

EAGLE FORUM

LEADING THE PRO-FAMILY MOVEMENT SINCE 1972
316 PENNSYLVANIA AVE., S.E., SUITE 203, WASHINGTON, D.C. 20003 (202) 544-0353

Dear Representative,

On behalf of Eagle Forum and the thousands of families we represent nationwide, I urge you to **vote NO on H.R. 1249, the so-called "America Invents Act,"** in its current form. As I have written in my columns this year ([Click here](#) to access columns.), this bill is unconstitutional, contains yet another taxpayer funded bailout for big banks, will kill innovation, the backbone of economic growth and jobs creation, it is harmful to American security, and it will multiply, not decrease the backlog at the Patent and Trade Office, just as it did in Canada when they made a similar change. Although it is not receiving much attention, we believe H.R. 1249 is so bad for America, we are urging a **NO vote, and will score the vote twice** to give it double weight in our annual score card.

Some of our most serious concerns about H.R. 1249 include:

H.R. 1249 will move from a system of recognizing the first person to invent something to the first to file paperwork on an invention. According to seven scholarly law review articles, this is flat-out unconstitutional. Article I, Section 8, Clause 8 of the Constitution requires Congress to protect "inventors," not someone handing a piece of paper to a government bureaucrat. This move stacks the deck overwhelmingly in favor of large corporations who are better staffed and funded to file applications.

H.R. 1249 also harms small entities and individual inventors by diminishing the grace period inventors currently enjoy. Under the current system, inventors have a one-year grace period to seek capitalization for their investments. H.R. 1249 diminishes the grace period and redefines it in a way that is hostile to small inventors.

A letter from the Inventors Network of the Capitol Area indicates that H.R. 1249 endangers U.S. security. The letter explains that we have serious problems with Chinese hackers stealing U.S. security related innovation secrets while they are under development. H.R. 1249 will legitimize this theft by enabling hackers to then file applications with the U.S. Patent and Trademark Office, where under a first-to-file system, they will become the rightful owner of that technology.

Section 18 of H.R. 1249 contains a provision that subjects an existing patent for electronic check processing to retroactive attack in order to allow big banks to use the technology without paying for it. If this provision is found to be a "taking," as Professor Richard Epstein, the nation's foremost authority on property rights wrote in a 15-page letter, it is, we, the taxpayers, will have to pay for a patent on technology that only big banks use.

Last November, voters made it clear that they want leaders who respect the Constitution, will fight for jobs and economic growth, and will protect freedom for all Americans, not just well-funded interests. H.R. 1249 is unconstitutional, will kill jobs and innovation, will

insurmountably stack the deck against small inventors in favor of big corporations, and it will harm U.S. security.

The real problem with the patent system is that the Patent and Trade Office (PTO) is not adequately funded to fulfill its important duties. The PTO collects fees, and a portion of those fees get diverted to the Federal Treasury, where appropriators can allocate them to pet projects. Therefore, we urge you to reject H.R. 1249, as it is currently written, and vote for a "funding only" substitute amendment that would stop the fee diversion and allow the PTO to keep the fees it generates.

Again, we urge you to vote **NO on H.R. 1249** as currently written, but to vote **YES on a substitute amendment that would offer a "funding only" approach to patent reform**. Eagle Forum will score this vote twice so it will have double weight in our annual score card.

Faithfully,

Phyllis Schlafly