This provision will exempt aliens 50 years of age or older who have been permanent U.S. residents for at least 20 years, and those older than 55 who have been permanent U.S. residents for at least 15 years, from the history and government knowledge portions of the naturalization test.

As you know, Mr. Speaker, current law exempts these individuals from only the English language portion of the test.

It has long been plain to me that a number of elderly immigrant aliens reside in this country but have not been naturalized because they fear, or are unable to pass, the government knowledge requirement for naturalization.

Many of us here today have neighborhoods in our districts that are primarily composed of immigrants from Italy, Greece, Ireland, Poland, Germany, or some other nation. If you were to really look carefully at these communities, then you will find some of these alien individuals, constituents who have been, in effect, completely forgotten.

Absent the corrective language of this provision of H.R. 783, their dream of American citizenship may never be realized—because they fear the immigration and naturalization service test.

Obviously, since these individual have lived in this country for so many years, they are largely aware of our form of government and have abided by our laws. However, the thought of a test on these issues by a stranger can be so frightening to them that they may not follow through. That is why I believe that the requirement of a naturalization test for the elderly, who are so fragile and vulnerable, is in need of revision.

Currently, the Immigration and Nationality Act exempts individuals desiring naturalization from the requirement to speak, read, and write English if they are at least 50 years old and have been legal residents of the United States for a minimum of 20 years. However, that requirement for a knowledge-of-government test hasn't been addressed in a similar manner by the Congress.

This inequity has long concerned me, and I have in the past introduced legislation containing language similar to that contained in this provision of H.R. 783. I would emphasize that this provision has absolutely no impact on immigration ceilings or on the influx of new aliens.

Therefore, I ask that all of my colleagues support this legislation with your vote today and offer a ray of hope to the forgotten.

Mr. MAZZOLI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS). The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and agree to the resolution, H. Res. 533.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on House Resolution 533, the resolution just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

RELATING TO APPLICATIONS FOR PROCESS PATENTS

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4307) to amend title 35, United States Code, with respect to applications for process patents, as amended.

The Clerk read as follows:

H.R. 4307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PROCESS PATENT APPLICATIONS

SECTION 101. EXAMINATION OF PROCESS PATENT APPLICATIONS FOR OBVIOUSNESS.

Section 103 of title 35, United States Code, is amended—

(1) by designating the first paragraph as subsection (a);

(2) by designating the second paragraph as subsection (c); and

(3) by inserting after the first paragraph the following:

"(b)(1) Notwithstanding subsection (a), and upon timely election by the applicant for patent to proceed under this subsection, a process using or resulting in a composition of matter that is novel under section 102 and nonobvious under subsection (a) of this section shall be considered nonobvious if—

"(A) claims to the process and the composition of matter are contained in either the same application for patent or in separate applications having the same effective filing date; and

"(B) the composition of matter, and the process at the time it was invented, were owned by the same person or subject to an obligation of assignment to the same person.

"(2) A patent issued on a process under paragraph (1)—

"(A) shall also contain the claims to the composition of matter used in or made by that process, or

"(B) shall, if such composition of matter is claimed in another patent, be set to expire on the same date as such other patent, notwithstanding section 154.".

SEC. 102. PRESUMPTION OF VALIDITY; DEFENSES.

Section 282 of title 35, United States Code, is amended by inserting after the second sentence of the first paragraph the following: "Notwithstanding the preceding sentence, if a claim to a composition of matter is held invalid and that claim was the basis of a determination of nonobviousness under section 103(b)(1), the process shall no longer be considered nonobvious solely on the basis of section 103(b)(1).".

SEC. 103. EFFECTIVE DATE.

The amendments made by section 101 shall apply to any application for patent filed on or after the date of the enactment of this Act and to any application for patent pending on such date of enactment, including (in either case) an application for the reissue of a patent.

TITLE II—COPYRIGHT REFORM

SEC. 201. SHORT TITLE.

This Act may be cited as the "Copyright Reform Act of 1993".

SEC. 202. DEPOSIT OF COPIES OR PHONORECORDS FOR LIBRARY OF CONGRESS.

Section 407 of title 17, United States Code, is amended as follows:

(1) Subsection (a) is amended by striking "(a)" and all that follows through "publication—" and inserting the following:

"(a) REQUIRED DEPOSITS.—Except as provided in subsection (c), the owner of copyright in a work or of the exclusive right of publication of a work in the United States shall deposit, after the earliest date of such publication—".

(2) Subsection (b) is amended—

(A) by inserting "DEPOSIT IN COPYRIGHT OFFICE.—" after "(b)"; and

(B) by adding at the end the following: "A deposit made under this section may be used to satisfy the deposit requirements of section 408.".

(3) Subsection (c) is amended—

(A) by inserting "REGULATIONS.—" after "(c)"; and

(B) by striking "Register of Copyrights" and inserting "Librarian of Congress".

