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□ 1700

worker stance. The result will be a public policy morass.

I hope that we can return to this subject next year and hopefully return integrity to telecommunications policy by cleaning up the problems created by placing auction revenue, above all other values, as our highest public policy goal.

Again, I want to commend Chairman BILEY, Chairman TAUZIN, Mr. DINGELL, and our other colleagues for their work on this measure and urge the House to support it.

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

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Virginia (Mr. BILEY) that the House suspend the rules and pass the bill, H.R. 2281, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DIGITAL MILLENNIUM COPYRIGHT ACT

Mr. COBLE. Madam Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 2281) to amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty, and for other purposes.

(For conference report, see proceedings of the House of Thursday, October 8, 1998, at page H10048.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Madam Speaker, I yield 10 minutes of my time to the gentleman from Virginia (Mr. BILEY) and ask unanimous consent that he be permitted to control that time.

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

There was no objection.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield 10 minutes of my time to the gentleman from Michigan (Mr. DINGELL) and ask unanimous consent that he be allowed to control that time.

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

There was no objection.

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

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

Madam Speaker, I rise in support of H.R. 2281, the Digital Millennium Copyright Act. It is not uncommon to this Hill for many people to take great pride in authorship and oftentimes refer to legislation that comes from our respective committees as "landmark legislation," but I think that all who are familiar with this piece of legislation will agree that this is truly landmark legislation.

H.R. 2281 represents a monumental improvement to our copyright law and will enable the United States to remain the world leader in the protection of intellectual property.

Madam Speaker, we could not have reached this point without the collective efforts of many. I thank the gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary, for his constant support and guidance. I am also appreciative to the work of the gentleman from Virginia (Mr. GOODLATTE).

I thank the gentleman from Michigan (Mr. CONYERS), ranking member of the Committee on the Judiciary, and the gentleman from Massachusetts (Mr. FRANK), ranking member on the Subcommittee on Courts and Intellectual Property. I also thank the gentleman from California (Mr. BERMAN) who invested much time and effort in developing this legislation.

The valuable contributions of several members from the Committee on Commerce must also be recognized: the gentleman from Virginia (Chairman BILEY); and the gentleman from Michigan (Mr. DINGELL), ranking member; the gentleman from Louisiana (Mr. TAUZIN), chairman of the Subcommittee on Telecommunications, Trade and Consumer Protection; and the gentleman from Massachusetts (Mr. MARKEY), ranking member; as well as the gentleman from Washington (Mr. WHITE); and the gentleman from Colorado (Mr. DAN SCHAEFER), who were also instrumental in facilitating agreement on portions of the bill.

I finally must thank several senators for their diligence in drafting and moving H.R. 2281: the chairman of the Senate Committee on the Judiciary, Senator Orrin HATCH; ranking member, Senator Patrick LEAHY of Vermont; as well as my friend from South Carolina, Senator Strom THURMOND; all were instrumental in bringing about this important achievement in the copyright law.

H.R. 2281 is the most comprehensive copyright bill since 1976 and adds substantial value to our copyright law. It will implement two treaties which are extremely important to ensure adequate protection for American works in countries around the world in the digital age. It does this by making it unlawful to defeat technological protections used by copyright owners to protect their works, including preventing unlawful access and targeting devices made to circumvent encrypted material. ***** Payroll No.: -Name: -Folios: -Date: -Subformat:

It furthermore makes it unlawful to deliberately alter or delete information provided by a copyright owner which identifies a work, its owner and its permissible uses.

H.R. 2281 furthermore addresses a number of other important copyright issues. It clarifies the circumstances under which on-line and Internet access providers could be liable when infringing material is transmitted on-line through their services. It ensures that independent service organizations do not inadvertently become liable for copyright infringement merely because they have activated a machine in order to service its hardware components. It also creates an efficient statutory licensing system for certain performances and reproductions made by webcasters which will benefit both the users of copyrighted works and the copyright owners.

Unfortunately, in arriving at the final agreement on what would be included in H.R. 2281, title V of the House-passed version, which provided for limited protection of databases, was removed. I am pleased, however, that we were able to bring that issue so far this session. It is important legislation that will benefit many industries and businesses in the United States, and I intend to work diligently next session to pass it.

I appreciate and would be remiss if I did not mention at this time statements by Senator HATCH and Senator LEAHY made on the floor of the other body that they pledge to take up a database protection bill early in the next Congress.

Madam Speaker, 2281 is necessary legislation to ensure the protection of copyrighted works as the world moves into the digital environment. This will ensure that American works will flourish as we move further into the new millennium.

I urge my colleagues to vote "yes" on H.R. 2281.

Madam Speaker, I reserve the balance of my time.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

I rise today in strong support of H.R. 2281, the Digital Millennium Copyright Act, the passage of which many Members on both sides of the issue doubted was one of the priorities of the gentleman from Michigan (Mr. CONYERS) and our committee this year in the Committee on the Judiciary. And we are glad that the committee on which I serve as a member and the gentleman from Michigan (Mr. CONYERS) serves as a ranking member has worked hard in a bipartisan fashion to get this legislation to the President's desk.

Madam Speaker, this is very important legislation, primarily because we are part of a supertechnological society, and we have got to all get along.

WIPO implementation and the important explication of liability for those service providers who knowingly transmit infringing material on-line marks a critical achievement for those of us who support strong copyright protections and fairness.

