

UPDATE SINCE APRIL INCA LETTER:

**National Defense Threatened By First To File Provision
of Patent Reform Bill H.R. 1249**

Almost two months ago, the Inventors Network of the Capital Area (INCA) sent a letter to Speaker Boehner warning of the serious threat to our national defense caused by the First to File (FTF) Provision of the pending patent reform bill H.R. 1249. (*see copy of INCA letter on webpage above*)

In the very short time since then, the stark reality of the national defense threat has become much more evident. The threat is rapidly growing. The computer networks of IMF, Citibank, RSA, Google, and Lockheed Martin have all been hacked into, causing massive Internet security breaches. Sony was forced to shut down its huge gaming network for an extended period, forcing Sony's CEO to concede that he can't guarantee the security of Sony's videogame network or any other Web system in the "bad new world" of cybercrime. (*see Web links below to new articles*)

RSA's SecurID token security system also suffered a massive breach. This is critically important, since RSA SecurID is the primary cybersecurity system for both the Federal government and most large and medium sized corporations, whose networks are more vulnerable to cyberattack until some 40 million RSA SecurID tokens are replaced.

Chinese hackers have continued to clearly demonstrate their ability to steal U.S. R&D secrets easily through cyber espionage, a mode to theft that cannot ever be proven in U.S. court. Unlike the current law, the "First To File" provision of H.R. 1249 would allow the Chinese to just as easily become the very first to file U.S. patent applications covering those technology secrets.

The Chinese would thereby own that new U.S. technology even within the borders of the U.S., instead of now just being able to copy it in China. Defense technologies would be the prime target of this threat. Under the First To File provision, the U.S. patent system would become the most effective weapon in the Chinese arsenal, effectively disarming America in legal preemptive strikes.

The FTF provision of H.R. 1249 therefore has classic unintended consequences of a scope that goes far beyond patent law and that far outweigh any presumed improvements in that limited legal area. These logically inevitable non-legal consequences were overlooked by the Judiciary Committee, which is not properly constituted to evaluate them in any case.

Overlooking these unavoidable consequences was a grave mistake in the first place, but continuing to ignore now the national defense threat posed by First

to File is far worse. Nevertheless, the massive lobbying effort led by the Coalition For 21st Century Patent Reform has continued unabated, rushing H.R. 1249 through to a floor vote as quickly as possible.

At the same time, the Coalition has failed to address the critical cybersecurity First to File problem in any way. After having had nearly two months to do so, the reason for that continuing failure by the backers of H.R. 1249 seems abundantly clear: they have no solution whatsoever to the problem caused by FTF. The unfortunate reality for them is that the only solution is to drop the First to File provision from H.R. 1249.

The House must postpone floor action on H.R. 1249 until this critical national defense issue is thoroughly evaluated by the House Committees with sufficient expertise in and jurisdiction over national defense, homeland security, and intelligence. For the House to do otherwise when there is clearly no risk in delaying action until the threat can be properly evaluated would be both highly irresponsible and against the national interest.

CYBERATTACK ARTICLE LINKS:

THE NEW YORK TIMES Articles About Cybersecurity:

http://topics.nytimes.com/top/reference/timestopics/subjects/c/computer_security/index.html?8qa&scp=1-spot&sq=&st=nyt

THE WALL STREET JOURNAL Sample of Recent Articles on Cyberattacks:

Firms Come Clean on Hacks, Jun 17

http://online.wsj.com/article/SB10001424052702303499204576389773023983518.html?mod=WSJ_hp_LEFTTopStories

Citigroup Says Hacking Affected 360,000 Cards, June 16

http://online.wsj.com/article/SB10001424052702304319804576388643469171586.html?mod=WSJ_hp_LEFTWhatsNewsCollection

China's Cyberassault on America, June 15

http://online.wsj.com/article/SB10001424052702304259304576373391101828876.html?mod=WSJ_hps_sections_opinion

Hacker Group Goes After CIA Site, June 15

http://online.wsj.com/article/SB10001424052702304319804576388390219750376.html?mod=WSJ_hps_sections_news

Senate Website Gets Hacked, June 14

<http://online.wsj.com/article/SB10001424052702303848104576383970053018848.html>

IMF Hit by Cyber Attack, June 11, 2011

http://online.wsj.com/article/SB10001424052702304259304576380034225081432.html?mod=WSJ_hp_mostpop_read

Facebook's Test in China: What Price Free Speech?, June 10

<http://online.wsj.com/article/SB10001424052702304778304576375810359779964.html?KEYWORDS=Facebook%27s+Test+in+China>

Hacking At Citi Is Latest Data Scare, June 9

<http://online.wsj.com/article/SB10001424052702304778304576375911873193624.html?KEYWORDS=Hacking+At+Citi>

SecurID Clients Get Jitters, June 8

<http://online.wsj.com/article/SB10001424052702304906004576371952388757620.html?KEYWORDS=SecurID+Clients>

Security 'Tokens' Take Hit, June 7

<http://online.wsj.com/article/SB10001424052702304906004576369990616694366.html>

Gmail Hack Targeted White House, June 3

http://online.wsj.com/article/SB10001424052702304563104576361863723857124.html?mod=WSJ_hp_MIDDLENexttoW-hatsNewsThird#printMode

Beijing Fires Back at Google, June 3

http://online.wsj.com/article/SB10001424052702304563104576361300123816450.html?mod=WSJ_Tech_RightMostPopular#printMode

Google Mail Hack Blamed on China, June 2

http://online.wsj.com/article/SB10001424052702303657404576359770243517568.html?mod=WSJ_hp_mostpop_read

Hackers Broaden Their Attacks, May 31

<http://online.wsj.com/article/SB10001424052702304563104576355623894502788.html>

Cyber Combat: Act of War. May 31

http://online.wsj.com/article/SB10001424052702304563104576355623135782718.html?mod=WSJ_hp_mostpop_read

Lockheed Attack Highlights Rise In Cyber Espionage, May 29

<http://online.wsj.com/article/APe036bbd4f4f7496faef9b5251a48b96f.html>

Sony CEO Warns of 'Bad New World', May 18

http://online.wsj.com/article/SB10001424052748703421204576328982377107892.html?mod=WSJ_hps_sections_tech#printMode

The Washington Post

NSA Allies with Internet Carriers to Thwart Cyber Attacks Against Defense Firms

http://www.washingtonpost.com/national/major-internet-service-providers-cooperating-with-nsa-on-monitoring-traffic/2011/06/07/AG2dukXH_story.html

CODE WARS: America's Cyber Threat

CNBC Showtime: Check for latest airtime

<http://www.cnbc.com/id/42210831/>