(4) Subsection (d) is amended—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by striking "(d) At any time after publication of a work as provided by subsection (a)" and inserting the following:

"(d) PROCEDURES.—(1) During November of each year, the Librarian of Congress shall publish in the Federal Register a statement of the categories of works of which the Library of Congress wishes to acquire copies or phonorecords under this section during the next calendar year. The Librarian shall review such statement annually in light of the changes in the Library's policies and procedures, changes in technology, and changes in patterns of publication. The statement shall also describe—

"(A) the types of works of which only one copy or phonorecord need be deposited;

"(B) the types of works for which the deposit requirements may be fulfilled by placing the Library of Congress on a subscription list; and

"(C) the categories of works which are exempt under subsection (c) from the deposit requirements.

"(2) At any time after publication in the United States of a work or body of works";

(C) by striking "Register of Copyrights" and inserting "Librarian of Congress";

(D) by inserting after the first sentence the following: "Such demand shall specify a date for compliance with the demand.";

(E) by inserting "in a civil action" after "are liable";

(F) in subparagraph (B) (as redesignated by subparagraph (A) of this paragraph) by striking "cost of" and inserting "cost to";

(G) in subparagraph (C) (as redesignated by subparagraph (A) of this paragraph) by striking "clauses (1) and (2)" and inserting "subparagraphs (A) and (B)"; and

(H) by adding after subparagraph (C) (as so redesignated) the following:

"In addit ion to the penalties set forth in subparagraphs (A), (B), and (C), the person against whom an action is brought under this paragraph shall be liable in such action for all costs of the United States in pursuing the demand, including an amount equivalent to a reasonable attorney's fee.".

(5) Subsection (e) is amended—

(A) by inserting "TRANSMISSION PROGRAMS.—" after "(e)";

(B) by striking "Register of Copyrights shall, after consulting with the Librarian of Congress and other interested organizations and officials," and inserting "Librarian of Congress shall, after consulting with interested organizations and officials,"; and

(C) in paragraph (2) by striking "Register of Copyrights" and inserting "Librarian of Congress".

(6) Section 407 of title 17, United States Code, is further amended by adding at the end the following:

"(f) OBLIGATION TO MAKE DEPOSITS.—Immediately upon the publication in the United States of any work in which copyright subsists under this title, it shall be the obligation of the persons identified in subsection (a) with respect to that work, subject to the requirements and exceptions specified in this section, to deposit, for the use or disposition of the Library of Congress, the copies or phonorecords specified in such subsection. The obligation to make such deposit arises without any prior notification or demand for compliance with subsection (a).

"(g) RECORDS OF DEPOSITS.—The Librarian of Congress shall establish and maintain public records of the receipt of copies and phonorecords deposited under this section.

"(h) DATABASE OF DEPOSIT RECORDS.—The Librarian of Congress shall establish and maintain an electronic database containing its records of all deposits made under this section on and after October 1, 1995, and shall make such database available to the public through one or more international information networks.

"(i) DELEGATION AUTHORITY.—The Librarian of Congress may delegate to the Register of Copyrights or other officer or employee of the Library of Congress any of the Librarian's responsibilities under this section.".

SEC. 203. COPYRIGHT REGISTRATION IN GENERAL.

Section 408 of title 17, United States Code, is amended—

(1) in subsection (c)—

(A) in paragraph (1) by adding at the end the following: "The Register is also authorized to specify by regulation classes of material in which registration may be made without deposit of any copy or phonorecord, in cases in which the Register determines that the purposes of examination, registration, and deposit can be adequately served by deposit of descriptive material only, or by a written obligation to deposit copies or phonorecords at a later date."; and

(B) in paragraph (2) by striking "periodicals, including newspapers" and all that follows through the end of subparagraph (B) and inserting "collective works, including periodicals, published within a 5-year period, on the basis of a single deposit and application and upon payment of any special registration fee imposed under section 708(a)(10), if the application identifies each work separately, including the collective work containing it and its date of first publication."; and

(2) by adding at the end the following:

"(f) COPYRIGHT OFFICE HEARINGS.—Not later than 1 year after the effective date of this subsection, and at 1-year intervals thereafter, the Register of Copyrights shall hold public hearings to consider proposals to amend the regulations and practices of the Copyright Office with respect to deposit of works in order to eliminate deposits that are unnecessary for copyright examination or the collections of the Library of Congress, and in order to simplify the registration procedures.".

SEC. 204. APPLICATION FOR COPYRIGHT REGISTRATION.

(a) APPLICATIONS.—Section 409 of title 17, United States Code, is amended

(1) by striking "The application" and inserting "(a) CONTENTS OF APPLICATION.—The application";

(2) in paragraph (5) by inserting before the semicolon the following: ", and if the document by which ownership was obtained has been recorded in the Copyright Office, the volume and page number of such recordation";

(3) by striking paragraphs (9) and (10) and inserting the following:

"(9) in the case of a compilation or derivative work, an identification of any preexisting work or works that it is substantially based on or substantially incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

"(10) at the option of the applicant, names, addresses, and telephone numbers of persons or organizations that potential users of the work should contact concerning permissions or licenses to use the work, and any information with respect to the terms of such permissions or licenses; and"; and

(4) by adding at the end the following:

"(b) SHORT-FORM APPLICATION.—

"(1) USE OF SHORT-FORM.—The Register of Copyrights shall prescribe a short-form application which may be used whenever—

"(A) the work is by a living author;

"(B) the claimant is the author;

"(C) the work is not anonymous, pseudonymous, or made for hire; and

"(D) the work as a whole, or substantial portions of it, have not been previously published or registered.

