF DANNY LEE McDONALD, OF OKLAHOMA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION

The legislative clerk read the nomination of Danny Lee McDonald, of Oklahoma, to be a member of the Federal Election Commission.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Danny Lee McDonald, of Oklahoma, to be a member of the Federal Election Commission?

Mr. McCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 108 Ex.]

YEAS—98

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Mikulski
Baucus	Gorton	Moynihan
Bayh	Graham	Murkowski
Bennett	Gramm	Murray
Bingaman	Grams	Nickles
Bond	Grassley	Reed
Boxer	Gregg	Reid
Breaux	Hagel	Robb
Brownback	Harkin	Roberts
Bryan	Hatch	Rockefeller
Bunning	Helms	Roth
Burns	Hollings	Santorum
Byrd	Hutchinson	Sarbanes
Campbell	Hutchinson	Schumer
Chafee, L.	Inhofe	Sessions
Cleland	Inouye	Shelby
Cochran	Jeffords	Smith (NH)
Collins	Johnson	Smith (OR)
Conrad	Kennedy	Snowe
Coverdell	Kerrey	Specter
Craig	Kerry	Stevens
Crapo	Kohl	Thomas
Daschle	Kyl	Thompson
DeWine	Landrieu	Thurmond
Dodd	Lautenberg	Torricelli
Domenici	Leahy	Voinovich
Dorgan	Levin	Warner
Durbin	Lieberman	Wellstone
Edwards	Lincoln	Wyden
Enzi	Lott	

NAYS—1

McCain

NOT VOTING—1

Biden

The nomination was confirmed.

NOMINATION OF TIMOTHY B. DYK, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT

The PRESIDING OFFICER. The clerk will report the next nomination.

The assistant legislative clerk read the nomination of Timothy B. Dyk, of the District of Columbia, to be United States Circuit Judge for the Federal Circuit.

Mr. LEAHY. Mr. President, yesterday some Republicans opposed Tim Dyk's confirmation to the Federal Circuit based on the workload of that court. Last evening I inserted in the RECORD a letter from the Chamber of Commerce that argued for his nomination in terms of the court's important workload and cases.

I am troubled that at a time when we are working through the night to try to preserve a digital signature bill to help encourage electronic commerce and protect consumers, when we are trying to work through Republican holds on the H1-B visa bill and increase the availability of high tech workers and improve training of American workers, when we are trying to improve on-line privacy and Internet security, I see such insensitivity to the needs of the Federal Circuit and its role in our economy and in our judicial system.

We designed the Federal Circuit to be our patent court. It has extraordinarily complex cases that are of increasing importance as our economy becomes more and more based on technological developments. Prompt and proper adjudication of cases before that court are in many ways critical to the continued growth of our economy and our economic future.

I see vacancies on that court as high priorities. I know that the other Democratic Senators share my view. I have been greatly troubled by the perpetuation of this vacancy on the Federal Circuit for more than two years while the Dyk nomination has been held back from Senate action. That is wrong. It is unfair to Tim Dyk and his family. It is short-sighted with respect to the important matters on the docket of the Federal Circuit.

That was the point of the Chamber of Commerce letter last August. Filling the vacancy on the Federal Circuit should be a priority of the Senate. The Federal Circuit should have all the resources it needs to do its job and resolve intellectual property disputes intelligently, fairly, and expeditiously.

Nonetheless, in spite of all these considerations and what I had hoped was a bipartisan commitment to the growth of our high tech economy, some are arguing that because its caseload numbers are not inflated by prisoner petition, criminal cases or scores of simple civil cases our nation's patent court ought not to have its needs fulfilled. I disagree.

Moreover, I have to wonder whether we would even be hearing that argument if a Republican President were

making this nomination. I thank the Chamber of Commerce for showing that business supports the confirmation of Tim Dyk to fill this vacancy on the Federal Circuit and for not playing politics with this nomination. The nature of the Federal Circuit's caseload merits a full complement of judges as authorized by Congress so that its intellectual property docket can get the attention that it deserves and that our economy requires.

Mr. KENNEDY. Mr. President, at long last, the Senate is considering the nomination of Timothy Dyk for the U.S. Court of Appeals for the Federal Circuit. Mr. Dyk is an exceptional nominee who has waited far too long for action by the Senate. He is a nationally known and respected attorney who has been approved by the American Bar Association and was well received by the Senate Judiciary Committee. He deserves confirmation by the Senate by an overwhelming bipartisan majority today.

Mr. Dyk is an honors graduate of Harvard College and Harvard Law School, where he was a member of the Law Review. After graduation, he served as a Supreme Court law clerk for Chief Justice Earl Warren, as well as for Justices Stanley REED and Harold Burton. He served in the Justice Department for a year in the early 1960's and has spent the last 37 years as a distinguished and highly respected attorney in private practice in Washington, D.C.. He has argued cases before the Supreme Court and in numerous federal courts of appeals, including five cases before the Federal Circuit. He clearly has the qualifications and ability to serve on that Circuit with great distinction.

