

SEC. 12. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

(1) in the section caption by inserting “; **provisional rights**” after “**patent**”; and  
 (2) by adding at the end the following new subsection:

“(d) PROVISIONAL RIGHTS.—  
 “(1) IN GENERAL.—In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent pursuant to the voluntary disclosure provisions of section 122 or the publication provisions of section 122(1) or 122(2) of this title, or in the case of an international application filed under the treaty defined in section 351(a) of this title designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is issued—  
 “(A)(i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or  
 “(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and  
 “(B) had actual notice of the published patent application and, where the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, a translation of the international application into the English language.  
 “(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.  
 “(3) TIME LIMITATION ON OBTAINING A REASONABLE ROYALTY.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).  
 “(4) REQUIREMENTS FOR INTERNATIONAL APPLICATIONS.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty defined in section 351(a) of this title of an international application designating the United States shall commence from the date that the Patent and Trademark Office receives a copy of the publication under such treaty of the international application, or, if the publication under the treaty of the international application is in a language other than English, from the date that the Patent and Trademark Office receives a translation of the international application in the English language. The Director may require the applicant to provide a copy of the international publication of the international application and a translation thereof.”.

“(A)(i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

“(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

“(B) had actual notice of the published patent application and, where the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, a translation of the international application into the English language.

“(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.

“(3) TIME LIMITATION ON OBTAINING A REASONABLE ROYALTY.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).

“(4) REQUIREMENTS FOR INTERNATIONAL APPLICATIONS.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty defined in section 351(a) of this title of an international application designating the United States shall commence from the date that the Patent and Trademark Office receives a copy of the publication under such treaty of the international application, or, if the publication under the treaty of the international application is in a language other than English, from the date that the Patent and Trademark Office receives a translation of the international application in the English language. The Director may require the applicant to provide a copy of the international publication of the international application and a translation thereof.”.

SEC. 13. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

It was decided in the { Yeas ..... 178  
 negative ..... } Nays ..... 227

34.16 [Roll No. 85] AYES—178

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|--------------|---------------|---------------|
| Abercrombie  | Hastings (WA) | Norwood       |
| Bachus       | Hayworth      | Oberstar      |
| Baldacci     | Hefley        | Obey          |
| Ballenger    | Herger        | Olver         |
| Barcia       | Hill          | Ortiz         |
| Barr         | Hilleary      | Pallone       |
| Barrett (WI) | Hottettler    | Pappas        |
| Bartlett     | Hoyer         | Parker        |
| Bereuter     | Hulshof       | Parscrell     |
| Bilirakis    | Hunter        | Paul          |
| Bonilla      | Hutchinson    | Payne         |
| Bonior       | Istook        | Petri         |
| Bono         | Jackson (IL)  | Pickering     |
| Brown (OH)   | Jackson-Lee   | Pombo         |
| Burton       | (TX)          | Poshard       |
| Calvert      | Jones         | Radanovich    |
| Campbell     | Kaptur        | Regula        |
| Cardin       | Kildee        | Riggs         |
| Chambliss    | Kim           | Riley         |
| Chenoweth    | King (NY)     | Rivers        |
| Christensen  | Kingston      | Rohrabacher   |
| Clayton      | Klecza        | Ros-Lehtinen  |
| Coburn       | Klink         | Royce         |
| Collins      | Kucinich      | Ryun          |
| Combest      | LaHood        | Salmon        |
| Condit       | Largent       | Sanders       |
| Cook         | LaTourette    | Sanford       |
| Cooksey      | Lazio         | Saxton        |
| Cox          | Leach         | Scarborough   |
| Coyne        | Lewis (CA)    | Schaffer, Bob |
| Cramer       | Lewis (KY)    | Sessions      |
| Crapo        | Lipinski      | Shadegg       |
| Cubin        | Livingston    | Sherman       |
| Cunningham   | LoBiondo      | Smith (MI)    |
| Danner       | Lucas         | Smith (NJ)    |
| Deal         | Maloney (CT)  | Smith, Linda  |
| DeFazio      | Manzullo      | Snowbarger    |
| Dellums      | Martinez      | Snyder        |
| Diaz-Balart  | Mascara       | Solomon       |
| Dixon        | McCarthy (NY) | Souder        |
| Doolittle    | McDade        | Spence        |
| Doyle        | McHugh        | Stearns       |
| Duncan       | McInnis       | Strickland    |
| Emerson      | McIntosh      | Stump         |
| English      | McIntyre      | Sununu        |
| Ensign       | McKeon        | Talent        |
| Everett      | McKinney      | Taylor (NC)   |
| Filner       | McNulty       | Thomas        |
| Foley        | Menendez      | Thornberry    |
| Forbes       | Metcalf       | Thune         |
| Fowler       | Mica          | Tiahrt        |
| Gallely      | Miller (CA)   | Trafficant    |
| Gephardt     | Miller (FL)   | Walsh         |
| Gibbons      | Mink          | Wamp          |
| Gillmor      | Molinari      | Waters        |
| Goode        | Moran (KS)    | Watts (OK)    |
| Goodling     | Murtha        | Weygand       |
| Goss         | Myrick        | Whitfield     |
| Graham       | Neumann       | Young (AK)    |
| Hansen       | Ney           |               |

