

103^D CONGRESS
1ST SESSION

S. 149

To amend section 182 of the Trade Act of 1974 to permit the United States to respond to the actions of countries that do not provide adequate and effective patent protection to United States nationals.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. ROCKEFELLER (for himself, Ms. MIKULSKI, Mr. HATCH, and Mr. WOFFORD) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend section 182 of the Trade Act of 1974 to permit the United States to respond to the actions of countries that do not provide adequate and effective patent protection to United States nationals.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “International Protec-
5 tion of Patent Rights Act of 1993”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds that—

1 (1) Several countries (including Brazil, India,
2 Indonesia, Japan, Korea, Pakistan, Taiwan, and
3 Thailand) maintain patent systems that effectively
4 deny adequate and effective patent protection to
5 United States nationals because of—

6 (A) unreasonable delays in granting or en-
7 forcing patents,

8 (B) pre-grant opposition to patent applica-
9 tions,

10 (C) unnecessarily narrow interpretations of
11 patent claims by the authorities which deter-
12 mine patent validity and infringement, and

13 (D) other policies and practices.

14 (2) The lack of adequate and effective patent
15 protection in these countries denies fair and equi-
16 table market access to United States nationals that
17 rely upon intellectual property rights protection.

18 (b) PURPOSE.—The purpose of this Act is to amend
19 the Trade Act of 1974 to respond to the actions of coun-
20 tries that do not provide adequate and effective patent
21 protection to United States nationals.

22 **SEC. 3. IDENTIFICATION OF FOREIGN COUNTRIES.**

23 Section 182 of the Trade Act of 1974 (19 U.S.C.
24 2242) is amended—

25 (1) in subsection (a)(1)—

1 (A) by striking “or” at the end of subpara-
2 graph (A),

3 (B) by striking “and” at the end of sub-
4 paragraph (B) and inserting “or”, and

5 (C) by inserting after subparagraph (B)
6 the following new subparagraph:

7 “(C) deny adequate substantive standards,
8 and”;

9 (2) in subsection (b)(1)(A)—

10 (A) by striking “or” at the end of clause
11 (i),

12 (B) by inserting “or” at the end of clause
13 (ii), and

14 (C) by inserting after clause (ii) the follow-
15 ing new clause:

16 “(iii) deny adequate substantive
17 standards,”;

18 (3) by adding at the end of subsection (d), the
19 following new paragraph:

20 “(4) A foreign country denies adequate sub-
21 stantive standards if the country enforces or permits
22 procedures under its patent approval system that re-
23 sult in, among other practices—

24 “(A) patent applications being subject to
25 pre-grant opposition,

1 “(B) extended deferral (beyond 3 years) of
2 patent examination,

3 “(C) an inordinately long period of time
4 for patent application approval,

5 “(D) an inordinately short patent term
6 measured either from the date of grant or from
7 the date of filing,

8 “(E) an inordinate delay in obtaining judi-
9 cial review or unavailability of judicial review
10 for patent applications that are denied, or

11 “(F) unnecessarily narrow interpretations
12 of patent claims by the authorities which deter-
13 mine patent validity and infringement.”; and

14 (4) by adding at the end of subsection (e) the
15 following new sentence: “Such publication shall in-
16 clude information with respect to any act, policy, or
17 practice identified under subsection (a) and informa-
18 tion with respect to any action taken (or the reasons
19 for not taking action) to eliminate such act, policy,
20 or practice.”.

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