Mr. Dyk's nomination is supported by a variety of corporations and organizations, including the U.S. Chamber of Commerce, the National Association of Manufacturers, the National Association of Broadcasters, the Labor Policy Association, the American Trucking Association, Kodak, and IBM. He is also supported by the American Center for Law and Justice and has been described by that group as "an exceptional advocate," who "would be a fine jurist on the Federal Circuit."

For a number of years, Mr. Dyk served as lead counsel for the Lubrizol Corporation in a number of patent litigations. Lubrizol's Chairman and CEO has written,

Mr. Dyk was exceptionally effective in briefing and arguing the several appeals in the Federal Circuit that occurred in those cases and demonstrated the ability to provide exceptional service on the federal bench. He also performed an instrumental role in ultimate disposition of those cases through mediation, which he urged on the parties and skillfully guided through extensive and difficult negotiations.

Mr. Dyk is also an active member of numerous bar organizations, and he has served as Chair of the D.C. Circuit Membership Evaluation Committee of the American Academy of Appellate Lawyers. In addition, he is an active

participant in the community. In every respect, he is well-qualified for appointment to the Federal Circuit. He should have been confirmed long ago, and I urge my colleagues to approve his nomination today.

Mr. CAMPBELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Timothy B. Dyk, of the District of Columbia, to be United States Circuit Judge for the Federal Circuit?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

The PRESIDING OFFICER (Mr. SESSIONS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 109 Ex.]

YEAS—74

Abraham	Feinstein	Mack
Akaka	Fitzgerald	McCain
Baucus	Frist	Mikulski
Bayh	Gorton	Moynihan
Bennett	Graham	Murray
Bingaman	Grams	Nickles
Bond	Hagel	Reed
Boxer	Harkin	Reid
Breaux	Hatch	Robb
Bryan	Hollings	Rockefeller
Burns	Hutchison	Roth
Byrd	Inouye	Santorum
Campbell	Jeffords	Sarbanes
Chafee, L.	Johnson	Schumer
Cleland	Kennedy	Smith (OR)
Collins	Kerrey	Snowe
Conrad	Kerry	Specter
Daschle	Kohl	Stevens
deWine	Landrieu	Thompson
Dodd	Lautenberg	Torricelli
Domenici	Leahy	Voinovich
Dorgan	Levin	Warner
Durbin	Lieberman	Wellstone
Edwards	Lincoln	Wyden
Feingold	Lugar	

NAYS—25

Allard	Gramm	Murkowski
Ashcroft	Grassley	Roberts
Brownback	Gregg	Sessions
Bunning	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Coverdell	Inhofe	Thomas
Craig	Kyl	Thurmond
Crapo	Lott	
Enzi	McConnell	

NOT VOTING—1

Biden

The nomination was confirmed.

VISIT TO THE SENATE BY MUGUR ISARESCU, PRIME MINISTER OF ROMANIA

Ms. LANDRIEU. Mr. President, visiting us is the Prime Minister of Romania, Mugur Isarescu.

RECESS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate stand in recess to greet the Prime Minister appropriately.

There being no objection, the Senate, at 4:09 p.m., recessed until 4:13 p.m.;

whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SESSIONS).

NOMINATION OF GERARD E. LYNCH, OF NEW YORK, TO BE A UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Gerard E. Lynch, of New York, to be a United States District Judge for the Southern District of New York.

Mr. BURNS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is, Will the Senate advise and consent to the nomination of Gerard E. Lynch, of New York, to be a United States District Judge for the Southern District of New York? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

The result was announced—yeas 63, nays 36, as follows:

[Rollcall Vote No. 110 Ex.]

YEAS—63

Akaka	Fitzgerald	Moynihan
Baucus	Graham	Murray
Bayh	Gorton	Reed
Bennett	Harkin	Reid
Bingaman	Hatch	Robb
Boxer	Hollings	Rockefeller
Breaux	Inouye	Roth
Bryan	Jeffords	Sarbanes
Byrd	Johnson	Schumer
Chafee, L.	Kennedy	Shelby
Cleland	Kerrey	Smith (OR)
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Daschle	Landrieu	Stevens
Dodd	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Dorgan	Levin	Torricelli
Durbin	Lieberman	Voinovich
Edwards	Lincoln	Warner
Feingold	Lugar	Wellstone
Feinstein	Mikulski	Wyden

NAYS—36

Abraham	DeWine	Kyl
Allard	Enzi	Lott
Ashcroft	Frist	Mack
Bond	Gramm	McCain
Brownback	Grams	McConnell
Bunning	Grassley	Murkowski
Burns	Gregg	Nickles
Campbell	Hagel	Roberts
Cochran	Helms	Santorum
Coverdell	Hutchinson	Sessions
Craig	Hutchison	Smith (NH)
Crapo	Inhofe	Thomas

NOT VOTING—1

Biden

The nomination was confirmed.

NOMINATION OF JAMES J. BRADY, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF LOUISIANA

The legislative clerk read the nomination of James J. Brady, of Louisiana,