"(2) CONTENTS OF SHORT-FORM.—The short-form application shall include—

"(A) the name and address of the author;

"(B) the title of the work;

"(C) the nationality or domicile of the author;

"(D) the year in which creation of the work was completed;

"(E) if the work has been published, the date and nation of its first publication;

"(F) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright; and

"(G) at the option of the applicant, names, addresses, and telephone numbers of persons or organizations that potential users of the work should contact concerning permissions or licenses to use the work, and any information with respect to the terms of such permissions or licenses.".

(b) EFFECTIVE DATE.—The amendments made by this section take effect 6 months after the date of the enactment of this Act.

SEC. 205. REGISTRATION OF CLAIM AND ISSUANCE OF CERTIFICATE.

(a) DETERMINATION OF REGISTRATION.—Section 410 of title 17, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

"(a) DETERMINATION OF REGISTER.—If, after examination, the Register of Copyrights determines, in accordance with the provisions of this title, that there is no reasonable possibility that a court would hold the work for which a deposit is made pursuant to section 408(c) to be copyrightable subject matter, or the Register determines that the claim is invalid for any other reason, the Register shall refuse registration and notify the applicant in writing of the reasons for such refusal. In all other cases, the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. A certificate of registration issued under this section extends only to those component parts of the work that both are the subject matter of copyright and the copyright owner has the right to claim. The certificate shall contain the information set forth in the application, together with the number and effective date of the registration.

"(b) APPEALS PROCEDURE.—The Register of Copyrights shall establish, and publish in the Federal Register, a formal procedure by which appeals may be taken from refusals under subsection (a) to register claims to copyright. Such procedure shall include a final appeal to the Register.".

(b) JUDICIAL PROCEEDINGS.—Subsection (c) of section 410 of title 17, United States Code, is amended—

(1) by inserting "EVIDENTIARY WEIGHT OF CERTIFICATE.—" after "(c)"; and

(2) by adding at the end the following: "Any error or omission made in good faith or upon reasonable reliance on counsel shall not affect the validity of the registration. In no case shall an incorrect statement made in an application for copyright registration invalidate the copyright.".

(c) TECHNICAL AMENDMENT.—Subsection (d) of section 410 of title 17, United States Code, is amended by inserting "EFFECTIVE DATE OF REGISTRATION.—" after "(d)".

SEC. 206. COPYRIGHT REGISTRATION PROVISIONS.

(a) REGISTRATION AND INFRINGEMENT ACTIONS.—(1) Section 411 of title 17, United States Code, is amended—

(A) by amending the section caption to read as follows:

"§411. Registration and infringement actions for certain works";

(B) by striking subsection (a); and

(C) in subsection (b)—

(i) by striking "(b)"; and

(ii) by striking paragraphs (1) and (2) and inserting the following:

"(1) serves notice upon the infringer, not less than 10 or more than 30 days before such fixation, identifying the work and the specific time and source of its first transmission; and

"(2) submits an application for registration of the copyright claim in the work, in accordance with this title, within 3 months after the first transmission of the work.".

(2) The item relating to section 411 in the table of sections at the beginning of chapter 4 of title 17, United States Code, is amended to read as follows:

"411. Registration and infringement actions for certain works.".

(b) REGISTRATION AS PREREQUISITE TO CERTAIN REMEDIES FOR INFRINGEMENT.—Section 412 of title 17, United States Code, and the item relating to section 412 in the table of sections at the beginning of chapter 4 of title 17, United States Code, are repealed.

SEC. 207. REMEDIES FOR INFRINGEMENT.

Section 504(c)(2) of title 17, United States Code, is amended in the second sentence—

(1) by striking "court it" and inserting "court in";

(2) by inserting "or eliminate" after "reduce"; and

(3) by striking "to a sum of not less than $200".

SEC. 208. NOTIFICATION OF FILING AND DETERMINATION OF ACTIONS.

Section 508 of title 17, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by inserting "and the party filing the action" after "United States"; and

(B) in the second sentence by inserting "and the party filing the action" after "clerk"; and

(2) in subsection (b) by inserting "and the party filing the action" after "clerk of the court".

SEC. 209. STUDY ON MANDATORY DEPOSIT.

