

# EXTENSIONS OF REMARKS

A TRIBUTE TO THE THOMAS JEFFERSON GIRL'S BASKETBALL TEAM, BROOKLYN, NY

## HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 5, 2006*

Mr. TOWNS. Mr. Speaker, I rise today in recognition of the Thomas Jefferson Girls' basketball team, champions of the class B division of the Public School Athletic League of New York City. In one year, under the direction of head coach Calvin Young and assistant coach Unique Nelson, the "Lady Orange Wave" excelled to a regular season record of 15 wins and only 3 losses, while going undefeated with five more victories in the city playoffs.

I want to especially recognize the work of superintendent Varleton McDonald and principal Michael A. Alexander, who have worked hard to infuse excellence, respect and accountability not only in athletics programs, but in academic departments as well. In addition, coaches Young and Nelson have instilled a "team first" approach and a tough regimen of discipline and "no excuses" that has led to the team's current success.

However, academics have not taken a backseat. To the contrary, in an era when sports achievements have sometimes replaced excellence in English, math, science and other academic areas, the coaches have demanded a high level of academic performance from team members. Long after the last shot has been taken and the last ball dribbled, the members of the 2006 "Lady Orange Wave" will benefit from the leadership, love and guidance given to them by their coaches, teachers and administrators at Thomas Jefferson. I truly hope that in the days to come, the members of the 2006 "Lady Orange Wave" will build upon their experiences in basketball and their days at Thomas Jefferson.

Mr. Speaker, in this spirit, I believe that the accomplishments of the 2006 "Lady Orange Wave," the work of their coaches, teachers and administrators, are truly worthy of our recognition here today.

CONGRATULATIONS TO CENTRAL MISSOURI EAGLES YOUTH HOCKEY ASSOCIATION

## HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 5, 2006*

Mr. SKELTON. Mr. Speaker, let me take this opportunity to congratulate Central Missouri Eagles Youth Hockey Association of Jefferson City, Missouri. The Eagles have been named a winner of the 2006 "Honoring the Game Award," by the Positive Coaching Alliance at Stanford University.

The "Honoring the Game Award" recognizes youth sports programs that "strive to

win, but also strive to help their players develop skills that will serve them throughout their lifetimes." The Positive Coaching Alliance, a leading national youth sports organization, chose the Eagles as one of three national winners from among seven finalists. The Eagles are the only program in the Midwest—and the only youth hockey program in the nation—to be honored.

The Eagles were honored for their positive coaching methods and for the community service projects completed by each of their four teams. This year, the Eagles' pee wee team (11–12 year-olds) collected 500 stuffed animals and 130 backpacks for the abused and neglected children in Jefferson City's Michael Prenger Family Center and the Cole Family County Court. The mite and squirt teams (5–10 year-olds) collected more than 300 canned goods for Jefferson City's food bank, the Samaritan Center. The high school varsity team collected more than 400 stuffed animals for the sick and injured children at the University of Missouri-Columbia Children's Hospital.

Mr. Speaker, I am certain that the Members of the House will join me in congratulating the Central Missouri Eagles Youth Hockey Association on their accomplishments and thanking them for their dedication to helping others.

TRIBUTE TO BRENDA CLACK

## HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 5, 2006*

Mr. KILDEE. Mr. Speaker, on Saturday, April 8th, the Flint Club of the National Association of Negro Business and Professional Women's Clubs, Incorporated will present Representative Brenda Clack with the Sojourner Truth Award at the 45th annual luncheon in my hometown of Flint, Michigan.

Founded in 1935 the National Association of Negro Business and Professional Women's Clubs, Incorporated seeks to provide a forum for the development of women in the business community and professions. The members come together to provide a place for the exchange of ideas and to encourage new entrepreneurs to succeed in their dreams. They embody the sentiments expressed by Sojourner Truth before the 1851 Women's Rights Convention, "If the first woman God ever made was strong enough to turn the world upside down all alone, these women together ought to be able to turn it back and get it right-side up again."

At the annual luncheon, the Flint Club honors a member of the community that has exemplified the commitment to the ideals of the association and the persevering spirit of Sojourner Truth. This year the Flint Club has chosen Michigan State Representative Brenda Clack to receive this prestigious award.

Brenda moved to Michigan after attending Tennessee State University. She quickly made

her mark in the Flint community through her involvement with the NAACP, Urban League, the United Teachers of Flint, the Michigan Education Association, and as a member of Vernon Chapel AME Church. A lifelong educator, she spent 32 years teaching History and Economics in the Flint Public School System before being elected to public office.

