(Original Signature of Member)

110TH CONGRESS
1ST SESSION

H. R. _____

To amend title 35, United States Code, to limit damages and other remedies with respect to patents for tax planning methods.

IN THE HOUSE OF REPRESENTATIVES

Mr. BOUCHER (for himself, Mr. GOODLATTE, and Mr. CHABOT) introduced the following bill; which was referred to the Committee on _____

A BILL

To amend title 35, United States Code, to limit damages and other remedies with respect to patents for tax planning methods.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON DAMAGES AND OTHER REMEDIES WITH RESPECT TO PATENTS FOR TAX PLANNING METHODS.

(a) LIMITATION.—Section 287 of title 35, United States Code, is amended by adding at the end the following new subsection:

1 "(d) (1) With respect to the use by a taxpayer or
2 a tax practitioner of a tax planning method that con-
3 stitutes an infringement under subsection (a) or (b) of sec-
4 tion 271, the provisions of sections 281, 283, 284, and
5 285 shall not apply against the taxpayer, the tax practi-
6 tioner, or any related professional organization with re-
7 spect to such tax planning method.

8 "(2) For the purposes of this subsection—

9 "(A) the term 'tax planning method' means a
10 plan, strategy, technique, or structure that is de-
11 signed to reduce, minimize, or defer, or has, when
12 implemented, the effect of reducing, minimizing or
13 deferring, a taxpayer's tax liability, but does not in-
14 clude the use of tax preparation software or other
15 tools used solely to perform or model mathematical
16 calculations or prepare tax or information returns;

17 "(B) the term 'taxpayer' means an individual,
18 entity, or other person (as defined in section 7701
19 of the Internal Revenue Code of 1986) that is sub-
20 ject to taxation directly, is required to prepare a tax
21 return or information statement to enable one or
22 more other persons to determine their tax liability,
23 or is otherwise subject to a tax law;

24 "(C) the terms 'tax', 'tax laws', 'tax liability',
25 and 'taxation' refer to any Federal, State (as de-

1 fined in subsection (c)(2)(G)), county, city, munici-
2 pality, or other governmental levy, assessment, or
3 imposition, whether measured by income, value, or
4 otherwise;
5 "(D) the term 'tax practitioner' means any nat-
6 ural person who provides advice and consultation to
7 a taxpayer with respect to a tax planning method or
8 who is acting under the direction of such person in
9 connection with the development or use of a tax
10 planning method;
11 "(E) the term 'related professional organiza-
12 tion' means an entity with which a tax practitioner
13 has a professional affiliation under which the tax
14 practitioner may provide advice and consultation
15 with respect to a tax planning method, including a
16 law firm, accounting firm, or a bank; and
17 "(F) the term 'professional affiliation' means
18 an employment or contractual relationship or part-
19 nership or other ownership interest.".
20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall take effect on the date of the enact-
22 ment of this Act and shall apply to any action for patent
23 infringement that is filed on or after that date.