

courtrooms equipped with state-of-the-art audio technology for training. The National District Attorneys Association offers a variety of courses at the center, often including visiting lecturers and experts in specific areas of criminal prosecution.

Since 1998, the NDAA's, National District Attorneys Association, program at the National Advocacy Center has provided specialized training and education to approximately 3,000 local prosecutors each year. And over that time, the center has trained a total of over 20,000 State and local prosecutors.

Unfortunately, Federal funding for this training has significantly decreased in recent years. In fiscal year 2007, the program received no Federal funding. This lack of funding has required the NDAA to lay off employees and require students to pay for their expenses in order to keep the training program up and running.

H.R. 6083 authorizes \$6.5 million a year for fiscal years 2009 through 2012 to the Attorney General to carry out this important training program.

It's critical that our prosecutors are properly trained to hone their courtroom skills and adapt to changing trial practices. These prosecutors come from all across the country and converge on South Carolina, where this center of education is there for them, and that means there's also a standard that goes back across the country, and I think that's an important piece of this as well, Mr. Speaker.

I urge my colleagues to join me in supporting H.R. 6083.

I reserve the balance of my time.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. COHEN).

Mr. COHEN. Mr. Speaker, my prosecutors at home wrote me on several occasions asking me to support this particular bill. This school helps all of the prosecutors throughout this country in their efforts to fight crime, and if we don't have this school and the instruction it gives our district attorney generals, I think we all lose.

So I just wanted to add my voice to Mr. SPRATT's and others in this House and hope that we can continue the Byrne Center and help in our fight against crime, which ravages people all over this country but greatly in my district and in many inner cities. And unless we have strong prosecutors and others in the criminal justice system, we won't be successful in that fight.

Mr. RUPPERSBERGER. Mr. Speaker, I rise today in support of H.R. 6083, a bill to authorize the Ernest F. Hollings National Advocacy Center in Columbia, South Carolina.

The Ernest F. Hollings National Advocacy Center in Columbia, South Carolina is the largest and most productive national training facility for prosecutors.

The National District Attorneys Association has provided training at the National Advocacy Center for over 23,000 State and local prosecutors since the center's inception in 1998.

The National Advocacy Center is a state-of-the-art facility for prosecutors to learn the art

and science of trial advocacy from a faculty of experienced prosecutors.

At the National Advocacy Center, district attorneys learn about new trends in law enforcement and trial advocacy and are taught by experts in specific subject areas.

Authorizing the National Advocacy Center will help ensure that these important programs continue and that our district attorneys have the resources they need to get the job done.

I urge my colleagues to support the bill.

Mr. BARRETT of South Carolina. Mr. Speaker, I appreciate the opportunity to join my colleagues today in voicing my support for H.R. 6083, a bill to authorize funding for the National Advocacy Center.

Mr. Speaker, solicitors and district attorneys are the unsung heroes in the fight to keep our streets, and our homeland safe. They go to work every day fighting for justice and in doing so, protect each and every one of us. These brave men and women are on the ground every day working with law enforcement on how best to enforce our laws, and implement justice, and for that, we owe them a debt of gratitude.

It is vital for the operation of our justice system, and the protection of citizens across this Nation, that our district attorneys be well trained and highly educated. That is why, in 1950, the National District Attorneys Association, the NDAA, was formed. Today, this group is the oldest and largest professional organization representing criminal prosecutors in the world.

In pursuit of its mission to equip State and local prosecutors to best do their jobs, the NDAA operates the National Advocacy Center on the campus of the University of South Carolina in Columbia. In this one of a kind center, the training of State and local prosecutors has been centralized in a single location. Offering classes such as "Boot camp: An Introduction to Prosecution" and "Childproof: Advanced Trial Advocacy for Child Abuse Prosecutors," this center delivers unmatched education and training to prosecutors from all across our Nation.

Mr. Speaker, because it is in everyone's best interest to have the best trained legal minds prosecuting criminals, and by doing so, keeping us safe, the National Advocacy Center deserves our full support. And the solicitors, prosecutors, and district attorneys across our Nation deserve our thanks. I urge my colleagues to support this bill.

Mr. WILSON of South Carolina. Mr. Speaker, I wish to take this opportunity to express my strong support for the Ernest F. Hollings National Advocacy Center (NAC) located on the campus of the University of South Carolina and for H.R. 6083, legislation which authorizes funding for NAC to help that organization train State and local prosecutors.