NOES—227

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|-------------|------------|---------------|
| Ackerman    | Carson     | Frank (MA)    |
| Aderholt    | Castle     | Franks (NJ)   |
| Allen       | Chabot     | Frelinghuysen |
| Archer      | Clement    | Frost         |
| Armey       | Clyburn    | Furse         |
| Baesler     | Coble      | Ganske        |
| Bass        | Conyers    | Gejdenson     |
| Bateman     | Cummings   | Gekas         |
| Becerra     | Davis (FL) | Gilchrest     |
| Bentsen     | Davis (IL) | Gilman        |
| Berman      | Davis (VA) | Gonzalez      |
| Berry       | Delahunt   | Goodlatte     |
| Bilbray     | DeLauro    | Gordon        |
| Bishop      | DeLay      | Granger       |
| Blagojevich | Deutsch    | Green         |
| Biley       | Dickey     | Greenwood     |
| Blunt       | Dingell    | Gutierrez     |
| Boehlert    | Doggett    | Gutknecht     |
| Boehner     | Dooley     | Hall (OH)     |
| Boswell     | Edwards    | Hall (TX)     |
| Boucher     | Ehlers     | Hamilton      |
| Boyd        | Ehrlich    | Hastert       |
| Brady       | Engel      | Hastings (FL) |
| Brown (CA)  | Eshoo      | Hefner        |
| Brown (FL)  | Evans      | Hilliard      |
| Bryant      | Ewing      | Hinojosa      |
| Burr        | Farr       | Hobson        |
| Buyer       | Fattah     | Hoekstra      |
| Camp        | Fawell     | Holden        |
| Canady      | Fazio      | Hooley        |
| Cannon      | Ford       | Horn          |
| Capps       | Fox        | Houghton      |

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|----------------|---------------|-------------|
| Hyde           | Nadler        | Shuster     |
| Inglis         | Neal          | Sisisky     |
| Jefferson      | Nethercutt    | Skaggs      |
| Jenkins        | Northup       | Skeen       |
| John           | Nussle        | Skelton     |
| Johnson (CT)   | Owens         | Slaughter   |
| Johnson (WI)   | Oxley         | Smith (OR)  |
| Johnson, E. B. | Packard       | Smith (TX)  |
| Kanjorski      | Pastor        | Smith, Adam |
| Kasich         | Paxon         | Spratt      |
| Kelly          | Pease         | Stabenow    |
| Kennedy (MA)   | Pelosi        | Stark       |
| Kennedy (RI)   | Peterson (MN) | Stenholm    |
| Kennelly       | Peterson (PA) | Stokes      |
| Kilpatrick     | Pickett       | Stupak      |
| Kind (WI)      | Pitts         | Tanner      |
| Knollenberg    | Pomeroy       | Tauscher    |
| Kolbe          | Porter        | Tauzin      |
| LaFalce        | Portman       | Taylor (MS) |
| Lampson        | Price (NC)    | Thompson    |
| Lantos         | Pryce (OH)    | Thurman     |
| Latham         | Quinn         | Tierney     |
| Levin          | Rahall        | Torres      |
| Lewis (GA)     | Ramstad       | Turner      |
| Linder         | Rangel        | Upton       |
| Lofgren        | Reyes         | Velazquez   |
| Lowe           | Rodriguez     | Vento       |
| Luther         | Roemer        | Visclosky   |
| Maloney (NY)   | Rogan         | Watkins     |
| Manton         | Rogers        | Watt (NC)   |
| Markey         | Rothman       | Waxman      |
| Matsui         | Roukema       | Weldon (FL) |
| McCarthy (MO)  | Roybal-Allard | Weldon (PA) |
| McCollum       | Rush          | Weller      |
| McDermott      | Sabo          | Wexler      |
| McGovern       | Sanchez       | White       |
| McHale         | Sandlin       | Wicker      |
| Meehan         | Sawyer        | Wise        |
| Meek           | Schumer       | Wolf        |
| Minge          | Scott         | Woolsey     |
| Moakley        | Serrano       | Wynn        |
| Mollohan       | Shaw          | Yates       |
| Moran (VA)     | Shays         | Young (FL)  |
| Morella        | Shimkus       |             |

