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:

SEC. 80104. ZERO TOLERANCE FOR ELECTRONICS THEFT ACT.

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

(1) by striking “The several courts” and inserting the following:

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

(2) by adding at the end the following:

“(b) SPECIAL RULE.—

“(1) PRELIMINARY INJUNCTION IN CERTAIN CASES.—Notwithstanding any other provision of law, when a covered entity is a party to a civil action for patent infringement brought under this title, an opposing party, if seeking a preliminary injunction against such covered entity, need not demonstrate that irreparable harm would result from the failure to grant such injunction.
(2) COVERED ENTITY DEFINED.—In this subsection, the term ‘covered entity’ means an entity (or subsidiary or affiliate thereof) that—

“(A) is providing or producing telecommunications, software, or electronics equipment;

“(B) has a headquarters or a principal place of business located in a region administered or governed by the People’s Republic of China (excluding Taiwan);

“(C) was, on or after March 8, 2016, denied export privileges; and

“(D) was, subsequent to such denial, removed by the Secretary of Commerce from the List of Denied Persons maintained by the Bureau of Industry and Security of the Department of Commerce upon the restoration of such privileges.”.

(b) EXPORT PRIVILEGES ELIGIBILITY.—

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

(A) certifies to the Attorney General that such covered entity—
(i) with respect to patents in use by
the covered entity, has entered into license
agreements with the United States persons
that own such patents;

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

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

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

(2) EXPORT ELIGIBILITY ACCOUNTS.—

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

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

(i) at the time such account is estab-
lished, include an amount equal to
$2,500,000,000 provided by the covered entity;

(ii) have a balance accessible only—

(I) by the Secretary of the Treasury for payments described in subparagraph (C); and

(II) by the covered entity—

(aa) upon closure of the account; and

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

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

(C) USE OF ACCOUNT.—Amounts in an account established under subparagraph (A) may be used by the Secretary of the Treasury for payments—

(i) made to a United States person; and

(ii) that—

(I) relate to final judgments in a patent infringement action against the applicable covered entity (including in-
interest, attorney’s fees, and any other
costs specified in such judgments); and

(II) the covered entity failed to make.

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

(E) NOTIFICATION.—The Attorney General shall notify United States Customs and Border Protection and the Bureau of Industry and Security of the Department of Commerce of the identities of covered entities without an account providing eligibility for export privileges.

(3) DEFINITIONS.—In this subsection:

(A) COVERED ENTITY.—The term “covered entity” means an entity (or subsidiary or affiliate thereof) that—

(i) is providing or producing telecommunications, software, or electronics equipment;
(ii) has a headquarters or a principal
place of business located in a region ad-
ministered or governed by the People’s Re-
public of China (excluding Taiwan);

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

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

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

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

(ii) the access to such items.

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

(i) a United States citizen or national;
(ii) an alien lawfully present in the United States who has lawful status under the immigration laws (as such term is defined in section 101(a) of the Immigration and Nationality Act);

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

(iv) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in clause (iii) or a United States citizen.