Started by the National District Attorneys Association (NDAA) in 1998, for more than a decade the NAC has educated over 20,000 prosecutors—expanding their knowledge of difficult legal matters and skills to better serve their communities. I am grateful that my son Alan is a graduate of the NAC program. I know firsthand that his experience has been an important part of his legal training.

State and local prosecutors are an invaluable component of our nation's justice system. Their service helps protect American families by keeping criminals off our streets and making our neighborhoods safer for our children. I

commend the staff of the National Advocacy Center for their hard work, and I encourage my colleagues to join me in supporting this important program.

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

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

The SPEAKER pro tempore (Mr. JACKSON of Illinois). The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill, H.R. 6083, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. KING of Iowa. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### PROVIDING FOR PATENT AND TRADEMARK JUDICIAL APPOINTMENTS

Mr. COHEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3295) to amend title 35, United States Code, and the Trademark Act of 1946 to provide that the Secretary of Commerce, in consultation with the Director of the United States Patent and Trademark Office, shall appoint administrative patent judges and administrative trademark judges, and for other purposes.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 3295

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

#### SECTION 1. APPOINTMENT OF ADMINISTRATIVE PATENT JUDGES AND ADMINISTRATIVE TRADEMARK JUDGES.

(a) ADMINISTRATIVE PATENT JUDGES.—Section 6 of title 35, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence, by striking "Deputy Commissioner" and inserting "Deputy Director"; and

(B) in the last sentence, by striking "Director" and inserting "Secretary of Commerce, in consultation with the Director"; and

(C) by adding at the end the following:

"(c) AUTHORITY OF THE SECRETARY.—The Secretary of Commerce may, in his or her discretion, deem the appointment of an administrative patent judge who, before the date of the enactment of this subsection, held office pursuant to an appointment by the Director to take effect on the date on which the Director initially appointed the administrative patent judge.

"(d) DEFENSE TO CHALLENGE OF APPOINTMENT.—It shall be a defense to a challenge to the appointment of an administrative patent

judge on the basis of the judge's having been originally appointed by the Director that the administrative patent judge so appointed was acting as a de facto officer."

(b) ADMINISTRATIVE TRADEMARK JUDGES.—Section 17 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (commonly referred to as the "Trademark Act of 1946"; 15 U.S.C. 1067), is amended—

(1) in subsection (b)—

(A) by inserting "Deputy Director of the United States Patent and Trademark Office", after "Director,"; and

(B) by striking "appointed by the Director" and inserting "appointed by the Secretary of Commerce, in consultation with the Director"; and

(2) by adding at the end the following:

"(c) AUTHORITY OF THE SECRETARY.—The Secretary of Commerce may, in his or her discretion, deem the appointment of an administrative trademark judge who, before the date of the enactment of this subsection, held office pursuant to an appointment by the Director to take effect on the date on which the Director initially appointed the administrative trademark judge.

"(d) DEFENSE TO CHALLENGE OF APPOINTMENT.—It shall be a defense to a challenge to the appointment of an administrative trademark judge on the basis of the judge's having been originally appointed by the Director that the administrative trademark judge so appointed was acting as a de facto officer."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. COHEN) and the gentleman from Iowa (Mr. KING) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

#### GENERAL LEAVE

Mr. COHEN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

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

Intellectual property accounts for billions of dollars in our Nation's economy. The success of this industry largely depends on the protections afforded them by the United States Patent and Trademark Office and the decisions made by administrative patent and trademark judges.

In 1999, the process by which administrative patent and trademark judges are appointed was modified as part of the American Inventors Protection Act. That act, which provided greater accountability and efficiencies at the Patent and Trademark Office, transferred the power to appoint these judges from the Secretary of Commerce to the Director of the U.S. PTO.

Recently, however, concerns have been raised as to the constitutionality of the Director making such appointments. Already, at least two U.S. PTO decisions have been challenged on this basis.

We firmly believe that appointments made by the Director are constitutional. Nevertheless, in order to remove any doubts, the House and Senate has reached identical bills to respond to these concerns. H.R. 6362, sponsored by HOWARD BERMAN, JOHN CONYERS, LAMAR SMITH, and HOWARD COBLE, and S. 3295, sponsored by PATRICK LEAHY and ARLEN SPECTER, make three changes to the administrative judge appointments process. Today, we take up the Senate bill, which passed the Senate last week by unanimous consent.

First, S. 3295 restores the statutory appointment authority to the Secretary of Commerce.

Second, it allows the Secretary to retroactively appoint administrative judges who have been acting as de facto judges. The appointments would be effective as of the date the judges were originally appointed by the Patent and Trademark Office Director.

