OISS FORM 51 (Rev. 11-82)

CONGRESSIONAL RECORD
PROCEEDINGS AND DEBATES OF THE 98TH CONGRESS

SENATE

BILL	DATE	PAGE(S)
S.1201	APR 5 '84 (44)	S4071-72

ACTION: REMARKS BY MR. LEAHY

THE SEMICONDUCTOR CHIP PROTECTION ACT OF 1984

● Mr. LEAHY. Mr. President, America has always thrived on innovation, and I am happy to say that the Judiciary Committee is acting today to spur on that innovative spirit. In reporting S. 1201, the Semiconductor Chip Protection Act of 1984, we are saying that Congress is willing to match the scientific and technical innovation of our people with strong and innovative legal protections.

The issues we faced in the bill were formidable: If we failed to provide meaningful protection for those investing millions of dollars each year in the microchips that lie at the heart of the worldwide computer revolution, we risked falling far behind our international competitors. If we ended up with protection that was too broad, we stifled the use of knowhow that should be available to everyone.

Defining a clear line between these two extremes in a field that is close to brand new has been a great challenge. My impression, when I first reviewed this legislation many months ago, was that its effect might have been to retard, rather than spur, innovation. Approaching the legislation as a lawyer, I saw some potential for tying up essential design features and denying their use to future inventors. Frankly, part of my concern was that, given the complexity of the problem and the lack of clear precedents in analogous areas of the copyright law, the prospect of excessive litigation would dampen incentive.

But these concerns did not lessen our enthusiasm for the underlying purposes of the bill, which are so important to this country's competitive future. Senator MATHIAS and I and our staffs decided that no drafting problem could be allowed to stand in the way of an effective bill, and we put a lot of effort, not only in the bill language itself, but in the committee report. In a field that is so new, clear report language is especially important, and I think the many hours and days improving the report were very well spent.

As a result, both the language of the bill and the report offer abundant guidance to industry experts, to attorneys, and to the courts as to what constitutes an infringement and other related issues. No practitioner should be at a loss in building a case that a product resulted from reverse engineering, as opposed to copying. Similarly, opposing counsel should have a clear idea of how to prove infringement—the kinds of evidence needed, the degree of proof, and the key matters at issue.

I am convinced that the bill, as now written, will not result in undue litigation. It will serve as a guide to industry as to the extent of an innovator's reasonable expectations, and in that sense, the bill should help to avoid an undue reliance on the courts to settle questions relating to potential infringement.

Mr. President, I am proud to be a cosponsor of this important bill, and I hope that the full Senate will soon have the opportunity to consider it fully. I know my colleagues share my sentiments about the need for innovation. Passage of this legislation in this session would be a strong sign that we are willing to back our sentiments with action.●