In addition, we are now learning that these files may have contained IRS information about the individuals, and if we go back to the post-Watergate era, we know that this Congress passed laws to protect that from happening again. There are, indeed, some Members left in this Congress from the post-Watergate era and certainly to them the actions which they took to try to protect the rights of the American people from having their very sensitive and secret tax files made available for political reasons needs to be investigated.

The chairman of the Committee on Ways and Means has suggested that felonies may have occurred in the handling of these files at the White House, and I think we have every right to look into that. We know that there is no good reason that anyone at the White House has any need to be involved and looking through the files, the IRS files, of people who may need entrance or clearance to visit the White House. No one, I would repeat, no one, is authorized to look at taxpayers' files and they should not at the White House think they have that right.

Now, I believe that Attorney General Reno, and I commend her for seeking someone outside of her department to investigate themselves in this matter, but that is a pretty shrewd move politically also, because Ms. Reno knows that once Mr. Starr is authorized to look into this matter, that that will probably prevent this Congress from holding hearings, this Congress from calling Mr. Livingstone up here and answering to us what his actions were about.

Initially, I think that Ms. Reno's efforts to broaden the inquiry were well received, but I am not sure that the American people or that any of us ought to sleep very comfortably knowing that we are going to be frozen out of the process of looking into this matter.

## WE MUST FIND A WAY TO REDUCE THE POLARIZATION AND RACIAL CONFLICT IN OUR SOCIETY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, this House was so shocked by church burnings in recent weeks that it last week passed a bill to add to Federal law enforcement authority, and I want to commend the gentleman from Illinois, Chairman HYDE, and the gentleman from Michigan, ranking member CONYERS, of the Committee on the Judiciary, for the leadership they took and also Chairman CONYERS for the Congressional Black Caucus hearing that shed additional light on this matter, including the need for prevention.

In my years as a youngster in the civil rights movement, I never saw this kind of systematic racist church burning. This House's response does it honor. A few high-profile prosecutions are now in order, but, Mr. Speaker, I have come to the floor because I want something more.

Martin Luther King would have wanted us to use his life amidst the polarization and balkanization that has contributed to these burnings. I come to the floor to call the House's attention to two events and to two people, both youngsters, who deserve the notice of this House. One is Billy Shawn Baxley, a 17-year-old white youngster who has confessed to burning a church; and the other is Keshia Thomas, an 18-year-old black girl who saved a pro-Klan white man at an anti-Klan rally a few days ago. Both are reported in the papers, and I know nothing more than what the papers tell me, but the Nation ought to know more.

In the small rural community of East Howellsville, NC, Billy Shawn Baxley, 17 years old, burned the church across the road from him, and he confessed on television. People in the community said, well, he did not know what he was doing, he is only a kid. The State's attorney said he was not willing to concede that race was not involved. The youngster could have burned a McDonald's; he burned a church. But the response of the two churches involved is what deserves special notice, and I want to tell it unvarnished by reading from the New York Times.

> He confessed to it in a televised interview. On Thursday night the teenager and about 12 members of his white church, Zion Tabernacle Baptist Church, joined about eight members of the Pleasant Hill congregation for bible study at the church that Mr. Baxley is accused of setting ablaze. After an hour of singing and scripture, the group stood in front of the pews, held hands and prayed. Mr. Baxley wiped a tear from his eye after prayer, and several members of both congregations hugged him and said they forgave him.

This is a story out of these tragic racial burnings that deserves the mention and the notice of Americans throughout this country. It is in the tradition of Martin Luther King. It reminds us that after the prosecutions are over, we are still one people, and we have to find a way to reduce the polarization and the racial conflict in this society.

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Then perhaps you saw this picture; this young woman was interviewed on television last night. Keshia Thomas was a protester against the Ku Klux Klan at a Klan rally. There a white man who had a Confederate flag on his jacket and who appeared to support the Klansmen came forward. The crowd lunged at him and started to beat him. It looked as though they might beat him to death.

This is 18-year-old girl did what Martin Luther King told us must be done, except she was not here when he lived or when he died. Her instinctive decency was such that she threw herself on the racist white men and fended off those who were beating him. Finally, taking blows herself, they moved back and then she got up with him and led him away.