(a) SUBJECT MATTER OF STUDY.—Upon the enactment of this Act, the Librarian of Con

gress shall conduct a study of the mandatory deposit provisions of section 407 of title 17, United States Code. Such study shall place particular emphasis on the implementation of section 407(e) of such title with respect to the deposit of transmission programs, as well as possible alternative methods of obtaining deposits if the mandatory deposit requirements of such section 407 are expanded to authorize the collection, archival preservation, and use by the Library of Congress of other publicly transmitted works, including unpublished works such as computer programs and online databases.

(b) CONDUCT OF STUDY.—The study under subsection (a) shall be conducted by the Register of Copyright, in consultation with any affected interests, and may include the voluntary establishment, in collaboration with representatives of such interests, of practical tests and pilot projects.

(c) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Librarian shall submit to the Congress a report on the results of the study conducted under this section, together with recommendations the Librarian has on—

(1) safeguarding the interests of copyright owners whose works are subject to the mandatory deposit provisions referred to in subsection (a);

(2) fulfilling the present and future needs of the Library of Congress with respect to archival and other collections development; and

(3) any legislation that may be necessary.

SEC. 210. STUDIES OF EFFECTS OF REGISTRATION AND DEPOSIT PROVISIONS.

Upon the enactment of this Act, the Librarian of Congress, after consultation with the Register of Copyrights and any affected interests, shall commence a study of the extent to which changes in the registration and deposit provisions of title 17, United States Code, that are made by this Act have affected the acquisitions of the Library of Congress and the operations of the copyright registration system, and any recommendations the Librarian may have with respect to such effects. Not later than 3 years after the date of the enactment of this Act, the Librarian shall submit to the Congress a report on such study. The Librarian may conduct further studies described in the first sentence, and report to the Congress on such studies.

SEC. 211. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by striking the definition of the "country of origin" of a Berne Convention work.

(b) INFRINGEMENT OF COPYRIGHT.—Section 501(b) of title 17, United States Code, is amended in the first sentence by striking ", subject to the requirements of section 411,".

(c) REMEDIES FOR INFRINGEMENT.—Section 504(a) of title 17, United States Code, is amended by striking "Except as otherwise provided by this title, an" and inserting "An".

SEC. 212. ADDITIONAL TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 17, UNITED STATES CODE.—Title 17, United States Code, is amended as follows:

(1) The definition of "publicly" contained in section 101 is amended—

(A) by striking "clause" and inserting "paragraph"; and

(B) by striking "processs" and inserting "process".

(2) The definition of "registration" contained in section 101 is amended by striking "412,".

(3) Section 108(e) is amended in the matter preceding paragraph (1) by striking "pair" and inserting "fair".

(4) Section 109(b)(2)(B) is amended by striking "Copyright" and inserting "Copyrights".

(5) Section 304(c) is amended in the matter preceding paragraph (1) by striking "the subsection (a)(1)(C) and inserting "subsection (a)(1)(C)".

(6) Section 405(b) is amended by striking "condition or" and inserting "condition for".

(7) The item relating to section 504 in the table of sections at the beginning of chapter 5 is amended by striking "Damage" and inserting "Damages".

(8) Section 501(a) is amended by striking "sections 106 through 118" and inserting "section 106".

(9) Section 509(b) is amended by striking "merchandise; and baggage" and inserting "merchandise, and baggage".

(10) Section 601 of title 17, United States Code, is amended—

(A) in subsection (a) by striking "nondramtic" and inserting "nondramatic"; and

(B) in subsection (b)(1) by striking "subsustantial" and inserting "substantial".

(11) Section 801(b)(4) of title 17, United States Code, is amended by adding a period after "chapter 10".

(12) The item relating to section 903 in the table of sections at the beginning of chapter 9 is amended to read as follows:

"903. Ownership, transfer, licensing, and recordation.".

(13) Section 909(b)(1) is amended—

(A) by striking "force" and inserting "work"; and

(B) by striking "sumbol" and inserting "symbol".

(14) Section 910(a) is amended in the second sentence by striking "as used" and inserting "As used".

(15) Section 1006(b)(1) is amended by striking "Federation Television" and inserting "Federation of Television".

(16) Section 1007 is amended—

(A) in subsection (a)(1) by striking "the calendar year in which this chapter takes effect" and inserting "calendar year 1992"; and

(B) in subsection (b) by striking "the year in which this section takes effect" and inserting "1992".

(17) The table of chapters at the beginning of title 17, United States Code, is amended—

(A) by amending the item relating to chapter 6 to read as follows:

"6. Manufacturing Requirements and Importation ..... 601";

(B) by amending the item relating to chapter 9 to read as follows:

"9. Protection of Semiconductor Chip Products ..... 901";

and

(C) by adding at the end the following:

"10. Digital Audio Recording Devices and Media ..... 1001".

(b) OTHER PROVISIONS OF LAW.—(1) Section 2319(b)(1) of title 18, United States Code, is amended by striking "at last" and inserting "at least".

(2) Section 1(a)(1) of the Act entitled "An Act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities", approved November 9, 1987 (17 U.S.C. 914 note), is amended by striking "orginating" and inserting "originating".

