

Vice President and this Administration have been true to their word.

In the last several months, the Administration has engaged in intensive discussions with the Americans for Computer Privacy, an important business-oriented interest group. These discussions have focused on technical, policy, legal, and business issues associated with encryption, and the impact of strong encryption on law enforcement and national security. The Administration is also reviewing ACP's proposals for export relaxation. I have been assured by senior Administration officials that, in making decisions on our encryption policy, the Administration recognizes it must carefully consider commercial needs as well as law enforcement and national security interests.

As a result of the Administration's statements and actions, I am more convinced than ever that there is already agreement on a significant number of issues and that a consensus on encryption policy is possible in the not-to-distant future. First, all parties accept the need for and reality of strong encryption products. Second, all parties agree that strong encryption products are essential to the growth of electronic commerce and the internet. Third, all parties agree that 40-bit keys are inadequate to ensure privacy and security. Fourth, all parties agree that doing nothing has a real and significant downside. According to a recent study, maintaining existing encryption policies will cost the U.S. economy as much as \$96 billion over the next 5 years in lost sales and slower growth in encryption-dependent industries. Finally, all parties agree that doing nothing is unsustainable because the relaxed restrictions the Administration placed on 56-bit encryption products expire at the end of the year and must be addressed within the next month or two.

So where does this leave us? Unfortunately, while recent discussions between industry and the Administration have been fruitful, they have not gone far enough or proceeded fast enough to produce the kind of agreement I believe the majority of the Congress would all like to see. The time has come for the Administration to announce exactly where it stands on several key issues—including how it intends to proceed when the current relaxed restrictions on 56-bit encryption expire.

Having urged the Administration to greater efforts, I must also ask if it would not be constructive for those who are most frustrated with the pace of change in this area to take a step back and closely examine their own positions. For example, several of the bills introduced in the Congress this session call for the Secretary of Commerce to have exclusive jurisdiction over the export of encryption products. Despite the widespread agreement that the sale of encryption products has important ramifications for our national

security and law enforcement, these bills would give no role to officials from the Justice Department, the FBI, or the intelligence community in the decision process regarding which encryption products can be legally sold.

This fact would be noteworthy even in isolation. It is even more remarkable when one combines it with the observation that many of the adherents to this laissez-faire approach to export controls for encryption products are the most vocal critics of the Administration's export policies for commercial satellites.

The incongruity of these two positions is stunning. Trying to reconcile them is impossible. There are only two conclusions to be drawn from this inconsistency. Either the right hand does not know what the left is doing, or at least part of the criticism directed at the Administration is politically motivated.

I will be working with the Administration and my colleagues in the days ahead in the hope of reaching some consensus on national encryption policy. I am hopeful that over the next few weeks we can begin to resolve the numerous difficult issues that remain. Neither industry nor government is likely to get 100 percent of what it wants. However, if both sides are flexible and cognizant of the stakes involved, I am hopeful we can reach an agreement that's good for consumers, good for business, and good for law enforcement and national security.

OMNIBUS PATENT ACT OF 1997

Mr. LEAHY. Mr. President, I am here once again to talk about S. 507, the Omnibus Patent Act of 1997. On this date back in 1878, a gentleman named Thaddeus Hyatt was granted a patent for reinforced concrete. Now, 120 years later, the Senate is refusing to reinforce American innovation by failing to take concrete action to reform our nation's patent laws.

We are presented with an opportunity that will not soon repeat itself—an opportunity to pass S. 507 and give U.S. inventors longer patent terms, put more royalties in their pockets, save them money in costly patent litigation, and avoid wasting their development resources on duplicative research. At the same time, we can get our new technology more rapidly into the marketplace and make U.S. companies more competitive globally.

Remaining globally competitive is not an idle concern. The failure of this body to enact the reforms of our patent system contained in S. 507 has given foreign entities applying for and receiving patents in the U.S. unfair advantages over U.S. firms—advantages that U.S. persons filing and doing business abroad do not have. This ability to keep U.S. inventors in the dark about the latest technological developments does not work to our economic advantage. Why are we turning our backs on

our businesses, small and large, by not voting on this bill?

I have made recent speeches citing the strong support this legislation has around the country. This legislation has more than just Vermont or any state in mind. It has the entire country in its best interest. Our 200 year old patent system has provided protections to many of our inventions that have led to our global economic leadership position in the world marketplace. However, that leadership position is being threatened. Litigation has increased. Small inventors have been taken advantage of. Inventors and businesses are asking for our help and requesting that we pass S. 507.