She was no admirer of this man, but she was a decent human being. She said, and I quote her, ''Just because you beat somebody doesn't mean you are going change his mind.'' She has not had time to develop a very deep philosophy, but what she is is a decent black girl who happens to be a decent American.

These two youngsters, the 17-year-old who could not hold the crime in himself and confessed on television and the 18-year-old black girl who could not bear to see a man beat to death because of his views, these are the heroes of this ordeal. These are the people who have learned from it.

## STEAL AMERICAN TECHNOLOGIES ACT

The SPEAKER pro tempore (Mr. FOLEY). Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. ROHRABACHER] is recognized during morning business for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, I would like to associate myself with the remarks that we just heard from my colleague from Washington, DC. I thought they were articulate. I thought they were from the heart. I think they speak to every American that we should be standing together for those principles of decency and honor and love that should be the basis of the relationship between free people. Let us hope that there will not be racists that need to be protected and that we do not have to protect ourselves from church burnings and crowds because that will be exorcised from the hearts of every American. That should not be there in the first place. I thought those remarks were something to touch the hearts of all of us and help that process and make for all of us a better country.

Today we need to stand together as never before as Americans, whether it is black or white or yellow or whatever race or ethnic background, because America is under attack as never before. We went through the cold war and we stood together. Now we are facing a world of economic competition. Our national well-being and the rights of the American people are under attack in a more insidious way.

There will be a bill that will reach this floor shortly after the 4th of July called H.R. 3460. It is the Moorhead-Schroeder Act. I like to call it the Steal American Technologies Act because it will, if passed, result in the greatest rip-off of American technology in the history of this country and leave our people with a declining standard of living. They will never know what hit them because the fundamental rules that have provided us our technological superiority over our economic adversaries and, yes, over our military adversaries is being changed to the detriment of the United States.

Again, most Americans will not understand what hit them. Even today it

is hard to understand this piece of legislation. But let us remember, if people want to understand what this bill is all about, all the changes to date proposed in the patent law and the changes proposed in H.R. 3460, the Steal American Technologies Act, are part of an effort to enact into law a hushed agreement that was made between the head of the United States Patent Office and the Japanese patent office. I have a copy of that back in January 1994. I am now submitting this agreement that almost no American knows about between the head of our Patent Office and the head of the Japanese patent office to harmonize American law with that of Japan, meaning trashing the constitutional protections we have had on patent rights since the founding of our country and harmonizing our law with theirs, bringing down the rights of the American people in the name of harmonizing Japanese-American law.

I will also submit a copy of a 1993 Japanese patent association recommendation list for the United States Patent Office. Here it is. I submit that for the RECORD as well.

Guess what? Everything included in these recommendations are the things, are the provisions of H.R. 3460, which we are proposing, which this body will be voting on in the name of improving our patent law, making it exactly like Japan's. We are being told that these changes that are being proposed in our law are to prevent submarine patenting.

They say that is the driving force behind H.R. 3460. How come then, if that is the driving force, it is the Japanese that are demanding that we make those changes in our law? These changes will put a stranglehold on American innovation and help bring down the American leadership in technology that has protected the well-being of our own people. What does it do?

What are these recommendations? How is our law going to be changed? An American inventor who applies for a patent from this moment on after this law passes, up until now it has been secret what his patent application is until that patent is granted to that inventor. Now because of the Japanese request, we are going to publish every detail of every American patent, whether or not the patent has been issued to the inventor. That means every inventor, the details of every invention, every creative idea will be made public to every thief, every pirate, every Asian copycat in the world to use against us to bring our standard of living down.

Proponents of the publication say, well, 75 percent of all the patents are already patented overseas anyway. That is an inaccurate figure that has been given to this body, and we will soon be giving the Small Business Administration and GAO figures on that. But what is more important is that overseas patent applications, unlike American patent applications, are only small in detail. What they want to do is publish every one of our secrets so that we can be destroyed economically.

We must oppose H.R. 3460 and support the Rohrabacher substitute.