(3) Section 3(a)(1)(C) of the Audio Home Recording Act of 1992 is amended by striking "adding the following new paragraph at the end" and inserting "inserting after paragraph (3) the following new paragraph".

SEC. 213. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 204(b), and subject to subsection (b) of this section, this Act and the amendments made by this Act take effect on the date of the enactment of this Act.

(b) PENDING ACTIONS.—The amendments and repeals made by section 206 shall not affect any action brought under title 17, United States Code, before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4307. H.R. 4307 includes two titles, a patent process title and a copyright title.

The subject matter of title I of H.R. 4307 has been debated and considered by Congress for the past 6 years. Title I of H.R. 4307 is a response to two court decisions which have affected the examination of patent applications at the Patent and Trademark Office. The two court decisions, a 1985 decision issued by the Court of Appeals for the Federal circuit, In Re Durden, and a subsequent case, In Re Pleuddemann, decided in 1990 have led to inconsistent practices by the Patent and Trademark Office in the examination of applications for process patents and claims. The result has been that some process patents and claims have been granted without any delay or controversy while other applications, similar in nature, have been rejected or required to be defended at length with the patent examiner.

Without the protection of a process patent, many American industries are unable to prevent the use of their product overseas—for which they spent the millions in research and development—in production of a product which can then be imported into the United States without the fear of infringement.

The legislation provides for a modified patent examination by the Patent and Trademark Office of process patents. Under title I of H.R. 4307, a process will not have to undergo a separate review of nonobviousness under certain conditions. If the process produces or uses a patentable composition of matter the process will be determined nonobvious for purposes of the patent examination.

This expedited review will resolve the delays and inconsistent determinations faced by process patent applicants under present Patent and Trademark Office practices without any harm to the basic principles of patentability. Title I of H.R. 4307 only impacts one element of patentability—that of nonobviousness. There is no guarantee of patentability if the process patent application satisfies the new examination procedure. The process must still fulfill other requirements of patentability,

There has been more than ample opportunity to consider this legislation.

In 6 years, there have been at least five different hearings held by the House subcommittee of Jurisdiction on related legislation. The solution devised in title I of H.R. 4307 has taken into account all the concerns and problems raised by various industry groups and is a middle-ground approach which is neither industry-specific or totally generic.

Given the failure of the courts to resolve the seemingly inconsistent decisions and the inability of the Patent and Trademark Office to solve the problems administratively,. Congress has an obligation to act. Title I of H.R. 4307 addresses the issue in the most appropriate manner.

Title II of H.R. 4307 contains the Copyright Reform Act of 1993 in the identical form as passed by the House on November 20, 1993. Although there is a companion bill in the other body, they have not had the opportunity to process that legislation, mostly due to the time spent on the satellite bill.

Passage of the Copyright Reform Act is even more necessary since the Supreme Court's decision earlier this year in the Fogerty case. In Fogerty, the Court held that in awarding attorney's fees, courts should award them to prevailing defendants on the same basis as to prevailing plaintiffs. This means that prevailing defendants may receive attorney's fees in cases where the plaintiff, if he had prevailed, could not, because of section 412. This fact will, undoubtedly, have a chilling effect on copyright owners.

Both title of H.R. 4307 are important and require immediate action. I urge my colleagues to adopt H.R. 4307.

Mr. Speaker, I want to thank and commend the distinguished ranking Republican on the Intellectual Property and Judicial Administration Subcommittee, the gentleman from California [Mr. MOORHEAD], for his work, his staff's work, the majority staff for their work, Hayden Gregory and Jarilyn Dupont, just behind me, who worked on this important legislation, and Bill Patry, as well as the distinguished chairman of the full committee, the gentleman from Texas [Mr. BROOKS], and his staff, and the gentleman from New York [Mr. FISH] and his staff.

It is a good bill. It warrants your support.

Mr. Speaker, I reserve the balance of my time.

□ 1650

Mr. MOORHEAD. Mr. Speaker, I yield myself as much time as I may consume.

(Mr. MOORHEAD asked and was given permission to revise and extend his remarks.)

Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 4307, the Process Patent Protection Act of 1994.

I would like to commend our chairman JACK BROOKS, and ranking member, HAM FISH, for their help in scheduling this legislation for the floor and the subcommittee chairman, the gentleman from New Jersey [Mr. HUGHES], for his hard work and leadership in this complex area. I also would like to thank the gentleman from Virginia, RICK BOUCHER for all of his effort and support of this important legislation.

From an economic point of view, the U.S. biotech industry has gone from zero revenues and zero jobs 15 years ago to $6 billion and 70,000 jobs today. The White House Council on Competitiveness projects a $30 to $50 billion market for biotech products by the year 2000, and many in the industry believe this estimate to be conservative.

Companies that depend heavily on research and development are especially vulnerable to foreign competitors who copy and sell their products without permission. The reason that high technology companies are so vulnerable is that for them the cost of innovation, rather than the cost of production, is the key cost incurred in bringing a product to market.

