

**AMENDMENT TO RULES COMMITTEE PRINT**

**117-31**

**OFFERED BY MR. CHABOT OF OHIO**

Add at the end of title I of division I the following:

1 **SEC. 80104. ZERO TOLERANCE FOR ELECTRONICS THEFT**

2 **ACT.**

3 (a) INJUNCTION.—Section 283 of title 35, United  
4 States Code, is amended—

5 (1) by striking “The several courts” and insert-  
6 ing the following:

7 “(a) IN GENERAL.—The several courts”; and

8 (2) by adding at the end the following:

9 “(b) SPECIAL RULE.—

10 “(1) PRELIMINARY INJUNCTION IN CERTAIN  
11 CASES.—Notwithstanding any other provision of law,  
12 when a covered entity is a party to a civil action for  
13 patent infringement brought under this title, an op-  
14 posing party, if seeking a preliminary injunction  
15 against such covered entity, need not demonstrate  
16 that irreparable harm would result from the failure  
17 to grant such injunction.

1           “(2) COVERED ENTITY DEFINED.—In this sub-  
2           section, the term ‘covered entity’ means an entity (or  
3           subsidiary or affiliate thereof) that—

4                   “(A) is providing or producing tele-  
5                   communications, software, or electronics equip-  
6                   ment;

7                   “(B) has a headquarters or a principal  
8                   place of business located in a region adminis-  
9                   tered or governed by the People’s Republic of  
10                  China (excluding Taiwan);

11                  “(C) was, on or after March 8, 2016, de-  
12                  nied export privileges; and

13                  “(D) was, subsequent to such denial, re-  
14                  moved by the Secretary of Commerce from the  
15                  List of Denied Persons maintained by the Bu-  
16                  reau of Industry and Security of the Depart-  
17                  ment of Commerce upon the restoration of such  
18                  privileges.”.

19           (b) EXPORT PRIVILEGES ELIGIBILITY.—

20                   (1) IN GENERAL.—Beginning on and after the  
21                   date that is 180 days after the date of enactment of  
22                   this Act, a covered entity may only be eligible for ex-  
23                   port privileges if such covered entity—

24                           (A) certifies to the Attorney General that  
25                           such covered entity—

1 (i) with respect to patents in use by  
2 the covered entity, has entered into license  
3 agreements with the United States persons  
4 that own such patents;

5 (ii) will abide by the laws of the  
6 United States; and

7 (iii) will not engage in cyber espio-  
8 nage, or the theft or misappropriation of  
9 intellectual property or trade secrets, on  
10 behalf of themselves or a state actor; and

11 (B) maintains an export eligibility account  
12 in accordance with paragraph (2).

13 (2) EXPORT ELIGIBILITY ACCOUNTS.—

14 (A) ESTABLISHMENT.—The Secretary of  
15 the Treasury, at the request of a covered entity,  
16 shall establish and manage an export eligibility  
17 account for the covered entity in accordance  
18 with this paragraph.

19 (B) ACCOUNT BALANCE.—To establish eli-  
20 gibility for export privileges under paragraph  
21 (1), an account established under subparagraph  
22 (A) shall—

23 (i) at the time such account is estab-  
24 lished, include an amount equal to

1                   \$2,500,000,000 provided by the covered  
2                   entity;

3                   (ii) have a balance accessible only—

4                   (I) by the Secretary of the Treas-  
5                   ury for payments described in sub-  
6                   paragraph (C); and

7                   (II) by the covered entity—

8                   (aa) upon closure of the ac-  
9                   count; and

10                  (bb) for purposes of making  
11                  deposits to maintain the account  
12                  in accordance with clause (iii);  
13                  and

14                  (iii) at all times after establishment,  
15                  include a minimum of \$600,000,000.

16                  (C) USE OF ACCOUNT.—Amounts in an ac-  
17                  count established under subparagraph (A) may  
18                  be used by the Secretary of the Treasury for  
19                  payments—

20                  (i) made to a United States person;

21                  and

22                  (ii) that—

23                  (I) relate to final judgments in a  
24                  patent infringement action against the  
25                  applicable covered entity (including in-

1                   terest, attorney’s fees, and any other  
2                   costs specified in such judgments);  
3                   and

4                   (II) the covered entity failed to  
5                   make.

6                   (D) CERTIFICATION.—The Attorney Gen-  
7                   eral, in consultation with the Secretary of the  
8                   Treasury and the Secretary of Commerce, shall  
9                   review and certify the account status of covered  
10                  entities for purposes of eligibility for export  
11                  privileges at least once every 7 years.

12                  (E) NOTIFICATION.—The Attorney Gen-  
13                  eral shall notify United States Customs and  
14                  Border Protection and the Bureau of Industry  
15                  and Security of the Department of Commerce  
16                  of the identities of covered entities without an  
17                  account providing eligibility for export privi-  
18                  leges.

19                  (3) DEFINITIONS.—In this subsection:

20                  (A) COVERED ENTITY.—The term “cov-  
21                  ered entity” means an entity (or subsidiary or  
22                  affiliate thereof) that—

23                          (i) is providing or producing tele-  
24                          communications, software, or electronics  
25                          equipment;

1 (ii) has a headquarters or a principal  
2 place of business located in a region ad-  
3 ministered or governed by the People's Re-  
4 public of China (excluding Taiwan);

5 (iii) was, on or after March 8, 2016,  
6 denied export privileges; and

7 (iv) was, subsequent to such denial,  
8 removed by the Secretary of Commerce  
9 from the List of Denied Persons main-  
10 tained by the Bureau of Industry and Se-  
11 curity of the Department of Commerce  
12 upon the restoration of such privileges.

13 (B) EXPORT PRIVILEGES.—The term “ex-  
14 port privileges” means, with respect to items  
15 subject to the Export Administration Regula-  
16 tions (as codified in subchapter C of chapter  
17 VII of title 15, Code of Federal Regulations, or  
18 any successor regulations)—

19 (i) the ability to engage in export and  
20 reexport transactions involving such items;  
21 and

22 (ii) the access to such items.

23 (C) UNITED STATES PERSON.—The term  
24 “United States person” means—

25 (i) a United States citizen or national;

1                   (ii) an alien lawfully present in the  
2                   United States who has lawful status under  
3                   the immigration laws (as such term is de-  
4                   fined in section 101(a) of the Immigration  
5                   and Nationality Act);

6                   (iii) a partnership, corporation, or  
7                   other legal entity organized under the laws  
8                   of the United States; or

9                   (iv) a partnership, corporation, or  
10                  other legal entity that is organized under  
11                  the laws of a foreign country and is con-  
12                  trolled by entities described in clause (iii)  
13                  or a United States citizen.