When we started on this journey toward passage today, we pledged to work with the gentleman from Illinois (Mr. HYDE), the gentleman from North Carolina (Mr. COBLE), and I thank them very much for their work, and the gentleman from Massachusetts (Mr. FRANK) to get this done; also the good work of the gentleman from Virginia (Mr. BLILEY) and the gentleman from Michigan (Mr. DINGELL), and the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Massachusetts (Mr. MARKEY) for their good works and many others. Members said it could not be done. Members said, do it this way, not that way. But we worked together, cooperatively and successfully.

I am very proud of the work that we have done. We are strengthening domestic copyright law and providing leadership globally so that the United States can continue to impress upon other nations the importance of strong copyright protection.

I am disappointed by some changes that we agreed to make to get this bill into law. I wish we could have done more to strengthen the role of the Patent and Trademark Office within its own agency. I would have preferred to see a database protection bill in this legislation, but we were not able to get that now. That means we will have to start again early next year on that bill, and that is something that we will all work on together. I believe it can be done.

I commend the gentleman from Illinois (Mr. HYDE) and the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK) for their hard work, again, on this bill and for the important role that the gentleman from California (Mr. BERMAN) played on the conference committee.

I commend the important copyright industries, the telecommunications industry, the Nation's libraries and importantly the guilds and unions for working cooperatively with us to inform us of the needs they confront in a digital environment. I am proud of the product we have arrived at, and I am also pleased to support it and urge all of my colleagues to be able to support this very important legislation for this 105th Congress.

Madam Speaker, I reserve the balance of my time.

Mr. BLILEY. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, I rise in support of the conference report on H.R. 2281. I would like to express my admiration and appreciation for the hard work of the chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), and his able subcommittee chairman, the gentleman from North

Carolina (Mr. COBLE), in producing this important legislation. Through their hard work we have been able to reach consensus on historic legislation to implement the WIPO copyright treaties.

I also would like to thank my ranking member, the gentleman from Michigan (Mr. DINGELL), and the gentleman from Wisconsin (Mr. KLUG) and the gentleman from Virginia (Mr. BOUCHER), who, through their hard work, have substantially improved this legislation. As a result of their steadfast commitment to the principle of fair use, we have produced WIPO implementing legislation of appropriate scope and balance.

Mr. Chairman of the Committee on Commerce, I am pleased to report that the final bill reflects the two most important changes proposed by our committee. First, we have preserved a strong fair use provision for the benefit of libraries, universities and consumers generally. Second, we have ensured that manufacturers of popular telecommunications, computer and consumer electronic products are not subject to a design mandate in producing new products, and that they, retailers, and professional services can make playability adjustments without fear of liability.

Through the able efforts of the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Massachusetts (Mr. MARKEY), we also have included strong provisions on security systems testing, encryption research, and software interoperability development so that these vital activities will continue. And we have included strong consumer protection provisions. In short, we have produced a bill that should help spur the growth of electronic commerce while protecting the creative work of our Nation's content community.

I urge my colleagues to support the conference report.

Madam Speaker, I reserve the balance of my time.

Mr. DINGELL. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, I commend the distinguished gentleman from Virginia (Mr. BLILEY), the distinguished gentleman from Illinois (Mr. HYDE), the distinguished gentleman from North Carolina (Mr. COBLE), my good friend, the gentleman from Michigan (Mr. CONYERS), ranking member of the subcommittee, and the gentleman from Texas (Ms. JACKSON-LEE) for the fine work which they have done on this particular matter.

I rise in strong support of the conference report, which I believe will implement two World Intellectual Property Organization copyright treaties.

The bill was produced through the hard work and the cooperation of two committees, and it is the conference committee that has largely adopted the provisions which were added to the bill by the Committee on Commerce.

We are now considering WIPO implementing legislation that strikes a

proper balance between copyright owners and information consumers. It is very clear to us that we need to have the protection of the fair use provisions which had previously been in the law. This we have done. We have included strong privacy protection for consumers. We have permitted electronic manufacturers to make design adjustments to their products to ensure that consumers will receive the best playback quality without fear of liability. We have also added provisions safeguarding encryption research, security systems testing and computer interoperability. At the same time we gave content owners the tools to discourage the production of illegal black boxes which open the door to piracy. Thus the bill will continue faster innovation without stifling the growth of electronic commerce.

The bill is a good one. I urge my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

Mr. COBLE. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. DREIER), who has been very helpful and very supportive in this matter.

Mr. DREIER. Madam Speaker, I thank my friend from Greensboro for yielding me this time and for his great leadership, along with that of my friend from Richmond, who has worked long and hard on this, and the gentleman from Thibodaux, Louisiana, and my colleagues on the other side of the aisle who have done a great job on this.

Clearly, as we look at the problems that we face as a Nation, and as we move rapidly towards this global economy, it is difficult to imagine an issue that is much more important than theft of intellectual property. Property rights are an issue which we talk about regularly, and implementation of this WIPO treaty and our support of it is, I believe, going to go a long way towards ensuring that the property of individuals is not in any way jeopardized.

If we look at figures, most recently in 1996, there are estimates that \$7.6 billion in theft of film, books, music and software has taken place, and many of us believe that that figure has actually gotten higher in the past 2 years. It is a problem which obviously continues to be in the forefront and is going to be there unless we have full implementation of this.

We have U.S. industries involved in a wide range of areas, and we are creating new ideas here in the United States and are in the forefront as the world's greatest information exporter and importer. And as such, these new ideas are creating opportunities for people who steal these proposals. So that is why implementation of WIPO is so important.