In addition to the ability to obtain and enforce a patent, small companies in particular must be concerned about obtaining a patent in a timely fashion. In 1992 the pendency of a biotech patient application was 27 months with the backlog in applications increasing from 17,000 in 1990 to almost 20,000 in 1992. The Patent Office has taken steps to improve the situation by reorganizing its biotechnology examination group and increasing the number of new examiners. The PTO has also implemented special pay rates for their biotechnology examiners. As a result, biotech patent application pendency has been reduced from 27 months to 21 months and the backlog in applications have been reduced from 20,000 in 1992 to 17,000 in 1994.

Although this is slow progress it is a substantial improvement. However, we must continue to reduce these delays because this industry is so dependent on patents in order to raise capital for reinvestment in manufacturing plants and in new product development, and even more so for an industry targeted by Japan for major and concerted competition.

The House Judiciary Committee took the first step in 1988 when the Congress enacted two bills which I introduced relating to process patents and reform of the International Trade Commission. However, our work will not be complete until we enact H.R. 4307. This bill modifies the test for obtaining a process patent. It overrules In Re Durden (1985), a case frequently criticized that has been cited by the Patent Office as grounds for denial of biotech patents, as well as chemical and other process patent cases.

Because so many of the biotech inventions are protected by patents, the future of that industry depends greatly on what Congress does to protect U.S. patents from unfair foreign competition. America's foreign competitors, most of whom have invested comparatively little in biotechnology research, have targeted the biotech industry for major and concerted action. According to the Biotechnology Association, in Japan the Ministry of International Trade and Industry [MITI] and the Japanese biotechnology industry have joined forces and established a central plan to turn Japanese biotechnology into a 127 billion yen per year industry by the year 2000. If we fail to enact this legislation, the Congress may contribute to fulfillment of that projection.

In conclusion, Mr. Speaker, this is important legislation. The biotech industry is an immensely important industry started in the United States with many labs housed in California. In the decade ahead, biotechnology research will improve the lives and health of virtually every American family. It will put people to work and it will save people's lives. I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS].

(Mr. BROOKS asked and was given permission to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, the patent provisions of H.R. 4307 represent a long sought solution to the vexing problem of process patent protection. For too long, confusion in our patent law and practice has permitted foreign manufacturers to exploit the creativity of U.S. companies and inventors. H.R. 4307 modifies the examination for process patents to eliminate the nonobviousness requirement for otherwise patentable processes connected to patentable products.

For newly emerging industries, such as biotechnology firms, the legislation will give the needed certainty to continue to make needed strides in medical and scientific advances. At the same time, I am confident that this legislation will not have undue consequences on industries vital to our economy, such as the chemical industry. The legislation is intended to solve existing problems, not to cause new ones for industries that have functioned smoothly within the current system.

I congratulate Congressman BILL HUGHES, chairman of the Subcommittee on Intellectual Property and Judicial Administration, and Congressman CARLOS MOORHEAD, the ranking subcommittee member, for their steadfast dedication to this issue. The proposal before the House today reflects years of work on this issue.

With regard to the copyright provisions of this bill, they are the same as were passed on November 20, 1993, when the House adopted H.R. 897 by voice vote. These provisions are designed to bring needed reforms to the copyright office registration process by removing bureaucratic obstacles to the protection and enforcement of copyrights.

Again, Congressmen HUGHES and MOORHEAD are to be particularly commended for their fine work as leaders in the copyright field.

This package deserves the support of the House of Representatives, and I urge my colleagues to vote aye.

Mr. HUGHES. Mr. Speaker, I yield myself 30 seconds.

(Mr. HUGHES asked and was given permission to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, I take this time to single out particularly the gentleman I am going to yield to next, RICK BOUCHER, the gentleman from Virginia, who has developed an expertise in the intellectual property area second to none. This has been one of his loves for a long time.

He introduced, I guess, about 5 or 6 years ago, a bill that was both industry-specific as well as generic to try to fix a very serious problem that has evolved over the years in the biotechnology process patent area. I might say that this is a highly complex area. It does put industry at a tremendous competitive disadvantage in this country vis-a-vis foreign industries, and this is going to correct that loophole.

The gentleman is a very, very good Member. In addition to being patient, he has been patient with this subcommittee because we had waited on the courts for the better part of 2 years. We thought that they would solve this issue. Then we thought that the PTO would resolve this administratively.

I want to acknowledge in particular the work of the gentleman from Virginia.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. I thank the gentleman for yielding this time to me. I want to express my appreciation to the gentleman from New Jersey [Mr. HUGHES] for those kind remarks.

Mr. Speaker, I also want to thank the gentleman from New Jersey [Mr. HUGHES] for directing the House's attention to a very urgent need of one of the most commercially important industries in the United States, and that is the biotechnology industry. The gentleman has responded very effectively to the arguments that I raised along with the gentleman from California [Mr. MOORHEAD] some several years ago about a defect in the patent law that serves as a real inhibition to the forward progress of the biotechnology industry.

