Who's Interfering with our Constitutional Patent Rights?

by Phyllis Schlafly *April 16, 1997*

You would think that federal officeholders wouldn't touch with a ten-foot pole anything that might be connected in any way with the use of Asian money to influence government policies. So much suspect Asian money has had to be returned to its donors during the last six months.

Yet, the House is getting ready to vote on a bill that would make the granting of U.S. patents a prime target for Asian bribes. The sponsors of **H.R.** 400 call it the Patent Improvement Act, but it should be called the Patent Giveaway bill, the Steal American Technology bill, or the Ron Brown Sellout Legacy.

H.R. 400 would transform the U.S. Patent Office into a private corporation that could accept bribes for the issuing of patents. Of course, the bill doesn't use the nasty word bribes; it just says that the newly privatized Patent Office "may accept monetary gifts or donations of services, or of real, personal, or mixed property, in order to carry out the functions of the Office."

With all the important business that Congress has to deal with, and the hundreds of bills that are awaiting action, it is a puzzlement that this bill is rushing to a vote in April. Where is the pressure coming from? And why hasn't there been any news coverage of this "stealth" bill?

A lot of the big pressure is coming from the Japanese -- and from a quiet deal they made with the late Secretary of Commerce Ron Brown. In September 1993, the Japan Patent Association issued a written statement saying that it finds the U.S. patent system and patent legislation "unsatisfactory."

What impudence! Our American patent system certainly doesn't have to conform to what the Japanese think is "satisfactory." Furthermore, it is almost impossible for an American inventor to get patent protection in the Japanese patent system.

The Japanese statement specifically objected to the fact that U.S. patent applications are not made public until the patent is issued. This is a fundamental protection for the inventor so that wealthy corporations, foreign or domestic, cannot steal his invention before he has a chance to raise his own capital to produce it. The Japanese and the multinational corporations don't like this protection for inventors. They want access to American inventions before the patents are issued so they can steal them.

Hence, their demand that applications be made public 18 months after an application is filed regardless of whether or not a patent is issued. They argue that this is the way other

countries do it and the United States should conform. But so what! Other countries have hardly any inventions. Nearly all the great inventions are American. Inventions don't happen in socialist or managed economies.

Our fantastic American inventions are the result, not only of our free enterprise system, but especially of the unique American constitutional right of inventors to have, for limited times, "the exclusive right to their ... discoveries." The inventor's private property right in the fruit of his own labor is the "engine" that has stimulated the wonderful inventions that have caused our tremendous economic growth and rise in our standard of living.

Communist China has made a major business of stealing our intellectual property outright and mass-producing it in government-controlled factories. The Japanese just want to make it legal for them to get our inventions by bribery and, indeed, bribery is the ordinary system of doing business in many nations.

On August 16, 1994, a U.S. Commerce Department news release announced that Ron Brown had signed "Letters of Agreement" in his office with Japanese Ambassador Takakazu Kuriyama promising the Japanese exactly what they demanded. The news release stated that the Brown agreement "requires the U.S. Patent and Trademark Office to publish pending patent applications 18 months after filing . . . and expand reexamination proceedings to allow greater participation by third parties. "

Ambassador Kuriyama was ecstatic. He immediately wrote Ron Brown that "we look forward to working with you on a regular basis . . . in the field of intellectual property. " The purpose of H.R. 400 is to write the Japanese demands and Ron Brown's agreement into U.S. law.

The entire text of **H.R.** 400 is a sellout to the Japanese demands. **H.R.** 400 loosens up the "reexamination" of U.S. patents already issued and allows third parties (e.g., foreign or domestic corporations) to participate in the process after paying a "reexamination fee." The inventor would lose the due process rights he would enjoy in U.S. courts, a caving in to Japanese objections to American jury trials.

H.R. 400 specifies that the board of directors of the new private patent office shall include persons "with substantial background and achievement in corporate finance and management. " You can bet that some of the big multinationals are behind that provision, which would ride roughshod over the rights of individual inventors.

Ron Brown was at the center of the Clinton Administration's strategy of selling out American interests to the Asians in return for political cash to assure Clinton's reelection. Any Republican who votes for H.R. 400 is going to be tarred with the same Asian money scandal that is fast closing in on the Clinton Administration.