In 1995 she was selected as Michigan's Economic Teacher of the Year, the following year she received the Flint Optimist's Outstanding Achievement in Education Award and she was inducted into Phi Beta Kappa's Hall of Fame. Elected to the Michigan House of Representatives in 2002, Brenda serves the constituents of the 34th House District. Besides serving on several House Standing Committees, she founded the "Flint Speaks Out Against Violence" task force and was appointed by Governor Jennifer Granholm to serve with the National Governors Association Policy Academy. Brenda's community involvement is highlighted by her work mentoring students, celebrating grandparents raising their grandchildren, and collecting blankets for the needy. Brenda is married to Floyd Clack, a former State Representative and former Genesee County Commissioner. She is mother to Michael and Mia.

Mr. Speaker, I ask the House of Representatives to rise with me and applaud the accomplishments of Representative Brenda Clack as she is honored for her kinship and inspiration to the Flint area.

HONORING THE CHAIRMAN OF THE NATIONAL PANHELLENIC CONFERENCE (NPS)

## HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 5, 2006*

Mr. SESSIONS. Mr. Speaker, I rise today to recognize the work of an outstanding individual, Martha Cheely Brown, as she concludes her distinguished work as Chairman of the National Panhellenic Conference (NPC). The National Panhellenic Conference is the association of 26 women's college fraternities. NPC member organizations are found on 620 college and university campuses nationwide and more than 3.8 million women nationwide are alumnae of one of the 26 fraternities that comprise the NPC. Since 2003, Martha has led the over 3.8 million NPC members in having their voices heard through a "Speak Up For Sororities" program she implemented. As Chairman, Martha consistently dedicated herself to furthering the NPC's core values of "helping women grow, give, lead and succeed."

Martha Cheely Brown was a graduate of the University of North Texas in Denton, Texas, where she served as chapter president of her Delta Gamma Sorority. As an alumna, she has served as Delta Gamma's national convention Chairman, National Panhellenic Conference

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Delegate, and a member of the Delta Gamma International Board of Directors. As NPC College Panhellenics Committee Chairman, she worked with the 630 College Panhellenics in the United States and Canada.

Martha Cheely Brown's service and leadership were recognized by her alma mater in 2004 when she was awarded the University of North Texas Outstanding Alumna Award; by Delta Gamma Sorority with an Honorary Fellowship; and by the National Panhellenic Conference with a well-deserved citation celebrating her achievements as the 2003–2005 National Panhellenic Conference Chairman.

Mr. Speaker, please join me today in honoring the exemplary service that Martha Cheely Brown has given to the over 3.8 million members of NPC. The National Panhellenic Conference is a better organization because of her dedication, commitment, and determination to improve the lives of women of the NPC.

INTRODUCTION OF THE PATENTS  
DEPEND ON QUALITY ACT OF 2006

**HON. HOWARD L. BERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 5, 2006*

Mr. BERMAN. Mr. Speaker, today, I join Representative BOUCHER in introducing the Patents Depend on Quality Act of 2006 (PDQ Act). Introduction of this legislation follows a series of hearings conducted by the Subcommittee on Intellectual Property which ascertained that the current patent system is flawed. Over the course of the last 4 years, there have been numerous attempts to define the challenges of the patent system today. For example, the Patent and Trademark Office developed their Twenty-First Century Strategic Plan, not much later the Federal Trade Commission released a report entitled "To Promote Innovation: The Proper Balance of Competition and Patent Law and Policy," The National Research Council published a compilation of articles entitled "A Patent System for the 21st Century," and two economists authored a critique of patent law in a book titled *Innovation and Its Discontents*. These accounts make a number of recommendations for increasing patent quality and ensuring that patent protection promotes, rather than inhibits, economic growth and scientific progress. Consistent with the goals and recommendations of those reports, the PDQ Act contains a number of provisions designed to improve patent quality, deter abusive practices by unscrupulous patent holders, and provide meaningful, low-cost alternatives to litigation for challenging the patent validity.

Past attempts at achieving more comprehensive patent reform have met with resistance and recently have resulted in a call for additional hearings. However, the call for legislative action is loud. The New York Times has noted, "[s]omething has gone very wrong with the United States patent system." The Financial Times has stated, "[i]t is time to restore the balance of power in U.S. patent law." Therefore, today, we are introducing a narrowly tailored bill to address some of the more urgent concerns.

I firmly believe that robust patent protection promotes innovation. However, I also believe

that the patent system is strongest, and that incentives for innovation are greatest, when patents protect only those patents that are truly inventive. When functioning properly, the patent system should encourage and enable inventors to push the boundaries of knowledge and possibility. If the patent system allows questionable patents to be issued and does not provide adequate safeguards against patent abuses, the system may stifle innovation and interfere with competitive market forces.