I want to say that as we look at not only the film and entertainment industries, but the biotech industry and what I believe will be many new industries that are developing in this country in the coming years, WIPO is so important for that. I urge my colleagues

in a bipartisan way to support this measure.

I again congratulate my colleagues who played such a key role in working with us on it.

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

I first wanted to thank my colleague and dean of the House, the gentleman from Michigan (Mr. DINGELL), for sharing this legislative product with us, he and the Committee on Commerce and the subcommittee of the Committee on the Judiciary. I think everyone has heard that we finally reached a conclusion that I think may satisfy nearly every Member in the House of Representatives.

This Digital Millennium Copyright Act, the legislation which was at one time in a doubtful state of passage by many, has now come before the floor. And as the ranking member on the Committee on the Judiciary, I am proud to suggest that this is a bipartisan product, a work that has been thoroughly reviewed by two committees and two subcommittees in this House alone and is certainly worthy of being signed into law by the President.

The WIPO implementation and the important explication of the liability for those service providers who knowingly transmit infringing material online marks a critical achievement for those of us who support strong copyright protection and the fairness that goes with it.

When we started on the journey toward the passage that I think is in front of us, I pledged to work with the gentleman from Illinois (Mr. HYDE), the gentleman from North Carolina (Mr. COBLE), subcommittee chairman, and the ranking member, the gentleman from Massachusetts (Mr. FRANK), to make sure that this was done. Although it was thought not to be possible at the time, I think this work exemplifies the kind of bipartisanship that this Congress has and should continue to have as we move forward in other matters.

□ 1715

We are strengthening domestic copyright law and providing global leadership so that this great Nation can continue to impress upon other nations the importance of strong copyright protection.

Now, not all the provisions have reached a level of perfection. We might have done more to strengthen the role of the Patent and Trademark Office within its own agency. This Member would have preferred to see a database protection bill included in the measure before us. But that was not possible. Which means that we will begin again in the next Congress, all of us who are so honored by our constituents to return. We will have to start all over again in this area, and it is something that I urge my colleagues in both committees to take seriously.

I again commend the chairman of the Committee on Commerce, and the

ranking member, and all of those in the Judiciary that worked on it. The gentleman from California (Mr. HOWARD BERMAN) played an important role in the conference committee. And so, too, of great assistance was the copyright industry, the telecommunications people, the Nation's libraries and librarians, the unions and the guilds who worked cooperatively with us to inform us of the needs that they confront in this digital environment.

I am proud of the product, and like all the speakers before me, I urge its favorable confirmation.

Madam Speaker, I would like to emphasize that it was my decision to share this time with Mr. DINGELL, the Ranking member of the House Commerce Committee. Under the rules, all of the time would have come to the Judiciary Committee, but I am deciding to share the time for two reasons.

The first reason is the respect and fondness that I hold for the dean of the House, Mr. DINGELL. He asked that I share the time, and out of respect for his leadership in the House, I was happy to oblige.

Second the parliamentarian ruled that the House Commerce Committee had some legitimate jurisdictional concerns over discrete aspects of the bill. As such House Commerce Committee members were appointed during the House-Senate conference, albeit in lesser numbers, Mr. DINGELL and his Commerce Committee colleagues played a constructive role in bringing this measure to the floor.

The sharing of the time should in no way imply that the two committees are, in any way, on equal footing from a jurisdictional perspective on this measure, but does recognize both my great fondness for the gentleman from Michigan, Mr. DINGELL and the very constructive role that he played in bringing this matter to the floor.

Madam Speaker, I reserve the balance of my time.

Mr. BLILEY. Madam Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. TAUZIN), chairman of the Subcommittee on Telecommunications, Trade, and Consumer Protection of the Committee on Commerce.

Mr. TAUZIN. Madam Speaker, I thank the chairman for yielding me this time. We all know, of course, that we have long ago entered the information age, but what we are about to enter is the new information digital age.

This WIPO Treaty implementation bill is extremely important not just to America and Americans but to citizens of the world. As we enter this information digital age, it becomes increasingly easy for people to make perfect copies of other people's works; their music, their books, their videos, their movies. In short, the WIPO treaty is an attempt worldwide to protect those intellectual properties from thievery, from duplication, from piracy.

How do we protect those works perfectly in a digital world and, at the same time, respect something pretty critical to Americans: The free exchange of ideas and information; the ability of any kid in America to walk into a library and examine free of

charge a work of fiction, a book written by one of the masters, to see a video, or to hear some music over the radio, or to operate a simple device like a VCR at home to see a movie later that was played earlier in the day? How do we protect the fair use of those works of art, those intellectual properties and, at the same time, protect them in a digital age?

This House dramatically improved this bill as it left the Senate. As the Senate had produced the bill, there were no protections for citizens for these fair uses of information in a library, in a bookmobile, with a VCR. As this bill now comes back to the House and Senate from conference, the work of the House Commerce Committee on the Judiciary, and the Committee on Commerce, in particular, in making sure that there was a balance between the free exchange of ideas and protecting works in a digital age, were protected in this bill.

The right to do encryption research. The right to be able to webcast music on the internet. All of these issues now have been wrapped into an excellent compromise that I think sets the stage for the rest of the world to follow.

This is a critical day. America provides more information to the world than any other country of the world. Protecting those works in commerce is critical. We set the mark today with a strong implementation bill, but we do it carefully, respecting the right of people to fair use in accessing information in a free society; in making sure that libraries and schools of thought in universities can still do research, and all of us can access information in a society that so prides itself on free speech and the free exchange of information.

