The Globalists' Plan To Give Away U.S. Patents

by Phyllis Schlafly August 1, 2007

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In extraordinary Senate-House coordination, the two Judiciary committees in the same week voted out a bill (S.1145 and H.R.1908) which, if it becomes law, will spell the end of America's world leadership in innovation. Called the Patent Reform Act, it is a direct attack on the unique, successful American patent system created by the U.S. Constitution.

Prior to 1999, the U.S. Patent Office was required to keep secret the contents of a patent application until a patent was granted, and to return the application in secret to the inventor if a patent was not granted. That protected the legal rights of the inventor, who could then go back to the drawing board to perfect his invention and try again.

A mischievous congressional "reform" in 1999 authorized the U.S. Patent Office to shift to the Japanese and European practice of publishing patent applications 18 months after filing whether or not a decision is yet made on granting a patent. Congress allowed a patent application, under certain conditions, to be exempt from the publication requirement, but the default procedure is to publish.

The 2007 Patent bill would delete this exemption and require publication of all patent applications 18 months after filing even though a decision has not yet been made on granting a patent.

By 2006, the U.S. Patent Office had placed 1,271,000 patent applications on the internet, giving access to anyone anywhere in the world. This foolish practice created a gold mine for China to steal U.S. innovations and get to market quickly.

Chinese pirates don't roam the high seas looking for booty but sit at their computers, roam the internet, and steal the details of U.S. inventions that the U.S. Patent Office loads online. This practice became China's R&D program, and it is even more efficient than China's network of industrial and military spies.

U.S. policy has always been to grant a patent to the first one who actually invents something. But the new Patent bill would change to the foreign system which grants patents to the first one to file papers.

First-to-file would be a windfall to the megacorporations and a big disadvantage to the small-entity inventor. First-to-file would invite an avalanche of applications from the big companies that have the resources to grind out multiple filings, and the small inventor would be lost in the shuffle.

The new Patent bill offers yet another way for patent pirates to steal our technology. It's called post-grant review: a plan to make it easier to challenge patents during the entire life of the patent.

Another provision of the new Patent bill would shift decision-making about damages for patent infringement from market valuations to judgments by judges and juries. This would increase litigation and limit the ability of independent inventors and small companies to enforce their rights or to win just compensation from those who infringe their rights.

The new Patent bill would also transfer unprecedented rule-making authority to the Patent office. That's an abdication of congressional responsibility.

Add it all up, and it is clear that the new Patent bill is a big attack on the constitutional property rights of individual inventors and small enterprises, the very kind of entrepreneurs who give us our most important innovations. About a third of all patent applications are filed by individual inventors, small companies, universities, and non-profit groups.

The common thread in the changes to be made by the new Patent bill is that they favor big companies like Microsoft and hurt individual and small-entity inventors.

Microsoft has thousands of patents, and recently argued that the free GNU/Linux operating system infringes over 200 of them. Microsoft wants to be able to use its huge patent portfolio to intimidate potential competitors, and at the same time it wants it to be easier to knock out individual patents.

If Congress wants to do something constructive for our patent system, Congress should reinstate the rule that the Patent Office may not publish a patent application until a patent is granted, and if it is denied the application must be returned to the inventor with his secrets intact.

Congress should also give back to the Patent Office the flow of fees paid by inventors, which Congress took away in 1999 to spend on other projects. Then the Patent Office can hire more examiners and reduce its backlog of 800,000 applications.

The U.S. patent system is the vital factor in the technological lead that gives us the edge over competitors and enemies. We must not let the globalists destroy it.