

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.”

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

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

NOES—227

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

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

NOT VOTING—28

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

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-