To all who have worked on it, the chairman of the full committees, and to all the Members who have put in so many hours, this is a good day, this is a good bill.

Mr. CONYERS. Madam Speaker, might I be informed how much time remains on each side?

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Michigan (Mr. CONYERS) has 2½ minutes remaining; the gentleman from Michigan (Mr. DINGELL) has 8½ minutes remaining; the gentleman from North Carolina (Mr. COBLE) has 3 minutes remaining; and the gentleman from Virginia (Mr. BLILEY) has 5 minutes remaining.

Mr. CONYERS. Madam Speaker, I reserve the balance of my time.

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

Mr. COBLE. Madam Speaker, did I understand that I have 3 minutes remaining, and that I have the right to close?

The SPEAKER pro tempore. That is correct.

Mr. COBLE. Madam Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. KNOLLENBERG), who authored title III of this bill.

Mr. KNOLLENBERG. Madam Speaker, I rise in support of this bill, and I

appreciate working with the gentleman from North Carolina (Mr. COBLE). It seems like it has been months, but with the great effort put on by both sides, we have done, I think, a marvelous job, and I am glad this feature is included in the bill.

This provision I introduced ensures that a computer owner may authorize the activation of their computer by a third party for the limited purpose of servicing computer hardware components. The specific problem is when the computer is activated, the software is copied into the ram, the random access memory. This copy is protected under section 117 of the copyright act, as interpreted by the 4th and 9th Circuit Courts of Appeals. This technical correction is extremely important to independent service organizations, or ISOs as they are known, who, without this legislation, are prohibited from turning on a customer's computer.

A weight of litigation has plagued the computer repair market. The detrimental effect is that ISOs are prevented from reading the diagnostics software and, subsequently, cannot service the computer's hardware.

The financial reality is that the multibillion dollar nationwide ISO industry is at risk. This bill provides language that authorizes third parties to make such a copy for the limited use of servicing computer hardware components.

This provision does nothing to threaten the integrity of the Copyright Act and maintains all other protections under the act. The intent of the Copyright Act is to protect and encourage a free marketplace of ideas. However, in this instance, it hurts the free market by preventing ISOs from servicing computers. Furthermore, it limits the consumer's choice of who can service their computer and how competitive a fee can be charged.

I want to thank the gentleman from North Carolina (Mr. COBLE) for working with me on this issue, and I urge support of the bill.

Mr. CONYERS. Madam Speaker, I yield the balance of my time to the gentleman from Massachusetts (Mr. FRANK), the ranking member of the subcommittee, whose extraordinary leadership was key to working out the complicated provisions that have been reflected.

Mr. FRANK of Massachusetts. Madam Speaker, I thank my friend, the gentleman from Michigan (Mr. CONYERS) for yielding, and I want to thank my colleagues on that side for rescuing this very important bill from the attempted mugging that some Members of the Republican Leadership had in mind. That was not one of the finest hours of this institution when this bill got derailed because of a dispute about a job.

Madam Speaker, I want to express my satisfaction with what we worked out. As Members have mentioned, we have a tough situation here in which we want to protect intellectual prop-

erty rights but not interfere with freedom of expression. In the Committee on the Judiciary, we worked very hard in particular in trying to work out a formula that would protect intellectual property rights and not give the online service providers an excessive incentive to censor. That was the difficult part. What I believe is a very important sign is that we were able to do that.

I want to take this time to contrast this with the failure to do a similar reasonable compromise in the bill we passed recently dealing with child pornography or, rather, pornography in general, because in contrast to this very careful compromise, and we in the Committee on the Judiciary were very focused on this because of our concern for free speech, the House passed a bill which includes language which purports to protect children against pornography which, in fact, goes way beyond that. I am speaking now because I hope the President will be persuaded to veto that bill.

We had a bill which says if someone puts on to the Internet material which is harmful to children, and children can see it, they are criminally liable. In other words, we are not dealing with people who are aiming at children. We also said, by the way, that that prohibition applies to material which is not obscene.

It is going to be stricken by the Supreme Court, but we should not have to depend on the Supreme Court to defend us. So I do want to contrast. It seems to me very important to note the care that we took in the Committee on the Judiciary not to impede on free speech and the lack of care that we have elsewhere.

Mr. CONYERS. Madam Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. Madam Speaker, do the provisions in the bill that the gentleman from Massachusetts (Mr. FRANK) refers to apply to government offices that do the same thing?

Mr. FRANK of Massachusetts. We had a conversation about the Starr report, and I think it is an open question as to whether or not the Starr report would have violated that provision.

The problem is this, and here is what we worked on: We have in this country the freest speech in the world, if it is oral, if it is written, if it is printed, but we are developing a second line of law which says electronically-transmitted speech is not as constitutionally protected. We must reverse that trend or we will erode our own freedoms.

Mr. BLILEY. Madam Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Madam Speaker, I thank the chairman for yielding.

Madam Speaker, I speak only to answer the last comments of the gentleman from Massachusetts (Mr. FRANK). The bill we passed on online pornography did not make criminals

out of anyone who puts something on the Internet that may be harmful to minors. What it did was to say that it is criminal for someone to commercially set up a pornography site without establishing some way for parents to be able to say no to that site in their homes. That is all we did.

In fact, if a parent wants to allow his child into that pornographer's site, it can. If the parent wants to look at it, it can. It simply made criminal the act of commercially providing that kind of material without giving parents the opportunity to say no to that material coming into their house.

I hope the President signs that bill. He ought to sign it. It is a good bill that would give parents some control over what comes over the Internet and is available to their children.