The Senate Judiciary Committee reported this bill out over a year ago by an overwhelmingly bipartisan vote of 17-1, and this bill has yet to see the light of day on the floor. No longer can we turn the other cheek when American business lets out such a cry for help. We need to bring this bill to the floor now and to pass it. We must not squander this opportunity to not only update our patent system but to come to America's defense.

I inserted into the CONGRESSIONAL RECORD on June 23, letters of support from the White House Conference on Small Businesses, the National Association of Women Business Owners, the Small Business Technology Coalition, National Small Business United, the National Venture Capital Association, and the 21st Century Patent Coalition.

On July 10, I inserted into the CONGRESSIONAL RECORD additional letters of support from The Chamber of Commerce of the United States of America; the Pharmaceutical Research and Manufactures of America, PhRMA; the American Automobile Manufacturers Association; the Software Publishers Association; the Semiconductor Industry Association; the Business Software Alliance; the American Electronics Association; and the Institute of Electrical and Electronics Engineers, Inc.

I now ask that additional letters of support for S. 507 be printed in the RECORD. These letters are from IBM; the Biotechnology Industry Organization; the International Trademark Association; 3M; Intel Corporation; Caterpillar; AMP Incorporated; and Hewlett-Packard Company.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

IBM INTERNET MEDIA GROUP,
Essex Junction, VT, June 6, 1998.

Hon. PATRICK LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: As an inventor I rely on the strength of the U.S. patent system to legally protect my invention(s). I am also the chairman of an ANSI standardization committee (NCITS L3.1) which represents the United States in an International Standardization Forum (ISO/IEC JTC 1/SC 29/WG 11). Our committee has developed the Emmy Award winning standard called MPEG-2, a standard which may have never come to pass had it not been for strong international patent protection. We are currently working on the future of International

Multimedia (MPEG-4), a standard which promises to be as popular and widely used as MPEG-2 will be. The strength of the patent laws is essential to promoting participation and the development of International Standards. However, the system which for years has effectively encouraged innovation and protected inventors, is no longer effective. A significant number of ways have been found to abuse it, such as people and/or companies obtaining inappropriate patents and in some cases pilfering others' hard-earned invention. This threatens to undermine America's position as the global leader in technology innovation. I am proud that my work as an inventor has contributed to IBM's patent portfolio.

There is no legislation pending before you that will help restore leadership and integrity to the U.S. patent system. It is responsive to today's fast paced, highly competitive environment, and it will protect inventors like me. I am writing to ask you to urge Majority Leader Lott (R-MS) to bring S. 507, the Omnibus Patent Act of 1997, to the Senate floor as soon as possible and for you to support its final passage.

The bipartisan Omnibus Patent Act of 1997, S. 507, was passed out of the Senate Judiciary Committee 17-1 and has not yet been brought up for a floor vote. The House of Representatives also passed a similar bill in May 1997. Five former Commissioners of the Patent and Trademark Office (PTO) support this bill. A Senate floor vote is the only way to continue the process to enact this legislation that would help protect inventors and companies from patent system abuse.

Please help protect America's intellectual property and urge Majority Leader Lott (R-MS) to bring this bill to the floor for a vote. Thank you for your attention to this matter, and as a concerned constituent, I request your support of this legislation.

Sincerely,

PETER P. SCHIRLING,
IBM Senior Engineer.

JUNE 18, 1998.

Re Scheduling Debate on Patent Reform Legislation, S. 507 (Hatch/Leahy).
United States Senator,
Washington, DC.

DEAR SENATOR: We are writing to urge you to support scheduling of the patent reform legislation, S. 507, on the Senate floor before the August recess. This legislation is supported by an overwhelming majority of the Senators and the few Senators who have amendments to offer can easily be accommodated in a time agreement.

BIO has been working on this critical legislation for four years, the House passed the bill by a lopsided and bipartisan margin, and it emerged from the Senate Judiciary Committee on a near-unanimous vote. There are very few issues for the Senate debate or conference with the House. It should be easy to complete action on this bill and enact it into law this session. Doing so will be a major victory for biomedical and other research.

This bill answers the concerns raised by the biotechnology industry and other high technology industries regarding the erosion of patents caused by the adoption of the GATT 20 year-from-filing regime. We need to enact this bill to provide vital protection to biotechnology firms conducting research on cures and therapies for cancer, AIDS, Alzheimer's, and other deadly and disabling diseases.