This bill represents our latest perspectives in an ongoing discussion about legislative solutions to patent quality concerns and patent litigation abuses. We have considered the multitude of comments received on prior patent bills. We acknowledge that the problems are difficult and, as yet, without agreed-upon solutions. It is clear, however, that introduction and movement of legislation, not necessarily additional hearings, will focus and advance the discussion. It is also clear that the problems with the patent system have been exacerbated by a decrease in patent quality and an increase in litigation abuses. With or without consensus, Congress must act soon to address these problems.

Thus, we introduce this bill with the intent of propelling the debate forward in the 109th Congress.

The bill contains a number of initiatives designed to improve patent quality and limit litigation abuses, thereby ensuring that patents are positive forces in the marketplace. I will highlight a number of them below.

Section 2 creates a post-grant opposition procedure. In certain limited circumstances, opposition allows parties to challenge a granted patent through an expeditious and less costly alternative to litigation. In addition, Section 2 provides a severely needed fix for the inter partes re-examination procedure, which provides third parties a limited opportunity to request that the PTO Director re-examine an issued patent. The current limitations on the inter partes re-examination process restricts its utility so drastically that it has been employed only a handful of times. Section 2 increases the utility of this re-examination process by relaxing its estoppel provisions. Further, it expands the scope of the re-examination procedure to include redress for all patent applications regardless of when filed. In addition, Section 2 contains a limitation on use of inter partes re-examination procedure as a "second bite at the apple" after district court litigation. Other provisions in this bill, such as the second window in the post-grant opposition proceeding, will sufficiently address the quality problem in patents which have already issued.

Sections 3 and 4 permit patent examiners to consider certain materials within a limited time frame submitted by third parties regarding a pending patent application. Allowing such third party submissions will increase the likelihood that examiners are cognizant of the most relevant "prior art," thereby constituting a front-end solution for strengthening patent quality.

Section 6 addresses the unfair incentives currently existing for patent holders who indiscriminately issue licensing letters. Patent holders frequently assert that another party is using a patented invention and for a fee, offer to grant a license for such use. Current law does little to dissuade patent holders from mailing such licensing letters. Frequently these letters are vague and fail to identify the patent being infringed and the manner of infringe-

ment. In fact, the law tacitly promotes this strategy since a recipient, upon notice of the letter, may be liable for treble damages as a willful infringer. Section 6 addresses this situation by ensuring that recipients of licensing letters will not be exposed to liability for willful infringement unless the letter specifically states the acts of infringement and identifies each particular claim and each product that the patent owners believe have been infringed.

Section 8 is designed to address the negative effect on innovation created by patent "trolls." We have learned of countless situations in which patent holders, making no effort to commercialize their inventions, lurk in the shadows until another party has invested substantial resources in a business or product that may infringe on the unutilized invention. The patent troll then steps out of the shadows and demands that the alleged infringer pay a significant licensing fee to avoid an infringement suit. The alleged infringer often feels compelled to pay almost any price named by the patent troll because, under current law, a permanent injunction issues automatically upon a finding of infringement. The threat of a permanent injunction would, in turn, cause the alleged infringer to lose the substantial investment made in the allegedly infringing business or product.

While we may question their motives, we do not question the right of patent trolls to sue for patent infringement, to obtain damages, and to seek a permanent injunction. However, the issuance of a permanent injunction should not be granted automatically upon a finding of infringement. Rather, when deciding whether to issue a permanent injunction, courts should have the discretion to weigh all the equities in order to prevent the violation of a patent right. That requires balancing the inventor's exclusive right designed to provide the incentive and reward for invention and those equities which may be necessary for the public interest, such as whether the patent troll has "unclean hands," the failure to commercialize the patented invention, the social utility of the infringing activity, the loss of invested resources by the infringer and, of course, the quality of the patent. After weighing the equities, the court may still decide to issue a permanent injunction, but at least the court will have ensured that the injunction serves the public interest. Section 8 accomplishes this goal.

When considering these provisions together, we believe that this bill provides reform necessary for the patent system to achieve its primary goal of promoting innovation. As the New York Times has pointed out, "[t]here is legislation in the House to address th[e] issue[s], and it needs to be taken up." We hope introduction of this bill will facilitate the necessary movement of patent reform legislation.

I would especially like to thank Congressman BOUCHER with whom I have been working on patent reform for the past few years even before the issue was en vogue. Also deserving of thanks are the many constitutional scholars, policy advocates, private parties, and government agencies that continue to contribute their time, thoughts, and drafting talents to this effort. I am pleased that, finally, at least a consensus has emerged among the various collaborators in support of the basic "post-grant opposition" approach embodied in the legislation. This bill is the latest iteration of a process we started over 5 years ago.