

Delegate, and a member of the Delta Gamma International Board of Directors. As NPC College Panhellenics Committee Chairman, she worked with the 630 College Panhellenics in the United States and Canada.

Martha Cheely Brown's service and leadership were recognized by her alma mater in 2004 when she was awarded the University of North Texas Outstanding Alumna Award; by Delta Gamma Sorority with an Honorary Fellowship; and by the National Panhellenic Conference with a well-deserved citation celebrating her achievements as the 2003–2005 National Panhellenic Conference Chairman.

Mr. Speaker, please join me today in honoring the exemplary service that Martha Cheely Brown has given to the over 3.8 million members of NPC. The National Panhellenic Conference is a better organization because of her dedication, commitment, and determination to improve the lives of women of the NPC.

INTRODUCTION OF THE PATENTS  
DEPEND ON QUALITY ACT OF 2006

**HON. HOWARD L. BERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 5, 2006*

Mr. BERMAN. Mr. Speaker, today, I join Representative BOUCHER in introducing the Patents Depend on Quality Act of 2006 (PDQ Act). Introduction of this legislation follows a series of hearings conducted by the Subcommittee on Intellectual Property which ascertained that the current patent system is flawed. Over the course of the last 4 years, there have been numerous attempts to define the challenges of the patent system today. For example, the Patent and Trademark Office developed their Twenty-First Century Strategic Plan, not much later the Federal Trade Commission released a report entitled "To Promote Innovation: The Proper Balance of Competition and Patent Law and Policy," The National Research Council published a compilation of articles entitled "A Patent System for the 21st Century," and two economists authored a critique of patent law in a book titled *Innovation and Its Discontents*. These accounts make a number of recommendations for increasing patent quality and ensuring that patent protection promotes, rather than inhibits, economic growth and scientific progress. Consistent with the goals and recommendations of those reports, the PDQ Act contains a number of provisions designed to improve patent quality, deter abusive practices by unscrupulous patent holders, and provide meaningful, low-cost alternatives to litigation for challenging the patent validity.

Past attempts at achieving more comprehensive patent reform have met with resistance and recently have resulted in a call for additional hearings. However, the call for legislative action is loud. The New York Times has noted, "[s]omething has gone very wrong with the United States patent system." The Financial Times has stated, "[i]t is time to restore the balance of power in U.S. patent law." Therefore, today, we are introducing a narrowly tailored bill to address some of the more urgent concerns.

I firmly believe that robust patent protection promotes innovation. However, I also believe

that the patent system is strongest, and that incentives for innovation are greatest, when patents protect only those patents that are truly inventive. When functioning properly, the patent system should encourage and enable inventors to push the boundaries of knowledge and possibility. If the patent system allows questionable patents to be issued and does not provide adequate safeguards against patent abuses, the system may stifle innovation and interfere with competitive market forces.

This bill represents our latest perspectives in an ongoing discussion about legislative solutions to patent quality concerns and patent litigation abuses. We have considered the multitude of comments received on prior patent bills. We acknowledge that the problems are difficult and, as yet, without agreed-upon solutions. It is clear, however, that introduction and movement of legislation, not necessarily additional hearings, will focus and advance the discussion. It is also clear that the problems with the patent system have been exacerbated by a decrease in patent quality and an increase in litigation abuses. With or without consensus, Congress must act soon to address these problems.

Thus, we introduce this bill with the intent of propelling the debate forward in the 109th Congress.

The bill contains a number of initiatives designed to improve patent quality and limit litigation abuses, thereby ensuring that patents are positive forces in the marketplace. I will highlight a number of them below.

Section 2 creates a post-grant opposition procedure. In certain limited circumstances, opposition allows parties to challenge a granted patent through an expeditious and less costly alternative to litigation. In addition, Section 2 provides a severely needed fix for the inter partes re-examination procedure, which provides third parties a limited opportunity to request that the PTO Director re-examine an issued patent. The current limitations on the inter partes re-examination process restricts its utility so drastically that it has been employed only a handful of times. Section 2 increases the utility of this re-examination process by relaxing its estoppel provisions. Further, it expands the scope of the re-examination procedure to include redress for all patent applications regardless of when filed. In addition, Section 2 contains a limitation on use of inter partes re-examination procedure as a "second bite at the apple" after district court litigation. Other provisions in this bill, such as the second window in the post-grant opposition proceeding, will sufficiently address the quality problem in patents which have already issued.

Sections 3 and 4 permit patent examiners to consider certain materials within a limited time frame submitted by third parties regarding a pending patent application. Allowing such third party submissions will increase the likelihood that examiners are cognizant of the most relevant "prior art," thereby constituting a front-end solution for strengthening patent quality.