The Biotechnology Industry Organization (BIO) represents almost 800 companies and organizations that use or support biotechnology research. Our companies are finding the next generation of medicines and cures for endemic diseases that diminish the quality of life for all Americans. On a per

capita basis, our companies invest more in research and development than any other industry—almost ten times the national average—or about \$100,000 per employee per year. This industry's investment (almost 10 billion dollars in 1998) is protected primarily through the patent system.

Patents as an incentive for this critical research. Without patents this research would stop because no investor will fund this research without patents. This is why the patent term protections in this bill are so important. The Hatch-Leahy patent term bill provides complete and unequivocal protections to ensure that diligent patent applicants will not lose patent term under the new GATT 20 year patent law.

There is no industry which has lost more in patent protection under the new GATT 20 year patent term than the biotechnology industry. Our industry has been working for three years to secure protections so that diligent patent applicants cannot, and will not, lose patent protection under this new law. It is imperative that the GATT law be amended to protect diligent patent applicants this year.

Diligent patent applicants cannot lose patent term under the patent provisions of Hatch-Leahy bill. If there are any delays in the grant of a patent by the Patent and Trademark Office (PTO) which are beyond the applicant's control, the applicant is given extra patent term—day-for-day compensation. This is a similar system which now applies when a patent holder loses patent term due to delays in the approval of a product by the Food and Drug Administration. So, the solution provided by the Hatch-Leahy bill is tried and tested and it works.

In addition to these patent term provisions, the Hatch-Leahy bill also provides for publication of internationally filed patent applications 18 months after filing and BIO supports this provision as well. Our companies file for patents in Europe and Japan where all applications are published after 18 months. Therefore 18 month publication in the United States will place U.S. companies on equal footing to their European and Asian competitors.

We enthusiastically support the patent term and publication provisions of the Hatch-Leahy bill, know that it solves the patent term problem, urge you to support scheduling of this bill and support final passage. The current GATT/TRIPS law is very problematic for the biotechnology industry and enactment of S. 507 is needed to eliminate the disincentive for biomedical research.

Please contact us with any questions about this critical issue; we would be pleased to meet with you to discuss them.

Sincerely,

CHARLES E. LUDLAM,
Vice President for Government Relations.
DAVE SCHMICKEL,
Patent and Legal Counsel.

INTERNATIONAL TRADEMARK
ASSOCIATION,
Washington, DC, May 8, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: You already know of our association's strong support for S. 507, the Omnibus Patent Reform Act. Our members are trademark owners located in every state of the union. This bipartisan bill makes important changes to the U.S. Patent and Trademark Office (USPTO) that are necessary to enable the USPTO to respond efficiently and effectively to the tremendous growth in trademark applications generated by our robust economy.

With next week designated as "High Tech Week" in the Senate, where legislation deal-

ing with new technology will be considered, there is no bill that is more deserving of attention and support at this time than S. 507. By converting the USPTO into a government corporation that is 100% user-fee funded, S. 507 will free the agency from constraints which have long hampered efficient operations. Passage of this important legislation will ensure that new products and inventions receive the protection they need both here at home and in global markets.

S. 507 provides great value to intellectual property owners and should be allowed to proceed to the Senate floor. We ask for your help in gaining passage of S. 507.

Sincerely,

DAVID STIMSON,
President.

3M, OFFICE OF
INTELLECTUAL PROPERTY COUNSEL,
St. Paul, MN, June 9, 1998.

Hon. PATRICK LEAHY,
United States Senate,
Washington, DC.

DEAR SENATOR LEAHY: I am writing to express the strong support of the 3M Company for the reforms contained in S. 507, the Hatch/Leahy Omnibus Patent Reform Act, and to request that you ask Senator Lott to schedule it for a Senate vote as soon as possible. S. 507 is critically important to U.S. industry. Its reforms will strengthen and improve the United States patent system, allowing American industry to compete more effectively with its foreign competition.

S. 507 will give the U.S. Patent and Trademark Office the administrative flexibility to operate at peak efficiency, save inventors money, and accelerate patent processing. It will allow American inventors and companies to see foreign technology contained in U.S. patent applications more than a year earlier than today, while ensuring that domestic inventors who choose not to take advantage of publication before patent grant may continue to do so if they do not file outside of the U.S. The legislation will guarantee diligent applications a patent term of at least 17 years from grant and most will receive an even longer term of exclusivity. S. 507 would also make existing reexamination procedures more effective by allowing greater third party participation, while adding numerous safeguards to protect against abuse.

