

MEMORANDUM

TO: Senator
FROM: Joe
DATE: February 18, 1980
RE: Markup of S. 1679, Patent Reexamination
cc: Kevin, Mary, Linda, Tom, Eve, Press, Bob, David, Ann M., Leg(2), Ind. Dept.
Your patent reexamination bill is due to be marked up at tomorrow's
Judiciary Committee Exec.

This bill basically provides a procedure for bringing to the Patent Office's attention patents or printed publications that are being used to challenge issued patents.

The problem is that the Patent Office has from 2% to 28% of their files missing and therefore cannot have all of the materials available to it which it needs for determining whether or not to grant a patent petition. There is also a tremendous volume of printed technical material which should also be considered, but which is unrealistic to expect the patent examiner to always be familiar with. Your bill will allow anybody to cite this material to the Patent Office as an alternative to going to district court (which frequently costs both parties \$250,000 in legal costs and can take up years in litigation).

S. 1679 was endorsed last week by the American Bar Association and is also supported by the American Patent Law Association, the National Small Business Association, and was specifically endorsed by the recent White House Conference on Small Business.

Senators Dole and Thurmond are cosponsors and there is no known opposition to the bill.

You also have some technical amendments to offer which were agreed upon by the supporters of the bill.