MR. Bayh. Mr. President, The patent part of this amendment to H.R. 6626 is identical to two bills that have already passed by the Senate by overwhelming votes, S. 414, the University and Small Business Patent Procedures Act, and S. 2446, the Patent Law Amendments Act. These bills were unanimously reported out of the Senate Judiciary Committee and Senate Reports 96-480 and 96-617 fully explain their legislative intent.

Briefly, the patent provisions of this amendment, like those two Senate-passed bills, will encourage more innovation and productivity by its two provisions. It makes federally-supported research and development more productive by allowing the private sector to develop many inventions now left gaterhing dust on the shelves of government agencies. The amendment also gives patent owners and challengers a better remedy for determining a patent's validity than through costly litigation. There has been support for both of these ideas on both sides of the aisle and from the bar and industry.

Mr. President, we have been bombarded with evidence that American productivity and innovation has been in a steady decline in recent years. There are many complex reasons for this unhealthy trend, yet virtually every expert who has testified before the Congress has mentioned the weaknesses in our present patent laws as a significant contributor to the problem. This amendment will not solve this problem by any means, but does present a good first step in correcting this serious threat to our economic well-being.

The patent title of this amendment will allow universities, small businesses, and nonprofit organizations to retail title to inventions that they make while working for the Federal Government under most circumstances, while fully protecting the rights of the Government and the public. These contractors have by far the best record for making exciting new inventions and have accounted for at least one-half of this country's most important breakthroughs since World War II. Small businesses are also the leading creators of new jobs in this country yet they receive less than 4 percent of our Government research and development funds! Passage of this vital patent legislation will correct this remedy by attracting high technology small businesses to federal research and development.

The other part of this patent title will remove the threat of expensive litigation designed to "blackmail" innovative small companies by tying up important patents in endless court suits which can take years to settle and cost an average of $250,000 to both parties in the suit according to the American Patent Law Association. Obviously, even the threat of such an expense to the average small businessman or independent inventor is a serious threat to their inventions forcing many to settle out of court even though they have a strong case. The enactment of patent reexamination will allow the Patent Office to review many instances where patents are being challenged for a cost of $1,000 to $1,500. This will be a real boon to small businesses who are forced to rely on their patents in order to compete against larger companies.

The patent title of this amendment represents a major effort by the Congress to boost our innovation and productivity through strengthening our patent laws and protecting our small businesses and independent inventors. I urge my colleagues to join with me in supporting this amendment