IF THIS CONGRESS IS ALLOWED TO DESTROY THE U.S. PATENT, THIS CONGRESS WILL DESTROY AMERICA!

No wonder William Burga, Past President of AFL-CIO Ohio, expresses his alarm about job losses.

"Ohio has been a casualty of NAFTA's consequences. Scores of communities across this nation have been devastated. This pending patent-reform legislation will serve only to add insult to injury for our already-decimated manufacturing sector."

VOTE THEM OUT OF OFFICE BEFORE THEY VOTE YOU OUT OF YOUR JOB

Here are the members of the Senate Judiciary Committee that have voted for passage of S. 1145, so your Union membership can know which members of the Senate are hostile to the U. S. Patent.

Benjamin L. Cardin (MD)
John Cornyn (TX)
Richard Durbin (IL)
Dianne Feinstein (CA)
Lindsey Graham (SC)
Orrin G. Hatch (UT)
Edward M. Kennedy (MA)
Herb Kohl (WI)
Patrick J. Leahy (VT)
Charles E. Schumer (NY)
Jeff Sessions (AL)
Arlen Specter (PA)
Sheldon Whitehouse (RI)

And here are the members of the House of Representatives who voted for H.R. 1908, the House equivalent of S. 1145.

Alabama Spencer Bachus AL-6 • Jo Bonner AL-1 • Artur Davis AL-7 Arizona Gabrielle Giffords AZ-8 • Harry Mitchell AZ-5 Arkansas Michael A. Ross AR-4 • Vic Snyder AR-2 California Xavier Becerra CA-31 • Howard L. Berman CA-28 • Mary Bono Mack CA-45 • John Campbell CA-48 • Lois Capps CA-23 • Dennis Cardoza CA-18 • Jim Costa CA-20 • John T. Doolittle CA-4 • David Dreier CA-26 • Anna G. Eshoo CA-14 • Sam Farr CA-17 • Bob Filner CA-51 • Elton Gallegly CA-24 • Jane Harman CA-36 • Wally Herger CA-2 • Mike Honda CA-15 • Darrell Issa CA-49 • Vacant CA-12 • Barbara Lee CA-9 • Zoe Lofgren CA-16 • Dan Lungren CA-3 • Doris Matsui CA-5 • Kevin McCarthy CA-22 • Howard P. (Buck) McKeon CA-25 • Jerry McNerney CA-11 • George Miller CA-7 • Grace Napolitano CA-38 • Devin Nunes CA-21 • George P. Radanovich CA-19 • Laura Richardson CA-37 • Lucille Roybal-Allard CA-34 • Linda T. Sanchez CA-39 • Adam Schiff CA-29 • Brad Sherman CA-27 • Hilda A. Solis CA-32 • Fortney (Pete) Stark CA-13 • Ellen O. Tauscher CA-10 • Mike Thompson CA-1 • Maxine Waters CA-35 • Henry A. Waxman CA-30 Colorado Diana DeGette CO-1 • Marilyn Musgrave CO-4 • Ed Perlmutter CO-7 • Mark Udall CO-2 Connecticut John Larson CT-1 • Christopher Murphy CT-5 Florida Corrine Brown FL-3 • Kathy Anne Castor FL-11 • Lincoln Diaz-Balart FL-21 • Mario Diaz-Balart FL-25 • Alcee L. Hastings FL-23 • Ric Keller FL-8 • Ron J. Klein FL-22 • Tim Edward Mahoney FL-16 • Kendrick B. Meek FL-17 • Adam Putnam FL-12 • Debbie Wasserman Schultz FL-20 • Robert Wexler FL-19 Georgia John Barrow GA-12 • Sanford D. Bishop, Jr. GA-2 • Hank Johnson GA-4 • John Lewis GA-5 • Jim Marshall GA-8 • Tom Price GA-6 • David Scott GA-13 Idaho Bill Sali ID-1 • Mike Simpson ID-2 Illinois Melissa Bean IL-8 • Danny Davis IL-7 • Rahm Emanuel IL-5 • Luis V. Gutierrez IL-4 • Jesse L. Jackson, Jr. IL-2 • Bobby L. Rush IL-1 • Janice Schakowsky IL-9 Indiana Andre Carson IN-7 • Mike Pence IN-6 Iowa Leonard L. Boswell IA-3 • Bruce Braley IA-1 Kansas Nancy Boyda KS-2 • Dennis Moore KS-3 • Todd Tiahrt KS-4 Kentucky Ben Chandler KY-6 • Harold Rogers KY-5 • John Yarmuth KY-3 Louisiana William J. Jefferson LA-2 Maine Thomas H. Allen ME-1 Maryland Elijah E. Cummings MD-7 • Wayne T. Gilchrest MD-1 • Steny H. Hoyer MD-5 • C. A. (Dutch) Ruppersberger MD-2 • John P. Sarbanes