One specific reform of S. 507 which 3M most strongly supports is that of creating a prior domestic commercial use defense. This long overdue reform will protect manufacturing jobs in American companies like 3M by ensuring that a late filed patent—nearly one-half of U.S. patents are foreign owned—will not disrupt domestic manufacturing operations. Important technology underlying our successful Post-it® Notes such as those attached to this letter—and the jobs of the American workers who produce them—will be made safer against foreign attack by the passage of S. 507.

The reforms in S. 507 are designed to improve the functioning of the patent system for all users, large and small. In fact, Senators Hatch and Leahy have recently agreed to amend their bill on the Senate floor in response to requests from small businesses. With these changes, key small business constituencies such as the Technology Chairs of the White House Conference on Small Business, the National Association of Women Business Owners, and the Small Business Technology Coalition have expressed their enthusiastic support for S. 507.

U.S. industry needs these patent reforms now. Support S. 507 and urge Senator Lott to bring it to a vote promptly.

Sincerely,

GARY L. GRISWOLD,

*Staff Vice President and
Chief Intellectual
Property Counsel.*

INTEL CORPORATION

Santa Clara, CA, June 12, 1998.

Hon. PATRICK J. LEAHY,
U.S. Senate,

433 Russell Senate Office Building.

DEAR SENATOR LEAHY: For the past four years, Intel has been an active participant in the 21st Century Patent Coalition, which supports the enactment of patent reform legislation (S. 507). S. 507 would accomplish three broad goals of vital importance to our industry: modernizing patent administration, improving and simplifying dispute resolution procedures in the Patent and Trademark Office, and strengthening inventors' rights in a number of ways, most importantly by protecting them from loss of term due to Patent Office delays. Our coalition has the support of over 80 major American industrial companies and 22 industry associations that are composed, primarily, of small businesses.

Now, S. 507—which passed the House on a voice vote last year, and was approved in the Senate Judiciary by a vote of 17-1—is ready for floor action in the Senate. Our coalition has worked hard to address any and all legitimate concerns about the text of the bill and its impact upon small business entities and independent inventors, and we believe that it would, if enacted, create the most pro-inventor patent system in the world. It has recently received the enthusiastic support of the White House Conference on Small Business Technology Chairs, the National Association of Women Business Owners, and the Small Business Technology Coalition.

The patent system we have today will be ill equipped to serve the needs of inventors in the next century if the improvements provided for in S. 507 are not made. We ask for your help in scheduling S. 507 for a floor vote, and for your support for the Committee bill on final passage.

Your support will help preserve America's role as the world's technology leader.

Sincerely,

CARL SILVERMAN,

Director of Intellectual Property.

CATERPILLAR INC.,

Peoria, IL, June 3, 1998.

Hon. PATRICK J. LEAHY,

*Russell Senate Office Building,
Washington, DC.*

DEAR SENATOR LEAHY: I am writing to express Caterpillar's strong support for S. 507 (Hatch/Leahy), The Omnibus Patent Act of 1997. As you know, S. 507 was reported from the Senate Judiciary Committee on a vote of 17-1 and is awaiting Senate floor action. A companion bill passed the House last year.

S. 507 would modernize the U.S. patent system through major improvements in our patent laws that will greatly benefit America's large and small businesses, inventors and entrepreneurs. For Caterpillar, this legislation will mean reduced costs, reduced risk, reduced bureaucracy, fewer lawsuits, more certainty regarding property rights, and generally a faster, more responsive patent system.

Equally significant, key small business groups now agree that S. 507 will streamline the patent process and help America's inventors who currently suffer from delays in the patent office that are not their fault.

It's time for the Senate to vote on this bill to help strengthen the U.S. economy and keep jobs in America.

I urge you to contact Majority Leader Lott in support of early scheduling of S. 507 for floor debate, and support the efforts of its sponsors to adopt a bill without weakening amendments.

Sincerely,

WILLIAM B. HEMING,

General Patent Counsel.

AMP INCORPORATED,

Washington, DC, June 3, 1998.