And third, the bill provides a de facto officer defense to counter challenges to the United States Patent and Trademark Office decisions made by these administrative judges prior to their retroactive appointment.

This legislation is intended to ensure certainty in the market and to end unnecessary litigation and the consumption of judicial resources on an issue over which there should be no dispute.

But should these judgeships be found to be unconstitutional and not de facto officers, the courts should remand the affected cases back to the U.S. PTO panels so that they may dealt with expeditiously.

Given the importance of intellectual property to our Nation's economy, years of uncertainty as the courts determine the constitutionality of the appointments process would be devastating.

The sponsors of H.R. 6362 and S. 3295 have provided a way through this uncertainty. Accordingly, I urge my colleagues to support this critical legislation.

I reserve the balance of my time.

Mr. KING of Iowa. Mr. Speaker, I yield myself so much time as I may consume. I rise in support of S. 3295, and I urge the House to adopt the bill.

Mr. Speaker, 9 years ago Congress enacted the American Inventors Protection Act as part of a larger intellectual property and telecommunications reform measure. Among its many provisions, this law confers a measure of autonomy on the Patent and Trademark Office. At the time, inventors, trademark owners, and Members of Congress believed the agency would function more efficiently if it were allowed greater operational freedom. In fact, some of the earliest drafts of the legislation, dating back to the early and mid-1990s, sought to transform the Patent and Trademark Office into a public corporation.

Consistent with this goal, the 1999 law enhances the authority of the Patent and Trademark Office Director to

oversee agency affairs. This includes empowering the Director, not the Secretary of Commerce, to appoint administrative law judges serving on the Board of Patent Appeals and Interferences, as well as the Trademark Trial and Appeal Board.

Unfortunately, this small and seemingly innocuous change may very well violate an obscure provision of the United States Constitution, the so-called "appointments clause." That's article II, section 2, which enumerates the powers of the President, including the right to appoint various judges, ministers, and other government officials. The last portion of the clause states that "Congress may . . . vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments."

In other words, a straightforward reading of article II, section 2, which I strongly endorse, suggests the 1999 authority that Congress bestowed on the Patent and Trademark Office Director to appoint administrative law judges is unconstitutional, inconsistent with article II, section 2. Instead, this right is more properly reserved for the head of the relevant department, the Secretary of Commerce, because the Patent and Trademark Office remains an agency within Commerce.

But what does this mean as a practical matter? Why it is a problem? The answer lies in the number of judges appointed since the 1999 law took effect.

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Of the 81 judges serving on the two boards, 50 were appointed by the Patent and Trademark Office Director under his new authority. Those judges have rendered hundreds of decisions, all of which may be constitutionally suspect if challenged. And that is already happening in one case, the Translogic Technologies versus Dudas case, which is pending before the Supreme Court.

This body knows how important intellectual property is to our national economy. With all the other problems plaguing the patent system, the last thing we need is a crisis that reopens settled legal disputes. This isn't fair to the litigants, especially those who won, and it places rights and fair access to inventions in limbo.

The solution we must adopt is S. 3295. The bill transfers the authority to appoint administrative law judges from the Patent and Trademark Office Director to the Secretary of Commerce and makes it consistent with article II, section 2 of the Constitution.

The legislation also adopts two features developed by the Patent and Trademark Office and the Department of Justice. One empowers the Secretary to "deem" or ratify all the appointments made by the PTO Director under the 1999 law. The other creates a "de facto officer" defense to any challenge made to the appointment of a patent or trademark administrative law judge.

Pursuant to the defense, the acts of a public officer performed under color of authority are considered valid and immune from collateral attack. Born of policy and necessity, the defense protects the interests and reasonable expectations of the public who must rely on the presumptively valid acts of public officials.

In closing, we must enact S. 3295 much sooner rather than later to avert a potential litigation crisis that would prove wasteful, unnecessary, and unfair.

S. 3295 does provide a measure of immunity. Congress clearly has the authority to do so. And today, we have the responsibility to quickly move S. 3295.