Mr. Speaker, I include for the RECORD the following information:

[From the Japan Patent Association, Sept. 1993]

THE UNITED STATES PATENT SYSTEM AND PRACTICES VIEWED FROM JAPAN: NOBODY IS PERFECT

BACKGROUND FOR PREPARING THIS DOCUMENT

Intellectual property is drawing attention world-wide in recent years, and there are a number of developments in various countries including revision of their patent legislation, in parallel with the progress in the discussions on harmonization of patent systems proposed by the World Intellectual Property Organization (WIPO) which is in the center of these developments.

The U.S., where the trend for protection of intellectual property intensified during the 80's, amended her IP related legislation and at the same time has been demanding the countries of the world, taking every opportunity and arena available to review their legislation towards strengthened IP protection. The United States expressed her very strong dissatisfaction especially against Japanese patent system, combined with the issue of trade imbalance between the two countries. The U.S. perception is expressed, for example, in the recent report from U.S.G.A.O. entitled ''Intellectual Property Rights. U.S. Companies' Patent Experiences in Japan''.

On the other hand, U.S. patent system which has a number of marked differences from the patent systems in other industrialized countries of the world, embraces numerous problems both in its statute and practices which are found of concern from the point of view of Japanese IP practitioners. In this document you will find the major points the members of IPA, who are users of U.S. IP system have found unsatisfactory in the U.S. legislation and practices through their daily involvement with that system, and which they would like to see changed.

*1. First-to-invent*

(1) The point at issue and general comments—Under first-to-invent system, the date of invention is established by means of interference process. But because the proof of date of invention made in a foreign country is not legally recognized even when the date of filing in the U.S. of the U.S. party is later than the date of filing in the country of the foreign party which is the basis of priority for the foreign party, the foreign parties in many cases give up their claim for their patent right, the cost factor involved also being a reason to do so. United States is now the only country in the world adopting first-to-invent system, and her early transition to first-to-file system is desired.

(2) Specific problems—

A. 35 U.S.C. §104—Establishment of invention date made in a foreign country is not recognized except for the case with convention priority right. This article provides de facto for discrimination against foreigners.

B. Interference—Interference requires a long and complicated process before the decision. Apart from the issue of time consumed in the process, the delay in patent grant caused by interference inflicts a serious inconvenience to the public in relation to patent term as explained in the following item 2. An applicant can intentionally modify the pending claim after looking at an issued patent, and apply for interference. A large amount of money is involved in interference leading to cases where the poorer party give up.

*2. Submarine patents*

(1) The point at issue and general comments—Because there is no provision of public disclosure of applications, there is no way to know about a patent application currently pending, no matter how long time ago the application may have been filed. This creates a situation whereby it is never predictable when or what kind of patent should suddenly come up to the surface.

Also because there is substantially unlimited patent term from the filing date, it is possible that those patents emerging from the oblivion of twenty or thirty years ago can exist for seventeen years from the date of grant causing, depending on the content of the patent, serious damages to the industry as well as to the public interest because of the characteristics of patent which can exclude uses of the invention by a third party.

Industrialized countries in the world all have the systems for public disclosure of patent applications and ceiling for patent term from the filing date. The U.S. is urged to adopt these systems as soon as possible.

(2) Specific problems—

A. The lack of the public disclosure system of applications—It causes inefficient double investments and disrupts effective employment of capital investments.

B. The lack of ceiling for patent term from the filing date—As the delay in examination has no effect on the patent term, sometimes applicants intentionally delay examination inducing de facto extension of patent term, and effect substantial modification to the claims watching the trend in the industry.

C. The lack of limits on the number of times or for the time-frame for division, continuation, or continuation in part of patent applications. This facilitates intentional prolongation of examination.

D. On top of above item C, addition of a new manner which was not disclosed in the original specification is allowed with continuation-in-part application. No judgement is passed on what is a new matter or which claims are relevant to the added new matter during examination process. This in turn makes establishment of reference dates for novelty and non-obviousness difficult, causing the determination on the effectiveness of patent extremely difficult. (This problem raises major difficulty in practice as mentioned in item 4, below, in connection with the determination of patent effectiveness.)