Hon. PATRICK J. LEAHY,

U.S. Senate,

*Russell Senate Office Building,
Washington, DC.*

DEAR SENATOR LEAHY: Please ask Senator Lott to bring S. 507, the Hatch-Leahy Omnibus Patent Act, to the floor as soon as possible. This patent reform is important to AMP, our employees, and the hundreds of inventors in our company who think up new ideas to produce better products, to keep our company competitive, and to create new jobs.

It's time to bring this bill up for a vote. The technology chairs of the White House Conference on Small Business have approved S. 507 because, "(it) will lower the litigation costs for small business, make it easier to know what areas of technology are open for innovation, and will go a long way towards giving us a more level playing field vis-a-vis our foreign competitors." AMP and the dozens of other companies and associations in the 21st Century Patent Coalition agree.

This bill has undergone months and months of scrutiny and compromise and is now ready for a vote. I hope you'll encourage the Majority Leader to schedule floor time for this reasonable reform measure.

If you need any more information about S. 507, please let me know.

Sincerely,

JOHN PALAFOUTAS,

Director, Federal Relations.

HEWLETT-PACKARD COMPANY,

Palo Alto, CA, June 22, 1998.

Hon. PATRICK J. LEAHY,

U.S. Senate,

*Russell Senate Office Building,
Washington, DC.*

DEAR SENATOR LEAHY: S. 507, the Omnibus Patent Act, has been reported out of the Judiciary Committee, but it appears that Majority Leader Lott needs some encouragement to schedule the bill for floor action. Hewlett-Packard Company strongly supports enactment of S. 507 and would appreciate your support in urging Senator Lott to put the bill on the calendar.

Enactment of S. 507 would assure that inventors can receive a full 17 years—or more—of patent protection if they pursue their patent claims in a timely manner. It would also streamline patent operations to expedite processing and accelerate the dissemination of new technologies for continuing advancement in products and services.

Significantly, S. 507 achieves these important goals without threatening a return to the "submarine patent" system that existed before the 1995 reform. Under the old policy, an inventor could manipulate the patent system to stretch the term even while withholding the new knowledge from society. Prior to 1995, inventors could wait until the technology had ripened, and then essentially extort license fees from another inventor who had independently, in good faith, created the same or a similar invention.

While "submarine patents" are infrequent, when they strike, they are egregious. In an HP cases, for example, the company has paid millions of dollars in royalties to a Swedish inventor whose patent has expired in every other country except the United States. This inventor contributed nothing to the tech-

nology that is in use, in fact, he did not offer to work with the consortium that was developing the technology in an open-systems environment. A more thorough explanation of that case is attached for your review.

Senator Hatch and other supporters of S. 507 have worked diligently with small business and independent inventors to resolve concerns about the bill. It is a good compromise for a more effective patent system as we head into the 21st century. HP urges your support for S. 507 without weakening amendments that would revive the submarine patent system.

Sincerely,

LEW PLATT,

*Chairman, President and
Chief Executive Officer.*

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JULY 10TH

Mr. HELMS. Mr. President, the American Petroleum Institute has reported that for the week ending July 10 that the U.S. imported 9,323,000 barrels of oil each day, 1,645,000 barrels a day more than the 7,678,000 imported during the same week a year ago.

Americans relied on foreign oil for 59.6 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States imported about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

All Americans should ponder the economic calamity certain to occur in the U.S. if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.: now 9,323,000 barrels a day at a cost of approximately \$104,137,910 a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 15, 1998, the federal debt stood at \$5,529,722,681,857.67 (Five trillion, five hundred twenty-nine billion, seven hundred twenty-two million, six hundred eighty-one thousand, eight hundred fifty-seven dollars and sixty-seven cents).

One year ago, July 15, 1997, the federal debt stood at \$5,357,143,000,000 (Five trillion, three hundred fifty-seven billion, one hundred forty-three million).

Five years ago, July 15, 1993, the federal debt stood at \$4,333,088,000,000 (Four trillion, three hundred thirty-three billion, eighty-eight million).

Ten years ago, July 15, 1988, the federal debt stood at \$2,553,732,000,000 (Two trillion, five hundred fifty-three billion, seven hundred thirty-two million).

Fifteen years ago, July 15, 1983, the federal debt stood at \$1,329,911,000,000 (One trillion, three hundred twenty-nine billion, nine hundred eleven million) which reflects a debt increase of more than \$4 trillion—\$4,199,811,681,857.67 (Four trillion, one hundred ninety-nine billion, eight hundred eleven million, six hundred eighty-one thousand, eight hundred