Mr. BLILEY. Madam Speaker, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Madam Speaker, a lot of people have complained today and the last couple of days that Congress has not done anything. I think this bill is a clear example of things we have done. It is probably one of the most important bills that we have passed this Congress. It gives our Nation's copyright holders legal protection internationally to protect their copyright works.

As the chairman, the gentleman from Louisiana (Mr. TAUZIN), mentioned, every year billions of dollars are stolen from American companies from illegal piracy and theft. American companies can now have the freedom to defend their intellectual property.

As my colleagues may recall, the bill as reported out of the Committee on the Judiciary did not contain a definition of "technological protection measure." Myself and other members of the committee were concerned about this lack of such a definition. It was very problematic.

The committee agreed it was an important enough issue to state in its report that those measures covered by the bill are those based upon encryption, scrambling, authentication and some other measure which requires the use of, quote, a key provided by a copyright holder.

Another achievement of the conference was to include specific report language addressing the playability concerns of product manufacturers.

The report explicitly provides that manufacturers or professional servicers of consumer electronics, telecommunications or computing products who take steps solely to mitigate a playability problem may not be deemed to have violated either section 1201 or section 1202.

I would say to my colleagues, we have done something very important today by passing, by recommending this bill to all our colleagues. I urge all my colleagues to vote for it. It is another accomplishment in this session of Congress.

Madam Speaker, this Congress in my opinion has been unfairly maligned about our work

product and our accomplishments. I think we have had two very successful sessions and this bill is proof of our hard work.

In fact, this may be the most important bill that we pass for this entire Congress. This legislation will give our nation's copyright holders legal protection internationally to protect their copyright works.

Every year, billions of dollars are stolen from American companies from illegal piracy and theft. American companies can now have the freedom to defend their intellectual property.

As my colleagues can appreciate, it has been a long and hard process to get us to this point. I am particularly pleased that the conference report addressed issues that I had been concerned about. I would like to comment in particular on some of the most important features of the bill.

As my colleagues may recall, the bill as reported by the Judiciary Committee did not contain a definition of "technological protection measure."

I and other members of the Commerce Committee were concerned that the lack of such a definition was very problematic. The Committee agreed it was an important enough issue to state in its report that those measures covered by the bill are those based on encryption, scrambling, authentication, or some other measure which requires the use of a "key" provided by a copyright owner.

Another achievement of the conference was to include specific report language addressing the "playability" concerns of product manufacturers.

The report explicitly provides that manufacturers or professional servicers of consumer electronics, telecommunications, or computing products who take steps solely to mitigate a playability problem may not be deemed to have violated either section 1201 or section 1202.

By eliminating uncertainty and establishing a clear set of rules governing both analog and digital devices, product designers should enjoy the freedom to innovate and bring ever-more exciting new products to market.

□ 1730

Mr. BLILEY, Madam Speaker, I yield the balance of my time to the gentleman from New York (Mr. LAZIO), a member of the committee.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from New York is recognized for 2 minutes.

Mr. LAZIO of New York. Madam Chairman, let me begin by thanking the gentleman from Virginia, the chairman of the Committee on Commerce, and the gentleman from Louisiana, the subcommittee chairman, and the gentleman from North Carolina, who I have talked about many times at the back rail about this piece of legislation over here, and certainly the gentlemen from the other side.

Madam Speaker, I rise in strong support of this strong balanced bill that we have before us today. The United States must lead the way on copyright law because we have the most at stake. We are far and away the world's largest creator, producer and exporter of copyrighted works. Whether it is movies, music, computer innovation or school

textbooks, American ideas and creativity means jobs, exports and economic vitality.

Copyright law provides incentive to invest in intellectual property, but without strong WIPO protections, this incentive will decline and the Nation will be at a loss because of it.

We must protect American copyright workers from the theft of their property, while maintaining the permitted use of copyrighted works for education, research, and criticism. That is what this bill does.

As the undisputed leader in intellectual property, the U.S. has the most to gain from strong international copyright laws. Our laws should be, and will be, the model for the rest of the world to follow. We have the privilege to set the stage and the responsibility to do it right.

The copyright industry is growing nearly three times as fast as the rest of the U.S. economy. The numbers are extraordinary. We are talking about almost 3 percent of the U.S. work force, with exports of over \$60 billion.

I urge my colleagues to think about the extraordinary opportunities that await us as consumers, as parents, and as officials concerned about the U.S. economy. By providing the appropriate stimulus to copyright owners, a stimulus first established in the Constitution, we allow the electronic marketplace to be the great boon to America that it promises to be.

Mr. COBLE. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, it has been mentioned about the importance of data base, the importance of patent and trademark. These are two areas, Madam Speaker, that cry out to be addressed, and I regret that they were not addressed in a proper and fitting way this session. I hope it can be done next time, in the 106th session of the Congress. I think, from what I have heard today, it will be generously laced with bipartisanship, and I feel optimistic about that.

Having said that, I want to again thank everybody who placed their oars into these waters and I urge the adoption of the conference report on H.R. 2281.

Mr. MARKEY. Madam Speaker, I strongly support passing this bill which implements the World Intellectual Property Organization (WIPO) treaty.

As the digital revolution sweeps over industries and countries it will provide new opportunities for market growth and innovation, easier access to remote information, and new distribution channels for products and services. The United States clearly leads the world in software products such as computer programs, movies, music, books and other multimedia products. In a post-GATT, post-NAFTA environment—in which we have made an implicit national economic decision to essentially let low-end jobs go and migrate to developing countries—we have an obligation as policymakers to ensure that we establish the climate in which America garners the lion's share of the high end, knowledge-based jobs of the new global economy.