Section 6 addresses the unfair incentives currently existing for patent holders who indiscriminately issue licensing letters. Patent holders frequently assert that another party is using a patented invention and for a fee, offer to grant a license for such use. Current law does little to dissuade patent holders from mailing such licensing letters. Frequently these letters are vague and fail to identify the patent being infringed and the manner of infringe-

ment. In fact, the law tacitly promotes this strategy since a recipient, upon notice of the letter, may be liable for treble damages as a willful infringer. Section 6 addresses this situation by ensuring that recipients of licensing letters will not be exposed to liability for willful infringement unless the letter specifically states the acts of infringement and identifies each particular claim and each product that the patent owners believe have been infringed.

Section 8 is designed to address the negative effect on innovation created by patent "trolls." We have learned of countless situations in which patent holders, making no effort to commercialize their inventions, lurk in the shadows until another party has invested substantial resources in a business or product that may infringe on the unutilized invention. The patent troll then steps out of the shadows and demands that the alleged infringer pay a significant licensing fee to avoid an infringement suit. The alleged infringer often feels compelled to pay almost any price named by the patent troll because, under current law, a permanent injunction issues automatically upon a finding of infringement. The threat of a permanent injunction would, in turn, cause the alleged infringer to lose the substantial investment made in the allegedly infringing business or product.

While we may question their motives, we do not question the right of patent trolls to sue for patent infringement, to obtain damages, and to seek a permanent injunction. However, the issuance of a permanent injunction should not be granted automatically upon a finding of infringement. Rather, when deciding whether to issue a permanent injunction, courts should have the discretion to weigh all the equities in order to prevent the violation of a patent right. That requires balancing the inventor's exclusive right designed to provide the incentive and reward for invention and those equities which may be necessary for the public interest, such as whether the patent troll has "unclean hands," the failure to commercialize the patented invention, the social utility of the infringing activity, the loss of invested resources by the infringer and, of course, the quality of the patent. After weighing the equities, the court may still decide to issue a permanent injunction, but at least the court will have ensured that the injunction serves the public interest. Section 8 accomplishes this goal.

When considering these provisions together, we believe that this bill provides reform necessary for the patent system to achieve its primary goal of promoting innovation. As the New York Times has pointed out, "[t]here is legislation in the House to address th[e] issue[s], and it needs to be taken up." We hope introduction of this bill will facilitate the necessary movement of patent reform legislation.

I would especially like to thank Congressman BOUCHER with whom I have been working on patent reform for the past few years even before the issue was en vogue. Also deserving of thanks are the many constitutional scholars, policy advocates, private parties, and government agencies that continue to contribute their time, thoughts, and drafting talents to this effort. I am pleased that, finally, at least a consensus has emerged among the various collaborators in support of the basic "post-grant opposition" approach embodied in the legislation. This bill is the latest iteration of a process we started over 5 years ago.

Though we developed this bill in a highly collaborative and deliberative manner, I do not want to suggest that it is a "perfect" solution. Thus, I remain open to suggestions for amending the language to improve its efficacy or rectify any unintended consequences.

As I have said previously, "The bottom line is this: there should be no question that the U.S. patent system produces high quality patents. Since questions have been raised about whether this is the case, the responsibility of Congress is to take a close look at the functioning of the patent system." High patent quality is essential to continued innovation. Litigation abuses, especially those which thrive on low quality patents, impede the promotion of the progress of science and the useful arts. Thus, we must act quickly during the 109th Congress to maintain the integrity of the patent system.

HONORING GREENVILLE'S FIRST AFRICAN AMERICAN POLICE OFFICER, WILLIE CARSON

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 2006

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to recognize an African American pioneer, Willie Carson, Greenville's first African-American police officer. I submit the following article by Bill Johnson of the Delta Democrat Times.

GREENVILLE—ANOTHER DELTA PIONEER HAS PASSED

Willie Carson, the first African-American police officer in Greenville, died Friday evening. He was 86 years old.

Carson forged the way for other black law enforcement officers to follow in the early 1950s, working as a beat officer on Nelson Street.

"Those were some really rough days back then," said his wife of 20 years, Delilah Carson. She recalled some of the many stories told by her husband of his early experiences in uniform from their Fairview Extended home.

"At that particular time, a lot of blacks were killing each other on Nelson. Back then, it was not so much with guns but knives and their fists," she said. "It was a real war zone out there at the time."

"C.A. Hollinsworth was the chief at that time. And he knew that changes were coming and a new day was ahead," she reflected.

"Winchester Davis was very instrumental in helping Willie get on the force. Willie played guitar for Davis' band, and they traveled a lot. He knew Willie had a family with children and needed a good job with benefits, and made a way for him."

Carson took his oath to uphold the law, and he made sure that everyone on his beat abided by the law.

He was smooth and quiet in manner but when necessary made a firm stand.

"A lot of people have come up to him over the years and thanked him for changing their lives," Carson said. "If need be, he could get down and dirty right along with them. And sometimes it was necessary."

While rumors abounded about the reasons Carson was given the Nelson Street beat, she was told by Willie that it was a matter of support.