NOT VOTING—28

- |              |           |               |
|--------------|-----------|---------------|
| Andrews      | Crane     | Johnson, Sam  |
| Baker        | DeGette   | Klug          |
| Barrett (NE) | Dicks     | McCrary       |
| Barton       | Dreier    | Millender-    |
| Blumenauer   | Dunn      | McDonald      |
| Borski       | Etheridge | Schaefer, Dan |
| Bunning      | Flake     | Schiff        |
| Callahan     | Foglietta | Sensenbrenner |
| Clay         | Harman    | Towns         |
| Costello     | Hinche    |               |

So the amendment in the nature of a substitute was not agreed to.

The SPEAKER pro tempore, Mr. UPTON, assumed the Chair.

When Mr. LAHOOD, Chairman, reported that the Committee, having had under consideration said bill, had come to no resolution thereon.

34.17 COMMITTEE RESIGNATION—MINORITY

The SPEAKER pro tempore, Mr. UPTON, laid before the House the following communication, which were read as follows:

CONGRESS OF THE UNITED STATES,  
 HOUSE OF REPRESENTATIVES,  
 April 17, 1997.

Hon. NEWT GINGRICH,  
 Speaker, U.S. House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I hereby resign from the Committee on Government Reform and Oversight effective April 17, 1997.

Thank you very much for your consideration.

Sincerely,  
 TIM HOLDEN,  
 Member of Congress.

By unanimous consent, the resignation was accepted.

34.18 COMMITTEE RESIGNATION—MINORITY

The SPEAKER pro tempore, Mr. UPTON, laid before the House the fol-

lowing communication, which were read as follows:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
*Washington, DC, April 17, 1997.*

Hon. NEWT GINGRICH,  
*Speaker, U.S. House of Representatives, Capitol,  
Washington, DC.*

DEAR MR. SPEAKER: I hereby resign from the Committee on Resources, effective April 17, 1997.

Sincerely,

NICK LAMPSON,  
*Member of Congress.*

By unanimous consent, the resignation was accepted.

¶34.19 COMMITTEE RESIGNATION—  
MINORITY

The SPEAKER pro tempore, Mr. UPTON, laid before the House the following communication, which were read as follows:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
*April 17, 1997.*

Hon. NEWT GINGRICH,  
*Speaker of the House of Representatives, Wash-  
ington, DC.*

DEAR MR. SPEAKER, I hereby resign from the Committee on Science.

Sincerely,

LLOYD DOGGETT.

By unanimous consent, the resignation was accepted.

¶34.20 DEMOCRACY IN ZAIRE

On motion of Mr. ROYCE, by unanimous consent, the Committee on International Relations was discharged from further consideration of the following resolution (H. Res. 115):

Whereas Zairian President Mobutu Sese Seko's 31-year rule has turned his potentially prosperous country into one of the world's poorest, where human suffering long has been widespread;

Whereas the Mobutu Government has systematically violated the human rights and undermined the security of Zaire's 46,000,000 people;

Whereas the Mobutu Government has proven itself unwilling to allow a genuine transition to multi-party democracy and continues to cling to power against the best interests of Zaire's people;

Whereas the Mobutu Government permitted the circulation of extremist propaganda in the refugee camps that undermined voluntary repatriation efforts of the United Nations High Commission on Refugees;

Whereas the international community is concerned about the humanitarian needs of the hundreds of thousands of refugees and displaced Zairians;

Whereas there are continuing reports of human rights violations by all parties that stem from the continued fighting in Zaire;

Whereas representatives of the Zairian Government and the Alliance of Democratic Forces for the Liberation of Congo-Zaire (ADFL) negotiated in South Africa, under the supervision of the United Nations and the Organization of African Unity, with no cease-fire agreement; and

Whereas the objectives of the United States Government, achieving the cessation of hostilities and achieving political reforms in Zaire, continue to be stymied: Now, therefore, be it

*Resolved, That—*

(1) it is the sense of the House of Representatives that—

(A) President Mobutu Sese Seko of Zaire should immediately resign from the office of

the Presidency of Zaire, leave Zaire, and withdraw from all political activity;