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

Mr. COHEN. Mr. Speaker, the bill also makes a technical change to insert the term "deputy director," the term in current use, in place of "deputy commissioner," an outdated term mistakenly used in the 2002 bill. Because related terms no longer appear in the underlying statute, this change could not be properly executed in the 2002 bill.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. COHEN) that the House suspend the rules and pass the Senate bill, S. 3295.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. KING of Iowa. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### SUPPORTING NATIONAL NIGHT OUT

Mr. COHEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1324) requesting that the President focus appropriate attention on neighborhood crime prevention and community policing, and coordinate certain Federal efforts to participate in National Night Out, which occurs the first Tuesday of August each year, including by supporting local efforts and community watch groups and by supporting local officials, to promote community safety and help provide homeland security.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1324

Whereas neighborhood crime is of continuing concern to the American people;

Whereas child safety is a growing concern for parents and communities, as evidenced by several cases of missing and abducted children;

Whereas homeland security remains an important priority for communities and the Nation;

Whereas crime, drugs, and violence in schools is of continuing concern to the American people due to the recent high-profile incidents that have resulted in fatalities at several schools in the United States;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement personnel;

Whereas neighborhood crime watch organizations effectively promote awareness about, and the participation of volunteers in, crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the Nation's war on drugs by helping to prevent communities from becoming markets for drug dealers;

Whereas neighborhood crime watch programs play an integral role in combating domestic terrorism by increasing vigilance and awareness and encouraging citizen participation in community safety and homeland security;

Whereas community-based programs involving law enforcement, school administrators, teachers, parents, and local communities work effectively to reduce school violence and crime and promote the safety of children;

Whereas citizens throughout the United States will take part in National Night Out, a unique crime prevention event that will demonstrate the importance and effectiveness of community participation in crime prevention efforts;

Whereas over 35,400,000 people in more than 11,130 communities from all 50 States, territories, District of Columbia, and military bases worldwide participated in National Night Out in 2007;

Whereas National Night Out will celebrate its 25th anniversary on Tuesday, August 5, 2008, when citizens, businesses, local law enforcement officers, mayors, State and Federal officials, and others will celebrate "America's Night Out Against Crime" and participate in events to support community crime prevention;

Whereas National Night Out is supporting the Department of Homeland Security's Ready campaign by handing out materials and educating and empowering the public on how to prepare for, and respond to, potential terrorist attacks or other emergencies;

Whereas National Night Out is supporting the National Child Identification Program, a joint partnership between the American Football Coaches Association and the Federal Bureau of Investigation, to provide identification kits to parents to help locate missing children;

Whereas the National Sheriffs Association, the United States Conference of Mayors, and the National League of Cities have officially expressed support for National Night Out; and

Whereas citizens and communities that participate on August 5, 2008, will send a positive message to other communities and the Nation, showing their commitment to reduce crime and promote homeland security: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of National Night Out; and

(2) requests that the President—

(A) issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for National Night Out;

(B) focus appropriate attention on neighborhood crime prevention, community policing, and reduction of school crime by delivering speeches, convening meetings, and directing the Administration to make crime reduction an important priority; and

(C) coordinate the efforts of the Federal Emergency Management Agency, the USA Freedom Corps, the Citizen Corps, the National Senior Service Corps, and AmeriCorps to participate in National Night Out by supporting local efforts and neighborhood watches and by supporting local officials, including law enforcement personnel, to provide homeland security and combat terrorism in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. COHEN) and the gentleman from Iowa (Mr. KING) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

GENERAL LEAVE

Mr. COHEN. Mr. Speaker, I ask unanimous consent that all Members have 5 days to revise and extend their remarks and to include extraneous material on the bill under consideration.

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

There was no objection.

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

Mr. Speaker, I rise in strong support of House Resolution 1324, which will press the President to focus appropriate attention on neighborhood crime prevention and community policing. The resolution also asks the President to coordinate certain Federal efforts to participate in National Night Out.

Neighborhood crime is a major concern for many Americans across our Nation. While our police departments are generally as professional and responsive as they can be, preventing neighborhood crimes comes from the efforts of us all.

Community-based programs involving law enforcement, school administrators, teachers, parents, and other citizens are among the most effective ways to reduce violence and crime in our neighborhoods.

Neighborhood Crime Watch groups and Citizens on Patrol groups, for example, can be an integral part of a police department's effectiveness in making our neighborhoods safe. The presence of concerned citizens walking their neighborhoods, in contact with police, help prevent communities from becoming targets for drug dealers. Just as patrol is the great deterrent that police use, patrol can be a deterrent that citizens use. With more potential witnesses on the streets, citizens are much less likely to be robbery victims.

National Night Out is a unique crime prevention event that helps to highlight the importance and effectiveness of community participation in crime prevention efforts. This special event allows citizens, businesses, and local law enforcement officers, along with Federal, State and local officials, to participate in community crime prevention programs.