That industry is itself a bright promise for the success of this Nation in international markets. It is a unique American enterprise that has created to date approximately 70,000 highly skilled, high-wage jobs and has the promise to do much more in the future.

Biotechnology firms are making major contributions to this Nation's social needs in the area both of health care and agriculture.

On the market today are products derived from biotechnology for the treatment of cancer, diabetes, and heart attacks. Firms are now developing potential treatments or even cures for AIDS, Alzheimer's disease, cystic fibrosis, and Lou Gehrig's disease.

Yet the promise of this industry is seriously challenged by a simple and obvious inadequacy in the Nation's patent laws. That inadequacy opens the door for foreign firms to expropriate American inventions and compete in this country directly with the inventing firm. In essence, the patent law confers an advantage on foreign companies not enjoyed by U.S. firms and actually encourages a pilfering of U.S. creativity.

We have numerous examples of that practice occurring. It is that defect in our patent law that the legislation before the House now is designed to address.

The bill offered by the gentleman from New Jersey [Mr. HUGHES] addresses that need by opening the door to a more certain award of process patents for biotechnology firms and other inventors. It will markedly improve the commercial prospects for an industry which will in the future make enormous contributions to the U.S. economy. I am pleased to rise in support of the legislation.

Mr. Speaker, I again commend the gentleman from New Jersey [Mr. HUGHES] and the gentleman from California [Mr. MOORHEAD] for their steadfast and productive work in bringing this measure before the House and I thank again the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I have no more requests for time and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 4307, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 35, United States Code, with respect to applications for process patents, and for certain other purposes.".

A motion to reconsider was laid on the table.

□ 1700

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the legislation just considered and adopted.

The SPEAKER pro tempore (Mr. HASTINGS). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CORRECTING ENGROSSMENT OF AMENDMENT OF THE HOUSE TO S. 725, PROVIDING FOR STUDIES AND PROGRAMS WITH RESPECT TO TRAUMATIC BRAIN INJURY

Mr. WAXMAN. Mr. Speaker, I offer a resolution (H. Res. 534) to correct the engrossment of the amendment of the House of Representatives to the Senate bill (S. 725), and I ask unanimous consent for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 534 is as follows:

H. RES. 534

Resolved,

SECTION 1. RETURN.

The Senate is requested to return to the House of Representatives the amendment of the House to the Senate bill (S. 725).

SEC. 2. CORRECTION.

Upon the return of the House amendment to the Senate bill (S. 725), the Clerk of the House of Representatives shall make the following change in the engrossment of the House amendment: Strike section 5 and insert the following:

SEC. 5. STATE STANDARDS.

(a) PREEMPTION.—Section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)) is amended—

(1) in paragraph (1), by inserting at the end the following: "except that this paragraph does not apply to a standard of identity of—

"(A) a State or political subdivision of a State for maple syrup which is of the type required by sections 401 and 403(g), or

"(B) a State for fluid milk which is of the type required by sections 401 and 403(g) and which specifies a higher minimum level of milk components than is provided for in the corresponding standard of identity promulgated under section 401,",

(2) in paragraph (2), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State which is of the type required by section 403(c) and which is applicable to maple syrup,",

(3) in paragraph (3), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State which is of the type required by section 403(h)(1) and which is applicable to maple syrup,", and

(4) by adding at the end the following: "For purposes of paragraph (1)(B), the term 'fluid milk' means liquid milk in final packaged form for beverage use and does not include dry milk, manufactured milk products, or tanker bulk milk.".

(b) PROCEDURE.—Section 701(e)(1) of such Act (21 U.S.C. 371(e)(1)) is amended by striking "or maple syrup (regulated under section 168.140 of title 21, Code of Federal Regulations)".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I will not object, but I would like to request that the gentleman from California [Mr. WAXMAN] explain exactly what this unanimous-consent request includes.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, this resolution corrects the engrossment of S.

725, a bill passed by the House. The correction replaces two paragraphs of the Senate-passed bill which were inadvertently omitted in the House-passed version. This will correct, I think, technically what we all tried to accomplish.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection. The resolution was agreed to.

A motion to reconsider was laid on the table.

VEGETABLE INK PRINTING ACT OF 1994

Mr. CONDIT. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 716) to require that all Federal lithographic printing be performed using ink make from vegetable oil and materials derived from other renewable resources, and for other purposes, as amended.

The Clerk read as follows:

S. 716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vegetable Ink Printing Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) More than 95 percent of Federal printing involving documents or publications is performed using lithographic inks.

(2) Various types of oil, including petroleum and vegetable oil, are used in lithographic ink.

(3) Increasing the amount of vegetable oil used in a lithographic ink would—

(A) help reduce the Nation's use of nonrenewable energy resources;

(B) result in the use of products that are less damaging to the environment;

(C) result in a reduction of volatile organic compound emissions; and

(D) increase the use of renewable agricultural products.

(4) The technology exists to use vegetable oil in lithographic ink and, in some applications, to use lithographic ink that uses no petroleum distillates in the liquid portion of the ink.