(B) the United States Government should unequivocally call on Mobutu Sese Seko to immediately leave Zaire and withdraw from all political activity;

(C) the United States should continue to distance itself and its foreign policy from President Mobutu and his government in order to hasten his departure from Zaire's government and political life;

(D) the United States should work with all interested African and European nations to oppose the presence in Zaire of foreign government and mercenary forces, halt the flow of arms into the country, and encourage the warring parties to negotiate a cease-fire leading to a lasting peace; and

(E) the United States Government should play a leading role in the international effort in supporting the creation of a broad-based transitional government of national unity composed of all democratic forces in Zaire; and

(2) the House of Representatives supports the creation in Zaire of the enabling environment necessary to conduct democratic, multi-party elections at the earliest feasible time, as well as the necessary conditions to establish the rule of law, respect for human rights, and the effective provision of humanitarian assistance.

When said concurrent resolution was considered.

Mr. ROYCE submitted the following amendment which was agreed to:

Page 3, line 14, strike "and".

Page 3, after line 19, insert the following:

(F) the United States should actively pursue an immediate agreement among the various parties to permit the immediate and unhindered provision of humanitarian relief and the presence of international humanitarian workers to aid refugees and displaced persons in the Zaire; and

The concurrent resolution, as amended, was agreed to.

Mr. ROYCE submitted the following amendment to the preamble, which was agreed to:

After the fifth clause of the preamble, insert the following:

Whereas many thousands of Rwandans seeking to return home are now too ill to walk and scores succumb each day to cholera, malnutrition, malaria, dehydration, and other diseases while awaiting final agreements among parties to the conflict, the Government of Rwanda, and international humanitarian organizations, to permit the organization and implementation of a speedy air evacuation and the regular supply of urgently needed relief supplies and medical care;

Whereas in Zaire there have been numerous attempts to obstruct humanitarian relief to these populations at risk and to hinder relocation of civilians and the repatriation of refugees wishing to return home;

A motion to reconsider the votes whereby said concurrent resolution, as amended, was agreed to and the preamble was amended was, by unanimous consent, laid on the table.

¶34.21 COMMITTEE ELECTIONS—MINORITY

Mr. PALLONE, by unanimous consent, submitted the following resolution (H. Res. 120):

*Resolved, That the following named Members be, and that they are hereby, elected to the following standing committees of the House of Representatives:*

To the Committee on Transportation and Infrastructure: Tim Holden of Pennsylvania; Nick Lampson of Texas.

To the Committee on Science: Ellen Tauscher of California.

To the Committee on International Relations: James Davis of Florida.

To the Committee on National Security: Ciro Rodriguez of Texas.

To the Committee on Resources: Lloyd Doggett of Texas.

To the Committee on Government Reform and Oversight: Harold Ford of Tennessee.

When said resolution was considered and agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

¶34.22 ORDER OF BUSINESS—ETHICS  
PROCESS REFORM

On motion of Mr. GOSS, by unanimous consent,

*Ordered, That the order of the House of February 12, 1997, with respect to the Committee on Standards of Official Conduct and related matters of said committee be extended through April 23, 1997.*

¶34.23 ADJOURNMENT OVER

On motion of Mr. GOSS, by unanimous consent,

*Ordered, That when the House adjourns today, it adjourn to meet on Monday, April 21, 1997, at 3 o'clock p.m.*

¶34.24 HOUR OF MEETING

On motion of Mr. GOSS, by unanimous consent,

*Ordered, That when the House adjourns on Monday, April 21, 1997, it adjourn to meet at 2 o'clock p.m. on Wednesday, April 23, 1997.*

¶34.25 CALENDAR WEDNESDAY BUSINESS  
DISPENSED WITH

On motion of Mr. GOSS, by unanimous consent,

*Ordered, That business in order for consideration on Wednesday, April 23, 1997, under clause 7, rule XXIV, the Calendar Wednesday rule, be dispensed with.*

¶34.26 ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1003. An Act to clarify Federal law with respect to restricting the use of Federal funds in support of assisted suicide.

¶34.27 LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted—

To Mr. CRANE, for today;

To Ms. HARMAN, for today after 3 p.m.; and

To Mr. COSTELLO, for today.

And then,

¶34.28 ADJOURNMENT

On motion of Mr. SCARBOROUGH, pursuant to the special order heretofore agreed to, at 8 o'clock and 52 minutes p.m., the House adjourned until 3 p.m. on Monday, April 21, 1997.