# The Patent Fight Gets Ugly

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The House rejected the major provisions of the Howard Coble (R-NC) Patent bill, H.R.400, on April 24 by adopting the Marcy Kaptur (D-OH) amendment 220 to 193. But diehard H.R.400 supporters are letting it be known that they plan to circumvent the House decision by quickly passing Orrin Hatch's (R-UT) companion bill in the Senate and then excluding all supporters of the Kaptur amendment from the House-Senate conference committee.

The Kaptur amendment would exempt individual inventors, small businesses and universities from the Coble bill's provision that would require publication of an inventor's entire patent 18 months after he files an application, instead of being kept secret until the patent is issued. The Kaptur amendment also deleted the Coble provision that would greatly expand the ability of foreign and multinational corporations to challenge all existing patents.

The Patent bill is not a controversy between Republicans and Democrats, or between conservatives and liberals. It is an epic battle that pits the multinationals, plus those involved in shady Asian trade deals made by Ron Brown, against the "little" guys who have built America, i.e., the independent inventors who are responsible for all those marvelous scientific discoveries that have made the American standard of living the envy of the world.

The debate has turned ugly. Patent Commissioner Bruce Lehman, a Clinton appointee, called those who oppose the Coble bill "in the Timothy McVeigh category" and on "the lunatic fringe."

Lehman displayed his personal bias when he expressed disdain for independent inventors who don't manufacture products, i.e., are independent of big corporations. Our Patent Commissioner must be ignorant of the fact that America's greatest inventor, Thomas Edison, didn't manufacture products; he just invented all those wonderful things such as electric lights.

During the House floor debate, Coble's main argument was that it "levels the playing field between our inventors and foreign corporations." His mantra was "harmonization" of our patent law with the rest of the world. That's a false description of his bill.

"Harmonization" might make sense if it meant that American patents would be recognized worldwide, like the recent harmonization of copyright laws, which gives American authors copyright protection throughout the world. Coble's bill doesn't do that; instead, it just diminishes the rights of U.S. inventors, who still have to apply in foreign countries in order to protect their patents overseas.

Independent American inventors seldom file overseas because it's far too expensive and far too difficult to enforce a patent. In Japan, filing would expose them to patent piracy of their technology through "patent flooding," i.e., inundating the Japanese Patent Office with hundreds of unworthy patent applications using minuscule modifications of the American invention, followed by bullying tactics to get cross-licensing agreements. The Coble bill does nothing to protect U.S. inventors from these typical Japanese patent abuses, plus inordinate delays and a judicial system rigged against independent innovation.

Coble's Dear Colleague letter, written on Judiciary Committee letterhead, falsely asserts that "small inventors benefit under H.R.400" because, "by requiring publication 18-months from filing, H.R.400 would afford venture capitalists an early opportunity to review the application."

Right now, under present law, any inventor can show his idea to venture capitalists at any time because he owns it. The Coble bill "would afford" him absolutely nothing.

Supporters of the Coble bill spent a lot of time crying about the alleged problem of "submarine patents," i.e., when inventors apply and then deliberately delay the process. But Coble supporters were not able to cite a single example of a submarine patent since the Patent Application Locator Management (PALM) system was installed 20 years ago, enabling the Commissioner to deal with abnormal delays.

During the two days of House debate, no Coble bill supporter denied or refuted the powerful evidence that its text originated with the Japanese demand of September 1993 and the August 16, 1994 written agreement between Ron Brown and the Japanese Ambassador. This embarrassing paper trail compromises with Asian money scandals everyone who votes for a patent bill that contains these provisions.

All provisions of the Coble and Hatch bills sound as though they were written by lobbyists for the multinational corporations, such as the stacking of the board of directors of the new private patent office with corporation officers and allowing the new patent office to accept monetary gifts.

There is no reason to change our superior patent system when 90 percent of the world's patents are Americans. No reason, that is, unless the purpose of the Coble and Hatch bills is to appease the Japanese

and favor the multinationals over independent inventors.

Rep. Roscoe Bartlett, a Member of Congress who is a real inventor holding 20 patents, said it best: "Don't vote to give away our secrets to every copycat around the world."