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United States Senate

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION
WASHINGTON, D.C. 20510

November 27, 1979

Mr. Mortimer Clift
Editor
Indianapolis Star
Indianapolis, Indiana

Dear Mort:

I was very happy to see your recent editorial "For Patent Reform" in which you endorsed the patent bill that Senator Bob Dole and I introduced. Last week it was unanimously endorsed by the full Senate Judiciary Committee. As you rightly noted this bill is a good first step in addressing the larger problems of the patent system but certainly will not solve the problem by itself.

There has been a great deal of concern about the seeming decline of American innovation which has served us so well in the past. Last year we imported $6 billion worth of foreign manufactured goods. This fuels inflation and costs Americans jobs. An important part of our ability to meet this challenge is a strong patent system. I have therefore, prepared two additional bills to correct serious weaknesses in the present system.

The first bill, S. 1679, will allow the Patent Office to inexpensively and quickly reexamine most issued patents to determine their validity if it is later challenged. Presently it costs an average of $250,000 to procede through the courts with a patent validity suit. Obviously, this cost is well beyond the means of independent inventors and small businesses which have been our most reliable sources of new ideas. These inventors are precisely the people whom the patent system was designed to protect, but they can easily find themselves unable to enforce their patents because of excessive legal costs. My bill will remove the threat of legal actions being used against patent holders to "blackmail" them into allowing infringements on their patents. The Patent Office can reexamine these patents, if necessary, at a fraction of the court costs to determine their validity.

This bill has been endorsed by Small Business representatives, independent inventors, the patent bar, and even large businesses who spend a great deal of money in the courts on patent cases. I will be holding hearings on this bill in the Senate Judiciary Committee on Friday, November 30, 1979.

My second bill will create an independent Patent and Trademark Office. One of the main problems with our present system is that the real experts are not allowed to run the show. The Patent and Trademark Office is buried in the bureaucracy of the Commerce Department which has not been sensitive to its needs. The result has been that the Patent and Trademark Office has been understaffed and underfunded for years. The American businessman and inventor (and ultimately the American consumer) has been paying a heavy price for this neglect. I want to stress that this bill will not create any new bureaucracy but will insure a more efficient Patent and Trademark Office than is now possible.

Our patent system was designed to "add the fuel of interest to the fires of genius" in the words of patent holder Abraham Lincoln. Unfortunately, the system is now dumping water on those fires. The answer to this problem is not to blindly throw money at it and hope that it goes away, but to thoughtfully address the problem. This is what I am attempting to do and I am happy to learn of your support of my efforts.

Sincerely,

Birch Bayh
United States Senator