*3. Patent practice*

(1) The point at issue and general comments—Generally speaking, the level of examination on patentability could be improved, and the standards for judgement on non-obviousness vary widely. This is possibly due to budgetary problem. Many specifications demonstrate a large gap between the essence of invention and the expression of claims. In the practical area of examination process, improvements are due for requirement for selection of invention and the lack of clear definition for the extent of duty of prior art disclosure.

(2) Specific problems—

A. The standards for judgement on non-obviousness vary widely, and there are noticeable cases where the level of judgement is extremely inconsistent. Many patents have been granted for inventions with doubtful non-obviousness, such as those for sheer numerical limitations without criticality, etc.

B. Unclear patentability judgement on software related inventions. There are many patents that seem to claim practically algorithm per se.

C. Restriction requirement to applications which are essentially contained in the unity of invention. Standard for issuing restriction

requirement is unclear, causing financial and administrative burdens to the applicant.

D. Unclear stipulation for duty of prior art disclosure. To try to construe on the safe side results in heavy administrative burden. It is especially true financially, when examination of corresponding foreign application, for instance, revealed prior art at approximately the same time for the U.S. patent grant, forcing the applicant to apply for continuation or to request for reexamination.

*4. Review of patent validity*

(1) the point at Issue and general comments—Because there is variation in the quality of examination, many patents are granted with questionable patentability. It is difficult to confirm patentability (or nonpatentability) of these patents without recourse to litigations. Although reexamination system has been introduced as a means of reviewing patentability of patents after grant, the system is not structured to function sufficiently. Aan improvement is promptly needed off reexamination system. Although it is possible to review validity of patents in court, there are various practical problems as described in item 5, litigation and patent infringement below.

(2) Specific problems—

A. Imperfection in the system of request for reexamination—Under the current legislation, there are imperfections such as, only prior patents or publications can trigger a request for reexamination, the requesting person can only be partially involved in the reexamination, or no request for appeal is allowed in case of an unfavorable decision. Under these circumstances, an action with the objective of invalidating certain patents may end up in fortifying the patents in question, if the request for reexamination is rejected, of if the patentability is confirmed.

*5. Litigation and patent infringement*

(1) The point at issue and general comments—It is said that U.S. society is a litigation society and patent disputes are also brought relatively easily to court. From our point of view, there are many disadvantageous aspects and problems including excessive discovery and the jury system. We will not elaborate on this however, and concentrate on patent litigation and patent infringement issues.

The pressure for reconciliation, instead of going all the way seeking a just decision, is so strong because of the complexity of litigation processes, expensive lawyers' fee, unpredictable results due to the jury system, a very wide margin in the estimated damages in case of a lost case, etc. Also, it is difficult to predict a decision on patentability or infringement, especially a judgement on infringement based on doctrine of equivalents. Improvements in all these areas are desired.

(2) Specific problems—

A. Discovery system—The coverage for discovery demanded by the opponent party is often too broad causing gross burden in manpower, time and money.

B. Jury system—In case of trials highly technical in content as parent disputes, there are often instances where responsible results are hard to be achieved.

C. Scope of infringement of process patent ill-defined—The acts constituting process patent infringement as described in the text introduced by the Omnibus Trade and Competitiveness Act of 1988 are ill-defined, facilitating an excessive demand for damages from the patent holder.

D. Inappropriate determination of damages—There is no clear principle to base the calculation of damages. In case of willful infringement, 35 USC §284 rules that damages may be increased up to three times. The criteria for judging willfulness are not clear.

E. Excessive patent marking obligations—It is stipulated that a patent holder who has not been marking patented products cannot demand damages to the infringing party on infringements occurred prior to issuance of a warning.

According to precedents, patent markings must be applied promptly after the patent is granted, and a license must also adhere to this rule and the markings must be directly applied to product as much as possible. Such interpretations make the requirements extremely severe ones from the view point of business practice.