Because digital technology facilitates an almost effortless ability to transmit digitized software information across national borders and also permits exact copies of such work to be made, it is vitally important that the United States take steps to update existing laws by cyberspace. There's no question that protecting the interests of copyright holders will mean that the content community will feel more secure in releasing their works into a digital environment. Because of the worldwide nature of electronic commerce today, it also becomes imperative that we establish treaties with other countries ensuring that our intellectual property—in other words, our high tech jobs—are not compromised overseas.

In deliberating upon this legislation, this Commerce Committee sought to better balance competing interests. This has not been an easy task. Encryption research issues, privacy implications, fair use rights, reverse engineering, and other issues are complicated but represent meaningful public policy perspectives. I am pleased that the bill before us has taken great strides to see that these issues are addressed properly and fairly.

In particular, I commend the conferees for retaining the language that I offered in Committee protecting the individual privacy rights of consumers. This language gives an incentive to the content community to be above board with consumers with respect to personal information that is gathered by technological protection measures or the content or software that it contains or protects. If consumers are given notice of these practices and an opportunity to prohibit or curtail such information gathering then technological protection measures could not be legally defeated. On the other hand, consumers are within their legal rights to defeat such measures if their personal privacy is being undermined without notice of the right to say "no" to such practices. This is a good privacy provision that leaves to the industry the question of whether they want to conspicuously provide notice to consumers of their privacy rights, extending as well the opportunity for a consumer to effectively object to any personal data gathering, and in so doing prevent the defeat of technological protection measures designed to protect the industry's products.

I want to thank Chairman BLILEY, Mr. DINGELL, Chairman TAUZIN, Mr. WAXMAN, and many other members for the incredible amount of time and effort that has been put into the effort of resolving outstanding issues. And I want to thank the members of the Judiciary Committee, Chairman HYDE, Chairman COBLE, Mr. CONYERS, Mr. FRANK, Mr. BERMAN and others for their excellent work on these issues. This is a good conference report and I urge members to enthusiastically support it.

Mr. BERMAN. Madam Speaker, I am very gratified that we finally have before us today the conference report on H.R. 2281, the Digital Millennium Copyright Act. Enactment of this legislation will make it possible for the United States to adhere to the World Intellectual Property Organization (WIPO) Copyright Treaty, and to the WIPO Performances and Phonograms Treaty.

These treaties, in turn will lead to better legal protections for U.S. copyrighted materials—movies, recordings, music, computer programs, videogames, and text materials—around the world, and thus will contribute to increased U.S. exports and foreign sales of

this valuable intellectual property, and to a decrease in the unacceptably large levels of piracy these products experience today in far too many overseas markets. As the global market for copyrighted materials increasingly becomes a digitized, networked market, there is no step that Congress can take that is more important for the promotion of global electronic commerce in the fruits of Americans creativity.

This bill is the fruit of many long months of labor and I salute all of those inside and outside this body who worked long and hard together to achieve this goal.

Ms. JACKSON-LEE of Texas. Madam Speaker, thank you for the opportunity to speak on this important bill, H.R. 2281, which amends title 17, of the United States Code. This Bill implements World Intellectual Property Organization's sponsored copyright agreements signed by the United States in Geneva, Switzerland. It also limits the liability on-line and Internet service providers may incur as a result of transmissions traveling through their networks and systems.

Certainly, we all agree that the Internet, the information superhighway, has enhanced and changed our medium of communication forever. With this evolution in technology, the law must conform to provide protection for copyrighted material that is transmitted through this revolutionary tool.

In December 1996, the World Intellectual Property Organization convened to negotiate multilateral treaties to protect copyrighted material in the digital environment and to provide stronger international protection for American recording artists. This bill does not require any substantive changes in the existing copyright laws.

Also, this bill includes language intended to guard against interference with privacy; permits institutions of higher education to continue the fair use of copyrighted material; and a provision to protect service providers from lawsuits when they act to assist copyright owners in limiting and preventing infringement.

H.R. 2281, provides substantial protection to prevent on-line theft of copyrighted materials. This bill demonstrates our commitment to protecting the personal rights and property of American citizens. More importantly, it works to eradicate crime and protect the intellectual property rights of America's corporations. Thus, I am compelled to support this bill.

Mr. DELAHUNT. Madam Speaker, I join my colleagues on the Subcommittee on Courts and Intellectual Property in support of the conference agreement. This bill and the treaties it would implement are of vital importance to America's copyright industries, and I congratulate the conferees on reaching a hard-won agreement in time to send it to the President this year.

The purpose of the treaties is to help curb international piracy of copyrighted works—which costs our country billions of dollars every year—by raising the standards for international copyright protection.

Few states are as seriously affected by software piracy as Massachusetts, which is home to some of the world's leading publishing, information technology and software companies. Last year, some 2,200 Massachusetts-based software companies had 130,000 employees and combined revenues of \$7.8 billion.

Piracy has always been a problem for these companies, but with the advent of the digital age, it has reached epidemic proportions. The

ability to make perfect digital copies at the click of a mouse—of CDs, movies, and computer programs, has been a tremendous benefit to consumers. But it has also created an enormous black market for pirated copies of these works that are indistinguishable from the originals. Indistinguishable except for the fact that the profits go to criminals running underground operations in places like China and Thailand, rather than to the American authors, composers, songwriters, filmmakers and software developers whose livelihoods depend upon the royalties they earn from sale of their works.