MD-3 • Christopher Van Hollen, Jr. MD-8 • Albert Russell Wynn MD-4 Massachusetts Bill Delahunt MA-10 • Barney Frank MA-4 • Stephen Lynch MA-9 • Edward J. Markey MA-7 • James P. McGovern MA-3 • Richard E. Neal MA-2 Michigan John Conyers, Jr. MI-14 • John D. Dingell MI-15 • Carolyn Kilpatrick MI-13 • Sander M. Levin MI-12 • Bart Stupak MI-1 Minnesota Keith Ellison MN-5 • Tim Walz MN-1 Mississippi Bennie G. Thompson MS-2 • Vacant MS-1 Missouri William Lacy Clay, Jr. MO-1 • Emanuel Cleaver, II MO-5 • Ike Skelton MO-4 Nebraska Jeff Fortenberry NE-1 Nevada Shelley Berkley NV-1 • Dean Heller NV-2 • Jon Porter NV-3 New Jersey Robert E. Andrews NJ-1 • Christopher H. Smith NJ-4 New Mexico Thomas Udall NM-3 • Heather A. Wilson NM-1 New York Gary L. Ackerman NY-5 • Michael Arcuri NY-24 • Timothy H. Bishop NY-1 • Joseph Crowley NY-7 • Eliot L. Engel NY-17 • Vito Fossella NY-13 • Kirsten Gillibrand NY-20 • John Hall NY-19 • Steve J. Israel NY-2 • Peter T. King NY-3 • Nita M. Lowey NY-18 • Carolyn B. Maloney NY-14 • Carolyn McCarthy NY-4 • Gregory W. Meeks NY-6 • Jerrold Nadler NY-8 • Jose E. Serrano NY-16 • Louise McIntosh Slaughter NY-28 • Edolphus Towns NY-10 • Nydia M. Velazquez NY-12 • Anthony Weiner NY-9 North Carolina G. K. Butterfield, Jr. NC-1 • Howard Coble NC-6 • Brad Miller NC-13 • Melvin L. Watt NC-12 North Dakota Earl Pomeroy ND-0 Ohio Deborah Pryce OH-15 • Zack T. Space OH-18 • Betty Sutton OH-13 Oklahoma Dan Boren OK-2 Oregon Earl Blumenauer OR-3 • Greg Walden OR-2 • David Wu OR-1 Pennsylvania Robert A. Brady PA-1 • Michael F. Doyle PA-14 • Chaka Fattah PA-2 • John P. Murtha PA-12 • John E. Peterson PA-5 • Joe Sestak PA-7 • Bill Shuster PA-9 Rhode Island Patrick J. Kennedy RI-1 • James R. Langevin RI-2 South Carolina James E. Clyburn SC-6 • John M. Spratt, Jr. SC-5 Tennessee Steve Ira Cohen TN-9 • Jim Cooper TN-5 • Lincoln Davis TN-4 • Bart Gordon TN-6 • John S. Tanner TN-8 Texas Kevin Brady TX-8 • Henry Cuellar TX-28 • John A. Culberson TX-7 • Lloyd Doggett TX-25 • Chet Edwards TX-17 • Charles A. Gonzalez TX-20 • Al Green TX-9 • Gene Green TX-29 • Jeb Hensarling TX-5 • Ruben Hinojosa TX-15 • Sheila Jackson-Lee TX-18 • Kenny Marchant TX-24 • Michael T. McCaul TX-10 • Randy Neugebauer TX-19 • Solomon P. Ortiz TX-27 • Silvestre Reyes TX-16 • Ciro Rodriguez TX-23 • Pete Sessions TX-32 • Lamar Smith TX-21 • Mac Thornberry TX-13 Utah Chris Cannon UT-3 • James D. Matheson UT-2 Vermont Peter Welch VT-0 Virginia Rick Boucher VA-9 • Eric I. Cantor VA-7 • Tom M. Davis, III VA-11 • Thelma Drake VA-2 • J. Randy Forbes VA-4 • Bob Goodlatte VA-6 • James P. Moran VA-8 • Robert C. Scott VA-3 • Frank R. Wolf VA-10 Washington Brian Baird WA-3 • Norman D. Dicks WA-6 • Richard (Doc) Hastings WA-4 • Jay Inslee WA-1 • Rick R. Larsen WA-2 • Cathy McMorris Rodgers WA-5 • Adam Smith WA-9 West Virginia Shelley Moore Capito WV-2 Wisconsin Tammy Baldwin WI-2 • Steve Kagen WI-8 • Ron Kind WI-3 • David R. Obey WI-7 • Paul Ryan WI-1 • F. James Sensenbrenner, Jr. WI-5

CALL TO ACTION BY THE PROFESSIONAL INVENTORS ALLIANCE

The majority of our lawmakers may not have understood the extent of the harm they were doing to our nation by agreeing to vote for H. R. 1908 and S. 1145. Many legislators, to their credit, have a conscience for "reform" but were deceived by the title manufactured for the Bill: The Patent "Reform" Act of 2007.

