The Ominous Attack on American Inventors

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The high-priced lobbyists for the big multinationals are crawling all over Capitol Hill this month to urge passage of Senator Orrin Hatch's bill, S.507. It is called the Omnibus Patent bill, but it ought to be called the Ominous Patent bill because it would take away the traditional rights of American inventors in order to accommodate the multinationals and their foreign trading partners.

This is a classic battle of giant U.S. corporations versus the little guys. In this case, the little guys are the independent inventors, who are the mainspring of American progress and prosperity, plus the small businessmen, who are the source of nearly all the new jobs that are created.

S.507 was slightly amended before it came out of Hatch's Judiciary Committee, as was its companion bill H.R.400 before it passed the House last year, but both bills are so totally bad that they cannot be amended to make them acceptable. The bills' proponents arrogantly continue to argue for the original purposes of the bills, stating their intent to achieve them either by restoring the deleted sections or by implementing them afterwards by bureaucratic fiat.

At stake in S.507 is one of our most important constitutional rights: the right of inventors to have, for limited times, "the exclusive right to their . . . discoveries," thus giving the inventor the time to perfect his invention and raise the resources to market it. This powerful incentive is unique to America, and is the chief reason why America has produced ten times as many significant inventions as the rest of the world combined.

Under our highly successful system, when the inventor applies for a patent, his application is held in total secrecy by the U.S. Patent Office until the patent is issued. The patent then gives the inventor the legal safeguard to protect his invention against those who want to steal it or infringe it.

Publication of an inventor's application before the patent is issued would serve the financial interests of the multinational corporations, who could use their enormous resources to bully the independent inventor into making a cheap deal, or to invalidate his patent application, or to steal his idea and beat him into production.

The Japanese, who don't invent anything but are mighty clever copycats, have been trying for years to break our system. They have been demanding that all the details of every invention be made public 18 months after the application is filed, regardless of whether or not a patent is ever issued.

The American and Japanese systems are very different. Japan's economy is based on a partnership between government and the big corporations, and the Japanese patent system operates to make sure that industry controls and uses new innovations.

The U.S. system, on the other hand, favors private property, individual innovation and ingenuity, and an open door of opportunity for entrepreneurs. Our patent system is the centerpiece of this system and is designed to protect the rights of the individual inventors.

S.507 is a disgraceful attempt to codify a backroom deal made by then-Secretary of Commerce Ron Brown on August 16, 1994 with Japanese Ambassador Takakazu Kuriyama promising that our patent law would be changed to acquiesce in the Japanese demands. Nobody denied this paper trail in the two days of House debate last year.

S.507 also includes another Japanese demand, a change in our reexamination process. The bill would allow outside parties, both foreign and domestic, to challenge all existing U.S. patents.

The main, indeed the only, argument for S.507 is that we should "harmonize" our patent system with the rest of the world, but that's a false description of this bill. It does nothing to get U.S. patents recognized worldwide; instead, it just diminishes the rights of U.S. inventors.

The text of S.507 makes clear why the multinational corporations are lobbying so intensely for S.507. It would transform the U.S. Patent Office into a private corporation, whose board of directors must include representatives of big corporations.

Patent Commissioner Bruce Lehman is lobbying for S.507 because the private corporation status would facilitate plans to build a $1.3 billion Patent and Trademark Office headquarters in Virginia so lavish that it has been dubbed the PTO Taj Mahal. Lehman has shown his disdain for independent inventors by calling them "weekend hobbyists."

Some might think that the importance of independent inventors has diminished because of the large research labs of multinational corporations. But a Harvard study in the 1960s found that, of 703 innovations introduced after 1945, only 133 came out of the laboratories of big corporations.

Another study in 1970 of 61 of the most significant 20th century inventions found that half of the inventions had been produced by individuals. Business consultant Paul Herbig states in his 1994 book, "The Innovation Matrix," that independent inventors tend to make the most radical innovations in technology because they are not held back by corporate group-think.

Senator Kit Bond (R-MO) will hold a Small Business Committee hearing on March 31 to hear from some of the inventors and Nobel Laureates who oppose S.507 and were excluded from the one brief hearing held by Orrin Hatch.