The enactment of this legislation is a major milestone in the battle to ensure that American creativity enjoys the same protection abroad that we provide here at home.

I must voice one regret regarding the failure of the conferees to retain the House-passed provision incorporating H.R. 2652, the Collections of Information Antipiracy Act. This measure would have prohibited the misappropriation for commercial purposes of "databases" whose compilation has required the investment of substantial time and resources.

Like other digitized information, databases can be easily copied and distributed by unscrupulous competitors. Yet the people who create and maintain these compilations can do little to deter or punish this behavior, because most databases are not protected under current copyright law.

H.R. 2652 would have amended the copyright law to provide effective legal protection against database piracy. Without this protection, companies will have little incentive to continue to invest their time and money in database development, and the public will pay the price.

I hope that the subcommittee will revisit this subject early in the next Congress, and I intend to do all I can to see that this or similar legislation is enacted into law.

Mr. GOODLATTE. Madam Speaker, I rise today in support of H.R. 2281, the Digital Millennium Copyright Act. I would like to thank both Chairman COBLE and Chairman HYDE for their leadership on this issue. Additionally, I would like to thank them again for asking me to lead the negotiations between the various parties on the issue of on-line service provider liability for copyright infringement, which is included in this important bill.

The issue of liability for on-line copyright infringement, especially where it involves third parties, is difficult and complex. For me personally, this issue is not a new one; during the 104th Congress, then-Chairman Carlos Moorhead asked me to lead negotiations between the parties. Although I held numerous meetings involving members of the content community and members of the service provider community, unfortunately we were not able to resolve this issue.

At the beginning of the 105th Congress, Chairman COBLE asked me to again lead the negotiations between the parties on this issue. After a great deal of meetings and negotiation sessions, the copyright community and the service provider community were able to successfully reach agreement. That agreement is included in the bill we are considering today. No one is happier, except maybe those in each community who spent countless hours and a great deal of effort trying to reach agreement, than I am with the agreement contained in this bill.

Madam Speaker, this is a critical issue to the development of the Internet, and I believe that both sides in this debate need each other. If America's creators do not believe that their works will be protected when they put them on-line, then the Internet will lack the creative content it needs to reach its true potential. And if America's service providers are subject to litigation for the acts of third parties at the drop of a hat, they will lack the incentive to provide quick and efficient access to the Internet. The provisions of H.R. 2281 will allow the Internet to flourish, and I believe will prove to be a win-win not only for both sides, but for consumers, manufacturers, and Internet users throughout the nation.

I would also like to discuss the importance of the World Intellectual Property Organization treaties, and this accompanying implementing legislation, which are critical to protecting U.S. copyrights overseas. The United States is the world leader in intellectual property. We export billions of dollars worth of creative works every year in the form of software, books, videotapes, and records. Our ability to create so many quality products has become a bulwark of our national economy, and it is vital that copyright protection for these products not stop at our borders. International protection of U.S. copyrights will be of tremendous benefit to our economy—but we need to ratify the WIPO treaties for this to happen, and we need to pass this legislation to ratify the treaties.

I would also like to express my understanding of the intent behind the provisions of H.R. 2281 that address certain technologies used to control copying of motion pictures in analog form on videocassette recorders, provisions that were not part of either the original House or Senate bills. That section establishes certain requirements only for analog videocassette recorders, analog videocassette camcorders, and professional analog videocassette recorders.

In other words, these requirements exist only in the "analog" world. The limitations, for instance, with respect to certain transmissions apply only with respect to those transmissions in analog form.

The intent of the conferees is that these provisions do not establish any obligations with respect to digital technologies, including computers or software. Copyright owners are free to use these or any other forms of copy control technology to protect their works in the "digital" world, including in any digital broadcasts, transmissions, or copies.

It is also my understanding that the intent of the conferees is that this provision neither establishes, nor should it be interpreted as establishing, a precedent for Congress to legislate specific standards or specific technologies to be used as technological protection measures, particularly with respect to computers and software. While it is not the intent of the conferees to prejudice or affect ongoing negotiations over digital video technology, it may become necessary in the future for Congress to consider protections for audiovisual works in the digital environment.

The conferees understand that technology develops best and most rapidly in response to marketplace forces, and believe that private parties should be free to apply their ingenuity to develop even better and more effective technologies.

Finally, regulatory agencies should not involve themselves in establishing specific

standards in the digital medium, in particular for software and computers. The technology changes far too fast, much more rapidly than regulatory standards. Therefore, regulation in this area is likely to impede, or in some cases even discourage, the development of new technologies.

This bill is critical not only because it will allow the Internet to flourish, but also because it ensures that America will remain the world leader in the development of intellectual property. I urge each of my colleagues to support the conference report to H.R. 2281.

Mr. KLUG. Madam Speaker, I rise today in strong support of the conference report on H.R. 2281, and to acknowledge my appreciation of the efforts expended to create a rational, balanced bill for the 21st Century.

About two months ago, I stood on this floor and recognized that this Congress faced a difficult balancing act. One the one hand, there is concern for protecting the American creative community—those who make movies and television shows and software and books. On the other hand, in an era of exploding information, and where increasingly having information is having power, we have a heightened obligation to ensure access to that information. We should not be changing the rules of the road in the middle of the game, creating a pay per view environment in which the use of a library card always carries a fee and where the flow of information comes with a meter that rings up a charge every time the Internet is accessed.

