

AMENDMENT TO RULES COMMITTEE PRINT 118-
45
OFFERED BY MR. FITZGERALD OF WISCONSIN

Add at the end of the bill the following:

1 SEC. 3. DISCLOSURES IN PATENT APPLICATIONS REGARD-
2 ING TIES TO THE PEOPLE'S REPUBLIC OF
3 CHINA AND OTHER FOREIGN ADVERSARIES.

4 (a) DISCLOSURES IN PATENT APPLICATIONS RE-
5 GARDING TIES TO PEOPLE'S REPUBLIC OF CHINA AND
6 OTHER FOREIGN ADVERSARIES.—Section 111 of title 35,
7 United States Code, is amended by adding at the end the
8 following:

9 “(d) DISCLOSURES REGARDING TIES TO PEOPLE’S
10 REPUBLIC OF CHINA AND OTHER FOREIGN COUN-
11 TRIES.—

12 “(1) DISCLOSURE.—The Director shall require
13 each person submitting an application for patent
14 under subsection (a), or a provisional application for
15 a patent under subsection (b), to disclose in the ap-
16 plication the identity of each person with an owner-
17 ship interest in the invention being claimed that in
18 the five years before submitting such application re-
19 ceived funding from—

1 “(A) a state-affiliated research fund associ-
2 ated with a foreign adversary; or

3 “(B) a talent recruitment program associ-
4 ated with a foreign adversary.

5 “(2) REQUEST FOR TRUE COPIES.—

6 “(A) IN GENERAL.—After reviewing any
7 disclosure made by an applicant in accordance
8 with paragraph (1), the Director may (as the
9 Director determines appropriate) request such
10 applicant provide true copies of any contractual
11 or financial obligation or other agreement spe-
12 cific to such disclosure.

13 “(B) CONFIDENTIALITY.—Any true copy
14 provided to the Director under subparagraph
15 (A) may be kept confidential and separate from
16 the file wrapper of the patent application.

17 “(3) EXEMPTION.—Any applicant who is a
18 small business concern and is subject to disclosures
19 pursuant to subsection (g) or (o) of section 9 of the
20 Small Business Act (15 U.S.C. 638) shall be exempt
21 from making the disclosure required by paragraph
22 (1).

23 “(4) FOREIGN ADVERSARY DEFINED.—In this
24 subsection, the term ‘foreign adversary’ means—

1 “(A) the People’s Republic of China, in-
2 cluding all Special Administrative Regions;

3 “(B) the Republic of Cuba;

4 “(C) the Islamic Republic of Iran;

5 “(D) the Democratic People’s Republic of
6 Korea;

7 “(E) the Russian Federation; and

8 “(F) the Bolivarian Republic of Venezuela
9 during any period of time during which
10 Nicolás Maduro is President of the Republic.”.

11 (b) PATENT BAR FOR PERSONS WHO POSE A
12 THREAT TO NATIONAL SECURITY.—

13 (1) IN GENERAL.—Chapter 10 of title 35,
14 United States Code, is amended by adding at the
15 end the following:

16 “§ 106. Patent bar for persons who pose a threat to
17 national security.

18 “Notwithstanding any other provision of law—

19 “(1) a person shall not receive a United States
20 patent for an invention if that person (or any sub-
21 sidiary, affiliate, successor, assign, legal representa-
22 tive, or privy of such person)—

23 “(A) is identified, pursuant to section
24 744.16 of title 15, Code of Federal Regulations
25 (or any successor regulation), as a person rea-

1 sonably believed to be involved, or to pose a sig-
2 nificant risk of being or becoming involved, in
3 activities contrary to the national security or
4 foreign policy interests of the United States;

5 “(B) is an entity on the Non-SDN Chinese
6 Military-Industrial Complex Companies List
7 (NS-CMIC List) maintained by the Office of
8 Foreign Assets Control of the Department of
9 the Treasury under Executive Order 14032 (86
10 Fed. Reg. 30145; relating to addressing the
11 threat from securities investments that finance
12 certain companies of the People’s Republic of
13 China), or any successor order;

14 “(C) is identified as a Chinese military
15 company in the most recent annual report sub-
16 mitted pursuant to section 1260H of the Wil-
17 liam M. (Mac) Thornberry National Defense
18 Authorization Act for Fiscal Year 2021 (Public
19 Law 116–283; 10 U.S.C. 113 note); or

20 “(D) produces or provides communications
21 equipment or service on the list published by
22 the Federal Communications Commission under
23 section 2(a) of the Secure and Trusted Commu-
24 nications Networks Act of 2019 (47 U.S.C.
25 1601(a)); and

1 “(2) any United States patent issued to a per-
2 son described under paragraph (1) shall be unen-
3 forceable.”.

4 (2) CLERICAL AMENDMENT.—The table of sec-
5 tions for chapter 10 of title 35, United States Code,
6 is amended by inserting after the item relating to
7 section 105 the following:

“106. Patent bar for persons who pose a threat to national security.”.