(5) Some lithographic inks have contained vegetable oils for many years; other lithographic inks have more recently began to use vegetable oil.

(6) According to the Government Printing Office, using vegetable oil-based ink appears to add little if any additional cost to Government printing.

(7) Use of vegetable oil-based ink in Federal Government printing should further develop—

(A) the commercial viability of vegetable oil-based ink, which could result in demand, for domestic use alone, for 2,500,000,000 pounds of vegetable crops or 500,000,000 pounds of vegetable oil; and

(B) a product that could help the United States retain or enlarge its share of the world market for vegetable oil-ink.

(b) PURPOSE.—The purpose of this Act is to require that all lithographic printing using ink containing oil that is performed or procured by a Federal agency shall use ink containing the maximum amounts of vegetable oil and materials derived from other renewable resources that—

(1) are technologically feasible, and

(2) result in printing costs that are competitive with printing using petroleum-based inks.

SEC. 3. FEDERAL PRINTING REQUIREMENTS.

(a) GENERAL RULE.—Notwithstanding any other law, and except as provided in subsection (b), a Federal agency may not perform or procure lithographic printing that uses ink containing oil if the ink contains less than the following percentage of vegetable oil:

(1) In the case of news ink, 40 percent.

(2) In the case of sheet-fed ink, 20 percent.

(3) In the case of forms ink, 20 percent.

(4) In the case of heat-set ink, 10 percent.

(b) EXCEPTIONS.—

(1) EXCEPTIONS.—Subsection (a) shall not apply to lithographic printing performed or procured by a Federal agency, if—

(A) the head of the agency determines, after consultation with the Public Printer and within the 3-year period ending on the date of the commencement of the printing or the date of that procurement, respectively, that vegetable oil-based ink is not suitable to meet specific, identified requirements of the agency related to the printing; or

(B) the Public Printer determines—

(i) within the 3-month period ending on the date of the commencement of the printing, in the case of printing of materials that are printed at intervals of less than 6 months, or

(ii) before the date of the commencement of the printing, in the case of printing of materials that are printed at intervals of 6 months or more;

that the cost of performing the printing using vegetable oil-based ink is significantly greater than the cost of performing the printing using other available ink.

(2) NOTICE TO CONGRESS.—Not later than 30 days after making a determination under paragraph (1)(A), the head of a Federal agency shall report the determination to the Committee on Government Operations and the Committee on House Administration of the House of Representatives, and the Committee on Rules of the Senate.

(c) FEDERAL AGENCY DEFINED.—In this Act, the term "Federal agency" means—

(1) an executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

(2) an establishment or component of the legislative or judicial branch of the Government.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. CONDIT] will be recognized for 20 minutes, and the gentleman from California [Mr. HORN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have an opportunity today to pass a bill that will help our farmers, increase reliance on a renewable resource, and improve the environment. We can accomplish all of this at no cost. The Vegetable Ink Printing Act provides this opportunity by directing the Federal Government to increase its use of vegetable ink for printing.

Today, over 95 percent of Federal printing of documents or publications is performed using lithographic inks. Lithographic ink is petroleum based and heavily dependent on the use of resins and solvents. S. 716 requires that all Federal lithographic printing use ink made from vegetable oil or other materials derived from renewable resources in place of lithographic ink.

This bill presents a win-win situation for the American people. Increasing use of vegetable ink will provide another market for our farmer's crops, increase reliance on renewable agricultural resources, and improve the environment by reducing emissions of volatile organic compounds. Best of all, there is no increased cost associated with these benefits.

Vegetable ink was developed by the American Newspaper Publishers Association during the oil crisis of the 1970's. The ink has been vigorously promoted by the American Soybean Association and by the National Soy Ink Information Center. As a result of these efforts, vegetable ink is available today at a price that is competitive with petroleum based inks.

S. 716 passed the Senate without dissent. The bill is supported by the printing industry, the Government Printing Office, and the American Soybean Association.

The Committee on Government Operations made a few small amendments to the Senate-passed bill. A slight alteration has been made that will provide some administrative flexibility. A provision has been added to allow an exception if vegetable ink does not meet the needs of a specific printing job.

For example, the Treasury Department tell us that vegetable ink cannot be used for printing checks because it may compromise security requirements. The new provision will allow the Treasury Department to continue to use other types of ink.

I want to emphasize that this bill will cost nothing to implement. The Congressional Budget Office has estimated that enactment of S. 716 would not affect direct spending or receipts. The Public Printer testified that the bill can be implemented without additional cost. And just in case there is any doubt, the bill includes an exemption in the event that the Public Printer determines that the cost of using vegetable ink is significantly greater than the cost of using other available ink.

I want to thank the gentleman from Illinois [Mr. DURBIN] for introducing this bill and for calling it to our attention.

Mr. Speaker, I reserve the balance of my time.

Mr. HORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the ranking Republican, the gentleman from Wyoming [Mr. THOMAS] and myself I rise in support of S. 716. Specifically this legislation increases the use of vegetable

37)