*6. Other points*

(1) The point at issue and general comments—Patent legislation in the U.S. is markedly heterogeneous from the legislation in other industrialized countries of the world. Numerous resultant obstacles are observed in addition to those mentioned in the above items 1 to 5, obstructing effective patent activities in the United States in the daily patent management and application works carried out as a matter of course by average career patent staffs. There are also de facto discriminatory handlings of foreign applicants, and numerous regulations that are against the spirit of the Paris Convention. It is desired that the U.S. will promptly amend these points and have her patent legislation harmonized with that of the rest of the world.

(2) Specific problems—

A. Discrimination of foreign nationals regarding determination of priority—An application filed in the U.S. with the application for right of priority in foreign countries may not guaranty the convention right, as it may not be possible to eliminate an application filed by a third party in the U.S. between the date of that foreign application and the date of U.S. patent filing.

B. Assignee application not permitted—This restriction is causing major inconvenience in practice. Prior use should be recognized as a means of refutation in infringement dispute.

C. Prior use not recognized—Prior use should be recognized as a means of refutation in infringement dispute.

D. Complicated payments of post-issuance fee—Payment terms of post-issuance fees is too complicated. For example they become due by 3.5 years, 7.5 years, and 11.5 years after the original grant. If post-issuance fee becomes payable yearly as in the case of other countries, management on the patent holder's side will become much easier, and besides, reduction in the sum payable should become feasible.

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MUTUAL UNDERSTANDING BETWEEN THE JAPANESE PATENT OFFICE AND THE UNITED STATES PATENT AND TRADEMARK OFFICE

ACTIONS TO BE TAKEN BY JAPAN

1. By July 1, 1995, the Japanese Patent Office (JPO) will permit foreign nationals to file patent applications in the English language, with a translation into Japanese to follow within two months.

2. Prior to the grant of a patent, the JPO will permit the correction of translation errors up to the time allowed for the reply to the first substantive communication from the JPO.

3. After the grant of a patent, the JPO will permit the correction of translation errors to the extent that the correction does not substantially extend the scope of protection.

4. Appropriate fees may be charged by the JPO for the above procedures.

ACTIONS TO BE TAKEN BY THE U.S.

1. By June 1, 1994, the United States Patent and Trademark Office (USPTO) will introduce legislation to amend U.S. patent law to change the term of patents from 17 years from the date of grant of a patent for an invention to 20 years from the date of filing of the first complete application.

2. The legislation that the USPTO will introduce shall take effect six months from the date of enactment and shall apply to all applications filed in the United States thereafter.

3. Paragraph 2 requires that the term of all continuing applications (continuations, continuations-in-part and divisionals), filed six months after enactment of the above legislation, be counted from the filing date of the earliest-filed of any applications invoked under 35 U.S.C. 120.

WATARU ASOU,
*Commissioner Japanese Patent Office.*

BRUCE A. LEHMAN,
*Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, United States Patent and Trademark Office.*

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## REPUBLICAN STUMBLING BLOCK ON WOMEN—THEIR RECORD

The SPEAKER pro tempore (Mr. ROHRABACHER). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, first, let me say to the gentleman who was just speaking, if that bill were as he casts it, my name would not be on it. That bill is about making our patent office uniform with both the one in Europe and the one in Japan so our patents will be recognized all over the world. It will do a tremendous amount to increase the protection.

But that is not why I came here today. I came here today to talk about what I tried to do when I heard that the Republican women today were getting ready to launch their get out the vote drive for women. I was very frustrated by this so I decided it was time to talk to Eleanor. Eleanor lives in my office, Eleanor Roosevelt. And I went over and I said to her, what are we going to do about this? They are getting ready to try and bridge the gender gap with all sorts of slick press kits, with all sorts of warm fuzzy rhetoric. Eleanor said, Do you know what, PAT, do not worry; they have got a big stumbling block. It is called their record, their record. So as they go around desperately seeking female votes, they were very apt to trip over their record if the American people know it.

So today at 1, the Congresswomen, the Democratic Congresswomen are releasing a report on the Republican war against women. That is what we call it. It has been a war, and let us be very clear about it. We have seen more backsliding on progress than I have seen in my entire 24 years here. When we look at this, it is truly an unmatched record. The other side says they have an unmatched record for women. They have an unmatched record all right, but it is not for women. It is undoing things we had done for women.