With the support of the House Commerce Committee, under the leadership of Chairman BILEY, Representative DINGELL, Representative TAUZIN, Representative MARKEY, and, most significantly, Representative BOUCHER, we were able to implement two changes to the bill to instill the balance envisioned by our constitutional architects and in the long tradition of the Commerce Committee. The first change ensured that information users will continue to utilize information on a "fair use" basis, notwithstanding the prohibition on circumvention. The second change allowed manufacturers of a wide array of consumer products the certainty that design decisions could be made solely on the basis of technological innovation and consumer demand, not the dictates of the legal system.

These critical provisions were regrettably not part of the Senate-passed version of the legislation and, consequently, required negotiation in conference. Although I was not a formal part of the House-Senate conference, I am pleased to support the outcome of those discussions, and to single out the dedicated efforts of Chairman BILEY, Representative TAUZIN, Representative DINGELL, Justin Lilley, Andy Levin, and Whitney Fox to preserve the important improvements wrought by the House Commerce Committee.

The conference report reflects a number of hard compromises, three of which I would like to discuss. First, the conferees maintain the strong fair use provision the Commerce Committee crafted, for the benefit of libraries, universities, and consumers generally. Section 1201(c)(3) explicitly provides a meaningful role, in determining whether fair use rights are or are likely to be adversely affected, for the Assistant Secretary of Commerce for Communications and Information in the mandated rulemaking. I trust that the recommendations made by the Assistant Secretary, given the in-

creasing importance that new communications devices have in information delivery, will be accorded a central, deferential role in the formal rulemaking process.

The second change the conferees insisted upon was a "no mandate" provision. This language ensures that manufacturers of future digital telecommunications, computer, and consumer electronics products will have the freedom to choose parts and components in designing new equipment. Specifically, Section 1201(c)(3) provides that nothing in the subsection requires that the design of, or design and selection of parts and components for, a consumer electronics, telecommunications, or computer product provide for a response to any particular technological measure, so long as the device does not otherwise violate the section. With my colleague from Virginia, Representative BOUCHER, I originally persuaded the members of the Commerce Committee to delete the "so long as" phrase of the original Senate version. Our thinking, confirmed by committee counsel, was that this language was not just circular, but created serious ambiguity and uncertainty for product manufacturers because it was not clear whether a court, judging the circumstances after the fact, would find that specific products fell within the scope of this provision and thus had to be designed to respond to protection measures. And, it is entirely possible that these protective measures may require conflicting responses by the products.

The conferees added back the language we struck, but in a context in which the "so long as" clause had some clear, understandable meaning. The language agreed to by the conferees mandates a response by specified analog devices to two known analog protection measures, thereby limiting the applicability of the "so long as" clause. In my opinion, spelling out this single, specific limitation will provide manufacturers, particularly those working on innovative digital products, the certainty they need to design their products to respond to market conditions, not the threat of lawsuits.

Both of these changes share one other important characteristic. Given the language contained in the Judiciary Committee's original bill, specifically sections 1201(a)(1), (a)(2), and (b)(1), there was great reason to believe that one of the fundamental laws of copyright was about to be overruled. That law, known as *Sony Corporation of America v. Universal Studios*, 464 U.S. 417 (1983), reinforced the centuries-old concept of fair use. It also validated the legitimacy of products if capable of substantial non-infringing uses. The original version of the legislation threatened this standard, imposing liability on device manufacturers if the product is of limited commercial value.

Now, I'm not a lawyer, but it seems irrational to me to change the standard without at least some modest showing that such a change is necessary. And, changing the standard, in a very real sense, threatens the very innovation and ingenuity that have been the hallmark of American products, both hardware and content-related. I'm very pleased that the conferees have meaningfully clarified that the *Sony* decision remains valid law. They have also successfully limited the interpretation of Sections 1201(a)(2) and (b)(1), the "device" provisions, to outlaw only those products having no legitimate purpose. As the conference report makes clear, these two sections now must be read to support, not stifle, staple

articles of commerce, such as consumer electronics, telecommunications, and computer products used by businesses and consumers everyday, for perfectly legitimate purposes.

Finally, the conferees included specific language allowing product manufacturers to adjust their products to accommodate adverse effects caused by technological protection measures and copyright management information systems. These measures could have the effect of materially degrading authorized performances or displays of works, or causing recurring appreciably adverse effects. But, there was real fear in the manufacturing and retail communities of liability for circumvention if they took steps to mitigate the problem. I also felt particularly strong that consumers have the right to expect that the products they purchase will live up to their expectations and the retailing hype. So, the Commerce Committee faced another balancing act—preserving the value of the creative community while also affording consumers some basic protections and guarantees.

We were only able to achieve directive report language on "playability" in the committee process. Using the base established by the Commerce Committee, the conferees were able to craft explicit language exempting makers and servicers of consumer electronics, telecommunications, or computing products from liability if acting solely to mitigate playability problems. With this absolute assurance of freedom from suit under such circumstances, manufacturers should feel free to make product adjustments, and retailers, and professional services should not be burdened with the threat of litigation in repairing products for their customers.

In short, the conference report achieves the goal of implementing the WIPO treaties. But we have done so in a thoughtful, balanced manner that promotes product development and information usage, indeed the very "progress of Science and the useful arts" set forth in the Constitution. I urge my colleagues to vote for this legislation and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and agree to the conference report on the bill, H.R. 2281.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H. J. Res. 134, Joint Resolution making further continuing appropriations for the fiscal year 1999, and for other purposes.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. TRAFICANT. Madam Chairman, pursuant to clause 2(a)(I) of rule IX, I

Document No. 124