Patent-Disabling Provisions of S. 1145

18-Month Publication: Pre-Issuance Submissions

"18-month publication" of an inventor's application to the Patent Office is a demand by S. 1145 that an inventor disclose his invention to the world with nothing in return. The 18-month publication rule induces infringement. It enables infringers throughout the world to immediately incorporate the inventor's invention into their products while at the same time filing contrived pre-issuance submissions (under S. 1145 or H.R. 1908) to substantially delay or prevent altogether the issuance of the inventor's patent. **Why would any inventor teach potential infringers throughout the world how to make his invention by 18-month publication in order to receive *no patent in return* but to receive instead contrived pre-issuance submissions (objections) to the U. S. Patent Office which have been designed by infringers around the world to delay or obstruct issuance of his patent until *after the market for his invention has been consumed?***

First-inventor-to-file

First-inventor-to-file is a direct violation of the U.S. Constitution (Art. 1, Sec. 8). The Constitution prohibits modification of its provisions. Art. 1, Sec. 9, of the U.S. Constitution specifies that "No bill of ex poste facto law shall be passed."

U.S. Constitution Art. 1, Sec. 8, specifies who is granted the Constitutional right of a U.S. Patent. This very fundamental right of property – the right of every citizen to a U.S. Patent – was explicitly defined by the framers of the U.S. Constitution. It was granted by the Founding Fathers only to the **ACTUAL INVENTOR HIMSELF.** It was not made available to a limitless array of **"inventor substitutes"**, i.e., "first filing inventors" who learned of the invention somewhere in the world from a trade-show conversation, when the inventor was seeking financing, or while he was working with collaborators to refine the invention.

The "first-inventor-to-file" substitution for the originating inventor specified by Art. 1, Sec. 8, is an "ex poste facto" substitution expressly forbidden by the Constitution. The first-inventor-to-file substitution is a foundational change to the patent rights of all Americans, not an insubstantial change. The substitution cannot be made "under the law." No Amendment to the U.S. Constitution redefining the Inventor, as S. 1145 proposes, has been forthcoming. Indeed, H.R. 1908, which permanently disassembles America's historic Patent System, was passed by the House of Representatives with less than 1-hour of debate.

The first-inventor-to-file rule also induces infringement. It provides potential infringers, technicians, research collaborators, collaborating corporate research teams, etc., the opportunity to plagiarize the inventor's invention but remain immune from infringement by pre-filing the inventor and claiming co-inventorship. The law will force the inventor to treat his invention as a trade secret and prevent his collaboration with corporate research teams and technical colleagues – a collaboration that normally advances the invention and helps accomplish the funding needed to bring the product to market and make it available to the public.

Apportionment of Damages

Apportionment of damages restricts the reasonable royalty damages for infringement to the *incremental value* of the invention, instead of its total value. As a result, the provision eliminates significant damages as a deterrent to infringement. Instead, it encourages infringement by reducing damages to the "cost of doing business," which an infringer can readily afford and which will further enable him to bypass the much higher R&D costs that the inventor had to sustain to produce the invention and bring it to market. Additionally, the prospect that a district court judge will be able to credibly assess the *incremental value* of an invention, for example assessing the *incremental value* of an electric light over a gaslight, is not realistic.

Venue

S. 1145 gives priority to where the defendant (infringer) resides, putting the plaintiff (inventor) at the mercy of juries and district judges who are likely to be sympathetic to the economic welfare of the local community in which the infringer resides.

Post-Grant Review

The post-grant review provision of S. 1145 enables infringers to infringe the patent and disable its enforcement by allowing contrived invalidity submissions to the U. S. Patent Office to challenge the issued patent, without limit, for the entire 17-year lifetime of the patent. Limitless exposure to contrived invalidity claims for the lifetime of the patent will deny the patent holder assurance that he ever has a valid patent with which to enter the market or a valid patent that investors can rely on before investing in the product development and the sales and marketing process needed for introduction of a product to market.

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

Professional Inventors Alliance
www.piausa.org