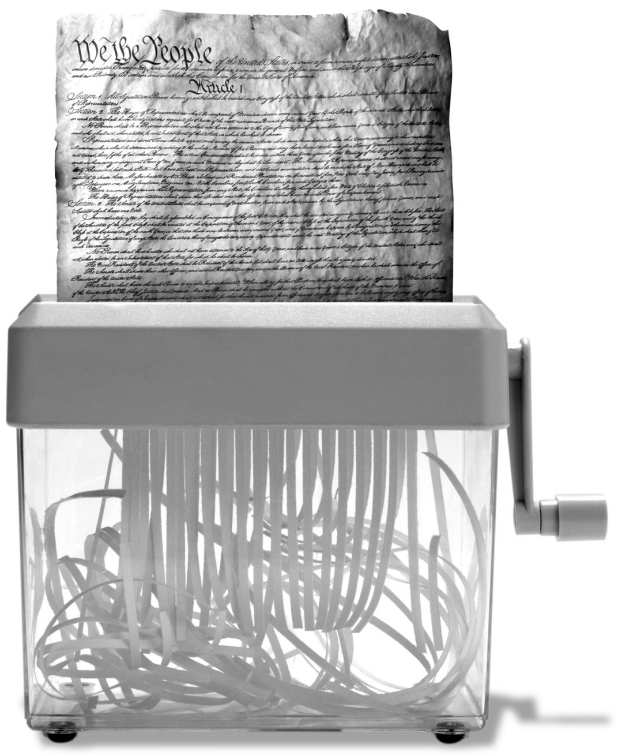
STOP CONGRESS FROM TRASHING THE CONSTITUTION!

Do not allow Congress to alter the Article in the Constitution on which the U.S. Patent System and the great American success story are founded.



Article 1, Section 8, of The U.S. Constitution states: "Congress shall have the power to … promote the progress of science and the useful arts, by securing for limited times, to authors and **inventors**, the exclusive **right** to their respective writings and **discoveries**."

Yet Congress is on the verge of amending the Constitution to cripple the Patent Law – while circumventing the amendment process the Constitution demands:

Article 5 Mandates The Amendment Process: "The Congress, whenever **two thirds of both houses** shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of **two thirds of the several states**, shall **call a convention for *proposing* amendments**, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of **three fourths of the several states**, or by **conventions in three fourths thereof** as the one or the other mode of ratification may be proposed by the Congress…"

Our Founding Fathers had the providential foresight to grant a right unprecedented in all of history, the right of <u>every</u> citizen to own property, which is the foundation of all individual freedoms. The impact on American economics is legendary. One of those Constitutional property rights is the right to own a patent (Article 1, Section 8). It is now being taken away by a bill mischaracterized as the Patent "Reform" Act of 2007 – which is actually the Patent "Termination" Act of 2007.

Our Founding Fathers protected those rights they deemed Constitutional and inalienable. They installed the Amendment Process (Article 5) to prevent their arbitrary deletion. The "reformers" are currently brushing aside the mandate to employ Article 5 when changing the Constitution.

In fact, the Patent "Reform" Act on this critical American right was actually accelerated through Congress. "Suspension of the Rules" was invoked in the House to curtail debate to less than an hour so it could be rushed through with only cursory deliberation. A tiny fraction of the 435 members of the House were present for the discussion that terminated America's right to a Patent.

The cost will be staggering. See Table 1. For instance, pharmaceutical companies need the patent to afford to develop new drugs. The cost to bring a new drug to market is $802 million.[1] *Are we to do without life-saving new drugs?*

What "Reform" Act without the Amendment Process is next? The Freedom of Religion "Reform" Act of 2008, the Copyright "Reform" Act of 2009, the Freedom of Speech "Reform" Act of 2010?

Protect The Patent. America's Economic Success Is Built On It.

The U. S. Patent System is unique in all the world. It has almost single handedly allowed us to generate the extraordinary prosperity America has enjoyed. It should be revered and protected, not dismantled or "homogenized" with systems that have other agendas – the protection of vested interests or the acquisition of American inventions.

Here, for example, are the gross domestic revenues based on just 11 patents ($1.66 trillion). These revenues alone account for 12.5% of the gross domestic product.

