

B2-JUD. - PATENTS
jaj

MEMORANDUM

TO: Senator
FROM: Joe
DATE: October 3, 1979
RE: Nelson Small Business Innovation Act
COPIES: Kevin, Mary, Linda, Jessica, Tom, Eve, Ann M., Jim B., Bob B.,
Leg (2) and Ind. Dept.

As I mentioned to you before, Senator Nelson is going to be introducing legislation designed to make it easier for small businesses to participate in government research and development programs and to conduct their own research.

The Nelson bill is due to be introduced tomorrow. This bill contains your University and Small Business Patent Procedures Act and your Patent Law Amendments Act. I have given Ann Church an opening statement for you and have talked with Jim about a press release which should go out when you cosponsor tomorrow.

Joe
DA

B2-Record Statement (Patents)jad 9/25/79
Small Businesses and Innovation

MR. BAYN. Mr. President, there is no more vexing problem confronting this country than the constantly growing evidence that something has gone seriously wrong with our ability to remain the innovative wonder of the world.

The end of the 19th and the early to mid 20th centuries have witnessed an explosion of inventive genius that is unrivaled in the history of the world. Most of this explosion occurred in America. The result is that life has changed more in the last 80 years than in all of the preceding centuries.

We now find ourselves in the uncomfortable position of seeing a number of indications of our ability to innovate, like the productivity rate or the number of patents filed each year, clearly telling us that we are falling behind our international competition in many innovative areas.

I think that one of the reasons for this trend is the increasingly difficult time which an innovative small company has trying to stay afloat in today's world. Unfortunately, many of the drags on small companies are artificially created by the federal government. I have introduced with 29 of my colleagues, S. 414, the University and Small Business Patent Procedures Act, which will encourage greater participation in federal research and development programs by small businesses. Presently, these companies which have compiled such an enviable record as being at the cutting edge of new technological development receive a pathetic 3.5% of all government research contracts. I think that this is totally unjustified and that the Congress must act to redress this blatant inequity.

I have also introduced S. 1679, the Patent Law Amendments Act, which would allow the Patent Office to reexamine contested patents as an alternative to spending the estimated \$250,000 which it now costs both parties to a patent suit in the district courts. Obviously, a quarter of a million dollars is a great burden on small businesses trying to defend their patents from infringement by competitors. All too often the burdens in time and money are so great that the small business has little choice but to allow larger companies to infringe on their patented inventions. With the passage of S. 1679 the Patent Office could determine a patent's validity in a matter of months at a cost of not much more than \$750,00. This is the kind of help that the American small business needs and deserves.

I would like to call my colleagues attention to a recent editorial which appeared in the Washington Star entitled "Has American Lost its Genius?" I think that this article accurately summarizes the problems that the innovative small business faces today and the contributions that small business has made--and could still make--toward greater productivity. I would also call to my colleagues attention that Dr. Arthur S. Obermayer, who is quoted in the editorial, testified before the Senate Judiciary Committee on June 6, 1979 and endorsed the University and Small Business Patent Procedures Act both from his personal experience as a small business president and as the Vice President of the American Association of Small Research Companies.

I ask for unanimous consent to include the text of the editorial at the conclusion of my remarks.