"Hollinsworth knew that if anything went down on the Nelson Street beat, someone would speak up for Willie and give support

for him. But remember, this was the early '50s still, and not many whites were going to go against another white person's word if they were arrested by a colored officer. So it was the best choice for the times," Carson said.

Willie Carson was also really good friends with former police chief and mayor, William Burnley. They spent a lot of time together and even called each other brother.

"They had a very unique relationship," Delilah recalled.

Joe Tinsley, a long-time Nelson Street business owner, also recalled Carson's tenure on the beat. "He was a true pioneer in police work, being a black man back in those days," Tinsley said from his barber shop on the corner of Nelson and Edison. "And boy what a heck of a guitar player."

Tinsley recalled Carson as a hard-working man who always had several jobs along with playing his guitar for a variety of bands, including Ike Turner, Winchester Davis, Big Joe, and others.

"He had a rocky road those early years, with the name calling and all. But he broke through the ice and opened the door for all black law enforcement officers to follow," Tinsley said. "And as time went on, Carson was very much respected. They wouldn't raise any hell or cuss around Officer Carson. It was tough on him, but he was the right man for the job and he made it work."

Carson is remembered by his family as a good husband, father and provider who loved his family and children; a man who believed in being in line with the law.

He was the type of fellow who was known for a good joke and appreciated a better one. He was the go-to guy during the boycotts at Mississippi Valley State College in 1969, where he served as chief of campus police, telling his men, "We are here to protect these students and the faculty. And that's what I expect you to do."

There were no major injuries on his watch, even when meeting face to face and at odds with members of the Black Panthers organization.

Carson was also the first black housing inspector in Greenville, and served as the grand marshal of the 2003 Christmas Parade.

In later years, Carson served with the Washington County Sheriffs Department from 1989 until his retirement in 2000.

He was never a bitter man and was considered rather jolly and outgoing.

"He tried to find the best in even a bad situation," Delilah said, adding that he would often tell his children, "Sometimes you can't get around a problem, but you can always make good choices."

Officer Willie Carson's career and faithful service to the community is a testament to his character. Carson's first probably will not be noted in history books, but it is his service and men and women of similar character that has paved the way for other outstanding African Americans to outfit our public services. It is with great honor, I recognize Officer Willie Carson, a true pioneer.

A TRIBUTE TO FLOR MARINA PRIETO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 2006

Mr. TOWNS. Mr. Speaker, I rise today in recognition of Flor Marina Prieto and I hope my colleagues will join me in recognizing the accomplishments of this outstanding member of the community.

Flor Marina Prieto was born in Bogota, Colombia, into a typical middle class Colombian family. Ms. Prieto's father was Captain of the National Police and her mother worked, mainly at home, as an art decorator making very beautiful artificial and natural flower arrangements. Ms. Prieto's mother chose Flor Marina's name because of her love for flowers and her father's passion for the sea. Ms. Prieto's was comprised of school and home surrounded with plenty of love.

Ms. Prieto graduated as a secretary in Bogota, Colombia and soon after came to the United States. As a hobby, she attended ballet classes and had the opportunity to perform as an amateur ballerina. Soon after taking her marriage vows, Ms. Prieto's had her best treasure, her lovely daughter Jacqueline.

Ms. Prieto foresaw the importance and impact of computers in education. In order to learn about this and to earn some money so that she could pay for her college career, she worked as representative of a Colombian Computer Company in the United States. She traveled several times to Europe searching for specialized software to be sold in South America.

Later, she created her own small company M&B Computer Export because at the time it was a good business to sell computers and peripherals outside the United States. Several years later, she decided she was ready to start college to study Psychology. Ms. Prieto studied at St. John's University and graduated in May of 1996 with a Bachelor of Arts in Psychology. Ms. Prieto was so enthralled with this field that she decided to continue her studies in graduate school. She studied at St. John's University as well for a graduate degree in Bilingual School Counseling. Ms. Prieto graduated in June of 2000 with a Master of Science in Education. In addition, upon graduation, she was awarded with honors, the Dean's Award for Academic Excellence.

Ms. Prieto is currently working as a Bilingual Counselor at Eastwood School, P.S. 95. She is very pleased and fulfilled with her role as a counselor. She is very happy to work with children. Ms. Prieto feels her job is very rewarding because she is able to witness how a child's life can change or improve with her help. It is very satisfying to know that one can make a difference in a child's life. Ms. Prieto's main objective was to graduate as a counselor and then use this knowledge to help educate special children. This dream is now a beautiful reality.

Mr. Speaker, I believe this body, in recognition of her life and efforts, should pay tribute to Ms. Flor Marina Prieto.

RECOGNIZING MASTER SAM HYATT AS BOX TOPS FOR EDUCATION KIDS' CAUCUS ESSAY FINALIST

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 2006

Mr. RUPPERSBERGER. Mr. Speaker, I proudly rise before you today to recognize a sixth grade boy in the Second Congressional District of Maryland, Master Sam Hyatt. He was named as a finalist in the Box Tops for Education Kids' Caucus Essay contest. Sam