Table 1

INVENTION	INDUSTRY FOUNDED	ANNUAL REVENUES*
THE TELEPHONE *Alexander Graham Bell, US Patent # 174, 465,* March 7, 1878	TELEPHONE/TELECOMMUNICATIONS	$358 BILLION
THE ELECTRIC LIGHT *Thomas A. Edison, US Patent # 223,898, Jan. 27, 1880*	ELECTRIC LIGHT	$12 BILLION
HOUSEHOLD ELECTRICITY *Nikola Tesla, US Patent # 381,968, May 1, 1888; US Patent 382,281, May 1, 1888*	ELECTRICITY DISTRIBUTION	$337 BILLION
MODERN COMPUTING *Herman Hollerith, US Patent # 395,782, Jan. 8, 1889*	COMPUTERS	$209 BILLION
AIRPLANE *Wilbur and Orville Wright, US Patent # 821,393, May 22, 1906*	AVIATION	$248 BILLION
TELEVISION *Vladimir Zworykin, US Patent # 2,141,059, Dec. 20, 1938; Philo T. Farnsworth, US Patent # 1,773,980, Aug. 26, 1930*	TELEVISION	$143 BILLION
MRI *Raymond V. Damadian, US Patent # 3,789,832, filed March 17, 1972; issued Feb 5, 1974*	MRI	$18 BILLION
TRANSISTORS, INTEGRATED CIRCUITS ("CHIPS"), MICROPROCESSORS *Transistor, William Shockley, US Patent # 2,569,347, Sept. 25, 1951; Integrated Circuits ("Chips"), Jack Kilby, US Patent # 3,138,743, June 23,1964; Robert Noyce, US Patent # 2,981,877, April 25, 1961; Microprocessors (Multi- Chip Computers , "CPU"),* Marcian *Edward (Ted) Hoff, Jr., Stanley Mazor, Federico Faggin: US Patent # 3,821,715, June 28, 1974*	IC'S /MICROPROCESSORS	$78.3 BILLION
ANTIBIOTICS *Lloyd H. Conover (Tetracycline), US Patent # 2,624,354, 1950; Selman Waksman and Andrew Schatz (Streptomycin), US Patent # 2,449,866, Sept. 21,1948*	DRUG INDUSTRY	$261 BILLION
		TOTAL: $1.66 TRILLION

*Domestic only

[1]Dimasi, Hansen, Grabowski, J. Health Economics, 2003, vol. 22, p. 151.

Why the Patent "Reform" Act is, in fact, the Patent "Termination" Act.

Here are just three provisions of The Patent "Reform" Act of 2007 (HR 1908 and S 1148) that terminate or catastrophically compromise the traditional protections of the American Patent.

Hostile Provision 1: From "First to Invent" to "First to File"

Article 1, Section 8, specifies **inventors** only, not "filers." The proposed change to "filers" or "filer-inventors" is a literal violation of the Constitution.

Dire Consequences

Under "first-to-file," the inventor's ideas can easily be stolen. The inventor usually has to disclose the invention to secure financing from investors and to find a manufacturing partner (domestic or foreign, Asian or non-Asian). Under "first-to-file," anyone who learns about the invention can run out and file for the patent – and get it! The inventor and often America will have lost the invention.

Hostile Provision 2: "Publication of all patent applications to the world at 18 months"

Current U. S. Patent law allows inventors and their businesses to keep their inventions confidential and not have them published to the world before issuance of the patent. It delivers the patent protection the inventor needs in return for disclosing the invention, instead of keeping it a "trade secret."

Dire Consequences

18-month publication will force inventors to return to the antiquated practice of keeping their inventions as "trade secrets," rather than risking theft from publication with no assurance of a patent being granted.

The Founding Fathers appreciated the profound economic advantages of publicly disclosed inventions protected by patents over "trade secrets." Patents disclose inventions, which enable more inventions and other uses based on them – the basic ingredients for new industries and new jobs. Regression to "trade secrets" would represent a tragic loss to inventors and to America.

Hostile Provision 3: "Apportionment of Damages"

Under the current patent law, damages for infringement are based on the overall value of the patent and the loss to the inventor by an infringer. The Patent "Reform" Act provides that financial damages be limited to the *incremental* value the invention adds to a product, even if the invention creates a new product line and/or a new market. But what is, for example, the "increment" in value of the telephone over the telegraph?

Dire Consequences

Imagine a trial judge attempting to determine, as the "Reform" Act specifies, the *incremental* value of the electric light over the gas light. Even worse, the *incremental* limit would inspire infringers. Penalties would be reduced in size comparable to the conventional costs of doing business, while sparing infringers the cost of research and development.

The Devastating Cost to America

Imagine America without the inventions of its great inventors – who were enabled by our patent system. Only 119 years ago, people relied on the same horse-drawn carts that transported the ancients.

The Special Case of Software Patents and a Suggested Solution

Unlike most inventions, software is continually evolving. The "prior art" is distributed on computers and disks worldwide and renders determination of "prior art" impossible. But there is no need to dismantle the entire U. S. Patent System to accommodate the needs of a single community. The Patent Office should establish a separate Software Patent Division. Plants and designs are already evaluated by separate patent criteria.

The House has already passed the bill. The Senate is our only hope to stop it. Don't let Congress destroy the American inventor and the American economy. Stop the Patent "Reform" Act now!

Write your Senator today - and enclose this advertisement!

FONAR

1-888-633-3674

Protect the Patent.
America's economic success is built on it.